

MINUTES

ENVIRONMENT AND PUBLIC RESOURCES COMMITTEE  
FEBRUARY 1, 1977

Members Present: Chairman Moody  
Mr. Chaney  
Mr. Jeffrey  
Mr. Ross  
Mr. Serpa  
Mr. Polish  
Mr. Howard

Members Excused: Mr. Coulter  
Mr. Kissam

Guests Present: Daisy J. Talvitie, League of Women Voters  
Ellen M. Rand  
Joe Rand  
Walt Plackett  
Daryl E. Capurro, Nevada Franchised Auto  
Dealers Association  
Mr. and Mrs. Ralph A. Irwin, Reno  
Mr. and Mrs. Milton Murphy  
Glen Griffith, Fish and Game Commission  
Fred E. Wright, Fish and Game Commission  
Dick Serdoz, Air Quality - H. R.  
Thorne J. Butler, Environmental Commission  
Ernie Gregory, Environmental Protection  
Ken Boyer, Environmental Commission  
Ed Silva, Department of Motor Vehicles  
John Ciardella, Department of Motor Vehicles  
Virgil P. Anderson, AAA  
John Holmes, Jacks Valley, Personal

The meeting was called to order by Chairman Moody at 3:00 p.m. He explained that this meeting was for the purpose of taking testimony and discussing A.B. 126 and A.B. 155.

ASSEMBLY BILL 126

Mr. John Ciardella and Mr. Ed Silva, both of the Nevada Department of Motor Vehicles, appeared to testify in favor of the bill. Mr. Silva is in the Emission Control Section of the Department of Motor Vehicles. He stated that the reasons for requesting language change in A.B. 126 are as follows: Presently Nevada does not have statutes which specify certain auto pollution equipment devices to be installed on vehicles

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Federally required devices are those the manufacturer installs in order to meet federal air quality standards required by E.P.A. The vehicle has to be delivered to the public by the dealer exactly as it comes from the manufacturer with these devices. If they alter the devices, it carries a severe penalty. Existing statutes do not allow for adjustments to engine or devices to improve fuel economy or engine efficiency or safety. Tests show sometimes these can be improved by slightly altering certain settings and still maintain emissions far below state air quality standards. Parts for these devices are highly unavailable for replacement and repair, as shown by the program in Clark County in surveys of dealers and suppliers. Manufacturers stop making parts or they are so costly that dealers and stores will not stock them. A majority of dealers do not stock replacement catalytic converters. They have very limited quantities of other parts or none at all. In dealing with existing vehicles there is a need for flexibility, as long as the vehicle is inspected and adjusted once or twice a year, in administering any inspection and maintenance program or in laws requiring inspection and maintenance of vehicle equipment. Under existing statutes, if the owner cannot obtain a needed part he cannot pass inspection and cannot obtain the required certificate even if the car is analyzed and found to meet state air quality requirements. Existing language prohibits them from using any judgment whatsoever in enforcing this part of the program and giving the consumer a reasonable answer as to what he can do with his automobile.

Mr. Ciardella said that essentially there is no such thing as a federally required device; the manufacturer chose a means to achieve certain air quality standards by placing certain equipment on a car. He would recommend that we do have stronger standards for the state and not rely on federal regulations, which are nebulous. Mr. Silva stated that there are different settings on cars which are sold at high or low altitudes which affect how they perform at the different altitudes and affect the emissions. It would be a restraint of trade not to allow these cars to be sold. The Department would like to be able to pass cars on the basis of emissions testing rather than basing decisions on devices installed, especially on older cars. Nevada has a transient population which compounds the problem as some states have no requirements at all and cars from those states are hard to pass under present regulations, even though they could pass on the basis of emissions. It creates extreme hardships on owners if they have to pay large amounts for necessary devices even though they are not really needed.

Mr. Howard asked when the act becomes mandatory in the whole state. Mr. Ciardella answered that now it only pertains to

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Clark County. At the last session of the legislature it was put off in order to do a two year study and report, and testimony will be presented at this session so they can expand the program and make determination on what is going to be done.

Mr. Polish wanted to know if they are going to make allowances for changes in some of the devices. Mr. Ciardella answered that some time ago when they made this recommendation for change they would have liked to have some input from other sources but did not get any. They are hoping that a vehicle will be acceptable as long as it meets air standard requirements set by the Environmental Commission for the state. He said that when a car can come out that will be guaranteed for 50,000 miles, this will not be necessary, but at this time it is. Now most vehicles can be brought into compliance with just tuneups and minor adjustments. The hardest hit are fixed income and lower income groups.

Mr. Howard said he believes present standards are restrictive, but wanted to know if the Department has standards adopted for those that do have emission control devices and those that don't. Mr. Ciardella answered yes, the Environmental Commission has adopted standards for the different ages of vehicles and makes. Experience has shown that standards should be tightened up.

Daisy Talvitie, League of Women Voters, testified that the League helped get the language of the law in as it stands now and they don't think it should be modified at this time as people take advantage of that to disconnect devices in order to get better gas mileage and other things to their advantage, but not to the advantage of air quality. The only degree of control we have is to require that this not be allowed, so she believes Section 1 should not be changed. The League believes this could be handled by proper inspection laws rather than through A.B. 126, which they hope the committee will kill. She pointed out that the terminology in the proposed law is improper as it should not be "air quality standards, which refers to total amounts of pollutants in the air from all sources, but should be "emission standards", referring to automobiles only. It should be based on the age and make of the car with the equipment on the car and the vehicle properly tuned. We should aim to keep equipment on cars as long as possible. Problems related to enforcement and inadequacies of inspection laws should be improved before changing the standards.

Mr. Chaney asked for an explanation of "air quality standards" as opposed to "emission standards". She explained that air

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quality is the total amount of pollutants in the air, and emission standard is what is coming out of a particular automobile and other sources. We need a level of emission from each source. Inspection determines whether or not it exceeds the emission standard, not air quality standard. There should be more stringent emissions standards because very few automobiles now do not pass and it is showing up in the conditions of the air. A number of years ago federal law required the states to develop an implementation plan of action to cause us to meet air quality standards, which would include a good inspection system. This had to be approved by E.P.A. If we fail to take necessary measures to meet the plan, the federal government can impose it's own controls, which has been upheld by the Supreme Court. Clark County has already been designated as an Air Quality Maintenance Area, largely due to the automobile problem. This means we are right at the level of critical air quality standards, or already exceed them.

Thorne J. Butler, Las Vegas, of the State Environmental Commission, recommended that the committee consider A.B. 126 under abeyance because the whole subject of auto inspections, auto emissions standards, air quality standards and implementation plans is so complex. The reason is that in 1973 the legislature asked the Commission and the Department of Motor Vehicles to conduct an automobile inspection program in Clark County, as required by the State Implementation Plan, to find out whether an inspection system would result in substantial improvement in emission for motor vehicles and thereby reduce the total amount of pollutants in the air in Clark County. Now that the experiment is completed, a report was submitted at the opening session reviewing the status of that project. He believes the committee should study the report regarding the automobile inspection to control emissions. There are many details that have to be settled before appropriate action can be taken on A.B. 126. There is especially the question of annual automobile inspections in the State of Nevada. He believes a bill covering all avenues will be forthcoming.

Mr. Howard wanted to know if we are going to get a bill from E.P.A. relative to emission control or is it from the Motor Vehicle Department or a combination of the two. Mr. Butler said they were not asked to introduce a bill, only submit a report on the project in Clark County, first in 1975, and then put off to this session in 1977. Then it would be a legislative responsibility, probably through the Legislative Counsel Bureau under direction of the committees. He stated that a tuneup to the manufacturer's specifications resulted in a 40% reduction of emissions. The weakness in the current bill being considered

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is that it doesn't imply how this is all going to work. The current law only requires inspection if the vehicle changes hands.

Mr. Jeffrey asked Mr. Butler whether there has been a study on the effectiveness of various air pollution control devices. Mr. Butler stated that the catalytic converter has a tremendous impact on emissions on a very efficient basis with more miles per gallon, and up to 38% improvement in actual gas mileage, along with great reduction in harmful emissions. Mr. Jeffrey questioned the replacement and maintenance of air pollution devices on older cars and said it would be all right to go over this bill if there is another one to be submitted this session to take care of that problem which is here now. There is a question in his mind as to whether or not the devices are all that effective anyway. He said that as of now we are requiring vehicle owners to maintain devices which are not effective in order to license the vehicle, which could reduce gas mileage and cause more pollution problems. Mr. Butler answered that in the report it suggests that if the cost of maintenance is above a certain standard minimum or replacement is unavailable then allowances would be made. He said again that the committee should wait for the total review of the inspection question and see what comes out in a new bill covering the whole problem.

Mr. Polish asked if there were any follow-ups to see if any of the cars had been tampered with in Clark County and are the 3/4 ton trucks with catalytic converters included in the inspections. Mr. Butler said that only private automobiles and light duty trucks were tested. Of all vehicles tested, 97% passed just by having minor adjustments on some. Around 2% of all cars that were changing hands could not pass at all regardless of what could be done to them. Mr. Polish asked if there was any inspection of cars at different altitudes in the Northern area. Mr. Butler said no, they were only inspected in Clark County. There was no data on the original source of the cars.

Daryl E. Capurro, Executive Director of the Nevada Franchised Automobile Dealers Association, testified that the Federal Clean Air Act of 1970 prohibited auto manufacturers and dealers from tampering in any way with any of the devices required under federal law and provided stiff penalties. No amendments were passed at the last Congress. Part of those amendments were an extension of the tampering clause to members of the general public. New bills now introduced also contain that provision. Since it was non-controversial last session, it appears that it will contain that clause in anything that comes out of the present session. If we adopt a law allowing

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owners to alter their vehicle devices, they will be in conflict with federal law. The second point is that state emission standards that we have are possibly too high for vehicles in use, as cars deteriorate with age and it is impossible to keep up with the standards. If the state follows federal standards on all pollutants, it would take highly specialized equipment which is very expensive, very immobile, and not affordable by small businesses. Catalytic converters allowed some increase in emissions but they were sufficiently cleaned up and it has worked in practice. With respect to the stocking problem of parts, this cannot be solved legislatively but has to be done through the industry. A.B. 126 would be outside of any consideration the committee would have relative to the possibility of changing emission inspection programs in Nevada as it is a different chapter and the bill should be considered on its own at this time. He does not believe that this is a prudent step to take at this time.

John Holmes, who lives in Jacks Valley, testified on his own behalf, that he has had lifetime experience working on automobiles, including design and racing, and is in favor of what the bill is trying to do in not degrading emissions but allowing freedom to improve. From his own experience he can improve emission standards and gas mileage by modification, disconnecting certain devices, or doing other things to them. He believes people should be allowed to do what they want as long as standards are maintained. Minimum standards should be set at tail pipes and there should not be any worry about what is under the hood. He agrees with A.B. 126.

Dick Serdoz, of the Department of Human Resources, Environmental Protection Services, as the air quality officer, testified as shown in "Exhibit A", which is attached hereto. Mr. Serdoz also stated that regarding the new vehicles meeting standards of higher elevations, the new regulations adopted pursuant to the Federal Clean Air Act by the U. S. Environmental Protection Agency require that any vehicles sold to a dealership selling at higher altitudes are required to be tested to meet standards for higher elevations. That is for 1977 vehicles. Some vehicles may not be available at high altitudes because they have not gone through test procedures required under Federal Act.

The hearing was concluded on A.B. 126.

ASSEMBLY BILL 155

A.B. requires the state engineer to preserve access for wildlife when waters are appropriated from public sources.

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Mr. Glen Griffith of the Department of Fish and Game explained that at present if someone wants to develop a spring or other water source they excavate for a head box and the wildlife gets excluded totally from access to water. They want, when applications are being made for use of public waters, for the state engineer to review the application and work out an alternate scheme with the developer, rancher, miner, etc., to alleviate the situation. Once they are in they cannot be undone. There is no conflict with water rights or water use.

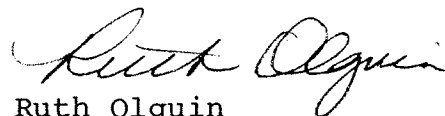
Mr. Serpa asked about the conflict of putting an underground box on a spring or other water source to bring it down out of the canyon and then having to leave part of it open, especially if you wanted to use it for domestic water and not have a pollution problem. Mr. Griffith agreed that if it were to be for domestic water there could be a conflict, but they don't have circumstances where they are in conflict with domestic situations. They do have situations where the water is piped down to a trough and then certain wildlife can benefit, but if it is kept from other areas the wildlife is excluded. What can be done is to put a by-pass pool arrangement so that water remains there and the rest goes for the alternate use. He is concerned mainly with the more arid areas of the state with chukker populations. Some have been eliminated by water developments that could have been averted.

Mr. Howard asked Mr. Griffith whether in the past the B.L.M. has worked with the Fish and Game Department to alleviate the situation. Mr. Griffith said they have a working relationship with them now but there used to be a controversy because if they didn't come to them with their development program they didn't consider the consequences to the fish and game. When they were showed the consequences, they re-excavated and put in alternate arrangements to correct the situation. This bill would eliminate the conflict situation existing at present.

The hearing was concluded on A.B. 155.

Mr. Polish moved that the meeting be adjourned, the motion was seconded by Mr. Howard and passed unanimously. The meeting was adjourned at 4:40 p.m.

Respectfully submitted,



Ruth Olguin  
Assembly Attache

A.B. 126  
February 1, 1977 3:00 p.m.

MY NAME IS DICK SERDOZ. I WORK IN THE DEPARTMENT OF HUMAN RESOURCES, ENVIRONMENTAL PROTECTION SERVICES, AS THE AIR QUALITY OFFICER. I AM HERE TO TESTIFY ON A.B. 126. THE AIR QUALITY SECTION DOES SUPPORT THE AMENDMENT THROUGH LINE 14.

THE EXISTING LANGUAGE OF NRS 484.644 HAS THREE SEPARATE CONCEPTS: FIRST, A MOTOR VEHICLE SHALL NOT BE OPERATED OR BE STANDING ON A HIGHWAY UNLESS THE POLLUTION CONTROL DEVICE IS INSTALLED AND OPERATING; SECOND, NO PERSON SHALL DISCONNECT, ALTER OR MODIFY SUCH DEVICE; AND THIRD, THE STATE ENVIRONMENTAL COMMISSION CAN DETERMINE IF AN ALTERATION OR MODIFICATION CAN BE DONE WHICH WILL NOT REDUCE THE EFFECTIVENESS OF THE DEVICE.

THE FIRST CONCEPT DEALING WITH THE POLLUTION CONTROL DEVICE WOULD BE VERY DIFFICULT FOR A PEACE OFFICER TO DETERMINE IF ALL OF THE NECESSARY DEVICES ARE ON AND OPERATIONAL. THIS WOULD INVOLVE AN INSPECTION OF THE ENGINE COMPARTMENT AND THE EXHAUST TRAIN. WITH THOROUGH KNOWLEDGE OF THE REQUIRED DEVICES ON A MULTITUDE OF VEHICLES OR BASICALLY THE PATROLMAN WOULD BE A CLASS "A" MECHANIC. THE AMENDMENT LINE 10 THROUGH LINE 12 WOULD NOT REQUIRE THE SAME KNOWLEDGE. THIS AMENDMENT WOULD ALLOW THE PEACE OFFICER, IF HE SUSPECTED THAT THERE WERE EXCESSIVE EMISSIONS, TO REQUIRE THE VEHICLE TO BE TESTED BY ONE OF THE LICENSED INSPECTION STATIONS AND TO SUBMIT THE AIR QUALITY CERTIFICATION AS REQUIRED IN OTHER MECHANICAL REPAIR CITATIONS. THIS STATUTE WOULD ALSO BE USEFUL WHEN ROADSIDE SURVEYS SUCH AS THE SAFETY INSPECTION IN THE PAST ARE CONDUCTED. THE EMISSION MONITORING EQUIPMENT COULD BE AVAILABLE DURING THE ROADSIDE INSPECTION TO ASSURE



THAT THE EXHAUST EMISSION FOR THE VEHICLE MEETS THE ENVIRONMENTAL COMMISSION EXHAUST STANDARDS. THIS PROVISION WOULD IN ESSENCE REQUIRE ALL MOTOR VEHICLES IN THE STATE OF NEVADA THAT USE A HIGHWAY OR ARE ALONGSIDE A HIGHWAY TO MEET THE EMISSION STANDARD ESTABLISHED BY THE ENVIRONMENTAL COMMISSION. THIS WOULD BE SIGNIFICANT AID IN CURBING THE GROWING AUTO POLLUTION IN OUR METROPOLITAN AREAS.

THE SECOND CONCEPT, THE DISCONNECTING OR MODIFYING OF THE DEVICE, IS THE SAME IN THE EXISTING AND NEW LANGUAGE. BUT THE THIRD CONCEPT, WHICH ALLOWS THE REMOVAL, IS DIFFERENT IN THAT THE REMOVAL OR MODIFICATION IS ALLOWED IF THE VEHICLE MEETS THE EMISSION STANDARDS OF THE COMMISSION. THIS WILL REQUIRE A FISCAL NOTE AS THE DEVICES WHICH WERE PLACED ON THE VEHICLES WERE TO MEET AN EMISSION PER MILE OF TRAVEL AND THE COMMISSION REGULATION IS ONLY TO LOCATE GROSS EMITTERS WHICH HAVE NOT HAD THE REQUIRED MAINTENANCE OR WERE NEGLECTED DURING THEIR USEFUL LIFE. THE DEVICES REQUIRED TO BE PLACED ON ALL MODEL 1970 AND NEWER VEHICLES WERE TO BE TESTED FOR THE USEFUL LIFE OF THE VEHICLE. THIS WAS DEFINED IN THE CLEAN AIR ACT AS FIVE YEARS OR 50,000 MILES. THIS IS CONTAINED IN SECTION 202(d) OF THE ACT. THE FEDERAL ACT ALSO REQUIRES A COMPLIANCE BY VEHICLE AND ENGINES IN ACTUAL USE, SECTION 207(b). TO DATE THERE IS NO SHORT TEST THAT WILL DETERMINE IF THE VEHICLE MEETS THE REQUIREMENTS OF THE EPA NEW VEHICLE TEST. THE FEDERAL TEST PROCEDURES REQUIRE APPROXIMATELY \$200,000 IN EQUIPMENT AND FACILITIES AND THE VEHICLE MUST BE LEFT FOR A 24 TO 48 HOUR PERIOD.

SUGGESTED CLARIFICATION

OF A.B. 126

1. Amend line #11:

Delete "Air quality",

Insert emission.

2. Amend line #16:

Delete everything after "exceed the".

Delete line #17, insert emission standards required under the Federal Act,

or

Delete lines 15, 16, and 17.