

Chairman Bob Price called the meeting to order at 5:00 pm with the following members and guests present:

PRESENT: Chairman Price
Mr. Beyer
Mr. DuBois
Mr. Glover
Mr. Mello
Mr. Polish
Mr. Prengaman
Mr. Schofield
Mrs. Westall

ABSENT: None

Please see attached guest register for guests present.

S.B. 52 - Establishes schedule of fine for overloaded vehicles.

Speaking in support of this measure was Mr. William Goddard, an inspector for the DMV, Motor Carrier Division. He stated that they had met with the Department of Transportation prior to the session and worked out the language. The bill basically changes the fine structure on over-weight vehicles; it goes from the present system which is in increments to a "pound" system. This is not a new concept as many states have it at this time. At the present time \$500.00 is the most that a trucker can be fined; anything over 12,100 pounds (as shown on the first page of the bill) is \$500.00. Any weight over that amount will not cause him to be penalized. He described a situation in Las Vegas where an individual was cited for a vehicle that was 35,000 pounds over weight which means that man was carrying in excess of 20,000 pounds which he was not being fined for.

They checked with other states and took the best parts out of each piece of their laws and came up with the proposed bill. This bill proposes to put a fine at .10¢ a pound on anything over 10,001 pounds; the reason for that is that they feel that any vehicle that is running in excess of 10,000 pounds is deliberate and therefore should be fined a large amount of money.

On the bottom end of the scale starting with 1 pound to 2500 pounds, there is some concern in that area on some trucks that may be 500 to 600 pounds over-weight. The reason that they are doing some of this is to be compatible with federal law (Section 127 of Title 23) which addresses the weights that the states may allow. States may allow 20,000 on a single axle, 34,000 on a tandem and 80,000 gross, including all tolerances. Under the present system, we have a 2,000 pound tolerance so while they were in the process of changing the law, they brought it back down to 1 pound.

Mr. Glover stated that he was in agreement with the concept of the bill but had some questions on the formula of using 1 to 2500 pounds at a fine of \$25.00 and asked if that was after the 2,000 pound tolerance. Mr. Goddard explained that this would eliminate the 2,000 pound tolerance but if you were 1 pound over, you would be subject to a \$25.00 fine. The reason the committee decided on a \$25.00 was due to the administrative costs of writing the citations. He doesn't predict a problem with the enforcement of the law but he does appreciate the committees concern and would have no objection to taking the fine back down to \$5.00 or \$10.00.

Mr. Polish asked why the weight formula couldn't be changed to 100 pounds and was advised by Mr. Goddard that it could be but they had tried to coordinate this with the federal regulations.

Mr. Ken Cox, Federal Highway Administration, responded to a question from Mr. Glover on whether we have any problems in not being in accordance with the federal regulations by stating that in accordance with the federal law when they say "including all tolerances" it means exactly that, to the point where if your law says 80,000 pounds, as our law does, then one pound over that would be in violation. The other method that they would accept would be to change the limit to 78,000 pounds and then you can still carry your 2,000 pound tolerance so, by the time he would cite you for that extra pound, it would still be 80,001 pounds. The federal law reads 80,000 pounds as a maximum on the inter-state - it would be simpler to leave it as it is rather than say that the State of Nevada is going to go back to the old law that said 78,000 and allow a 2,000 tolerance. Each year the Governor has to certify to the federal highway administrator that the State is enforcing the law and the law for the inter-state must be 80,000 at the maximum.

Mr. Prengaman asked why violators of this law are being cited in Justice Court and was advised by Mr. Goddard that he did not know the reason but he understands it has always been that way. He understands that several states have what they call "assessments" where they have taken this outside the courts; one of our legislators addressed that concern earlier in the session as there has been a problem in the Justice Court system in Las Vegas. If this bill is passed, it would be much easier to keep a record of the dismissal rate and if we have a problem because of the higher fines, we would come back in two years and try to correct that problem.

Mr. Prengaman called attention to the language on page 2, line 18 referring to a collection of fines and asked if they have had problems with that area. Mr. Cox stated that they have no problems with that but he understands that some courts have been good in working with people that couldn't pay and have worked out some time payment plans for them. Mr. Price stated that if the case is in Justice Court

he understands the fine goes to the county and he questioned the reason for it going to Justice Court as previously asked by Mr. Prengaman. This question could not be answered by anyone present.

Testifying next was Mr. Daryl Capurro, Managing Director Nevada Motor Transport Association, who stated he would be making two observations: first, his agency is not opposed to the concept of the bill, however, he does have some problems with the classifications within it. Secondly, they have maintained over the years that they do not believe in illegal over-weights and in most circumstances believe that the fines should be enforced.

Part of the problem we ran into last session in a bill having to do with trying to correct a problem whereby they were getting "firmer decisions" from some J.P.'s around the state. On a 500 pounds overweight they were letting them post bail at \$50.00 and that was the end of it. They put some language in this bill to try to tie it down and that language appears on page 2, line 21, "any bail allowed must not be less than the appropriate fine provided for in this section". He explained that they helped draft that provision as part of the Transportation Interim Committee recommendation that was made to take care of that problem. At the same time, Mr. Daykin took out some language that had been in the law prior to that time and that language was in line 18, page 2 as questioned above. It said, "the fines provided in this section are mandatory and cannot be waived or suspended by the court". Mr. Daykin removed that language at the same time that he made the other change last session with the explanation that the justice courts are prohibited now from suspending or waiving sentence or fine. However, we have passed last session and this session the authority to waive or suspend sentence or fine; he would prefer to see that language put back into the law.

Mr. Capurro briefly reviewed the past history of this legislation and the reasons for the need of some definite standards and proper enforcement thereof.

He reviewed some problems truckers have in trying to maintain the proper weight limit including snow and ice conditions, the use of portable scales with variations that are not as accurate as they would like them to be, etc.

He doubted that any one would be stopped for being one pound overweight but it seems to him that with respect to the fine schedule that we have, and was touted before the Interim Committee as being akin to the Oregon plan that there are significant differences, particularly on the lower end. He asked consideration by the committee for modifying what is on page 2 from lines 12 through 17, referring to the weight and fine schedule: starting with 0 to

750 pounds at \$2.00; 751 to 1500 pounds is \$15.00 and 1501 to 2500 pounds is 1¢ per pound.

Another point he wanted to make was that we can stay within the federal guidelines by practically anything we adopt, providing that the fine schedule goes down to one pound; we don't have to go the route that is contained in this bill. He advised that there are a lot of states that are moving towards the "cents per pound" concept because of the situation where a person who is 35,000 pounds overweight is deliberately at that weight and he should not be treated the same as a guy who is caught out there at 12,000 pounds or less, the fine should be more for that.

The other problem they have with the federal law, under the weight certification that has to be done by this state, is that the "no tolerance" extends to the axle weights to where your legal axle loadings are 20,000 pounds single axle and 34,000 pounds for a tandem. The load may be completely legal at 80,000 pounds but you may have a shift in the cargo which, when the driver started out, would have been completely legal as to the axle weights, but a shift in the cargo has now shifted the weight on an individual axle to as much as 1,000 pounds higher and reduced it on the other axle. He technically would be 1,000 pounds overweight and he would be subject to the fines provided in here. He suggested consideration of a modification that would be in the neighborhood of from 1500 pounds down to zero; the fine being in the neighborhood of \$10 or \$15. From 1501 pounds to 2500 that it be somewhere around \$20 to \$25 and then scale it on a "cents per pound" on the way up. Additionally, above 5,000 pounds, we maintain what Oregon has and that's 7¢ per pound. Therefore, in the example used by Mr. Goddard, that 35,000 overweight would be paying a \$2450.00 at 7¢ per pound, which would get his attention and would be about five times what our fine schedule is now.

He reiterated that he does not disagree with the concept of this bill but asked their consideration in some amendments to mitigate, particularly at the lower end, but also some consideration of capping that at 7¢ for anything over 5,000 pounds.

Mr. Mello reviewed the fine and weight schedule with Mr. Cappuro and expanded what had been discussed earlier beginning with 5,000 pounds and over at 7¢. Mr. Cappuro explained that under the Oregon plan it is 2¢ per pound for excess weight; to 5,000 pounds it is 2¢ per pound and then from 5,001 pounds and above, the Oregon plan is 7¢ per pound. There is no classification over that.

Brief discussion followed on various aspects of the bill and at the conclusion of the discussion, Chairman Price requested that Mr. Glover serve on a subcommittee and check on conflicts with S.B. 107, work with Mr. Goddard and Mr. Cappuro on any areas they might have and additionally, find out if it would be possible to get some

of the fine money into the districts courts so the money could come back to the cities.

A.B. 71- Limits disclosure of information by insurers, agents and organizations which support the business of insurance.

Chairman Price explained that AB 71 was the result of an interim study committee that was done on all insurance. At one of the hearings held in Las Vegas, an individual had objected to insurance companies being able to go into employers, etc. and get medical information for taking out an automobile policy, which, in some cases, might not have anything to do with automobile insurance and might be disseminated to other agencies. During those interim hearings, it was brought out that the National Association of Insurance Commissioners was working on model legislation through a committee of their organization to deal with some of the problems and AB 71 was an attempt to come up with that model. He understands now that they have changed from their preliminary model and requested an explanation from Mr. Terzick.

Testifying in support of this measure was Mr. Milos Terzick, representing the American Council of Life Insurance. He explained that this bill, as it came out of the bill drafter's office, did not conform to the Model Act. He stated that the National Association of Insurance Commissioners met in December of 1980 and determined that we would need a substitute bill. He has previously distributed copies of that information to the members of the committee. He then introduced Mr. Don Hankins with Occidental Life Insurance Company of California and distributed copies of Mr. Hankins qualifications as an expert in this field. EXHIBIT I (attached).

Mr. Hankins, speaking for the American Council of Life Insurance, stated that his industry supports the enactment of a privacy act in Nevada, however, they do not support AB 71 in the form it was introduced. They prefer the substitute bill, as distributed on March 24 at a previous hearing.

He gave background on the "model", stating that historically, the life insurance industry has been aware of its responsibilities in protecting the rights to privacy of their clients. The record shows that the industry has met that duty in a responsible manner. He briefed the committee members on the Federal Privacy Act of 1974, which relates solely to government agencies, their information gathering practices, their retention of the information gathered and who may have access to that information. After the privacy act was adopted, the president appointed the Privacy Protection Study Commission to examine the information practices of the business world to determine whether the needs of the public required privacy regulations similar to those of the Privacy

Act of 1974. The life insurance industry and the health insurance industry responded by adopting privacy principles, which have been recommended by their trade associations. There are only eight principles involved. Every employee, upon being hired, gets this and once a year is required to produce it. In July 1977 this federal commission (Privacy Protection Commission) released its 657 page report and in the field of life and health insurance, it made 17 recommendations for improving privacy in the insurance relationship. In December of 1977, the National Association of Insurance Commissioners appointed a Privacy Protection Task Force to develop a model act to implement those 17 recommendations.

There was a 1979 model adopted. All states were urged to adopt it or enact it and he feels this bill stems from that 1979 version. The insurance agency feels this represents a reasonable balance between their industry's need to know and the individual's right to personal privacy.

Briefly the bill provides for informed consent by the individual. He knows what information the insurers will seek, how that information will be obtained, what use will be made of it and the subsequent disclosures of that information, which might be made by the insurer. He knows how he can assess that information in the hands of the insurance company and how he can ask that it be corrected or deleted if he can prove that it should be revised.

In December 1980 the N.A.I.C., through this same task force, polished up the 1979 version of the model act, referred to as the 1980 revision and came up with two amendments which might be of interest. The bill requires that they tell their applicants for insurance of their information-gathering practices and how that person, subject of the information gathering, can have access to that information and changes if he can justify them. That notice in the 1979 version took 2½ pages and few applicants would read through the entire notice. The 1980 bill permits a one-third page, brief statement of how he can assess this information and promises a detailed information upon request. He briefed the committee on the areas in which this bill would benefit the public and urged consideration by the committee of the substitute bill, the N.A.I.C. 1980 model.

Mr. Schofield asked if the initial AB 71 does contain the items relative to the 1980 Model Act and was advised that was true. Mr. Schofield asked further if this bill, as it was initially printed, omitted the provisions that should have been included in it. Mr. Terzick stated that the bill was requested through the subcommittee and at the time that it was requested, the 1980 amendments had not been prepared; it was requested prior to December of 1980.

Chairman Price stated that now, they are not suggesting amendments, but are asking for a substitute bill and quoted several areas of the new proposed language. In order to get some action on this, we would have to adopt an amendment to AB 71 and then meet with the bill drafter's office and have this new language amended into the bill as a first reprint.

Mr. Terzick stated this is what happened with the first AB 71 when they tried to follow the N.A.I.C. model, which is not in conformity with Nevada statutes. They have drafted the N.A.I.C. model to conform with our statutes. He added that the proposed language pretty much follows the correct format so the bill drafter will not have to do as much work. What they did in AB 71 in accordance with the 1979 model is to switch language, eliminate some language, etc., thereby changing the substance of the bill.

In response to a question by Mr. Mello on when their proposed language would be available, Mr. Terzick explained that he will prepare a copy for each committee member.

Speaking next in support of the bill was Mr. Dave Bianchi, representing the Nevada State Association of Life Underwriters, who wanted to express the support of the concept of this bill, but only if it does comply with N.A.I.C. model as presented today. Mr. Bianchi reiterated that this is an attempt to provide some uniformity across the United States so we are all basically complying with the same thing.

In response to a question from Mr. DuBois on the number of other states that have adopted this act, he was advised that the 1979 version has been adopted in three other states and new legislation to update that to the 1980 version is pending in all three of those states. The 1980 version has been introduced in 12 states in addition to those three. They feel it is going to move in that direction naturally.

Mr. George Vargas, Legal Counsel for the American Insurance Association, addressed the committee next, explaining that his association consists of approximately 140 property and casualty stock insurance companies and the association is firmly in support of the passage of AB 71, if amended, to include the December 1980 N.A.I.C. draft. The association is supporting the concept nationwide wherever it is coming up before the legislatures.

Mr. Glover asked if this could be adopted into our law without any problem, and was advised by Mr. Vargas in the affirmative. He feels that the amendment could simply be that AB 71 be amended and strike out everything following the enactment clause and substitute the December 1980 draft in lieu thereof. The reason that he is suggesting that Section 1 should also be taken out is that as it is currently drawn, it provides for sections 2 to 26 and the December 1980 draft only has sections 1 to 24. If everything

after the enacting clause was stricken and the December draft inserted in lieu thereof, that would be a very simple thing. He assured Mr. Glover that the December 1980 draft is compatible with our current statutes. The only thing that he would comment on is that Section 13 of this December 1980 draft deals with information which companies may release to various sources, and among those sources is mentioned federal and state legal authorities. Assemblyman Robinson has requested a bill to put before the legislature consideration of enacting the Model Arson and Fraud Reporting Bill. Section 13 of this act does touch upon that subject, but it is fairly narrow and the other bill would broaden that by making it mandatory for insurance companies to report to public authorities circumstances which may indicate arson or fraud in connection with insurance claims. At the same time in connection with such reporting, it would provide that the company reporting would have immunity from civil or criminal suit for reporting that to the public authorities. The purpose for that is due to the epidemic of arson in the United States. There were 400 arson fires reported the day of the Hilton Hotel fire and there will be 400 more today and 400 more tomorrow. This is such a serious problem that the companies recommend that reporting be made mandatory. That will come in as an independent bill, or the acting insurance commissioner has suggested possibly an amendment to the insurance commission's fraud bill.

Speaking next was Mr. Richard Garrod, representing the Farmers Insurance Group, who spoke against the bill. He pointed out that the last section in this bill relates to the effective date; i.e., "insert a date which allows at least one year." He gave a brief history of what happened in California during their legislative deliberations on this same concept. They adopted a implementation date of their model act for July 1, 1981, and they have now introduced a trailer bill which does not match the language, which also has an implementation date and has created many problems. He urged that this committee take a "wait and see" attitude if we are going to try to adopt a uniform law with the other states. He suggested postponing action until at least January 1, 1983.

Mr. Schofield pointed out that, in his opinion, this bill is not only trying to do something for protection of the insurance companies, but also for the people. He suggested that it is very important that we try to do something right for the citizens of Nevada. Inasmuch as we are at this time trying to work with three different work-ups of the bill with the proposed amendments, etc., he would prefer to take no action at this time, get the bill reprinted in final form and then rehear it.

That being the general consensus of opinion of the committee members, Mr. Schofield moved to amend the bill, have it reprinted and brought back for additional hearings; motion seconded by Mr. DuBois and carried unanimously.

There being no further business, the meeting was adjourned.

Respectfully submitted,
Nykki Kinsley
Acting Committee Secretary
Nycki Kinsley

ASSEMBLY

AGENDA FOR COMMITTEE ON TRANSPORTATION

Monday

Date April 13, 1981 Time 5:00 p.m. Room 214

Bills or Resolutions
to be considered

Subject

Counsel
requested*

AB 71

Limits disclosure of information by
insurers, agents and organizations
which support the business of insur-
ance.

*Please do not ask for counsel unless necessary.



GUEST LIST

Date: April 13, 1981

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PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK		
		FOR	AGAINST	BILL NO.
C. D. HANKIN	AMERICAN COUNCIL OF LIFE INS	X		71
DAVE BIANCHI	NEV. ASSOC OF LIFE UNDERWRITERS			71
Milo Terry	American Council of Life Ins.	X		71
Dick Garwood	Farmers Ins Group		X	71
VIRGIL ANDERSON	A.A.A.		X	71
William Goddard	D.M.V. Motor Carrier Div	X		52
John Borda	NEV Mtr. Trans. Ass'n			
Kenneth L. Cox	Federal Highway Admin	X		52
DARYL E. CAPURRO	NEVADA MOTOR TRANSPORT ASSN	X	X	52
ROBERT PAUL STAR	UNITED SHUTTLE AGENCY, INC.			
Bill Madan	Carson City			
Mark Coulter	UNLV			
Robert J. Dove	UNLV			

POSITIONS AND RESPONSIBILITIES

APRIL, 1979

C. DONALD HANKIN

CURRENT

OCCIDENTAL LIFE INSURANCE COMPANY OF CALIFORNIA

Senior Vice President, Industry and Provider Relations
Chairman, Policy Benefits Committee
Chairman, Privacy Council

HEALTH INSURANCE ASSOCIATION OF AMERICA (National)

Member, Council on Consumer and Professional Relations
Member, Dental Relations Committee
Member, Claims Procedures and Forms Committee
Member, Health Care Technical Advisory Committee (N.H.I.)
Chairman, Task Force on Medicaid Reclaiming
Member, Health Data Policy & Management Committee
Chairman, Subcommittee on Health Data Privacy & Confidentiality
Alternate Director, National Commission on Confidentiality of
Health Records, Inc.

AMERICAN COUNCIL OF LIFE INSURANCE

Member, Task Force on Medical Confidentiality

INTERNATIONAL CLAIM ASSOCIATION

Chairman, Privacy Committee

HEALTH INSURANCE ASSOCIATION OF AMERICA (California Responsibilities)

Chairman, Medical Relations Committee of Southern California

ASSOCIATION OF PRIVATE PENSION & WELFARE PLANS, INC.

Member, National Health Legislation Committee

BEVERLY HOSPITAL, Montebello, California

Member, Board of Directors

PAST

HEALTH INSURANCE ASSOCIATION OF AMERICA (National)

Past Chairman, Council on Consumer and Professional Relations (1974-75)

INTERNATIONAL CLAIM ASSOCIATION

Past President (1970-71)

CALIFORNIA HEALTH DATA CORPORATION, Sacramento, California

Director (1975-77)

E. H. Hankin

C. DONALD HANKIN

Retired June 1980 from Occidental Life Insurance Company of California. Last position, Senior Vice President, Industry and Provider Relations. Presently serving as a Consultant to Occidental Life.

In the field of Privacy, has been active for many years including:

Chairman, California Medical Association, Ad-Hoc Committee on Confidentiality of Medical Records

Member, American Council of Life Insurance Subcommittee on Privacy Legislation

Past Chairman, Privacy Committee of the International Claim Association

Testified before the Privacy Protection Study Commission representing California Medical Association and International Claim Association

Alternate Director (for Health Insurance Association of America) on National Commission on Confidentiality of Medical Records

Past President, International Claim Association and Chairman of its Privacy Committee

Chairman, Privacy Council at Occidental Life