

MINUTESCOMMERCE COMMITTEE - 58TH SESSION - NEVADA STATE LEGISLATUREMarch 17, 1975

The meeting was called to order by Chairman Robinson at 3:15 P.M.

MEMBERS PRESENT: Mr. Benkovich
Mr. Demers
Mr. Getto
Mr. Harmon
Mr. Hickey
Mr. Moody
Mr. Schofield
Mr. Wittenberg
Mr. Chairman

MEMBERS ABSENT: None

SPEAKING GUESTS: John Ciardella, Department of Motor Vehicles
E. J. Silva, Department of Motor Vehicles
Robert F. Guinn, Nevada Franchised Auto Dealers
and Nevada Motor Transport Association
Virgil Anderson, AAA
James Lambert, Chief of Nevada Highway Patrol

The purpose of this meeting was to hear testimony on AB 6,
AB 127 and AB 157.

Chairman Robinson first brought up a proposed measure for committee introduction (Not yet assigned a BDR number). It is a measure relating to residential designers and was originally a compromise between them and architects however it has been changed to the point that the architects no longer favor it. It is similar to and would perhaps replace SB 283. Mr. Wittenberg wondered why they just don't amend SB 283. Mr. Schofield moved for a committee introduction which was seconded by Mr. Demers. All committee members voted "aye" with the exception of Mr. Wittenberg and Mr. Getto who were in opposition and Mr. Moody who was not in the committee room at the time of the vote.

Chairman Robinson had one other measure for committee introduction. It would be a measure preventing alcoholic beverage manufacturers from owning the distribution centers too. It would define what an alcoholic beverage is and what it is to be in the business of selling an alcoholic beverage. This measure originated with Pat Clark of Nevada Beverages. It would force local distributors to handle this and would therefore keep the money in this State.

Mr. Demers moved for committee introduction. This was seconded by Mr. Schofield and carried the committee unanimously with the exception of Mr. Wittenberg who was in opposition.

Discussion then turned to AB 127 which:

Revises definition of security interest and clarifies applicability of definitions relating to security interests in and sale of vehicles.

John Ciardella spoke on behalf of this bill saying it would bring the definition of security interest into the Department of Motor Vehicles. A security interest is an interest in a vehicle including a mobile home whether or not permanently attached to the land preserved or created by agreement which secures payment or performance of an obligation. This was already under NRS 104.1201 which is the Nevada Commercial Code but we have eliminated such things as refrigerators, televisions, etc. This is a Department bill and the only reason we requested it was to have a definition of security interest under NRS 482. It will just further clarify the law.

Mr. Silva then spoke saying being a legal owner of an automobile is not sufficient because we must concern ourselves with the legal owner, the lien holder and the security interest. It is making the language in this Section applicable to vehicles. Presently, when attempting to determine the legal owner of a vehicle, we are told the registered owner rather than a lien holder, etc. This will tie in with AB 117 on the definition of 482.055 where we have asked the Legislature to accept of change of definition of the legal owner.

Bob Guinn added that this was run by the banks to see if there was any problem and apparently there is not. They saw nothing wrong with changing the language as in this bill.

AB 157 was then discussed which:

Makes motor vehicle dealers responsible for correction of all vehicles sold which do not conform to statutory equipment requirements.

John Ciardella commented on this bill that it does provide penalties for a vehicle dealer who sells a car with faulty equipment but there are no guidelines for implementation.

Mr. Demers felt this would be covered under Consumer Fraud and Mr. Wittenberg said the Deceptive Practices Act should cover it and the penalties in that act are much stronger than in AB 157.

Mr. Guinn spoke in opposition to this bill. He said this bill would require a truck to be sold with equipment that doesn't even come on it when it is purchased new. With regard to the \$1,000 maximum penalty, when you get over \$500, it is a gross misdemeanor and he did not know how the department could assess a fine unless it was a civil fine. (It is a gross misdemeanor under Criminal Law for penalties in excess of \$500.) If this would be a civil fine then there must be some court procedure provided for in the bill in order to levy the assessment. He felt this was covered by the Consumer Fraud Division and also in the implied warranty provisions of the Uniform Commercial Code where it says when you sell something, it must be suitable for the purpose for which it is sold. He felt the double damage provision was written too loosely and could become a harassment to the auto dealer. They do not need further problems as far as staying in business at this time.

Discussion then turned to AB 6 which:

Provides penalties for possessing, buying, selling, receiving or offering for sale any motor vehicle or any part thereof whose identifying number or mark has been altered, removed or concealed.

Mr. Dreyer spoke on behalf of this bill and commented that some amending was needed and proposed the following changes:

The word "trade-mark" be eliminated on Page 1, lines 4 and 11.

"Any peace officer" on Page 2, line 2, should be deleted and replaced with the wording of AB 150 which deals with 482.540 which reads "any officer of the Nevada Highway Patrol or Field Dealer Inspector of the Vehicle Compliance and Enforcement Section of the Registration Division of the Department or Sheriff, Deputy Sheriff or police officer. This would be taking out Section 2 on Page 2, lines 2, 3, and 4. He then suggested having this whole Section re-written and submitted to this committee as an amendment. He said the remainder of the bill from Section 3, line 14 through 36 could remain the same. However, he said there would be testimony to eliminate Subsection 3 of this section and he would concur.

Mr. Dreyer will bring in an amendment to Section 1 and 2. He added that this bill has been requested by the Metropolitan Sheriff of Clark County.

Much discussion then ensued with regard to what serial numbers were being referred to and whether the bill should be specific as to which parts and the fact that not all parts come numbered from the factory. It was finally decided by Dr. Robinson that Mr. Silva should work with Mr. Dreyer to come up with acceptable amendments to solve these problems. Mr. Silva thought the wording should be changed to say "that part of the vehicle which bears the identification number" and this would eliminate headlights, carburetors, etc. Dr. Robinson wondered if this bill addressed itself to substituting of parts.

Mr. Guinn then spoke there would be a problem with parts and cited the example of youngsters who rebuild their cars and also trucking lines where parts from one truck are placed in another truck for repair, etc. He said he had no quarrel with the intent of this bill but he felt there should be some language changes. He also commented on the felony penalty under this bill whereas now it is a gross misdemeanor. He felt there was a conflict in the bill regarding the defacing of a vehicle and a part of a vehicle. He also suggested getting away from specifying in the law what the penalties should be. Subsection 3, Line 20 bothered him in subparagraph 1 and 2 where it says, he knowingly has in his possession....he felt the burden of proof is with the prosecution. Also, with regard to any peace officer taking possession of a vehicle without warrant when said vehicle is being operated without

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proper registration, he said he had no quarrel with this if the officer has reason to believe the vehicle to be stolen but, he felt the present wording to be pretty far fetched and related an incident of a truck being held up for many hours for no reason other than one trailer not having a plate on it and he did not think this was reasonable. He said they were opposed to broadening the authority of the peace officer. Presently, this is the responsibility of the Nevada Highway Patrol and he felt this should remain the same. He said they went along with the wording in AB 150 but not completely willingly and he added that they would oppose AB 6 if the wording "peace officer" is left in or even if it is changed to encompass the Sheriff or Deputy Sheriff.

Mr. Wittenberg commented on the penalty provided for on Page 2, line 33 of not less than one year. He felt it was somewhat harsh for a 16 year old. He said if it is a gross misdemeanor this leaves a little leeway in the law rather than putting the penalty in.

Dr. Robinson suggested inserting into the bill that you can deface if the intent is not to defraud. Mr. Guinn concurred.

Mr. Anderson of AAA said he would like to participate in the drafting of amendments to this bill. He also said legislation would have to be very specific as to the type of part that would have a serial number. He said he concurred with Mr. Guinn on Subsection 3, page 1 saying it has potential of injustice to an innocent buyer. He also concurred with Mr. Guinn's comments with regard to seizure of a vehicle without warrant when not properly registered. Dr. Robinson asked that Mr. Anderson take part in the drafting of these amendments.

Mr. Lambert of the Nevada Highway Patrol was opposed to broadening this jurisdiction to other than the Highway Patrol. Mr. Wittenberg concurred.

Mr. Guinn said if the bill was changed with regard to seizure of a vehicle without warrant when not properly registered to omit "improperly registered", and put in with reason to believe it is stolen. He said this would take care of his problem. Mr. Dreyer commented that this matter of improper registration has been in the law for a long time.

Mr. Silva said they wanted to have Field Inspectors included in this jurisdiction because sometimes papers are submitted to the DMV that are incorrect and we have reason to believe forgery of a title, etc. Presently they have no power to go out and get that car. They have to call the Highway Patrol and sometimes it may be 3 or 4 hours before they can get to it. If Field Inspectors were given this jurisdiction it could be handled quickly by them.

Dr. Robinson then said discussion on AB 6 would be continued upon receipt of amendments.

Mr. Demers moved the minutes of March 12 and 14 be adopted. This was seconded by Mr. Wittenberg and carried the committee unanimously.

Discussion then turned to AB 96 which:

Permits waiver of licensing requirements by State Board of Chinese Medicine for educational seminars.

Mr. Hickey and Mr. Demers presented amendments to this bill to the committee. Copies of these amendments are attached hereto.

Mr. Demers said these amendments were in agreement with Dr. Edwards and Jim Joyce. They would tie the bill down in such a way that it would be almost impossible for "fly-by-nighters" to get in.

Mr. Wittenberg said he didn't think the amendments solved the problem. He did say he would be happier with the bill if two additional amendments were made:

1. That only acupuncturists licensed in the State of Nevada be allowed to attend these seminars; and
2. That the public be protected from coming into these seminars and receiving treatment.

Mr. Schofield asked about the certificates and how long they were valid. It was not specified in the bill and the committee felt the bill should read a certificate is valid for a specific seminar only.

Mr. Demers moved that Amendment #5494 be adopted with change in No. 1A - temporary certificates for the specific seminar petitioned from the Board and also adding No. 5 of Amendment No. 5442 to the end of Amendment No. 5494. This was seconded by Mr. Harmon and unanimously passed the committee with the exception of Mr. Wittenberg who was in opposition.

Mr. Demers then moved a "do pass as amended" of AB 96. This was seconded by Mr. Harmon and unanimously passed the committee with the exception of Mr. Wittenberg who was in opposition.

Mr. Hickey moved "Indefinite Postponement" of AB 157. This was seconded by Mr. Demers and passed the committee unanimously.

Mr. Hickey moved the meeting be adjourned. This was seconded by Mr. Demers and was unanimously passed. Chairman Robinson adjourned the meeting at 4:50 P.M.

Respectfully submitted,

Joan Anderson, Secretary

ASSEMBLY
HEARING

0291

COMMITTEE ON.....COMMERCE.....

Date MARCH 17, 1975 Time 3:00 P.M. Room 316

Bill or Resolution
to be considered

Subject

- | Bill or Resolution
to be considered | Subject |
|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| AB 6 <i>IP</i> | Provides penalties for possessing, buying, selling, receiving or offering for sale any motor vehicle or any part thereof whose identifying number or mark has been altered, removed or concealed. |
| AB 127 <i>QD PASS</i> | Revises definition of security interest and clarifies applicability of definitions relating to security interests in and sale of vehicles. |
| AB 157 <i>I.P.</i> | Makes motor vehicle dealers responsible for correction of all vehicles sold which do not conform to statutory equipment requirements. |

COMMERCE COMMITTEE
LEGISLATION ACTION

0297

DATE March 17, 1975

SUBJECT AB 96 - Permits waiver of licensing requirements by state
Board of Chinese Medicine for educational seminars.

MOTION: 1. Adopt Amendment X 2. Do Pass as Amended X
Do Pass _____ Amend _____ Indefinitely Postpone _____ Reconsider _____
Moved By 1. Demers 2. Demers Seconded By 1. 2. Harmon

AMENDMENT: Amendment No. 5494 be adopted with change in No. 1A - temporary
certificats for the specific seminar petitioned from the board and also
adding No. 5 of Amendment No. 5442 to the end of Amendment No. 5494.

Moved By _____ Seconded By _____

AMENDMENT: _____

Moved BY _____ Seconded By _____

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
Robinson	<u>X</u>	_____	_____	_____	_____	_____
Harmon	<u>X</u>	_____	_____	_____	_____	_____
Demers	<u>X</u>	_____	_____	_____	_____	_____
Hickey	<u>X</u>	_____	_____	_____	_____	_____
Moody	<u>X</u>	_____	_____	_____	_____	_____
Schofield	<u>X</u>	_____	_____	_____	_____	_____
Wittenberg	_____	<u>X</u>	_____	_____	_____	_____
Benkovich	<u>X</u>	_____	_____	_____	_____	_____
Getto	<u>X</u>	_____	_____	_____	_____	_____

ORIGINAL MOTION: Passed x Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes March 17, 1975

COMMERCE COMMITTEE
LEGISLATION ACTION

0298

DATE March 17, 1975

SUBJECT AB 157 - Makes motor vehicle dealers responsible for correction of all vehicles sold which do not conform to statutory equipment requirements.

MOTION:

Do Pass _____ Amend _____ Indefinitely Postpone X Reconsider _____

Moved By Mr. Hickey Seconded By Mr. Demers

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

VOTE:	<u>MOTION</u>		<u>AMEND</u>		<u>AMEND</u>	
	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Robinson	<u>X</u>	_____	_____	_____	_____	_____
Harmon	<u>X</u>	_____	_____	_____	_____	_____
Demers	<u>X</u>	_____	_____	_____	_____	_____
Hickey	<u>X</u>	_____	_____	_____	_____	_____
Moody	<u>X</u>	_____	_____	_____	_____	_____
Schofield	<u>X</u>	_____	_____	_____	_____	_____
Wittenberg	<u>X</u>	_____	_____	_____	_____	_____
Benkovich	<u>X</u>	_____	_____	_____	_____	_____
Getto	<u>X</u>	_____	_____	_____	_____	_____

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

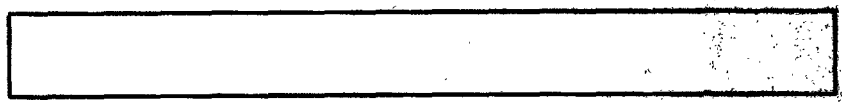
AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes March 17, 1975

		SENATE ACTION	AMENDMENT BLANK	
Adopted <input type="checkbox"/>	Adopted <input type="checkbox"/>	Adopted <input type="checkbox"/>	Amendments to Assembly / Senate	
Lost <input type="checkbox"/>	Lost <input type="checkbox"/>	Lost <input type="checkbox"/>	XXXX	
Date:	Date:	Date:	Bill / Joint Resolution No. <u>96</u> (BDR <u>54-190</u>)	
Initial:	Initial:	Initial:	XXXXXXXXXXXXXXXXXXXX	
Concurred in <input type="checkbox"/>	Concurred in <input type="checkbox"/>	Concurred in <input type="checkbox"/>	Proposed by <u>Committee on Commerce</u>	
Not concurred in <input type="checkbox"/>	Not concurred in <input type="checkbox"/>	Not concurred in <input type="checkbox"/>		
Date:	Date:	Date:		
Initial:	Initial:	Initial:		

Amendment N^o 5494



Amend section 1, page 1, by deleting lines 3 through 22 and inserting:

"1. If a person is not licensed pursuant to this chapter, the board may issue such person a certificate to:

(a) Conduct bona fide educational seminars; or

(b) Teach traditional Chinese medicine at a school or college established pursuant to NRS 634A.090;

If such person is qualified pursuant to the provisions of this section.

2. The board may issue a certificate, without an examination, to any person who:

(a) Has been licensed by the government of Korea, Japan, the People's Republic of China, or the Republic of China to practice traditional Chinese medicine;

(b) Has achieved eminence or special recognition for his knowledge, ability and skill in the practice of traditional Chinese medicine by:

(1) A government agency of one of the countries included within paragraph (a);

(2) A hospital or medical college located within one of the countries included within paragraph (a), if:

(I) Such hospital or college is affiliated with a university in such country; and

(II) Such affiliated university has academic affiliations with universities in any other country; and

(c) Has practiced traditional Chinese medicine for 20 years immediately preceding the date of his application for a certificate.

3. Persons applying for a certificate pursuant to subsection 1 shall submit to the board a certificate fee of \$300. A portion of this fee may be used by the board to investigate the applicant and such portion is not refundable if the applicant does not receive a certificate.

4. Temporary certificates may be issued to students permitting them to employ the techniques of traditional Chinese medicine while such students are attending a seminar on traditional Chinese medicine. Such students may only employ the techniques of traditional Chinese medicine while under the direct and immediate

Amendment No. 5494 to Assembly Bill No. 96 (BDR 54-190) Page 3

supervision of the licensed or certified practitioner or doctor of traditional Chinese medicine conducting the seminar. The board may charge a reasonable fee for such temporary certificate.

5. The board may place such restrictions upon the issuance and use of the certificates and temporary certificates as it deems necessary."

Amend section 1, page 2, by deleting lines 1 through 4.

Amend the title of the bill by deleting line 3 and inserting:

"pertaining to educational seminars and schools and colleges of traditional Chinese medicine; permitting state board of Chinese medicine ".

ASSEMBLY

STATE ACTION

ASSEMBLY / SENATE AMENDMENT BLANK

Adopted
 Lost
 Date:
 Initial:
 Concurred in
 Not concurred in
 Date:
 Initial:

Adopted
 Lost
 Date:
 Initial:
 Concurred in
 Not concurred in
 Date:
 Initial:

Amendments to Assembly / Senate

Bill / Joint Resolution No. ~~96~~ (BDR ~~54-190~~)

Proposed by Committee on Commerce

Amendment No 5442

Amend section 1, page 2, line 4, by inserting after the period, the following:

"4. The board shall adopt regulations prohibiting any person who conducts seminars pursuant to this section from awarding or giving diplomas, certificates or any other documents to students who attend any such seminar, if the board determines that such documents may mislead such students or members of the general public as to the quantity or quality of education such students may have received at such seminar.

Amendment No. 5442 to Assembly Bill No. 96 (BDR 54-190) Page 2

5. The board shall adopt regulations providing that any person or persons who are in any manner involved in conducting a seminar pursuant to this section may not charge fees to students attending such seminar which exceed the out-of-pocket expenses incurred by such persons in conducting such a seminar. Persons lecturing at seminars shall be deemed "persons involved in conducting a seminar" for the purposes of these provisions."

Amend the title of the bill by deleting lines 4 and 5 and inserting:

"to adopt regulations providing for such waivers and for the management of such seminars; and providing other matters properly relating thereto."

