

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TRANSPORTATION**

**Seventy-Seventh Session
May 16, 2013**

The Committee on Transportation was called to order by Chairman Richard Carrillo at 3:55 p.m. on Thursday, May 16, 2013, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Richard Carrillo, Chairman
Assemblyman Paul Anderson
Assemblyman David P. Bobzien
Assemblywoman Maggie Carlton
Assemblyman John Hambrick
Assemblyman Crescent Hardy
Assemblyman James W. Healey
Assemblywoman Ellen B. Spiegel
Assemblyman Michael Sprinkle
Assemblywoman Heidi Swank
Assemblyman Jim Wheeler
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

Assemblywoman Lucy Flores (excused)
Assemblyman Joseph M. Hogan, Vice Chairman (excused)

GUEST LEGISLATORS PRESENT:

Senator Moises "Mo" Denis, Clark County Senatorial District No. 2

Minutes ID: 1180



STAFF MEMBERS PRESENT:

Vance Hughey, Committee Policy Analyst
Sean McCoy, Committee Policy Analyst
Scott McKenna, Committee Counsel
Jacque Lethbridge, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Andrew J. MacKay, Chair, Nevada Transportation Authority, Department
of Business and Industry
Alfredo Alonso, representing the Alliance of Automobile Manufacturers
David Goldwater, representing Google, Inc.
Mike Draper, representing Ewing Brothers Corporation

Chairman Carrillo:

[Roll was taken. Committee protocol and rules were explained.] Today we have a work session. We do not take any new testimony during a work session.

[Senate Bill 143 \(1st Reprint\):](#) Revises provisions governing certain examinations for driver's licenses. (BDR 43-696)

Sean McCoy, Committee Policy Analyst:

Senate Bill 143 (1st Reprint) was heard on April 30, 2013 ([Exhibit C](#)). It directs the Department of Motor Vehicles to add at least one question to the written driver's license examination concerning the Nevada law prohibiting the use of cell phones or other handheld devices while driving. It is my understanding that the proposed amendment from Assemblyman Hambrick has been withdrawn at this time.

ASSEMBLYMAN BOBZIEN MOVED TO AMEND AND DO PASS
SENATE BILL 143 (1ST REPRINT).

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

MOTION PASSED. (ASSEMBLYMEN FLORES AND HOGAN WERE
ABSENT FOR THE VOTE.)

Chairman Carrillo:

I will give the floor statement to Assemblyman Healey.

Senate Bill 210 (1st Reprint): Revises provisions governing certain motor carriers. (BDR 58-949)

Sean McCoy, Committee Policy Analyst:

Senate Bill 210 (1st Reprint) was heard on May 9, 2013 ([Exhibit D](#)). It directs the Nevada Transportation Authority (NTA) to issue permits to drivers operating certain motor carriers. Provisions of the bill require a driver to submit fingerprints for the purpose of a criminal background check. To qualify for the permit, a driver is required to hold a valid commercial driver's license and provide proof of employment or a letter of intent by a certificated carrier. Additional provisions authorize the NTA to refuse a driver's permit if the applicant has been convicted of a felony in the previous five years, or a felony involving a sexual offense at any time before the date of the application. The NTA may also deny an application if a driver has been convicted of driving under the influence in the immediate three-year period. Finally, the NTA will establish a fingerprint processing fee that is to be paid by the applicant.

Kimberly Maxson-Rushton, with Cooper Levenson, proposed an amendment for S.B. 210 (R1). The amendment deletes section 2, subsection 3, paragraph (b), subparagraph (1), that states, "The applicant is morally unfit; or"; and defines "Charter bus transportation," the definition of which is included in your work session document.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS
SENATE BILL 210 (1ST REPRINT).

ASSEMBLYMAN PAUL ANDERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN FLORES AND HOGAN
WERE ABSENT FOR THE VOTE.)

Chairman Carrillo:

I will give the floor statement to Assemblyman Hardy.

Senate Bill 244 (1st Reprint): Authorizes the indication of veteran status on instruction permits, drivers' licenses and identification cards. (BDR 43-80)

Vance Hughey, Committee Policy Analyst:

Senate Bill 244 (1st Reprint) was heard on April 30, 2013 ([Exhibit E](#)). It requires the Department of Motor Vehicles (DMV) to place a "Veteran" designation on an instruction permit, driver's license, or identification card upon request. The person making the request must prove his or her veteran status by submitting a copy of a DD Form 214 indicating an honorable

discharge from the Armed Forces. The bill also requires the DMV to forward a monthly list of veterans to the Office of Veterans' Services for statistical purposes. To be included on the list, each veteran must consent to the release or disclosure of personally identifiable information.

Several technical amendments have been proposed by Chairman Carrillo to make S.B. 244 (R1) better comport with some of the provisions of Assembly Bill 242, which was passed out of this Committee on April 9, 2013, with an "Amend and Do Pass" recommendation. A Legal Division mock-up is included as part of the work session document.

The first proposed change would revise sections 2 and 3 of the bill to allow the DMV Director greater discretion to determine the design of the veteran designation in the event that national standards concerning the use of the term "Veteran" on an instruction permit, a driver's license, or an identification card were to change.

The second change would amend several sections of *Nevada Revised Statutes* (NRS) to allow information transmitted by the Department of Motor Vehicles to the Office of Veterans' Services to be used for communication purposes in addition to statistical purposes. These sections of NRS currently are included in sections 6 and 9, respectively.

The final change would make conforming technical changes to sections 6 and 9 that are required to accomplish the purposes of this amendment.

ASSEMBLYMAN HEALEY MOVED TO AMEND AND DO PASS
SENATE BILL 244 (1ST REPRINT).

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN FLORES AND HOGAN
WERE ABSENT FOR THE VOTE.)

Chairman Carrillo:

I will give the floor statement to Assemblywoman Woodbury.

Senate Bill 302: Requires taxicab motor carriers in certain counties to maintain and provide to the Nevada Transportation Authority and other taxicab motor carriers certain information. (BDR 58-846)

Vance Hughey, Committee Policy Analyst

Senate Bill 302 was heard on April 25, 2013 ([Exhibit F](#)). It provides that if a taxicab company regulated by the Nevada Transportation Authority (NTA) requires an employee, prospective employee, lessee, or prospective lessee to submit to a test for the presence of alcohol or a controlled substance, and if the person tests positive, the taxicab company is required to 1) maintain a record of the results of the tests; 2) provide a record of the results of the test to the NTA; and 3) release a record of the test results to another taxicab company upon request.

Assemblyman Healey has proposed that the bill be amended to only apply to persons already employed by a taxicab company. Prospective employees would not have the results of their tests included in the record maintained by the NTA or available to any other taxicab company.

He has also proposed that the test results that would be available to the NTA and to other taxicab companies be a simple designation that the person passed or failed a drug test. This is just to clarify that the detailed drug test results would not be kept by the NTA or be available to other taxicab companies.

The last change he proposed is to place a one-year time limit on how long a person's drug test results could be maintained by the NTA and be available to any other taxicab company.

In speaking with the Legal Division, a question came up as to what the threshold might be for considering a test a failed test. I do not know if the Committee has some preference on that.

Assemblyman Healey:

The proposed amendments that I made were for a couple of different reasons. I believe in this bill and it is important for the safety of those that are being transported via public transportation with taxicabs. We need to do everything we can to ensure that those riding in taxicabs are protected. We have come across many things over the years and I do not feel that individuals who apply for a job, who may have been under the influence at the time of a drug test, be blackballed or blacklisted from being able to have an opportunity to realize they need to clean up their act in order to gain employment. If they do that, it should not preclude them from seeking employment once they have cleaned their system out. It is important that only a pass or fail is reported versus the

full report. In public safety, either pass or fail is what needs to be known in order for a decision to be made. Give people the opportunity to have their record be kept for only up to a year. Again, for the opportunity for people to realize they made a mistake and to right themselves, they should not be precluded indefinitely from seeking employment. These amendments were not at all to take away the importance of this bill, as this bill is critically important. This bill was not just to ensure that individuals who may make a mistake get held to that for their entire life and not be able to get a job; it also states that anybody who is going to be employed has to be tested and has to pass anyway. That is where we will definitely protect our citizens.

Chairman Carrillo:

I wanted to see if Scott McKenna, Legal Counsel, could address the question. What constitutes a failed test?

Scott McKenna, Committee Counsel:

At the present time, the way the existing language is written, a failed test would simply be one that indicated the presence of alcohol or a controlled substance without it being stated that any particular amount would be necessary. If, for example, it was the will of the Committee that a test would not be considered a positive test unless the amount detected would be sufficient to trigger a driving under the influence violation, that would need to be added to the bill. That is not the way the bill works at present.

Assemblywoman Spiegel:

I was wondering if it would make sense for each company to have the actual result from the test, have their own policy, and inform all of their employees what the policy is. Or is this something the Committee feels should be in legislation with an exact number?

Assemblyman Healey:

Are you referring to having the full results reported? Or, are you referring to the question about what constitutes a positive result?

Assemblywoman Spiegel:

The employer would get the result that would indicate it is ".0" or ".XX" or whatever it is. They would have a uniform policy that is applied across the board for all employees. Employees know what the policy is. One employer might have zero tolerance. Another employer might have some other latitude, depending on circumstances.

Andrew J. MacKay, Chair, Nevada Transportation Authority, Department of Business and Industry:

Nevada has adopted, pursuant to *Nevada Administrative Code* (NAC) 706.247, various federal regulations. Contained therein are the standards with respect to drug testing and what they test for. Those levels that would constitute a positive test are laid out in federal law that Nevada has adopted by reference—everything from marijuana to various opiates, amphetamines, et cetera.

Assemblyman Healey:

I did not want to confuse what my amendment was. The operator has a contract with the lab. They will send the specimen to the lab, and the lab will report those results back to the company. My concern is that the company does not release the full detailed report which could become public and another taxicab company has access to it versus just stating it is a pass or fail. I think you can also get into some Health Insurance Portability and Accountability Act issues if you are releasing medical information to the public.

Andy MacKay:

I do not believe that the bill, as drafted, and the proposed amendments from Assemblyman Healey, conflict with what is reported. When a driver tests positive, the respective lab lets that employer know he tested positive. When it is transmitted to a competitor or the NTA, they can simply transmit the information in accordance with Assemblyman Healey's amendment. That is, Andrew MacKay tested positive, and that is it. There is no reason in the sharing of information that the specifics need to be included. It would simply be pass or fail.

Assemblywoman Spiegel:

Under the proposed amendment, the blacklist would still be in place? I thought it was getting rid of the blacklist because it was saying the results of the test could not be included in the record making by the NTA, or made available. You are saying the specific results, not the overall assessment of what the results mean.

Assemblyman Healey:

That is correct. They would still be reporting the pass or fail to the NTA, not the details of what the result of the test was in terms of what levels of what substance may have been in that person's system. It does not take out the intent of the bill which was to report up to the NTA. Instead of putting full disclosure of all levels, it gives a pass or fail. I failed to mention this is a friendly amendment by the bill sponsors and the director. I spoke with all of them previous to submitting these.

Assemblywoman Carlton:

We are deleting the prospective employee so this would apply only to persons already employed. The concern we had in Committee was that someone might never be able to get a job, so we are dealing with folks who are already employed. The pass-or-fail part protects the employee through the contract that the taxicab company would have with their medical lab. If the employee was taking a legal substance, the lab would get the personal history and what prescriptions they are taking. They would know what not to test for. We had a discussion about an appeal process if someone failed so that if they got clean and sober they could test again. It will stay on the record for only one year. This would not prohibit them from going forward if they changed jobs. They could go ahead and test. The owner will look back a year and say there was an issue. If the employee convinces them he is clean now, there is still an opportunity to get employment.

Andy MacKay:

Yes. To address the appellate process, currently it is already built in. If you test positive, you can get a retest.

Assemblywoman Carlton:

I knew there was something in there about that. I am pretty comfortable with this bill now and the way it has been addressed, and I thank Assemblyman Healey for all of his work on it.

Assemblywoman Swank:

I wanted to be sure on the third amendment that if someone tests positive for drugs or other controlled substances, that one year from that all of it would be wiped clean. Is that correct?

Assemblyman Healey:

Yes, that would be correct. It does not preclude another company from hiring or testing before that year is up. It means the record is there for one year and after that year, it is no longer there. If they apply 1 ½ years later, and tested positive 1 ½ years ago, it will not show.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
SENATE BILL 302.

ASSEMBLYMAN PAUL ANDERSON SECONDED THE MOTION.

Vance Hughey:

I want to make sure we had clarification on the motion so the bill drafter can draft it the right way. We have the three points that are in the work

session document. As far as the threshold, are we assuming Legal will draft it to comport with the standards that Mr. MacKay said are already currently in law?

Assemblywoman Carlton:

If there is already a standard out there, I do not think we want to set a different standard when it comes to this. Whatever is in current practice now, I think we should stick with.

THE MOTION PASSED. (ASSEMBLYMEN FLORES AND HOGAN WERE ABSENT FOR THE VOTE.)

Chairman Carrillo:

I will give the floor statement to Assemblyman Healey.

Senate Bill 428 (1st Reprint): Revises provisions relating to tow cars. (BDR 58-1074)

Vance Hughey, Committee Policy Analyst:

Senate Bill 428 (1st Reprint) was heard on May 9, 2013 ([Exhibit G](#)). It requires operators of tow cars to accept cash, money order, credit card, or debit card or any other electronic transfer of money as payment for towing services. To comply with this provision, the bill authorizes an operator of a tow car to enter into a contract with an issuer of credit cards or debit cards to provide for the acceptance of such cards for the payment of rates, fares, and charges. The measure authorizes the Nevada Transportation Authority (NTA) to regulate the maximum fee that a tow car operator may charge a customer for the convenience of using a credit or debit card.

Karen Peterson with the American Express Corporation proposed an amendment, which is included in the work session document. The amendment clarifies that tow car operators must accept certain forms of payment. The amendment also authorizes the NTA to take into consideration the cost of accepting credit and debit cards when setting the maximum tariffs tow operators may charge; and allows a tow operator to offer discounts when payment is made in cash.

Assemblywoman Carlton:

When we did the bill last session for the taxicab companies, we allowed them to charge up to a \$3 surcharge if the person wanted to use a credit card. That way only the constituents who wanted to use a credit card picked up the cost of that. If you allow for them to account for the credit card fees within the tariff, that tariff would change for everyone who gets a tow car. In essence,

even people who do not use credit cards would end up paying for the folks who do because it would be encapsulated within every rate. My suggestion would be to give the authority to the regulator to set a surcharge fee for credit cards up to, let us say \$3, because that is the number we have picked with other regulatory agencies. It does not mean they have to go all the way up. They could look at it and say this is about a \$2 thing and set it at \$2. That way you can keep a base flat tariff for everyone else and only people who use a credit card would end up picking up the cost of that fee.

The appropriate language would be to authorize the regulator to establish a surcharge for the consideration of accepting credit cards. I am not sure why we would let them do it for debit cards. I am not sure if there is a fee for debit cards. If we think that there are, I would say allow them to do that and it would have to go through the regulatory process. It would have to be workshopped, there would have to be input, and the rate would be set and we could move forward from there. We would still have some input with the regulatory process.

Assemblyman Wheeler:

I think do not think we should ever tell a business they have to accept a credit card. Credit card companies normally charge 1.95 or 2.75 percent. At 2.75 percent of a \$600 tow, that is \$16.50. If you have a flat fee of \$2 or \$3 on something like this, you have just lost \$14.50. We are regulating how businesses do business. I do not think it is a good idea. I think having the NTA look at it and say, if the charge is this, here is your fee, based on percentage or whatever; that would be a little more equitable.

Assemblywoman Carlton:

You do agree with not building it into the base tariff and making it apply only to people who use the credit card so not everyone would pay for it?

Assemblyman Wheeler:

Definitely.

Assemblywoman Carlton:

We are in agreement on that point. We need to figure out how to get to the appropriate surcharge level. We might have to look at percentage language to establish a surcharge that would be allowed to recoup and do that through the regulatory process.

Assemblyman Wheeler:

That would probably make the most sense.

Assemblywoman Carlton:

Are you going to vote for it if we do it?

Assemblyman Wheeler:

No.

Assemblywoman Carlton:

But, it is still a good idea.

Chairman Carrillo:

I would like to see if we can have Mr. MacKay come up.

Andy MacKay:

Assemblyman Wheeler pointed out one carrier could charge 1.95 percent and another 2.3 percent. It is variable on the volume. A lot of tow companies already accept credit cards so they are not going to levy a surcharge. It is built into their overall cost structure, from consent tows, to non-consent tows. If a carrier desires to levy a surcharge, they should file a tariff rate modification with NTA, we evaluate it, and take appropriate action. The rates have to be just and reasonable.

Assemblywoman Carlton:

If a company came back to you with a tariff adjustment that was just and reasonable and wanted to include credit cards, that would be every tariff they would charge for every tow that they would do. Or could it be sectioned out?

Andy MacKay:

Yes, it could be segmented. You would specifically delineate that in this type of tow, if a consumer chose to pay via this method, there would be "X" surcharge.

Assemblywoman Carlton:

I do not want to see folks that are not using credit cards picking up the cost for the others by increasing the rate. If it can be delineated in that fashion, I think that would be appropriate. Is there particular guidance we need to give you as far as the regulatory structure?

Andy MacKay:

No. I think the testimony we have heard and the tenets of the bill are clear. It indicates by order any tariff modification generates a legal order that delineates the specific changes of the tariff. I think the bill is fine as is. It captures what your concerns and desires are.

Assemblywoman Carlton:

The second part of the discussion was discounts for cash. By doing one, in essence are you doing another? Or, would you need to establish a tariff rate for a discount?

Andy MacKay:

Yes. You would need to do that. The statute governing uniform rates, this is for any tariff rate, you cannot charge a penny more, a penny less, than what your authorized tariff is. If you accept cash and want to give a five percent discount, it would have to be notated within the tariff.

Assemblywoman Carlton:

I am comfortable with that discussion. I am not sure if the amendment is truly needed or not. With the discussion we have had we should give some guidance to the regulators so if someone tries to tell him later he does not have the authority do to this, he can show them the document that says yes, he can. Usually the regulations after a session are session part two and the lawsuits after session are session part three. We are usually settling a lawsuit when we get back to the following session. I want to make sure we do not have to spend too much money on litigation.

Andy MacKay:

I agree completely. If we do not have to end up in court, then I am happy.

Assemblywoman Carlton:

We are trying to keep you out of court. With that, I am comfortable with the bill. We have made a very complete record here today.

ASSEMBLYMAN HEALEY MOVED TO AMEND AND DO PASS
SENATE BILL 428 (1ST REPRINT).

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN WHEELER VOTED NO.
ASSEMBLYMEN FLORES AND HOGAN WERE ABSENT FOR THE
VOTE.)

Chairman Carrillo:

I will give the floor statement to Assemblywoman Spiegel.

Senate Bill 313 (1st Reprint): Revises provisions relating to autonomous vehicles. (BDR 43-954)

Sean McCoy, Committee Policy Analyst:

Senate Bill 313 (1st Reprint) was heard on May 7, 2013 ([Exhibit H](#)). It clarifies the definition of "autonomous technology" by excluding certain driver assistance features unless the combined effect of all such features enables the vehicle to be driven without the active control or monitoring of a human operator.

The bill requires that prior to the testing of a vehicle equipped with autonomous technology, the entity performing the test must submit a \$5 million instrument of insurance, surety bond, or proof of self-insurance to the Department of Motor Vehicles.

Other provisions of S.B. 313 (R1) require that while testing an autonomous vehicle on a highway within this State: 1) a human operator must be in the driver's seat; and 2) the vehicle must be equipped with a means to engage and disengage the autonomous technology and a visual indicator that indicates when the autonomous technology is operating the vehicle.

Finally, the bill provides that a manufacturer of a motor vehicle that has been converted by a third party into an autonomous vehicle cannot be held legally liable for damages caused by the conversion.

Senator Denis has proposed amending section 8 of the bill to remove the phrase "except in case of emergency."

Senator Moises "Mo" Denis, Clark County Senatorial District No. 2:

If we can get some things on the record, we will not actually need to amend the bill, but we can clarify it. It has to do with the operator and having someone in the car versus not in the car. If you will allow for that, I can have Mr. Alonso put that on the record.

Alfredo Alonso, representing the Alliance of Automobile Manufactures:

The issue in question with Mr. Goldwater's second amendment was in section 4, subsection 2, paragraph (c). It says, "An autonomous vehicle shall not be tested or operated on a highway within this State unless the autonomous vehicle is . . . Equipped with a means to alert the human operator to take manual control of the autonomous vehicle if a failure of the autonomous technology has been detected" There were concerns that would mean or require that the operator be in the vehicle at all times. We wanted to make it

clear that the human operator is being alerted in person or remotely. Some of these vehicles you can summon with your phone.

David Goldwater, representing Google, Inc.:

I would like to thank Senator Denis and Mr. Alonso for their help in accommodating. The goal here is very subtle. Nevada law contemplates a car operating on the road without a driver, whether it is a direct reference to a driver being present or an indirect one. We are trying to make sure the law reflects that as well.

Chairman Carrillo:

We are going to keep the amendment that Senator Denis proposed in section 8 to remove the phrase "except in case of emergency." Is that correct?

David Goldwater:

That is correct.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
SENATE BILL 313 (R1).

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN FLORES AND HOGAN
WERE ABSENT FOR THE VOTE.)

Chairman Carrillo:

I will give the floor statement to Assemblyman Hambrick.

**Senate Bill 429 (1st Reprint): Revises certain provisions relating to taxicabs.
(BDR 58-1103)**

Sean McCoy, Committee Policy Analyst:

Senate Bill 429 (1st Reprint) was heard on May 9, 2013 ([Exhibit I](#)). It eliminates the requirement that the Taxicab Authority approve or disapprove the color scheme on the taxicabs of a particular certificate holder. The bill also allows taxicab companies to place advertisements on the exterior of each of the companies' vehicles as long as each taxicab company's vehicles are distinguishable from taxicabs of other taxicab companies and that fare schedules remain visible on the exterior of the vehicles.

Michael Sullivan, Whittlesea-Bell Transportation, proposed an amendment to the bill, which is included in the work session document. The amendment 1) adds "color scheme" back into subsections 1 and 2 of section 1; and 2) clarifies that

taxicabs must be readily distinguishable from the taxicabs of other companies by meeting the requirements of *Nevada Revised Statutes* 706.8835.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS
SENATE BILL 429 (1ST REPRINT).

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN CARLTON VOTED
NO. ASSEMBLYMEN FLORES AND HOGAN WERE ABSENT FOR
THE VOTE.)

Assemblywoman Carlton:

I am voting no, but wish to maintain my option to change.

Chairman Carrillo:

I will give the floor statement to Assemblywoman Woodbury.

**Senate Bill 456 (1st Reprint): Revises provisions relating to operators of
tow cars. (BDR 58-1089)**

Vance Hughey, Committee Policy Analyst:

Senate Bill 456 (1st Reprint) was heard on May 9, 2013 ([Exhibit J](#)). It authorizes an insurance company to designate certain vehicle storage lots to which inoperable or stolen vehicles insured by the insurance company must be towed under certain circumstances. A tow car operator who tows a vehicle to a vehicle storage lot is entitled to payment at the time the vehicle is delivered. Additional provisions require that a law enforcement officer make a good faith effort to determine the identity of the insurance company that provides coverage for the owner of a vehicle that is to be towed and to make a good faith effort to communicate that information to the operator of the tow car before the vehicle is towed. The amendatory provisions of this bill only apply to a county whose population is 700,000 or more, which is currently Clark County.

Two proposed amendments are included in the work session document.

The first amendment was submitted by Mike Draper and Lorne Malkiewich, R&R Partners, on behalf of Ewing Brothers Towing. The amendment a) clarifies that an insurance company may designate more than one vehicle storage lot; b) provides that vehicles towed at the request of a law enforcement officer following an accident need not be "inoperable;" c) indicates which provisions of *Nevada Revised Statutes* (NRS) 706.4485 are "applicable" to a vehicle storage

lot by incorporating the provisions into the requirements for vehicle storage lots; d) provides a cap for fees for storage if the vehicle storage lot does not already have rates and charges that have been approved by the Nevada Transportation Authority; and e) clarifies the applicability of the bill to salvage pools.

The second amendment was proposed by Chairman Carrillo. It declares that the Legislature is exercising its safety regulatory authority in enacting this legislation and puts forth findings and declarations to that effect.

Chairman Carrillo:

Before we get into any questions, I wanted to discuss the amendment I proposed. There has been some suggestion that this legislation raises issues of federal preemption. These issues were not raised in committee in either house. Though the issue was not raised in Committee, now that it has come to my attention, we should do the responsible thing and address it. I have an opinion indicating that this bill is legal, falling within the exception to preemption for an exercise of the "safety regulatory authority of this State with respect to motor vehicles." This is the same exception under which many of our laws relating to tow cars are enacted. I have also been informed that the courts will consider expressions of legislative intent in determining whether legislation falls within this exception. I am, therefore, proposing we add a statement of legislative intent to the bill which is included in your work session document. This amendment declares the Legislature is exercising its safety regulatory authority in enacting this legislation to clarify that the bill falls within that exemption to preemption.

Assemblywoman Swank:

I am looking at section 1, subsection 1 of the proposed amendment that says an insurance company can designate more than one vehicle storage lot. Does the insurance company also designate more than one tow company?

Mike Draper, representing Ewing Brothers Corporation:

The tow companies are duty tow companies, so there is no choice by the insurance company to who their tow company is. They currently work on rotation with the law enforcement entity. It does not change the tow company at all.

Assemblywoman Carlton:

Were the amendments worked on with the proponents of the bill? A couple of them seem to be contradictory to provisions in the bill. I was wondering what agreement might have been reached.

Mike Draper:

We were one of the proponents of the bill. We heard some of the concerns that were expressed. All of the proponents are in agreement on these amendments.

Assemblywoman Carlton:

Thank you for that clarification.

ASSEMBLYMAN PAUL ANDERSON MOVED TO AMEND AND DO
PASS SENATE BILL 456 (1ST REPRINT).

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

Assemblywoman Carlton:

This has been a fairly contentious bill. I have had some people make comments on this bill that have given me some concerns. I want to make sure we are sending a clear measure with Legislature opining on this and passing it, and hopefully getting the Governor's signature, that we do not need to have session part 2 and session part 3 on this bill. I hope the folks who were in opposition will not attempt to make excuses for this by going back to get tariff increases and raise the cost of getting a car towed because they are going to say this is an undue burden, which would be contradictory to protecting our constituents. I wanted to make my opinion clear and on the record. I respect the regulators, and I know they will do a good job. I just want to make sure the folks who are not going to be happy about this bill do not try to keep backdooring it. Once we are done we should be done and the public policy is set.

THE MOTION PASSED. (ASSEMBLYMEN FLORES AND HOGAN
WERE ABSENT FOR THE VOTE.)

Chairman Carrillo:

I will give the floor statement to Assemblyman Paul Anderson.

[Senate Bill 508 \(1st Reprint\)](#): Repeals provisions relating to trains.
(BDR 58-576)

Vance Hughey, Committee Policy Analyst:

[Senate Bill 508 \(1st Reprint\)](#) was heard on May 9, 2013 ([Exhibit K](#)). This bill eliminates obsolete provisions of Nevada law concerning the development of a Super Speed Ground Transportation System connecting southern California with southern Nevada by removing references to California's participation on the California-Nevada Super Speed Ground Transportation Commission and reorganizing the system under the State of Nevada.

The bill also repeals obsolete provisions of existing law concerning employment of certain railroad employees.

Lorne Malkiewich, R&R Partners, submitted an amendment on behalf of Xpress West. A mock-up of the proposed changes is included in the work session document. This amendment would 1) replace the Super Speed Ground Transportation Commission with a High Speed Rail Authority to align Nevada's policy position to be consistent with federal law and policy and existing projects in the State of California, which require interoperability of regional rail networks; 2) require that members of the Authority be Nevada residents and have experience or expertise in high-speed rail issues; 3) provide that the Governor appoints one member, the Majority Leader of the Senate appoints two members, and the Speaker of the Assembly appoints two members; and 4) clarify that technical standards delineated in section 2 of the bill concerning speed capabilities of the high speed rail system may change if the speed established by the United States Department of Transportation and the Federal Railroad Administration's plans and policies for High Speed Rail Express service changes.

ASSEMBLYMAN HEALEY MOVED TO AMEND AND DO PASS
SENATE BILL 508 (1ST REPRINT).

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN FLORES AND HOGAN
WERE ABSENT FOR THE VOTE.)

Chairman Carrillo:

I will give the floor statement to Assemblywoman Swank.

That concludes our work session. Is there any public comment? [There was none.] We will recess until the call of the chair [at 4:56 p.m.].

[The Assembly Committee on Transportation was reconvened behind the bar of the Assembly on Monday, May 20, 2013 at 1:13 p.m. and adjourned at 1:14 p.m.].

RESPECTFULLY SUBMITTED:

Jacque Lethbridge
Committee Secretary

APPROVED BY:

Assemblyman Richard Carrillo, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Transportation

Date: May 16, 2013

Time of Meeting: 3:55 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 143 (R1)	C	Sean McCoy, Senior Research Analyst, Research Division, Legislative Counsel Bureau	Work Session Document
S.B. 210 (R1)	D	Sean McCoy, Senior Research Analyst, Research Division, Legislative Counsel Bureau	Work Session Document
S.B. 244 (R1)	E	Vance Hughey, Senior Research Analyst, Research Division, Legislative Counsel Bureau	Work Session Document
S.B. 302	F	Vance Hughey, Senior Research Analyst, Research Division, Legislative Counsel Bureau	Work Session Document
S.B. 428 (R1)	G	Vance Hughey, Senior Research Analyst, Research Division, Legislative Counsel Bureau	Work Session Document
S.B. 313 (R1)	H	Sean McCoy, Senior Research Analyst, Research Division, Legislative Counsel Bureau	Work Session Document
S.B. 429 (R1)	I	Sean McCoy, Senior Research Analyst, Research Division, Legislative Counsel Bureau	Work Session Document
S.B. 456 (R1)	J	Vance Hughey, Senior Research Analyst, Research Division, Legislative Counsel Bureau	Work Session Document
S.B. 508 (R1)	K	Vance Hughey, Senior Research Analyst, Research Division, Legislative Counsel Bureau	Work Session Document