

H E A R I N G

269

M I N U T E S -- 57th Session

Assembly

Environment & Public Resources & Fish and Game Committee--Room 214

March 30, 1973

Members Present: Chairman Bremner Broadbent
Vice-Chairman Crawford Jacobsen
Ford Lowman
Gojack Smalley

Members Absent: Banner

Guests Present: Ernie Gregory Nevada Division of Health
Ed Stuart Feather River Lumber Company
Clarence Skau Independent
Joe Granatelli STP Corporation
Floyd Wheeler STP Corporation
Elmo DeRicco Department of Conservation
Juanita Blankenship Interested Clark County Resident
Assemblyman Demers Introducer of A.B. 628
Roland Westergard State Engineer
Daisy Talvitie League of Women Voters
Mike Clasen Deputy Attorney General

Chairman Bremner called the meeting to order at 7:15 a.m. and asked Mr. Smalley to report on the Sub-Committee meeting they had on A.B. 477* and A.B. 628. Mr. Smalley reported that they made up amendments, and they are now being typed and will be ready for the committee to see for Monday. The Sub-Committee will be meeting at noon today, and make sure the amendments are in good shape.

A.B. 477 & A.B. 628

Mr. Daniel Demers, Assemblyman, asked if he could comment a thing or two on these bills. He just said that it has boiled down to as whether or not specifics should be in the bill or not, but he felt that they must be in the bill. Mr. Demers then introduced Mr. Joe Granatelli, Chief Executive Officer from the STP Corporation, and Mr. Floyd Wheeler, also from STP. They both came up to testify.

Mr. Granatelli mentioned that his corporation is involved with the automotive pollution field and they have designed an exhaust gas recirculation device for the control of exhaust gas and pollutants that seems very successful and is certified by California.

Floyd Wheeler told the committee that Nevada has an opportunity now to learn by the mistakes made in California, and they can get off to a good start right from the beginning. At the same time they can look at the latest technology. He discussed California experiments that have failed, and one of them was to reduce AC and CO, but what happened was that as these emissions were pushed down, the oxides of Nitrogen emissions went up and increased 30% after two years. He said that they

*see Ex. I

they thought that the standard wanting to reduce the oxides of Nitrogen 50% was excellent. Mr. Wheeler mentioned that a limit of cost for these devices should be put in the bill from \$40-\$45, maybe. Mr. Wheeler concluded his statement in saying that oxides of Nitrogen are the catalyst that when combined with hydro-carbons in the air, and with sunlight cause that yellow-brownish texture called smog. He said that Clark County has a problem with NO_x control.

QUESTIONS:

Mr. Jacobsen asked that if they develop standards, what will be required in order to test these mechanisms to make sure they are working correctly, and what frequency. Mr. Wheeler answered that it would be best to acquire material and facts of data used from reputable testing. He suggested that they contemplate vehicle inspection and there is fairly reasonable priced equipment for such purposes.

A.B. 472 *

This bill enacts the Nevada Water Pollution Control Law.

Ernie Gregory, from the Nevada Division of Health, spoke first on this bill. With him was Mr. Mike Clasen, Deputy Attorney General. Mr. Clasen explained the reasons of the changes in the bill, and said that the most significant changes are required for continuing the planning process of the permit system. This is one of those things, that if the state does not take care of it, the Federal Government will. Federal monies are available for these works for 75% of the construction and the state will only get it if they continue the planning process. This also provides for civil and criminal penalties.

QUESTIONS:

Mr. Jacobsen asked if the Federal Government, as of yet, has ever taken over in other states, and Mr. Clasen answered that they are issuing permits in Nevada right now.

Mr. Jacobsen then asked if the people go to them for a permit to apply, and Mr. Clasen said that they do, and then they would distribute the permit after application and after inspection.

Mr. Clasen continued in saying that Nevada has to come into conformance with the Federal Act, which came out last October. He said they have come up with some proposed amendments for this bill and one of the amendments had to do with willful and intentional violations. Criminal sanctions provide for up to two years imprisonment, and up to \$50,000 in fines. These amendments clarify in what instances these criminal sanctions could be imposed. Mostly imposed where there was a willful, intentional, or criminal negligence violations, all others would be civil violations. Civil violations are subject to a \$10,000 fine. The two years in jail, and up to \$50,000 fines were for the second conviction, but for the first one, is up to one year and \$25,000.

* see Ex. II

Mr. Clasen thought that "willful" or "negligent" terms were too vague in distinguishing it from the civil violations so in the amendment specifies that these criminal sanctions may be imposed for an intentional or criminally negligent violation.

Mr. Crawford asked what a definition of criminal negligence was, and Mr. Clasen said that generally it would mean negligence that is reckless disregard of consequences.

Mr. Jacobsen asked if they have had any criminal procedures about pollution up to date, and Mr. Clasen explained that they have not had, because they do not have such a program without this law.

He mentioned that radioactive wastes to the the State Commission, rather than to the Health Division.

Mr. Lowman asked if this bill is a departmental bill and was answered that it was.

After further discussion by Mr. Clasen, Mr. Gregory, and Mr. DeRicco, Mrs. Ford suggested that this committee and Senate Ecology Committee, who have the "Air Quality Bill", get together in a joint hearing and figure these bills out together. But with the troubles of finding a time without conflict seemed to be a problem. Mrs. Gojack suggested they form Sub-Committees from both this and the Senate committee, and then get together and straighten out these bills.

The amendments that Mr. Clasen had proposed were given to the members of the committees and he then went over them.

Mr. Roland Westergard, State Engineer, stated that he was for the amendments proposed.

Daisy Talvitie, from the League of Women Voters of Nevada, spoke on these bills. She had questions about the bills, but they ended up being covered by the amendments that Mr. Clasen passed out. She did want to comment that she did not approve of the idea of putting the Health Appeals Board and the Environmental Appeals Board together. She said that this creates a conflict of interest.

Juanita Blankenship, speaking for the County of Clark, wanted to say that she thought that the commission should be made up of more citizens on the board, and asked the committee to consider it.

The chairman announced that they would start a Sub-Committee study on this bill, and asked Mrs. Gojack, Mrs. Ford and Mr. Crawford to be on this Sub-Committee.

Mrs. Ford then mentioned that the Senate Welfare Committee will be holding a hearing next Monday on the Health Appeals Board, and that someone from this committee ought to go and listen on it to see what will happen.

Chairman Bremner announced that they will meet tomorrow, Saturday at 8:00 a.m. to discuss A.B. 557 and A.B. 629 and all fish and game board re-organization bills.

Mr. Lowman wanted to make sure that they will get a copy of the amendments from A.B. 477 and A.B. 628 as soon as possible today.

Mr. Jacobsen said that the industry should be represented in the Sub-Committee for A.B. 472, and Mr. Lowman was chosen to be the one.

A.B. 419

This bill provided for instructional courses in firearm safety at request of county residents.

The committee took action on this bill, and Mr. Lowman motioned for an "indefinite postponement" and Mrs. Ford seconded it. All concurred.

Mrs. Gojack announced that the Sub-Committee on A.B. 472 will meet next Tuesday, April 3, at 7 a.m. in this room.

The meeting was adjourned by the Chairman at 8:45 a.m. until Saturday morning at 8:00 a.m., and then will meet at 7:00 a.m. Monday morning.

Respectfully submitted,

Geanie Armstrong
Assembly Attache

ASSEMBLY
H E A R I N G

COMMITTEE ON ENVIRONMENT & PUBLIC RESOURCES

Date MARCH 30, 1973 Time 8 a.m. Room 214
FRIDAY

Bill or Resolution
to be considered

Subject

A.B. 472

Enacts Nevada Water Pollution Control Law.

Ad hoc committee amendments to A.B. 477 (vehicle emissions)

Section 3, Page 1, line 15, amend as follows: The State [commission of environmental protection] environmental commission.

Section 3, Page 1, line 17, amend as follows:

emissions and visible smoke emissions from mobile internal combustion engines.

Page 1, lines 20-21, amend as follows:

2. Such regulations [shall be consistent with any federal regulation for such emissions and] shall be uniform throughout the state.

Section 4, Page 2, line 4: delete [may] and replace with shall.

Page 2, lines 11-12, amend as follows:

(a) [Requirements for the installation and use of equipment designed to reduce or eliminate emission] Appropriate criteria and procedures for the approval, installation and use of motor vehicle pollution control devices;

Page 2, lines 13-14, amend as follows:

(b) Requirements for the proper maintenance of [equipment] motor vehicle pollution control devices and motor vehicles; and

Section 4, Page 2, lines 15-17, amend as follows:

[(c)] 3. Such rules and regulations shall establish:

(a) Requirements by which the department of motor vehicle [may] shall license authorized stations [and inspectors and installers] to inspect, repair and adjust and install motor vehicle pollution control devices [.] including criteria by which any person may become qualified to inspect, repair, adjust and install such devices.

(b) Requirements by which the department of motor vehicles may license an owner of a fleet of three or more vehicles as an authorized station provided that such owner complies with the regulations of the commission. Such fleet owners shall only certify vehicles which constitute such fleet.

Page 2, add new subsection to section 4 as follows:

4. The commission shall consider, prior to promulgating any rule or regulation or establishing any criteria pursuant to subsection 2 of this section, the following:

(a) The availability of devices adaptable to specific makes, models and years of motor vehicles.

(b) The effectiveness of such devices for reducing the emission of each type of air pollutant under conditions in this state.

(c) The capability of such devices for reducing any particular type or types of pollutants without significantly increasing the emission of any other type or types of pollutant.

(d) The capacity of any manufacturer to produce and distribute the particular device in such quantities and at such times as will meet the estimated needs in Nevada.

(e) The reasonableness of the retail cost of the device and the cost of its installation and maintenance over the life of the device and the motor vehicle.

(f) The ease of determining whether any such installed device is functioning properly.

Section 5, Page 2, line 18, amend as follows:

1. On and after September 1, 1973, subject to any applicable -

Page 2, line 23, delete:

[any licensed inspector and installer in]

Page 2, add subsection 2 to section 5 as follows:

2. Any used vehicle dealer as defined in NRS 482.133, shall be responsible for providing all certificates of emission control compliance for vehicles to which they apply for which a dealers report of sale is required under the provisions of NRS 482.424.

Section 7, Page 2, line 36: delete [health division of the]

Section 8, Page 2, line 46, delete as follows:

sive, of this act has been provided. [by the proper county authorities.]

Section 9, Page 2, lines 47-48, delete as follows:

Section 9. [The provisions of sections 2 to 13, inclusive, of this act do not apply to vehicles manufactured prior to 1965,]

Section 10. Page 3, lines 1-4, amend as follows:

[Section 10.] Section 9.

(a) Any person may install a motor vehicle pollution control device; however, any person who is not employed by an authorized station shall not install a device for compensation. No such device shall be deemed to meet the requirements of sections 4 to 8 , inclusive, of this act or rules or regulations of the commission or department unless it has been inspected in a licensed station and a certificate of compliance has been issued by such licensed station.

(b) It is unlawful for any person, other than an inspector or installer in an authorized station, to sign, or issue, a certificate of compliance required by this act.

Section 11. Page 3, lines 6-7, amend as follows:

[Section 11.] Section 10. The commission may provide for exemption from the provisions of sections [5] 4 to 8, inclusive, of this act of designated classes of motor vehicles.

Section 12, Page 3, lines 8-19, amend as follows:

[Section 12.] Section 11. 1. In areas of the state where and at such times as a program of implementation is commenced pursuant to sections 4 to 8, inclusive, of this act, the following fees shall be paid to the department of motor vehicles [division] and deposited in the state [fund] treasury:

(a) For the issuance and annual renewal of license for authorized station. . . \$25.00

(b) For each set of 25 forms certifying emission control compliance . . . \$50.00

2. All fees collected and deposited in the state treasury pursuant to subsection 1 of this section shall be held in trust as a credit to the department of motor vehicles to be withdrawn by that department as needed to account for unappropriated expenses which may arise because of program enlargement or augmentation resulting from any commission rule or regulation which mandates an increase in implementation of sections 2 to 13, inclusive, of this act.

[2.] 3. The department of motor vehicles may prescribe by regulation routine inspection fees at the prevailing shop labor rate, including maximum charges for such fees, and for the posting of such fees in a conspicuous place at the authorized station.

Section 13. Page 3, lines 20-27, amend as follows:

[Section 13.] Section 12.

1. A violation of any provision of sections 2 to , inclusive, of this act relating to motor vehicles, or any rule or regulation promulgated pursuant thereto relating to motor vehicles, is a misdemeanor [.] and shall be enforced by any peace officer.

Section 13. NRS 484.644 is hereby amended to read as follows:

484.644 No person shall operate or leave standing on any highway any motor vehicle which is required by [federal regulation] state or federal law to be equipped with a motor vehicle pollution control device unless such device is correctly installed and in operating condition. No person shall disconnect, alter or modify any such required device. The provisions of this section shall not apply to an alteration or modification found by the state [board of] environmental [protection] commission not to reduce the effectiveness of any required motor vehicle pollution control device.

Section 14. Chapter 482 of Nevada Revised Statutes is hereby amended ^{by adding the} ~~to read as~~
follows: *provisions of this section*

482 No person shall operate or leave standing on any highway any motor vehicle which is required by state ^{or} federal law to be equipped with a motor vehicle pollution control device unless such device is correctly installed and in operating condition. No person shall disconnect, alter or modify any such required device. The provisions of this section shall not apply to an alteration or modification found by the state environmental commission not to reduce the effectiveness of any required motor vehicle pollution control device.

Suggested Amendments to A.B. 472.

Section 8. ["Health division'] "Department" means the [health division of the] department of health, welfare and rehabilitation.

Section 11. ["Navigable waters' means the waters of the United States.] "Director" means the director of the department of health, welfare and rehabilitation or his designee.

Section 16. ["State health officer means the state health officer or his designee.] "Effluent limitation" means any applicable state and federal water quality standard or limitation which imposes any restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into any waters of the state.

Section 18. "Waters of the state" means all waters situated wholly or partly within or bordering upon this state, including but not limited to:

1. [All navigable waters;]

[2.] All streams, lakes, ponds, impounding reservoirs, marshes, water courses, waterways, wells, springs, irrigation systems and drainage systems; and

[3.] 2. All bodies or accumulations of water, surface and underground, natural or artificial [, public or private].

Section 20. 1. The state environmental commission is hereby created [consisting of nine members:] as a division of the department of conservation and natural resources. The commission shall consist of:

- (a) The director of the Nevada department of fish and game;
- (b) The state engineer;
- (c) The state forester firewarden;
- (d) The secretary-manager of the state planning board;
- (e) The executive director of the state department of agriculture;
- (f) A member of the state board of health to be designated by that board; and
- (g) Three members appointed by the governor from the general public.

2. The governor shall appoint a chairman of the commission from among the nine members.

3. Six members of the commission shall constitute a quorum and a majority of those present must concur in any decision.

4. Each member is entitled to receive traveling expenses and subsistence allowances as provided by [law] NRS 281.160.

5. Any person who receives or has during the previous 2 years received a significant portion of his income, as defined by any applicable state and federal law, directly or indirectly from one or more holders of or applicants for a permit required by sections 2 to 69, inclusive, of this act is disqualified from serving as a member of the commission.

6. (remain unchanged)

Section 22. 1. Except as specifically provided in section 48 to 52, inclusive, of this act, the commission shall:

(a) Develop, propose, promulgate and amend from time to time, after notice and public hearings, rules and regulations implementing and furthering the provisions of sections 2 to 69, inclusive, of this act, including standards of water quality and waste discharge.

(b) Advise, consult and cooperate with other agencies of the state, the Federal government, other states, interstate agencies and other persons in furthering the provisions of sections 2 to 69, inclusive, of this act.

2. In promulgating regulations, water quality standards and effluent limitations pursuant to sections 2 to 69, inclusive, of this act, the commission shall recognize the historical irrigation practices in the respective river basins of this state and the economy thereof and the effects, if any, of such practices on established beneficial uses of waters of the state within such river basins.

[2.] 3. The commission may hold hearings, issue notices of hearings, issue subpoenas requiring the attendance of witnesses and the production of evidence, administer oaths, and take testimony as it deems necessary to carry out the provisions of subsections 1 and 2 and for the purpose of reviewing water quality standards.

Section 25. The [health division] department is:

Section 26. Page 4, line 42: delete [state health officer] and replace with director.

Page 5, line 3: delete [health division] and replace with department.

Page 5, lines 21-22: delete [health officer] and replace with director.

Page 5, lines 27-28: delete as follows:

gation of fish and aquatic life, wildlife, [and]

recreational purposes, [and the withdrawal of such waters for] public water supply, agricultural, industrial

Page 5, line 36: delete [state health officer] and replace with director.

Section 27. Page 5, lines 43-44: delete [health division] and replace with department.

Section 28. Page 6, line 7: delete [state health officer] and replace with director.

Section 29. Page 6, lines 11, 13, 18 and 21: delete [health division] and replace with department.

Section 30. Page 6, lines 26 and 36: delete [health division] and replace with department.

Section 31. Page 6, lines 44-45 and 50: delete [health division] and replace with department.

Section 32. Page 7, line 4: delete [health division] and replace with department.

Section 33. Page 7, line 11: delete [health division] and replace with department.

Section 40. Page 8, line 1: delete [health division] and replace with department.

Section 41. Page 8, lines 18-19: delete [domestic sewage]

Page 8, line 20: delete [health division] and replace with department.

Section 42. Page 8, line 21: delete [health division] and replace with department.

Section 43. Page 8, lines 30-31: delete [state health officer] and replace with director.

Section 44. Page 8, lines 46-47: delete [state health officer] and replace with director.

Section 45. Page 8, line 48: delete [state health officer's] and replace with director's.

Page 8, line 49: delete [section 1] and replace with section 44.

Page 8, line 50, amend as follows: appeals board according to the provisions of [Chapter 439 of NRS] Senate Bill 488.

Section 46. Page 9, line 1: delete [health division] and replace with department.

Section 47. Page 9, lines 5 and 9: delete [state health officer] and replace with director.

Section 53. Page 9, line 41, amend as follows: [state health officer] director or authorized representative of the [health division] department, may

Section 54. Page 10, line 4: delete [health division] and replace with department.

Page 10, line 15: delete [state health officer] and replace with director.

Section 55. Page 10, line 20: delete [state health officer] and replace with director.

Page 10, line 22: delete [to such officer].

Section 56. Page 10, line 32: delete [state health officer] and replace with director.

Section 57. Page 10, line 40: delete [health division] and replace with department.

Section 58. Page 10, line 43: delete [state health officer] and replace with director.

Page 10, line 47-48, amend as follows: [health division] department under sections 2 to 69, inclusive, of this act, the [state health officer] director may:

Page 11, line 4, amend as follows:

(c) [If the violation affects navigable waters,] [r] Request the attorney general to institute by indictment or information a

criminal prosecution pursuant to sections 63 and 64 of this act. 288

Section 59. Page 11, line 13: delete [state health officer] and replace with director.

Section 60. Page 11, line 15: delete [state health officer] and replace with director.

Page 11, line 19: delete [health division] and replace with department.

Page 11, lines 27 and 33: delete [state health officer] and replace with director.

Section 61. Page 11, lines 35 and 40: delete [state health officer] and replace with director.

Section 62. Page 12, lines 8-9 and 12: delete [health division] and replace with department.

Page 12, line 13-18, amend as follows:

3. Damages may [also] include any expenses incurred [in investigating and enforcing the provisions of sections 2 to 69, inclusive, of this act,] in removing, correcting and terminating any adverse effects resulting from the discharge of pollutants and may also include compensation for any loss or destruction of wildlife, fish or aquatic life and any other actual damages caused by the violation.

Section 63. Page 12, line 20, amend as follows:

who [willfully or negligently] intentionally or with criminal negligence violates section 27 or 39 of this act, or any

Page 12, line 25, amend as follows:

of this act [,] insofar as such violations affect navigable waters, shall be

Section 65. Page 12, line 46, amend as follows:

sion of [chapter 439 of NRS] Senate Bill 488 and such rules and regulations as the appeals

Section 66. Page 12, line 48: delete [health division] and replace with department.

Section 67. Page 13, line 10: delete [health division] and ²⁸⁹replace with department.

Page 13, lines 16-17, amend as follows:

substantial evidence, are conclusive [.] ; provided that,
[3.] [I] if any party requests the court to admit additional
evidence and

Section 68. Page 13, line 28, amend as follows:

quality and water pollution [.] ; nor shall any provision of
sections 2 to 69, inclusive, of this act be construed to amend,
modify or supersede the provisions of title 48 of NRS or any
rule, regulation or order promulgated or issued thereunder by
the state engineer.