

**MINUTES OF THE
SENATE COMMITTEE ON TRANSPORTATION**

**Seventy-Seventh Session
April 5, 2013**

The Senate Committee on Transportation was called to order by Chair Mark A. Manendo at 8:06 a.m. on Friday, April 5, 2013, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 5100 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark A. Manendo, Chair
Senator Kelvin Atkinson, Vice Chair
Senator Pat Spearman
Senator Joseph P. Hardy
Senator Donald G. Gustavson

GUEST LEGISLATORS PRESENT:

Senator Scott Hammond, Senatorial District No. 18

STAFF MEMBERS PRESENT:

Jered McDonald, Policy Analyst
Darcy Johnson, Counsel
Melodie Swan-Fisher, Committee Secretary

OTHERS PRESENT:

Mike Draper, Ewing Bros., Inc.
Brin Gibson, R and S Investment Properties, LLC
Lorne Malkiewich, Ewing Bros., Inc.
Danny L. Thompson, Executive Secretary-Treasurer, Nevada State AFL-CIO

Senate Committee on Transportation
April 5, 2013
Page 2

Randy Soltero, International Alliance of Theatrical State Employees and Moving
Picture Technicians, Artists and Allied Crafts of United States and
Canada; Teamsters Union Local 720

Robert Compan, Farmers Group, Inc.

Peter Guzman, The OPA Group, LLC

Lisa Foster, Allstate Corporation, American Family Insurance

Gail Tuzzolo

Adam Plain, Insurance Regulation Liaison, Division of Insurance, Department
of Business and Industry

Samuel P. McMullen, Copart, Inc.

Russell Rowe, Insurance Auto Auctions

Robert Ostrovsky, Manheim Auto Auction

Paul J. Enos, Chief Executive Officer, Nevada Trucking Association

Bruce San Filippo, Quality Towing

Maria Reyes, Quality Towing

Curtis Moor, Quality Towing

Jeffrey Berry, Quality Towing

Robert Segura, Quality Towing

Robert Hull, Quality Towing

Ralph Sedillo, Quality Towing

Shannon Grimmatt, Quality Towing

Jeff Sorensen, Quality Towing

Erin Breen, Director, Safe Community Partnership Program, University of
Nevada, Las Vegas

Todd Raybuck, Sergeant, Las Vegas Metropolitan Police Department

Angela Torres Castro, Regional Transportation Commission of Southern Nevada

Abby Hudema

Blake Bradley

Kristina Swallow, Program Manager, City of Las Vegas

Brian Daw, Clark County School District

James T. Overland, Sr., D.C., Nevada Chiropractic Association

Cindie D. Hernandez, Esq., Nevada Chiropractic Association

Mendy Elliot, Chiropractic Physicians' Board of Nevada

Chair Manendo:

We will open the hearing with Senate Bill (S.B.) 456.

SENATE BILL 456: Revises provisions relating to operators of tow cars.
(BDR 58-1089)

Mike Draper (Ewing Bros., Inc.):

I support S.B. 456, but have a proposed amendment ([Exhibit C](#)). I represent Ewing Bros., a tow service. I am here because of a commitment I made 2 years ago to some members of this Committee. Senate Bill No. 407 of the 76th Session was introduced by R. and S. Investments and Bobby Ellis. The bill was drafted pursuant to conversations Mr. Ellis had with representatives from insurance companies, who felt they deserved the opportunity to designate where vehicles would be stored after motor vehicle accidents. After an accident, law enforcement personnel designate where vehicles will be towed. Such tows are known as nonconsensual tows. At the time, the idea of insurance companies being involved in the process of designating tows was an entrepreneurial concept. We felt the tow practice precluded other interested parties from participating in the process.

We also brought these issues before the Clark County Board of Commissioners in 2012. We have met with representatives from insurance companies, regulators and other industry representatives who have interest in the process. Representatives from Ewing Bros. believe all interested parties should have a say in where vehicles involved in accidents will be towed. We spent several months examining S.B. No. 407 of the 76th Session and rebuilding it. We think the draft we have written addresses the concerns of insurance companies and allows companies that serve as duty tow companies, pursuant to assignment via law enforcement officers in southern Nevada, to continue to provide their services.

I will give you an overview of what S.B. 456 does and how it compares to S.B. No. 407 of the 76th Session. At present, several law enforcement agencies in southern Nevada contract with duty tow operators. The agreement Ewing Bros. has with Las Vegas Metropolitan Police Department (Metro) to do duty tows is a good example, so I will use it to illustrate how the typical tow process works. Metro will put out a request for quote (RFQ) for towing and storage. Such tows are considered nonconsensual. Towing and storage are included in the contract.

Any company that can meet Metro's qualifications can be contracted. Companies need to have the necessary number of tow trucks, the necessary storage space, enough employees and adequate hours of operation. Metro officers work with any of the designated tow companies. At present, there are three companies contracted with Metro. A third company was added to the duty tow rotation 2 years ago. The companies rotate by month. The Metro officers respond to the scenes of accidents and notify their dispatch center to call the duty tow company. The tow company personnel will respond to the accident scenes to clean up, and tow the vehicles to storage lots. Each vehicle is stored at the tow storage lot until a representative from the insurance company picks it up, the vehicle owner picks the vehicle up or it is left at the lot unclaimed. Metro has a tariff in place approved by the Nevada Transportation Authority (NTA), Department of Business and Industry. The tariff regulates how much can be charged for towing and storage and what services are included. For instance, it could include cleaning up accident scenes and taping the car windows.

Representatives from the insurance companies have become frustrated with the process. They assert they have not been treated fairly, that their claims adjusters have not been allowed adequate access to the vehicles and that their customers have not been treated fairly by the tow companies. They complained to the NTA and to Ewing Bros. While we feel some of the complaints are unfounded, we strive to have a good relationship with the insurance companies. After discussion about S.B. No. 407 of the 76th Session 2 years ago, we worked to implement something we think works well, a model tow tariff. We are intent on finding ways that work for them and allow us to be competitive with other tow operators.

Under S.B. 456, insurance company personnel would be allowed to designate storage yards for vehicles insured by them. Here is how the process would work: Duty tow companies would continue their operation as they do now. They would respond to accidents. Dispatch would contact the duty tow companies. Law enforcement officers would not be required to identify the insurance company that covers the vehicles at the accident scenes. We would ask that they simply make a good faith effort to do so. We do not want them crawling around in wrecked vehicles to search for the insurance information. We know their priority is to secure accident scenes quickly and safely. If the officer knows the insurance company of the vehicle at the scene, they would tell the tow truck driver. The tow truck drivers would have a list of the insurance

companies that would participate in the program. The insurance companies would have designated previously the storage lots with which they were contracted. The duty tow drivers would take the vehicles to the designated storage lots. Under the amendment to S.B. 456 [Exhibit C](#), persons at the designated storage lots would pay the duty tow drivers and begin the process of executing their obligations to the insurance companies.

Senate Bill No. 407 of the 76th Session outlined several requirements designated storage lots would have to meet to participate in the program. The storage lots would need a minimum of 10 acres, room for 1,300 vehicles, and a minimum 6-foot-high wall around the perimeter.

In S.B. 456, those restrictions would be removed. Under S.B. 456, storage lots would need to meet only the minimum requirements of the law enforcement jurisdiction. This would allow even small tow truck companies to participate in the nonconsensual tow process.

Senate Bill No. 407 of the 76th Session also required designated storage lots to have 24-hour video monitoring and an enclosed, secured building to store a minimum of 10 vehicles. Senate Bill 456 would not require this. However, some jurisdictions do specify such requirements. Vehicles towed in areas whose jurisdictions have such minimum requirements would still be affected by those requirements.

We have met with Metro personnel to address some concerns of law enforcement. Under S.B. 456, officers would not be required to designate storage lots for vehicles. The duty tow truck operators do this based on the list provided by insurance companies or the designated storage lots. Another important difference between S.B. No. 407 of the 76th Session and S.B. 456 is that S.B. No. 407 of the 76th Session did not require indemnification of law enforcement officers. At present, most law enforcement agencies contracted with tow companies require duty operators and storage lots to indemnify them. In other words, law enforcement officers do not want to be responsible for the inventory of vehicles. Inventory of the damage is the responsibility of the duty tow operators. Under S.B. 456, the participating storage lots and insurance companies would be required to indemnify law enforcement officers. We have also included in S.B. 456 the ability for law enforcement agencies to charge fees to the insurance companies and storage lots. They could, for example, assess a \$3 service charge for any vehicles towed.

Senate Bill No. 407 of the 76th Session raised concerns about monopoly. By opening participation to all insurance, tow and storage companies, S.B. 456 would eliminate this possibility. All the nonconsensual tows are tariffed by law enforcement agencies or by the NTA. The tows of vehicles whose insurance companies participated in this program would be considered consensual. The storage lots would be able to negotiate the rates they would charge the insurance companies. They would not be held to the tariffed rate. For example, a storage lot who charged \$29 per day could charge as little as \$20 per day. Senate Bill 456 would put a cap on how much could be charged. Storage lots would not be permitted to charge more than the tariffed rate. Because the NTA has no jurisdiction to monitor and regulate storage lots, S.B. 456 would also require storage lots to meet the minimum requirements as outlined in statute by the NTA.

Brin Gibson (R and S Investment Properties, LLC):

I support S.B. 456. Please see my written testimony ([Exhibit D](#)).

Chair Manendo:

What is the typical total of the fees you listed in paragraph 3 of your testimony?

Mr. Gibson:

It varies. I have seen fees in the hundreds of dollars to the thousands of dollars.

Mr. Draper:

Our proposed amendment to S.B. 456 is in response to concerns we heard from several tow companies, [Exhibit C](#). We realized we overlooked the fact that the duty tow companies would pay the storage lots when the tow companies deliver the vehicles. In section 6, paragraph (a), we proposed adding "shall ...," and in paragraph (b), "Is entitled to payment by the operator of the vehicle storage lot at the time the vehicle is towed to the vehicle storage lot." We want to include language that would ensure the duty tow operators are paid as soon as vehicles are dropped off at participating storage lots.

Senator Hardy:

Section 1, subsection 4, paragraph (b) of S.B. 456 refers to the tow fee determined by the NTA pursuant to subsection 8. What is the fee? How is it determined?

Senate Committee on Transportation
April 5, 2013
Page 7

Mr. Draper:

The fee is \$3.

Senator Hardy:

Will the fee increase?

Mr. Draper:

If we do not establish the fee, law enforcement entities would. Yes, the fee could increase if the law enforcement entities increase it.

Senator Hardy:

What is the fee today?

Mr. Draper:

There is no fee at present.

Senator Hardy:

No fees are imposed by law enforcement agencies? Would this proposed fee be new?

Mr. Draper:

That is correct; it would.

Senator Gustavson:

What would be the minimum regulations for the NTA for storage lots?

Lorne Malkiewich (Ewing Bros., Inc.):

Nevada Revised Statute (NRS) 706.4485 addresses requirements for operators of tow cars. To the extent those requirements are applicable, they would apply. All applicable local laws and ordinances, including zoning, building codes and fire codes, would apply.

Senator Gustavson:

I want to make sure the regulations would not be too onerous.

Mr. Malkiewich:

One of the things we did in drafting S.B. 456 was remove the onerous requirements. The only requirements left are those in statute and in local ordinances at present.

Senator Gustavson:

Do most of the tow companies have their own storage yards, or would vehicles be taken to other storage yards?

Mr. Draper:

Our first priority was to enable every tow company already serving a law enforcement entity in southern Nevada to continue doing so. Yes, most of the companies already have storage lots. The difference is that they would have to compete with other tow companies or work with the insurance companies to establish their storage yards as designated destinations. Storage lots that have not previously been designated could also be considered. As it is written now, S.B. 456 would allow companies that are participating now to continue to do so.

Senator Gustavson:

Would the vehicles' owners have the right to pick up their vehicles at any time?

Mr. Draper:

Yes, they would. This is allowed at present, too.

Senator Gustavson:

Senator Hardy asked about the proposed tow fee detailed in section 1, subsection 4, paragraph (b). Does your proposed amendment, Exhibit C, make changes to this portion of the bill?

Mr. Draper:

No, it does not. Our proposed amendment leaves intact the language regarding the tow fee. But we are amenable to changing it. We left it intact pursuant to our discussions with those from affected law enforcement entities.

Senator Hardy:

I am uncomfortable with credit cards being used at the scene of a crime or accident. Paying a police officer to perform a duty for which he or she is already being paid does not seem right.

Mr. Draper:

We are amenable to the removal of the portion of the bill that addresses police fees. We spoke with our contacts at Metro, and they also were amenable to removing that portion.

Senator Hardy:

I would suggest the portion of the bill that calls for fees to be paid to officers be removed.

Chair Manendo:

I agree. Senator Atkinson has concerns about that portion of the bill as well.

Mr. Draper, why did you remove the portion that requires a storage company to have 24-hour surveillance on their lots?

Mr. Draper:

We felt such a determination was better left to the law enforcement officers. Some law enforcement agencies are too small to provide 24-hour video surveillance on the storage lots they use.

Mr. Gibson:

We have been guided by economic principles to remove barriers to entering. One of those barriers is the requirement that storage yards have 24-hour video surveillance.

Chair Manendo:

Who would determine which insurance companies would be a part of the agreements with tow and storage companies, and how would membership be determined?

Mr. Draper:

A handful of insurance company representatives have been vocal about this issue. Insurance companies would not be required to participate in this agreement, but those who wanted to would be welcome to negotiate with storage yards that met the requirements. Towing and storage of vehicles insured by companies not involved in the agreement would be handled according to the duty tow system in place at present.

Senator Spearman:

I want to be sure I understand the meaning of "tariffs." Can you please define how tariffs apply to the tow process? When the bills are submitted to the insurance companies, will the costs be itemized, or will they be collective?

Mr. Draper:

The tariffs are set by the NTA. They regulate nonconsensual tows and storage at present. The tow companies submit information on their tariffs to the NTA. Until recently, the NTA could not outline what could or could not be charged. Even now, the NTA does not mandate a flat rate for all companies to charge, but they do approve the range of pricing that tow companies may charge. Let us look at the example of tariffs for Las Vegas. The NTA determines the fees and services for which the duty tow companies can charge. There is no range of pricing in the tariff. The bills tow companies or storage companies issue to insurance companies usually itemize the fees. Going forward, I assume those from insurance companies would negotiate with representatives of the storage lots to standardize the invoices.

Senator Spearman:

Are all local tow companies permitted to participate in this process? You may have answered this before I arrived today. I remember when someone wrecked my car. It was deemed a total loss. I spoke to someone from my insurance company, who told me my car had been towed to a particular place because that was the storage provider with whom they had dealings. Will the system, as outlined in S.B. 456, be a closed system, or could any tow company enter into agreement and become a designated tow company?

Mr. Draper:

I also represent two insurance companies. I am not here representing them today, but I have talked to personnel from these companies, who say they envision insurance companies working with the tow companies they determine to be easiest to work with. Insurance companies could choose based on pricing, service and which tow and storage companies provide the insurance companies' adjusters adequate access. Individual insurance companies would probably contract with more than one storage lot. In the case of vehicles towed in the Las Vegas Valley, vehicles could be towed to the nearest storage lot under contract with their insurance companies. There would be no barrier to entry for any of the storage lots, as long as they met the minimum requirements outlined in S.B. 456.

Senator Spearman:

You outlined some of the factors insurance company representatives would consider before entering into agreement with tow and storage companies. Would they also consider the number of complaints filed against tow companies?

Mr. Draper:

I will not speculate about exactly what those from the insurance companies would consider, but I know they have complained about some of the tow or storage companies. I suspect they would consider things like the number complaints filed and the number of citations the NTA had written against given of tow and storage companies. Insurance company personnel would also consider other factors based on the needs of their customers.

Senator Spearman:

Businesses have the right to control their supply chains. The agreements with tow and storage companies would be a part of their supply chains. It would be part of their customer service. I am trying to get a sense of the parameters being considered. If the points I addressed in my questions are addressed, I am convinced the protocols would be fair to everyone. I want to ensure the agreements do not include anything capricious or subjective.

Mr. Draper:

Representatives from insurance companies are here today. Perhaps one of them could address this better than I.

Danny L. Thompson (Executive Secretary-Treasurer, Nevada State AFL-CIO):

We supported S.B. No. 407 of the 76th Session, and we support S.B. 456 today for the same reasons. The cost of the tows, and all the associated fees, have grown to the point that people cannot afford them. Anything that can be done to reduce costs is important. The concerns that were voiced regarding S.B. No. 407 of the 76th Session have been addressed. My administrative assistant's car was towed and stored for just 1 day, and she had to forgo her vacation to pay for the charges. The storage company even charged her to retrieve her personal belongings from the car. The fees can be exorbitant. Low-wage earners whose cars have been towed may never get them back. Cars are sold in lien sales. The S.B. 456 will save consumers money and control costs that have gotten out of step with reality.

Randy Soltero (International Alliance of Theatrical State Employees and Moving Picture Technicians, Artists and Allied Crafts of United States and Canada; Teamsters Union Local 720):

We are in full support of S.B. 456 for the same reasons as those described by Mr. Thompson. Consumers need understanding in situations like the ones befalling those involved in nonconsensual tows pursuant to motor vehicle accidents. Our members are among the affected.

Senator Spearman:

Mr. Thompson, in the anecdote you shared, you said your assistant had to pay to retrieve her belongings from her car. Do you know if charges like those she incurred are customary?

Mr. Thompson:

I can speak only according to what I have heard. People have told me they have tried to go to the storage lots to look at their cars more than once, and that they have been charged by the storage companies for doing so. Mr. Draper or Mr. Gibson alluded to the list of things for which storage companies charge. The longer cars stay in the storage lots, the more the companies charge. The more the car owners go to the lots to look at the cars, the more the companies will charge. Lien sale charges are exacted, though a lien sale involves drafting a simple document—a piece of paper. I do not know what charges are today. Perhaps Mr. Draper or Mr. Gibson know.

Senator Spearman:

Chair Manendo, I would appreciate the NTA providing us answers to the questions regarding customary business practices, costs, how costs are determined, and information about complaints.

Chair Manendo:

We are compiling a list of questions we want answered. Is anyone else in favor of S.B. 456?

Robert Compan (Farmers Group, Inc.):

We support S.B. 456. I can answer some of the questions relating to insurance. There are always people who try to subvert the system and avoid the tariffs. We still see tow operators making erroneous charges. This affects consumers. When those of us in the insurance business go to a tow yard to retrieve a vehicle that has been there for several days, the personnel begin the lien

process and generate the fees for it. They charge set-out fees, fees for cleanup of the accident scenes and more. The charges add up. We subtract all these charges from the value of the damaged vehicles to determine whether the vehicles are worth repairing. A total charge of \$800 or \$900, for example, takes a lot off the anticipated salvage value of a given vehicle. This has a direct effect on the decision regarding selling or repairing vehicles or deeming them total losses. In today's economic climate, most consumers would rather have their vehicles repaired than totaled.

The model tariffs are still being vetted. Competition among tow and storage lots would help mitigate some of the charges. As the bill outlines, insurance companies may enter into agreements with tow and storage companies. Ewing Bros. has set a high standard for model tariffs. Ewing is the best operator we deal with in southern Nevada. They work well with consumers and insurance companies alike. They do not charge erroneous charges. Ewing Bros. will probably be one of the companies with which insurance carriers enter agreement.

Farmers Group, Inc. insures 220,000 vehicles and is one of the largest insurers in the State. The S.B. 456 would reduce costs for our customers.

Senator Spearman:

Mr. Compan, did you mention a cost of \$800 or \$900 for tow and storage? Can you expound on that?

Mr. Compan:

We see charges in excess of \$1,000. The average tow and storage bill is approximately \$695.

Senator Spearman:

Do the charges start when the tow companies show up to clean at the scenes of accidents and take possession of the cars?

Mr. Compan:

Yes, they do. The tow operators place absorbent materials on the pavement and do other cleanup work. Under the bill, some of the charges will remain static. The part of the tow and storage process that is problematic is the period when vehicles sit at the storage yard.

Senator Spearman:

I am not sure I understand. There are multiple phases for which the tow and storage companies charge. The first phase includes the immediate aftermath of the accidents. The second phase is the towing phase. The third phase is the period vehicles are stored in the yards. Is this an accurate description?

Mr. Compan:

Yes, that is accurate.

Senator Spearman:

Bills including \$800, \$900 or \$1000 charges can add up. At what phase do the majority of the charges occur? Are the charges for storage relatively uniform among companies that charge for them?

Mr. Compan:

This issue has been brought to the NTA attention many times over several years. My company has been filing complaints in the last 5 years regarding the variation in pricing. That is why the NTA set what they consider to be a model tariff. There are limitations to what can be charged. We have filed many complaints with the NTA regarding disparity of charges among companies. Company A can charge much more or less than Company B, for example.

Tariffs are set by geographic area, so they can vary. Senate Bill 456 would apply to municipalities with a population of 700,000 or more. Essentially, it would apply to Clark County. There are some companies that charge less.

Peter Guzman (The OPA Group, LLC):

I am also the treasurer of the Latin Chamber of Commerce Community Foundation. I support S.B. 456. A person whose car is towed should not lose the car. Our elected officials should pass legislation that ensures and protects consumers. Senate Bill 456 protects consumers. I urge you to support the bill. It will bring a measure of good faith and common sense to this kind of business.

Lisa Foster (Allstate Corporation, American Family Insurance):

My clients support S.B. 456 contingent on including some provisions. We want the police fees removed. We agree with the amendments. Part of the amendment is conceptual. We would like to see some language when it is completed. Also, we would like any fees that insurers pay to be in the policy.

Gail Tuzzolo:

I support S.B. 456. I live in a gated community where parking on the streets overnight is not allowed. The car of guests who parked on the street near my house was towed. In the morning, we found it missing and called the tow company. The fee was supposed to be \$350. By the time I got to the tow yard, it was \$674. The tow company had tagged on additional charges because they had towed the car on a Saturday night and because I picked up the car on a Sunday morning. I do not know how the law affects such fees, but my guests' visit was a very expensive one.

Adam Plain (Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry):

Though I signed in on the attendance roster as opposed to S.B. 456, we are neutral. We proposed an amendment ([Exhibit E](#)). The amendment covers section 1, subsection 1 of the bill. This portion refers to the phase during which insurers are interacting with their insurance companies at the time of accidents or incidents. Vehicles that are inoperable as the result of accidents would be covered by the bill, but not all inoperable vehicles would be covered. When vehicles' engines catch fire, for example, the incidents are not covered by insurance. Therefore, they would not be subject to the provisions of the bill.

We also want to make a small grammatical correction in the clause "and which are insured by that insurance company", on line 5, [Exhibit E](#). This indicates that it will apply to instances in which vehicles are inoperable as the result of accidents as well as those in which they have been stolen and recovered. When we read the bill, it looked like the clause would apply only when vehicles had been stolen and recovered, not when they were inoperable because of accidents. The third item, on line 6 of [Exhibit E](#), is to indicate that vehicles would be required to be towed "pursuant to subsection 2." This would clarify that the vehicles would need to be towed to the insurance companies' lots. The way S.B. 456 is written, it says they would need to be towed to the insurers' designated lots even if the insured chose to have their vehicles towed to other lots. We wanted to make that correction so there would be no conflict with existing statutes. We have not had a chance to consult the bill proponents. We view the amendments we are proposing as minor and technical ones.

Chair Manendo:

I should have mentioned at the beginning of the hearing that there has been some misunderstanding that S.B. 456 is my bill. It is not. It is a Committee bill. That is clearly stated on the cover of the bill.

Samuel P. McMullen (Copart, Inc.):

In our amendment ([Exhibit F](#)), Copart is referred to as a salvage pool. A salvage pool is an entity that does multiple things, but in the way the term is used in S.B. 456, it is the yard or vendor that receives totaled vehicles and tries to salvage or sell them to maximize the return to the insurance companies.

Salvage pools have direct contracts with insurance companies. The contracts are set up for cost efficiency. Insurance companies can maximize their bottom lines and, in turn, the premiums they charge. The relationship between salvage pools and insurance companies is longstanding. Salvage pools are licensed under the laws relating to the Department of Motor Vehicles (DMV). They are regulated by licensing requirements, among them are requirements regarding storage lots. To the extent they are like storage lots, we think qualifying them as storage lots would be appropriate. We want to talk to the drafters of the bill. We made our amendment, [Exhibit F](#), simple because we wanted to make sure it is right. Licensees of the DMV are also regulated under the chapter in NRS that refers to towing. For this reason, we would like advice and counsel on ensuring compatibility.

Russell Rowe (Insurance Auto Auctions):

Insurance Auto Auctions is also a salvage pool operator. We support the concepts of the bill and those outlined in the amendment by Mr. McMullen, [Exhibit F](#). We also want the opportunity to work with the proponents and drafters of the bill. We would like the opportunity to participate in the program outlined in S.B. 456.

Chair Manendo:

The proponents of the bill are shaking their heads “yes” to signify that they would be amenable to working with Mr. Rowe and Mr. McMullen.

Robert Ostrovsky (Manheim Auto Auction):

Manheim Auto Auction operates, to some degree, as a salvage pool licensed by DMV. We sell about 60,000 cars a year at wholesale prices. We are not open to the public, but we deal with insurance companies and automobile

manufacturers. We agree with what Mr. McMullen and Mr. Rowe have said. The proponents of this bill have indicated they want an open market so insurance companies can decide where the vehicles can be towed.

Paul J. Enos (Chief Executive Officer, Nevada Trucking Association):

One of the Nevada Trucking Association's councils is the Nevada Tow Car Council. We are neutral on S.B. 456. We worked on addressing some of the concerns from S.B. No. 407 of the 76th Session. We included model tariff legislation in S.B. No. 407 of the 76th Session. Though the bill did not pass, we want to pass legislation on model tariffs. We want to address the concerns and questions insurance companies have about tow and storage charges. Every tow case has a unique fact pattern. The handling of each case depends on where cars are towed, how damaged they were and how long it took for them to be towed. As for storage, the rates differ by company. Companies have different business circumstances. At present, the highest storage rate in Nevada is charged by a company in Lake Tahoe. That makes sense. Property in Lake Tahoe is expensive, so storage lots are expensive to buy and establish.

We worked with insurance companies and the NTA to arrive at a model tariff that standardizes definitions for the services. Companies use terms like "broom fee," "sweep fee" and "cleanup fee" interchangeably. We thought it best to devise transparency and uniformity. We also determined companies should be able to charge for individual components of the tow, or by the hour. The hourly rate would be charged according to a minimum number of hours it should take to provide the tow. Storage charges are not applied until vehicles have been on site for 24 hours. After the first 24 hours, the charges accrue daily.

Insurance companies' methods and rates differ just as tow companies do. Some insurance companies are diligent about removing vehicles from storage. In such cases, there will not be a high storage cost. Some insurance companies are not as diligent. Cars will sit in storage lots for 10 to 40 days, and sometimes they will never be picked up. Storage charges in such cases are much higher.

In formulating the model tariffs, the NTA and insurance companies created a systematic approach to enable tow and storage companies to know what they are charging for. The NTA can determine whether the figure is within a justifiable range. The model tariff has been in place for approximately 8 months. Since then, we have seen a decrease in complaints from insurance companies regarding tows. In the 8 months prior to the point the model tariffs

were put in place, there were 33 complaints from insurance companies. In the 8 months since the model tariffs have been in place, complaints have decreased to 20. Andrew J. MacKay, Chair, NTA, can probably verify these figures; he gave them to me. Considering the number of tows done in a month, this is minimal. Metro alone does 2,000 to 3,500 tows in any given month. All rates charged by tow and storage companies are approved by the NTA, which takes business variables into consideration. If companies' rates are not in compliance, the NTA will notify them. Once companies have their rates set and approved by the NTA, they cannot deviate from them—not 1 cent.

Senator Spearman asked how tow companies make money and at what phases in the process are the charges. There are four phases. The first is the tow phase, when cleanup is done at the accident scenes and the vehicles are towed. The second is the lien processing phase in which the tow operators determine who owns the vehicles. If I am correct, the tow companies must have the vehicles for a minimum 14 days before they can charge for lien processing. I will verify this. The third phase is the storage phase. The fourth phase is the auction phase, which occurs only in the event that vehicles are not picked up.

Senator Atkinson:

If I read S.B. 456 correctly, the tariffs will be unchanged. The NTA will continue to regulate the tariffs. Am I correct? If so, why are we discussing the tariffs?

Mr. Enos:

You are right. Senate Bill 456 will not change the tariffs. Here is the difference: At present, the tariff on nonconsensual tows is on the tows, the storage and all the ensuing related charges. Senate Bill 456 would not affect the tariff rate on nonconsensual tows. However, for consensual tows—those in which agents of the cars' owners or the owners of the cars themselves indicate they want to tow the vehicles to certain storage facilities—the tariff rates will no longer apply to the storage. At present, all rates for nonconsensual tows are tarified except rates for storage lots. If S.B. 456 passes, the tows themselves will remain under the tarified rate; however, the storage of vehicles will be regulated under rates negotiated with the insurance companies. They will not be tarified through the NTA.

Senator Atkinson:

I do not think that is true. We will have to get clarification on whether the storage of vehicles will be regulated under rates negotiated with the insurance

companies and not tariffed through the NTA. The proponents of the bill and representatives from the NTA will need to confirm this. I think your assertions are hypothetical, Mr. Enos, but I am not convinced they are accurate. Is there anyone here from the NTA? No, there is not?

Senator Spearman:

Mr. Enos, you have given a detailed explanation of all the stages of the tow and storage process. I am still concerned, however, about the cost consumers will bear as a result of the process being proposed. I was shocked to learn that Ms. Tuzzolo was charged over \$300 for a tow, and there were additional fees because the tow was done during the night on a Saturday, and in order to pick up the car on Sunday, she incurred still more fees. It seemed as if Ms. Tuzzolo was in double jeopardy. Consumers are being charged for circumstances beyond their control. The charges did not begin accruing until 24 hours had passed. The car was towed in the middle of the night, but she called on Saturday. That seems to be less than 24 hours after the event. This bothers me. You mentioned in your explanation to Senator Atkinson that a fee is charged for determining the vehicle's owner. Every time I pay for vehicle registration, I think I am paying for the services of DMV, and every car that is registered has a vehicle identification number (VIN). The VIN is available electronically. You say the tow companies charge car owners lien fees just to determine who the cars' owners are. I do not believe consumers should be required to pay twice for this information. Does the DMV charge tow companies to retrieve the information? Do tow companies have a way to access the VIN information electronically? Do they have arrangements with the DMV via the NTA?

Mr. Enos:

The lien processing fee is charged when tow companies cannot determine, through the proof of insurance cards and the vehicles' proof of registration, who vehicles' owners are. The DMV charges for this information. Sometimes tow companies must search multiple states' DMVs to ascertain a vehicle's owner. Representatives of tow companies who are here could explain the technicalities better than I.

I am not familiar with the details of the tow situation Ms. Tuzzolo described, but anyone who feels he or she has been unlawfully charged can file a complaint with the NTA. The tows we are highlighting today, however, are those done in Metro's jurisdiction. They are in a different category than those done in, for example, an apartment complex or a housing subdivision.

Senator Spearman:

I understand that. The particulars you described in your answers to Senator Atkinson's questions notwithstanding, my understanding is that even though there may be different tow situations, the charges are fairly standardized. Maybe you cannot speak to that, but I still have concern about situations in which a consumer has to pay nearly \$1,000 just to get his or her car back. Mr. Chair, if that is the case, and if the system has always been this way, the system is broken.

Mr. Enos:

You are right. We have identified it is a problem. There are unscrupulous tow operators who have given the industry a bad name. We have seen tow operators cited pursuant to a consumer complaint to the NTA. Some tow operators have been ordered to reimburse consumers because their tows were deemed unlawful. We have worked with the insurance companies and the regulators, the NTA. We think it makes sense to have model tow tariffs. We think they show transparency. Another bill we will be supporting is one that addresses the requirement that consumers pay tow drivers in cash.

Senator Atkinson:

Am I correct in my understanding that under S.B. 456 charges cannot be higher than the tariff rate?

Mr. Enos:

You are correct.

Bruce San Filippo (Quality Towing):

We oppose S.B. 456 for several reasons. Other than some minor language changes, S.B. 456 seems to be the same bill as S.B. No. 407 of the 76th Session. Senate Bill 456 seems to create issues for tow companies that rely on storage as well as towing as part of their business model. If deals between insurance companies and storage facilities are put in place, consumers will be confused. Someone will need to keep scrupulous tracking records to enable them to find their vehicles. What if an insurance company had agreements with five, six or even seven storage lots throughout the Las Vegas Valley? Who will keep track of where vehicles are? How will consumers who have been hospitalized after motor vehicle accidents find their vehicles? What about consumers who have liability insurance but no collision insurance? Would their cars have to go to the lot of the insured driver? In such cases, the towing

company would not pay the bills. How would the tower be paid for towing? Insurance information is not always correct and accurate. The proof of insurance cards may show vehicles were insured by given companies, but they may not be current. Will Metro personnel take the time to fill out the proper paperwork to track where vehicles have gone? Would they be the agents for the registered owners of the vehicles? The bill seems to conclude that they would. Why is the bill written to apply only in areas where the population is 700,000 or more? It singles out southern Nevada. This stipulation is an issue of concern.

Chair Manendo:

Why is it a concern?

Mr. San Filippo:

The first bill was written to apply to areas where the population is 100,000 or more. If the regulations are good for one area, they should be applied to the whole State.

If storage business is taken from companies that do tows both in northern and southern Nevada, jobs will be lost. Fees for storage represent approximately 30 percent to 40 percent of the revenue source for Quality Tow. I will lose many of my employees. I will not be able to support them.

Chair Manendo:

Storage fees generate 40 percent of your company revenue?

Mr. San Filippo:

Auction and storage fees generate 30 to 40 percent of our revenue.

Chair Manendo:

How would this bill lengthen police response time?

Mr. San Filippo:

Many tow trucks can tow multiple vehicles. A flatbed tow truck can carry one vehicle on the truck's bed and another that can be hooked up to the truck's stinger, a hydraulic mechanism for hooking and towing an additional vehicle. Let us look at a hypothetical. If a flatbed tow truck has a car on its bed that is going to a storage lot affiliated with Farmers Insurance and a car that is going to a lot affiliated with Allstate Company on the stinger, the tow truck driver would need to take the vehicles to separate lots, possibly in different areas of the city.

The driver could be delayed getting to the next accident tow call. Law enforcement officers will not be able to clear accident scenes as quickly. They would not be able to open roadways to traffic as soon, and secondary accidents could also happen.

Chair Manendo:

How would the bill limit victim's rights?

Mr. San Filippo:

I do not know.

Chair Manendo:

I do not know, either. I am curious because some in my district have phoned to say it will limit victim's rights.

Senator Spearman:

I looked at S.B. No. 407 of the 76th Session and S.B. 456 side by side and made some conclusions. The restriction for acreage that S.B. No. 407 of the 76th Session delineated is not in S.B. 456. This means no proprietors will be favored. I am not sure why the portion regarding 24-hour monitoring was not included in S.B. 456. As a former security officer, I think that would be important. The requirements regarding maintaining adequate and accessible storage remain the same. The portion on complying with law enforcement standards and local laws and ordinances remain the same.

Mr. San Filippo, you gave us the example of two vehicles being towed by the same truck and going to separate locations. The free market would open if this bill passes. If that is an issue for one company, it would appear that the bill would solve the problem. No single company would be relied upon to accommodate the requests for tows.

How does this bill put an onerous encumbrance on the consumer? In all fairness, I must admit I am still shocked at hearing it took \$800 to get a car back within 24 hours.

Mr. San Filippo:

The bill would affect the consumer in several ways. The more storage facilities there are in a given area, the harder it would be for consumers to determine

where their vehicles are. They would question how they got to where they were towed and how long their vehicles would be there.

Senator Spearman:

If the contractual arrangements are with particular government entities, it seems they should have the protocols that would notify consumers of where their vehicles are. If that is not happening, we need to address it with the appropriate municipal entities. I do not see the issue of consumers not knowing where their vehicles are as a valid point. The officers who attend the traffic accidents would tell consumers which facilities have their vehicles. They would not need to notify them electronically. It would not need to be complicated, but could be simply a matter of adding another checkbox to the form.

Mr. San Filippo:

At present, the system is very simple. Let me illustrate as an example a typical scenario of an accident Metro attends. Three tow companies service towing for Metro on a rotating basis. If Quality Towing has, let us say, January, everything towed during that month is located easily. The vehicles' owners can contact Metro and tell them the dates in January their vehicles were towed. Metro, knowing Quality Towing had the rotation for January, can tell the vehicle owners their cars are at Quality Towing. It is very easy for consumers to find out where their cars are just by knowing the date of the tow. Adding more tow yards and determining which yards have agreements with which insurance companies would make it harder to determine where vehicles are. Consumers would need to tell Metro where the accidents happened and with which insurance company they are insured.

Senator Spearman:

I am not trying to be difficult, but in a free-enterprise system, scope, scale and competition bring the price down. If Metro cannot keep track of cars that were towed pursuant to accidents, the citizens of Las Vegas are in trouble. I am trying to understand all this. If five or ten companies are added to the pool of those who can tow, it would benefit the consumer because of competition. I am not trying to demean your business plan, which relies on income from storage for 30 percent to 40 percent of its revenue. My point is that competition would be opened under S.B. 456. I think the concerns you raise are valid. If Metro is having difficulty keeping track of cars pursuant to nonconsensual tows, we need to address the problem. Does all this make sense to you, Mr. San Filippo?

Mr. San Filippo:

Yes, it does make sense.

Chair Manendo:

Do you think the bill would cause any single tow company to form a monopoly on tow business in the State?

Mr. San Filippo:

As long as all tow and storage companies were afforded the opportunity to participate, no, I do not think it would.

Senator Spearman:

To that point, I think the testimony Mr. Compan gave was that any companies can participate, as long as insurance companies can work with them. If the system is open, I think everyone would be invited. I have the right to shop wherever I want. I have the right to purchase the clothes I want. When insurance companies save money, consumers save money. Mr. Chair, if we find what Mr. Compan has said about the opportunity to tow being open to all tow companies is not true, we need to take a closer look at the tenets of S.B. 456. It seems the opportunity would be open to everyone. Is it your understanding the opportunity would be open to everyone, Mr. San Filippo?

Mr. San Filippo:

Yes. That is what we were told the bill says.

Maria Reyes (Quality Towing):

I am against S.B. 456. The insurance companies are trying to regulate where the cars will go. That sounds like a monopoly to me. Am I misunderstanding something? If cars are not towed according to where the Metro designates, the rates consumers pay will be higher. The insurance companies are monopolizing our jobs. I do not think it is fair. The plan will make some people rich and put others on unemployment. I am a working person who needs her job. Insurance companies just want to make more money.

Curtis Moor (Quality Towing):

I am opposed to S.B. 456. I have not heard whether the storage lots will have lien sales or set-out fees. Everything I have heard relates to tow companies and their lien sale, auction and set-out fees. Would the private storage lots not charge the same fees as tow companies? If they would, consumers would have

one more entity to deal with to get their cars back. Instead of dealing with the tow company, they would deal with the tow company, the storage lot and the police department. They would save money if lien fees were eliminated. However, the storage lots would be set up the same way as the tow companies are right now. They would do the same thing to the consumer—charge lien fees and set-out fees, the fees storage lots charge when insurance adjusters or vehicles come to the lots to see the vehicles.

Jeffrey Berry (Quality Towing):

I am opposed to S.B. 456. The towing industry is already regulated by the NTA. The NTA approves or disapproves the tariffs that determine how much tow companies can charge and for what they can charge. There are variations from company to company, but anything that is not in compliance is corrected by the NTA. A few years ago, the Metro contract for nonconsensual tows was opened to all tow companies. This was free enterprise at work. Some companies devoted time, resources and equipment to ensure they met the requirements of the RFQ. If other companies choose to not devote the resources, time and equipment to such endeavors, it is their choice. Businesses should not be financially penalized for choosing to strengthen their abilities to meet the requirements. If the rates are not appropriate, it should be up to the NTA to work with the insurance companies and tow companies to make changes to them.

Robert Segura (Quality Towing):

I am opposed to S.B. 456. I agree with what Mr. Berry said. Mr. Enos mentioned that 20 complaints have been received for 3,000 to 4,000 tows. Most of the problems seem to point to isolated incidents that occurred with limited companies. When Senator Hardy made the point regarding paying Metro fees for tows, Senator Hardy alluded that something stank. I agree with him. To address such contingencies by saying that individual aspects of the bill can be fixed seems unacceptable. Senator Spearman said businesses have the right to control their supply chains. Senate Bill No. 407 of the 76th Session did not pass, and S.B. 456 tries to address the same issues. Under the bill, the way the NTA regulates tow and storage would be changed. The choice and supply chain would be eliminated.

Each of you is elected by the people and for the people. This bill has been drafted by one person for that person—for his gain.

Senator Spearman:

Mr. Segura, we have not had a work session, so no one on the Committee is for or against S.B. 456. The questions we ask enable us to make the best informed decisions we can. I promised my constituents I would do that. This bill will not legislate what can be done. It seems to me that it will open competition. Ms. Reyes, you made the point that you want to keep your job. I want you to keep your job. If competition opens, businesses can expand. That will spur job creation. If a company has a car on a flatbed and another on a stinger, and they cannot comply with Metro requirements, for example, it seems that the "of the people" assertion would be that the people need to have competition. The "by the people" assertion would be that they want to keep their insurance rates down.

Robert Hull (Quality Towing):

I am opposed to S.B. 456. I do not know if you realize nonconsensual tows are inventoried by law enforcement personnel. Under the bill, tow companies such as ours would tow cars to the storage lot the insurance company designates. As it is now, the duty tow company takes vehicles from the accident scenes to our storage yard. It takes about 5 to 10 minutes for the typical tow driver to unload and turn in the paperwork. The driver then goes to the next accident scene. If our drivers have to take vehicles to designated storage lots, they will be at the mercy of those storage lots. How long will drivers have to wait to have the vehicles re-inventoried so they may be paid for the tows? If tow trucks are lined up waiting to process their tows, my guess is that they will wait for an hour or more. That is time they could be working other tows. I do not see how the proposed method can work for our company. We would need to hire more drivers and buy more trucks. We have already invested millions of dollars to meet the requirements of this RFQ. If the bill passes, I do not think our company will survive. If drivers are tied up at the storage lots, public safety will be an issue. We will not be able to meet the expectations for estimated time of arrival to accident scenes.

Ralph Sedillo (Quality Towing):

I am against S.B. 456. Senator Spearman said if Metro could not figure out where towed cars are, we are in trouble here in Las Vegas. Mr. Draper said it would not be the police but the tow companies that would have lists of storage facilities. Customers would not know where their cars had been taken, and they would have to pay even more to find that information.

Shannon Grimmatt (Quality Towing):

I am also against S.B. 456. As Mr. Hull pointed out, the increased distance of tows would also increase the cost to consumers. The insurance companies, having a blanket fee for tows, would pass on the cost to their customers. They offer policies that include different options. Customers might opt out of the service. As a consumer, I would rather be in control of where my vehicle is towed. The tow operator would have to know the insurance company of each vehicle. Some drivers provide proof of insurance that is false. In such instances, the cars could be towed to the wrong lots. The insurance companies would receive undeserved revenue. Such instances would also reflect badly on our company. We are responsible for vehicles from the point they are released to us by the police officers. Who would be responsible for the vehicles and their contents after we take them to the designated lots? If customers contacted us to retrieve contents, who would be responsible, the tow operator, the storage lot, or the insurance company? This is bad business practice. It amounts to taking profits from one company in order to increase the profits of other companies.

Jeff Sorensen (Quality Towing):

I am also against S.B. 456. I am a heavy tow operator. We pride ourselves on getting to the scenes of accidents and clearing them as quickly as possible. We spend hundreds of hours training how to do that effectively and efficiently. Taking vehicles to opposite ends of town would increase our estimated times of arrival to accidents. At present, consumers are affected by construction and detours. We want to make the freeways clear for commuters. Would the storage yards provide trucks to help us with the workload? We would lose income and would not be able to purchase more vehicles or hire more employees. There would be business shutdowns.

Mr. Draper:

Nobody has been more aware than Ewing Bros. of the concern that business could be lost. We have as much to lose or gain as anyone else. We support the tenets of S.B. 456 because we believe the opportunities will be open to everyone. We considered all arguments and addressed all concerns. To presuppose that companies will lose business is erroneous. Everyone would have the same opportunities to enter into contracts with insurance companies. Even those who are not participating now would be permitted to. Everyone would be challenged to improve their business models. We support removing the police fee, and we support S.B. 456.

Senator Spearman:

Will this bill include more than one tow company to address the concerns of the employees in Las Vegas? They said if drivers have two cars on their trucks and have to take them to opposite sides of town, it would increase their response times to accidents. If it would not increase their response times, I would like to add an amendment that would address and mitigate the problem.

Mr. Draper:

This bill would not change the duty tow operation as it is now. In the example of tows done for Metro at present, there are three companies in rotation. Quality Tow would still be on call for their assigned month. As far as towing cars to different areas of the city goes, that is already the case. The owners of the vehicles already have the right to designate where their vehicles will be towed. Senate Bill 456 does not change this. The point of the bill is not to change what is in place at present, but to improve the system while leaving the tow rotation arrangement in place.

Senator Spearman:

We have heard a lot about companies' investment in training of their tow truck operators. Is the training Quality Tow does unique to them? Do all tow truck operators get extensive training?

Mr. Draper:

The NTA requires a certain amount of training. Tow companies must do a certain amount to obtain Certificate of Public Convenience and Necessity. I know Ewing Bros. employees receive a lot of training, and Quality Tow employees do, too. I am sure other tow companies in the law enforcement rotations put their employees through a lot of training. These are hardworking, skilled people. I suspect the insurance companies would want to partner with the most skilled people.

Senator Hardy:

Would car owners have the ability to override the choice of storage lots with which their insurance companies would have contracts? Perhaps the lots that would be convenient to some consumers would not be the same ones with which the insurance companies are contracted. Would consumers' insurance cover all or at least a portion of the cost?

Mr. Draper:

Yes. Under S.B. 456, the car owners' rights will be first and foremost. Tows done at the request of vehicle owners who want their cars to go to storage lots other than those under contract with their insurance companies are consensual tows. Nonconsensual tows are regulated by the NTA, but consensual tows are not. Insurance companies should cover a portion of the cost for consensual tows. Because the rates storage or tow companies charge for consensual tows are not regulated by the NTA, consumers would be subjected to the rates they charge. Arrangements for coverage would be made by consumers and their insurance companies.

Senator Hardy:

Would there be a map showing the storage lots and the insurance companies with which each lot has agreements? Such a tool could help identify the challenges.

Mr. Draper:

There is no such map at present. This is because there are no agreements in place between insurance companies and storage lots. We do not know which storage lots would participate. We could look at the 10 or 11 companies participating in law enforcement contracts in southern Nevada at present and map them. I suggest the insurance companies ensure their customers know where their cars would be towed. They should also pass along the savings through fair insurance rates. Remember, the participating storage lots cannot charge more than the regulated tariff rate. There would be no additional fees. In fact, there should be savings. Not only does the proposed plan ensure fair and free competition among the storage lots, it ensures fair and free competition among the insurance companies.

Chair Manendo:

We will close the hearing on S.B. 456.

Senator Atkinson:

We will open the hearing on S.B. 179. Chair Manendo will present the bill.

SENATE BILL 179: Makes various changes to provisions governing public safety. (BDR 43-79)

Senator Mark A. Manendo (Senatorial District No. 21):

I have furnished a packet to the committee which includes my written testimony ([Exhibit G](#)) from which I will read. It also includes a list of members of the Southern Nevada Task Force ([Exhibit H](#)).

Erin Breen (Director, Safe Community Partnership Program, University of Nevada, Las Vegas):

We support S.B. 179. Like most states across the nation, Nevada used to have uniform vehicle code language that governed pedestrian safety. Traditionally, the language has said a pedestrian can cross outside a marked or unmarked crosswalk if he or she is on a stretch of road between two traffic control signals that are between two intersections controlled by a signalized intersection if another street bisects that road. In Nevada, the language changed to indicate pedestrians can cross between two traffic control devices. Interpreting what is a traffic control device has led to problems between police agencies. There has been confusion determining whether ordinances apply to the area between traffic control devices. Stop signs and marked crosswalks are traffic control devices. We interpreted Nevada law to mean pedestrians could cross streets only in marked or unmarked crosswalks. This understanding is what caused us to draft S.B. 179. We want to clean up the language that applies to pedestrian safety. Doing so will make it easy for law enforcement officers to enforce pedestrian safety laws and for educators to inform the public. The term "traffic control devices" is one we want to consider.

We want judges to have discretion in sentencing. We are requesting fines for violations not be doubled but set at the discretion of the applicable entities, and we want signs erected instead. Signs would be in accordance with National Committee on Uniform Traffic Control Devices guidelines and at the discretion of each municipality.

Section 1 addresses speeding in school zones. At present, fines are increased or even doubled in most jurisdictions. We are not asking for changes to this practice. We are asking that signs be mandatory in areas where fines have been

increased. This will help protect children crossing streets in school zones. After drivers drop off children at school, many of them are distracted and drive over the speed limit. Better signage notifying drivers of increased fines will catch drivers' attention.

Regarding section 1, subsection 6, we want to enable entities to request pedestrian safety zones on streets that have a lot of pedestrian traffic. These would be consistent with practice in work zones. Pedestrian safety zones could be requested for areas that have high pedestrian volumes and a history of crashes. Signs could indicate fines for speeding are higher in pedestrian safety zones.

Despite what section 1, subsection 10 of S.B. 179 says, drivers would still be liable. Section 1, subsection 11 of S.B. 179 says if no signs designating the fines are higher in school zones are present, fines could not be higher than those for violations in other pedestrian zones.

Section 3, subsection 1, paragraph (a) is a critical portion of this bill. It would help drivers understand stopping for pedestrians is paramount. Under our present laws, we cite many pedestrians and drivers for violations. There have been occasions when cited individuals have appeared in court on their citations, and judges have asked cited drivers if they had hit the pedestrians. Drivers have answered that they had not, and the judge countered that they must have merely yielded to those pedestrians, not stopped. We want language to be clear in its indication that drivers must stop for pedestrians when pedestrians are on the half of the roadway in which drivers are traveling.

Section 3, subsection 1, paragraph (d) deals with the explanation of flashing pedestrian signals at intersections with signals. It also includes information about "Walk" and "Don't Walk" signals. Section 3, subsection 1, paragraph (d), subparagraph 2 shows language that has been in the bill in the past. It is just being reiterated in this area.

Section 3, subsection 1, paragraph (d), subparagraph 3 refers to motorists cited for overtaking other vehicles stopped at marked or unmarked crosswalks. Judges could send offenders to classes for pedestrian and bicycle safety. We also address this in items 1(a) and (b) of amendments to section 3 of our amendment ([Exhibit I](#)).

We are requesting changes to Section 4, subsection 2. Because the crosswalks are, technically, provided crosswalks, they will be covered under the proposed language. The Legal Division added much of the language at our request. There has been some question about removing the language that refers to pedestrian tunnels or overhead pedestrian crossings. When a tunnel or crossing is provided, pedestrians must use them to cross. We would like to remove the phrase "at an intersection."

In summary, we are trying to strengthen requirements that apply to when pedestrians must use marked or unmarked crosswalks as the NRS have been open to interpretation. This is one of the reasons we drafted S.B. 179. Generally, most people believe pedestrians may cross outside marked or unmarked crosswalks as long as one street intersects an area of the road between the two signalized intersections. I realize this is complicated. We on the Pedestrian Safety Task Force felt we would be improving pedestrian safety by educating the public that pedestrians walking within 200 feet of an intersection or a mid-block crosswalk must use the crosswalk. The crosswalk could be a tunnel, an overhead crosswalk, a painted crosswalk on the road or an implied crosswalk that occurs where two streets intersect each other. Other locations in the United States mandate shorter distances than the 200 feet we are proposing. Because blocks are so long in Nevada's cities, we concluded 200 feet would be more practical. Statistics on crashes in Nevada show many happen when pedestrians are 7 feet to 25 feet outside marked crosswalks. Many tickets are issued to pedestrians crossing 500 feet outside crosswalks. We concluded they are assuming risk for themselves; they should be allowed to cross the street as long as they do not impede traffic.

Section 5, subsection 7 of S.B. 179 refers to flashing yellow signals. Drivers would have to stop for pedestrians, not merely yield. Drivers making right turns would also need to stop for pedestrians.

Section 7, subsection 3 includes language referring to school zones. It would be illegal to make a U-turn in school zones. Section 7, subsection 4 says "The driver of a vehicle shall not overtake and pass another vehicle" This would apply to active school zone times only.

Section 7, subsection 6, paragraph (b) states signs indicating penalties for violations in school zones could be double what they would be in other pedestrian zones. We want the language to say signs indicating fines will be

higher in school zones will be required. The National guidelines refer to many signs regarding penalties and fines in school zones. We want discretion on what to use be left to the discretion of each jurisdiction.

Senate Bill 179 is not perfect by any means. It is not possible to develop a bill that could address communities as diverse as those in Nevada. What the maps do not show are the number of people being injured [Exhibit H](#). The density map of Las Vegas, on page 3 of [Exhibit H](#), shows pedestrian crashes. Nevada's most recent pedestrian fatality happened yesterday in Clark County. A man in a motorized wheelchair was struck by a school bus while crossing in the center of a crosswalk. Had S.B. 179 passed before now, it would not have addressed the specific circumstances of the crash that killed him. However, we feel the bill would strengthen pedestrian safety and enable us to educate motorists and pedestrians.

Senator Hardy:

How far away must a vehicle be stopped from a pedestrian or crosswalk? Let us say a motorist drives, for example, on a city street and sees a pedestrian a block away. The motorist slows down and lets the pedestrian get across the street. The motorist would have never stopped because the car would have never come close to the intersection. How far away from a pedestrian must a car be stopped?

Ms. Breen:

In the scenario, the motorist yields to the pedestrian. If the motorist were to get to the crosswalk and the pedestrian were still in the crosswalk, the motorist would have to stop. We discussed language that would release drivers from the requirements. It speculated that a motorist would not need to stop for a pedestrian proceeding across the roadway but in the lane opposite the one in the motorist's lane. If the motorist found the pedestrian in his or her lane or the lane adjacent to his or hers while crossing, however, the motorist would be required to stop.

Senator Hardy:

When I served on the city council, I remember a simple rule that said if a road were divided, motorists could proceed safely if pedestrians were proceeding on the other side of the divide. Is that the gist of what you are saying?

Ms. Breen:

Yes. Motorists would not have to stop for pedestrians in the entire breadth of the lanes going in each direction but only in the lanes with traffic going the same direction as they.

Todd Raybuck, Sergeant (Las Vegas Metropolitan Police Department):

Please see my written testimony ([Exhibit J](#)). This bill will not magically resolve all the issues facing drivers and pedestrians. However, we look forward to our continued work with the Pedestrian Safety Task Force to improve pedestrian safety.

Ms. Breen and I spoke prior to today's Committee hearing. We will be submitting a friendly amendment regarding section 4 of S.B. 179. It will address NRS 484B.287, subsection 3 and will state that pedestrians will be required to yield to vehicles if they are crossing outside a marked or unmarked crosswalk.

Senator Spearman:

In 2011, a little girl was killed a few blocks from my house while walking home from the park. It was dark, and the driver did not see her. I am glad you are addressing these issues. I have noticed pedestrian crosswalk signals—flashing lights and the like—are often not adequate in neighborhoods of the economically disadvantaged. Drivers closest to the curb will stop, but drivers in the oncoming lanes do not know there are pedestrians in the street; they cannot see them. When I have come upon such situations, I have even gone so far as to position my car diagonally so oncoming cars could see pedestrians better.

Sergeant Raybuck:

We agree, Senator. There is not enough signage and lights identifying areas where pedestrians cross. That is an engineering issue that is being addressed, but funding is an issue. Our task force has addressed the issue.

Ms. Breen:

Senator Spearman, the scenario related to the crash near your home is what we want to address by enhancing the penalty for drivers who overtake another vehicle stopped at a marked or unmarked crosswalk. Drivers need to understand this is the most dangerous action faced by pedestrians.

Angela Torres Castro (Regional Transportation Commission of Southern Nevada):

We support S.B. 179. The Regional Transportation Commission of Southern Nevada (RTC) oversees public transportation, traffic management and transportation planning for southern Nevada. Safety on the Las Vegas Valley's roadways is of utmost concern and priority to the RTC. We are part of Nevada's Pedestrian Safety Task Force. We believe this legislation is the first step in clearly defining the rules of the road as they relate to crosswalks involving pedestrians and motorists. The RTC carries more than 60 million passengers per year, approximately 179,000 passengers on our transit system. We manage more than 3,000 stops. Our transit riders are pedestrians. We have concerns about safety. Senate Bill 179 will be a first step that will help identify, enforce and educate both motorists and pedestrians about the rules of the road.

Statistics show 59 people have died so far this year on Las Vegas Valley roadways, and 15 were pedestrians. This is five more pedestrians than were killed at the same time last year. We know safety on our roadways is not just our issue or your issue but a community issue. Motorists, pedestrians, bicyclists and transit riders are responsible to obey the rules of the road.

Abby Hudema:

I support S.B. 179. Please see my written testimony ([Exhibit K](#)).

Blake Bradley:

I support S.B. 179. Please see my written testimony ([Exhibit L](#)).

Kristina Swallow (Program Manager, City of Las Vegas):

We support S.B. 179. The bill will help improve safety on our transportation network.

Brian Daw (Clark County School District):

We support S.B. 179. Please see my written testimony ([Exhibit M](#)).

Senator Atkinson:

We will now close the hearing on S.B. 179.

Chair Manendo:

We will now open the hearing on S.B. 335.

SENATE BILL 335: Revises provisions relating to taxicabs. (BDR 58-1064)

James T. Overland, Sr., D.C. (Nevada Chiropractic Association):
I support S.B. 335. Please see my written testimony ([Exhibit N](#)).

Senator Hardy:

Please describe the training you have received for examining eyes, listening to hearts and checking for hernias. Please do not include your experience examining patients' musculoskeletal systems.

Dr. Overland:

A big portion of our education includes utilizing the ability to perform diagnostic studies. We have courses in ophthalmology, cardiology, vascular systems and hearing. We must follow testing procedures and pass many assessments to pass the curriculum and graduate from chiropractic college. The driver's license examinations we perform are very specific as to what we must observe and examine. The fitness determination for commercial drivers requires that we listen to patients' hearts, lungs, abdomens and do acuity testing. We must do ophthalmologic assessments—use an ophthalmoscope. We do auscultation of patients' hearts. Most important to note is that the doctors who perform these tests have increased acumen. They do the tests day in and day out.

Chair Manendo:

How is business these days?

Dr. Overland:

The economic condition of chiropractic in Nevada has been hard on our profession. Because of the changing issues in healthcare, including managed care, different healthcare providers are being used in areas where they were not in the past. For example, many medical doctors I know do not like to perform the exams because they are busy doing other things and feel they are better utilized in other ways. The economy could benefit from utilizing chiropractors for the examinations because they are more accessible. Patients can wait up to 1 or 2 weeks to get an appointment with a medical doctor.

Senator Scott Hammond (Senatorial District No. 18):

I have just arrived and will defer my testimony to Dr. Overland's.

Cindie D. Hernandez, Esq. (Nevada Chiropractic Association):

We support S.B. 335. Dr. Overland referred to the Medical Examination Report for Commercial Driver Fitness Determination ([Exhibit O](#)). The form is part of a two-part packet from the DMV, and in Clark County it is distributed to prospective applicants. It is a standard form with various boxes to fill and places to check. The key of the examination is on page 1, in section 2, "Health History." A chiropractic physician fills out the form while collecting verbal medical history from the prospective applicant. It is a comprehensive and uniform exam done in accordance with a uniform document. What is a little tricky is the exam the Taxicab Authority, Department of Business and Industry, requires is a federal-type medical exam. It may not be subject to federal scrutiny. It depends on to whom you talk at the U.S. Department of Transportation (USDOT). What is important to understand about the form, [Exhibit O](#), is that, to the extent any chiropractic physician would have any questions regarding the specific information required for the certification, there is a laundry list of specific conditions, as codified by Title 49 of the *U.S. Code of Federal Regulations* that have been adopted by the Taxicab Authority. The Nevada Chiropractic Association is looking for parity via application through the Taxicab Authority. The Taxicab Authority approves regulations designed to promote consumer and driver safety. Senate Bill 335 is about safety for consumers. Chiropractors are permitted to do physical exams for school bus drivers. Yet in Clark County, with a population exceeding 700,000, chiropractors are not permitted to do exams for taxicab drivers. In northern Nevada, chiropractors are permitted to do exams for taxicab drivers. Population should not be a factor in permitting doctors of chiropractic to perform these exams. The ability, quality and competency of the chiropractors is not affected by the population in the area where they perform the examinations. We are requesting one word be changed in the statute: "physician."

It appears the issue first came to bear in NRS 706.8842 in section 8 of the bill. One could question what is meant by the term "physician." Was it used in a general sense? Was it intended to indicate medical doctor only? I do not think anyone knows. There is no real record of it.

Senate Bill 335 will promote economic growth and create jobs.

Senator Atkinson:

Does the Taxicab Authority have its own contract?

Dr. Overland:

The Taxicab Authority is under the auspices of the Department of Business and Industry. Because the population in Clark County exceeds 700,000, the Taxicab Authority became its own entity. They have chosen to require medical doctors do their exams. We want to be added to the list of those permitted to do the exams for the Taxicab Authority.

Senator Atkinson:

Are you saying the intent of the bill is to add chiropractic physicians to the list of those permitted to do exams for the Taxicab Authority? Would medical doctors still be permitted to do the exams, too?

Dr. Overland:

Yes. The only thing the bill would change is adding chiropractic physicians to the list of those permitted to do the exams.

Senator Atkinson:

Is the certificate that is issued called a medical examiner's certificate?

Dr. Overland:

Yes, it is. When taxicab drivers, limousine drivers and bus drivers are required to have an examination for certification for renewal, they must go to DMV and ask for the form. The form the DMV supplies to taxicab drivers in Clark County is identical to the form that is given to bus drivers, limousine drivers and other commercial drivers. The form required for taxicab drivers is not different, nor is the test they are required to have.

Senator Gustavson:

I did some research on the subject. The federal form states who can serve as medical examiners to perform USDOT exams. What I read said it is not limited to doctors of medicine, but that doctors of osteopathy, physicians' assistants, advance-practice nurses and doctors of chiropractic can also perform the exams.

Senate Committee on Transportation
April 5, 2013
Page 39

Mendy Elliot (Chiropractic Physicians' Board of Nevada):

We support S.B. 335 and are prepared to help draft regulations if need be.

SENATOR HARDY MOVED TO DO PASS S.B. 335.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Chair Manendo:

We will close the hearing on S.B. 335. We will now open the work session on S.B. 109.

SENATE BILL 109: Revises provisions relating to off-highway vehicles.
(BDR 43-467)

Jered McDonald (Policy Analyst):

Please see the work session handout on S.B. 109 ([Exhibit P](#)).

SENATOR HARDY MOVED TO AMEND AND DO PASS
AS AMENDED S.B. 109.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Chair Manendo:

We will now open the work session on S.B. 262.

SENATE BILL 262: Makes various changes relating to vehicles used for
advertising. (BDR 43-887)

Mr. McDonald:

Please see the work session handout on S.B. 262. ([Exhibit Q](#)).

Chair Manendo:

I think there was an amendment from Clark County that was submitted late. There was some discussion on it. I spoke with the sponsor of S.B. 262, who said the amendment was not needed. I also did not think it was needed. If those from Clark County desire, they may bring it up again when S.B. 262 is heard in the Assembly.

SENATOR ATKINSON MOVED TO DO PASS S.B. 262.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Senate Committee on Transportation
April 5, 2013
Page 41

Seeing no further business before the Committee, we are adjourned at
11:56 a.m.

RESPECTFULLY SUBMITTED:

Melodie Swan-Fisher,
Committee Secretary

APPROVED BY:

Senator Mark A. Manendo, Chair

DATE: _____

EXHIBITS				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	10		Attendance Roster
S.B. 456	C	2	Mike Draper	Proposed amendment
S.B. 456	D	2	Brin Gibson	Written testimony
S.B. 456	E	1	Adam Plain	Proposed amendment
S.B. 456	F	1	Sam McMullen	Proposed amendment
S.B. 179	G	2	Senator Mark A. Manendo	Written testimony
S.B. 179	H	10	Senator Mark A. Manendo	Maps, list
S.B. 179	I	1	Erin Breen	Proposed amendments to S.B. 179
S.B. 179	J	1	Todd Raybuck	Written testimony
S.B. 179	K	1	Abby Hudema	Written testimony
S.B. 179	L	1	Blake Bradley	Written testimony
S.B. 179	M	1	Brian Daw	Written testimony
S.B. 335	N	1	James T. Overland	Written testimony
S.B. 335	O	9	Cindie D. Hernandez	Medical examination report
S.B. 109	P	10	Jered McDonald	Work Session document, proposed amendment
S.B. 262	Q	4	Jered McDonald	Work Session document, proposed amendment