MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON TRANSPORTATION

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
March 24, 1981

The Senate Committee on Transportation was called to order by Chairman Richard E. Blakemore, at 2:05 p.m., on Tuesday, March 24, 1981, in Room 323 of the Legislative Building in Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Richard E. Blakemore, Chairman
Senator William Hernstadt, Vice Chairman
Senator Joe Neal
Senator Lawrence Jacobsen
Senator Wilbur Faiss
Senator Clifford E. McCorkle
Senator James H. Bilbray

GUEST LEGISLATOR:

Senator Jean Ford

STAFF MEMBERS PRESENT:

Fred Welden, Senior Research Analyst
Kelly R. Torvik, Committee Secretary

SENATE BILL NO. 379

Senator Ford explained that she had requested that the bill be drafted because Mr. Augstein, a blind man, had made her aware that he and other blind persons in Clark County were having problems with motorists and the law enforcement being aware of the rights of handicapped persons in regard to traffic. She explained that the bill tracks the current law relating to wholly or partially blind persons into the motor vehicle statutes where they would be more noticeable. She noted that in the tracking the drafter had dropped the words "wholly or partially" and she was not sure that there was a need for such wording.

Senator Bilbray noted that on line three, on page one of the bill that the way the bill reads it is not clear that it applies only to intersections and that the situation could occur where a blind

person is walking down the street on the sidewalk and a motorist is traveling the same direction. The motorist could be cited for not stopping upon his approach to the blind person. Senator Ford stated that it is not the intent of the bill to force motorists to stop wherever they approach a blind person. She explained, however, that if the bill were limited to crosswalks it could create a problem because blind persons do not always know where the crosswalk is. She noted that the unclear language is within current law.

Senator Neal noted that the National Safety Code requires that a motorist yeild to a blind person wherever they may be on the roadway.

Senator Ford stated that the unclear language could be clarified. Senator Hernstadt suggested language that would provide for a blind person who is in the roadway or appeared to be stepping into the roadway. Senator Ford agreed that such wording would clarify the language.

Mr. Augstein felt that motorists were taking aim at blind persons who were crossing the roadway. He noted that many blind persons walk great distances out of their way in order to cross the roadway at a red light. He stated that high fines seem to be a deterrent to motorists failing to yield the right of way to blind persons.

Senator Jacobsen asked if any blind persons had been killed by motorists in a crosswalk. Senator Hernstadt stated that a young girl with a seeing eye dog had been killed recently in Las Vegas.

Mr. Merv Flander, Chief, Bureau of Services to the Blind, spoke in support of Senate Bill No. 397. He showed the committee two types of aluminum folding canes which the blind use. He noted that only a legally blind person is allowed to carry white cane. He felt that the language "wholly or partially" should remain within the statute. Mr. Flander described a problem which would arise if the statute were only applied to intersections. That being the possibility of a blind person not being able to locate the crosswalk. He also noted that diagonal crosswalks could create problems. He stated that he would work with the bill drafter to draw up proper language if he were requested to do so. He stated that the intent of the legislation was to grant the right of way to blind persons when they are in or entering into the roadway. Mr. Flander stated that mild penalties have not forced motorists to yield the right of way to blind persons. He felt that harsher penalties should be enacted.

Senator Hernstadt suggested that public service announcements be telecast to educate the public on the problems of blind persons in regard to crossing roadways.

Senator Jacobsen asked if there are specific standards which a white cane must meet. Mr. Flander stated that all statutes that he had researched refer to a cane which is white or white tipped with red.

Mr. Rick Kuhlmey, volunteer lobbyist for the blind and President of the Nevada Council of the Blind, spoke in support of the bill. He felt that the motoring public had a lack of respect for pedestrians as a whole. He stated that there is a lack of knowledge within the public as to the meaning of a white cane. He said that he would be working on public service announcements in the near future.

Senator Jacobsen asked if the passage of Senate Bill No. 379 would create more enforcement of the provisions for the blind persons in a roadway. Mr. Kuhlmey felt that by placing the provisions in the motor vehicle codes law enforcement agencies would be more aware of the provisions.

TAXICAB LEGISLATION

Senator Hernstadt stated that Senate Bill No. 318 speaks to the problem that has arisen in regard to the possibility of the Taxicab Authority (T.A.) being deemed unconstitutional. He explained that the bill allows counties to establish taxicab authorities which would be accountable to the county commissioners. He anticipated that only Clark County would utilize such authority. He noted that in any county which does not take the option of setting up their own authority their taxicabs would be under the jurisdiction of the Public Service Commission (P.S.C.). He stated that unless some actions are taken this session of the legislature the T.A. could be deemed unconstitutional during the interim and there would be no appointed agency to regulate the taxicabs in Las Vegas.

Chairman Blakemore noted that there was a conflict notice in the bill. It stated that Senate Bill No. 318 conflicts with Assembly Bill No. 142, both of which amend N.R.S. 706.88235.

Mr. Jim Avance, Administrator of the State of Nevada Taxicab Authority, explained that there had been a court case which tested the constitutionality of the T.A. because the legislation

which established the T.A. appeared to be special legislation which applied only to Clark County. Mr. Avance asked the committee to refrain from making a decision on Senate Bill No. 318 until other bills which address the same problem could be studied. He felt that the problem should be addressed in the legislature. He stated that he had spoken to the Chairman of the Las Vegas County Commission, Mr. Cortez, who had stated that he does not want the authority over taxicabs to become a county option.

Mr. Milton Schwartz, President of the Las Vegas Taxicab Association voiced the association's opposition to the bill.

Mr. Heber Hardy, Commissioner, Public Service Commission, stated that he supported the concept of Senate Bill No. 318 as opposed to having the T.A. declared unconstitutional and the authority being given to the P.S.C. by default. Mr. Hardy explained that the P.S.C. does not regulate to the same extent that the T.A. regulates. He stated that if the P.S.C. was burdened with the authority over taxicabs in Las Vegas it would require a great deal of additional money. He noted that there is the possibility that the P.S.C. would not be able to regulate one county by a different method than another and, therefore, the smaller counties would be saddled with the detailed regulations which are imposed in Las Vegas. Mr. Hardy had a question with section two of the bill in that certain monies in the taxicab fund would be reverted to the P.S.C. He did not understand which monies those would be.

Mr. Zel Lowman, representing four taxicab companies in Las Vegas owned by Mr. Charlie Frias, felt that the regulations over taxicabs should be administered by a state entity rather than a county entity. He stated that in 1969 the counties were given the opportunity to accept such responsibilities and did not do so.

Senator Hernstadt asked if the taxicabs could be regulated as well as they are now if the counties adopted the regulations of the T.A. Mr. Lowman explained that the counties do not want the authority and would not be strict if they were required to accept the responsibility.

Mr. Donald Drake, Manager, Baker and Drake Inc., stated that he does business with taxicabs in Washoe County. Mr. Drake spoke in opposition to the bill because he felt that the P.S.C. has been doing a fine job regulating taxicabs for a number of years and would like to remain under their authority.

Senator Neal asked Mr. Drake if he supported the concept of having all taxicabs regulated by one statewide agency. Mr. Drake supported the concept of the P.S.C. regulating all taxicabs throughout the state.

Senator Hernstadt supplied the committee with information in regard to Senate Bill No. 319. (See Exhibit C.) He stated that in communities that allow owner/operator taxicab businesses the quality of the taxicab and the driver is higher because there is a pride of ownership. He felt that passage of the bill would allow taxicab drivers to realize a dream of owning their own taxicabs. He went on to explain that any additional medallions would be issued to the owner/operators until there was a ratio of 30 percent owner/operators and 70 percent fleet operators. After such ratio was met the medallions would be issued pro rata. Senator Hernstadt mentioned that the taxicab drivers which he spoke to would like to see the opportunity to own individual taxicabs avialable. He realized that passage of the bill would limit growth of the fleet taxicab companies until the ratio was reached. He felt that passage of the bill would be in the public interest.

Senator Bilbray asked if there was a provision in the bill which would require that owner/operators supply service at specific times. This would prevent massive shortages of taxicabs because owners/operators all take vacations at the same time. Senator Hernstadt stated that the cost of operating one taxicab by an individual is so high that they will keep their taxicabs on the road as much as possible. He noted that in cities where owner/operators are allowed a shortage does not occur. He pointed out that in New York City owner/operators belong to a distribution network and provide good service to the public.

Senator Neal noted that the only merit that Senator Hernstadt suggested is the opportunity to ride in cleaner taxicabs. Senator Hernstadt stated that it also give employees of the fleet companies an opportunity for the future by owning their own taxicabs. He stated that there is not a very strong union in the taxicab industry.

Senator Jacobsen asked if the owner/operators would have to meet the same requirements as the fleet operators. Senator Hernstadt stated that they would have to meet the same requirements.

Mr. Milton Schwartz, speaking on behalf of the Las Vegas Taxicab Association, stated that the association opposes Senate Bill No. 319. He felt that the public would not be served properly under

the provisions of Senate Bill No. 319. He felt that owner/operators would only serve the places in the city which would provide constant business. He stated that the intent of the bill would not be accomplished because very few drivers could afford their own taxicab. Mr. Schwartz stated that it would be impossible to control a large number of owner/operators.

Mr. Don Walls, Treasurer of the Whittlesea-Bell Company, stated that his company operates in Washoe, Douglas and Clark Counties. He did not feel that there was justification for licensing owner/operators. As he understood the bill it would require that the P.S.C. allocate taxicabs in every county of the state which would be a burden to the P.S.C. Because the bill would require that there be 30 percent owner/operators there would be an additional burden on the P.S.C. in Washoe County. Mr. Walls pointed out that there is no flexibility in the bill and because of this the smaller counties that have less than 10 taxicabs would run into problems trying to comply with the 3:7 ratio.

Senator Hernstadt pointed out that if the principle of the bill were acceptable to the committee the inconsistencies could be worked out.

Senator Neal asked Mr. Walls if he would support the concept of all taxicabs being under the authority of one statewide agency. Mr. Walls supported such a concept. He would like to see the authority rest with the P.S.C. because the commission has a background in regulating. He did not object to any state agency having the authority over taxicabs as long as the members of the agency were familiar with regulating.

Senator Bilbray noted that the authority over taxicabs was split because the P.S.C. did not have the time to regulate taxicabs in Clark County. Mr. Walls stated that since the particular time when the authority was split there have not been any lengthy allocation hearings. It was allocations hearing which took up most of the P.S.C's time.

Mr. Hardy stated that as a member of the P.S.C. he opposed sections one, two, three and four of the bill. He did not feel that there was any need shown that the commission should begin allocating taxicabs. Nor has there been any need shown for the commission to allow owner/operators.

Mr. Reese Taylor, Attorney for Mr. Charlie Frias, stated that Mr. Frias' position on Senate Bill No. 318 was very similiar to that of Mr. Avance. He also agreed with Mr. Hardy's statement

that giving the P.S.C. authority over the Las Vegas taxicabs would be an enormous burden on the P.S.C.

Mr. Taylor strongly opposed Senate Bill No. 319. He stated that ulike most cities Las Vegas responds to the flow of tourists into the city. He stated that this is a problem with Senate Bill No. 398 also. Because the taxicabs would be the owner/operator's method of making a living he would have the taxicab on the street as much as possible. There will be times when there are too many taxicabs on the street. The companies presently regulate to the flow of tourists. Mr. Taylor felt that too many taxicabs on the street would be harmful to the drivers' income. Mr. Taylor went on to say that the bill would not be fair to the fleet companies. Their percentage of the market is being taken away from them. He stated that the legislature should not involve itself with allocation. He said that whether you lease to an individual or certificate that individual regulatory problems would be enormous to both the T.A. and the P.S.C. Mr. Taylor stated that the same comments apply to leasing as those offered on owner/operators. Mr. Taylor did not feel that Senate Bill No. 398 would relieve the employers of their responsibilities of being an employer. He introduced Mr. Charlie Joerg, Certified Public Accountant, to address the question of employee/employer relationships versus lessee/lessor relationships.

Mr. Joerg directed the attention of the committee to Internal Revenue Service revenue ruling 71-572 (See Exhibit D). He noted that there are several instances where the independent contractor is actually an employee and, therefore it is not a valid lessee/lessor relationship.

Chairman Blakemore pointed out that a holder of a certificate of public convenience and necessity can lease a piece of his equipment upon proper wording of the lease agreement between the two. That the bill's requirement that adequate records be kept would have nothing to do with the lease involved. This is done in the trucking industry.

Mr. Joerg stated that there are several situations within the bill which combined would negate the lessee/lessor relationship. Mr. Taylor stated that there is never one factor which determines if the lessee is an employee or an independent contractor. It is determined on a conclusion formed from all factors. He stated that Senate Bill No. 398 makes requirements of the lessee to the lessor and that these requirements appear to form an employee/employer relationship.

Senator McCorkle asked what was the disadvantage to the Internal Revenue Service to lose the employee/employer relationship. Mr. Joerg explained that the taxes paid by the employee/employer relationship are much higher than those of an independent contractor.

Mr. Joerg went on to say that the requirement within the bill that the driver transport any orderly person gives the lessor the right to direct the lessee to pick up a specific individual and under any interpretation that establishes the lessee as an employee of the lessor.

Mr. Taylor pointed out that if the lessee fails to comply with regulations of the T.A. or the P.S.C. the agency which has authority can approach the lessor to correct the violations. This would induce the lessor to demand that the lessee make certain corrections in the way he conducts his business, clearly making the lessee an employee. Mr. Taylor stated that enactment of the bill would not allow the lessor to free himself of the responsibilities of being an employer. Mr. Taylor also brought up the point that there could be a tremendous amount of litigation arising from disagreement between the lessee and the lessor in regard to violations of regulations.

Mr. Taylor felt that Senate Bill No. 399 and Senate Bill No. 396 were unfair to the larger taxicab companies which have established a percentage of the market. This would create a problem of too many taxicabs on the street, will not serve the public interest, and create additional regulatory problems.

Mr. Taylor spoke in opposition to Senate Bill No. 397. He felt that it would not be advisable to rely on the safety inspection of a qualified safety inspector to determine whether a vehicle is safe to operate. It is possible not to detect all of the problems that may exist in the taxicab. He felt that the four year rule should be kept in the interest of safety and the public.

Mr. Lowman commented that the Director of the Nevada Industrial Commission had stated that if the lessee had not paid his N.I.C. premium then the lessor would be responsible for the payment of such premiums. This had an effect on the employee relationship versus the independent contractor relationship.

Mr. Walls remarked on both Senate Bill No. 396 and Senate Bill No. 399. He stated that the bills have an ultimate effect of taking a percentage of the market from one operator and giving it to another. Mr. Walls said that in the past, under the T.A., taxicabs have not been allocated on a proportionate basis. He

did not see any justification for increasing the size of the smaller companies at the expanse of the larger companies.

Chairman Blakemore asked what was the method presently used to allocate taxicabs. Mr. Walls stated that the T.A. presently allocates an equal amount of medallions to each company. Prior to that the P.S.C. allocated taxicabs proportionately to the size of the company.

Chairman Blakemore questioned what Senate Bill No. 399 would actually do. He believed that it would require that each company receive the same number of future allocations. Mr. Walls said that section two of the bill required companies to have the same number of total allocations. There was a question as to what was new language and what was current law in both Senate Bill No. 396 and Senate Bill No. 399 because there were no italics.

There was a short recess at 3:55 p.m. in order to invite the bill drafter to the meeting to explain section two of both bills.

Mr. Will Crockett, Senate Bill Drafter, explained that section two of both Senate Bill No. 396 and Senate Bill No. 399 is a section of transitory language. The language would not go into the revised statutes; although it would go into session law if the bills were passed. Such language would be enforceable if the bills were passed. The language provides procedure to achieve the objective of the bill. He stated that section three of both bills provides that section two expires when the intent has been accomplished. Senator Bilbray suggested that the language be marked in some way so that it may be distinguished from present statutes.

Senator Hernstadt stated that he felt that it was the intent of the persons who requested the bill that all future allocations of medallions be equal among the companies. Not that the allocations be equalized so that each company has the same total of allocations.

Mr. Avance supplied the committee with copies of newspaper articles in regard to taxicabs. (See Exhibit E.)

Chairman Blakemore asked Mr. Avance if he felt that Senate Bill No. 399 simply required that future allocation be made equally among the taxicab companies. Mr. Avance stated that in 1977 the T.A. made the determination that all future allocations would be divided equally among the certificate holders. Since that time allocations have been divided in that fashion. He stated

that it was the intent of Senate Bill No. 399 that all future allocations of medallions were made equally. In order to achieve that goal Mr. Avance suggested that in place of the italicized words presently in the bill the language "in an equal manner to all certificate holders in the county who are fit, willing and able." He also suggested that secions two and three be deleted.

Senator Hernstadt asked Mr. Avance if the T.A. would continue to allocate medallions equally to all certificate holders if the bill were not passed. Mr. Avance stated that the Supreme Court had advised the T.A. that since the T.A. had made the ruling of the method of allocation the T.A. may be required to change that ruling if it were challenged.

Senator Hernstadt asked Mr. Avance what he felt was a fair method of allocation. Mr. Avance stated that the T.A., in a public hearing, determined that equal allocation of future medallions is the fairest method.

Mr. Mike Sloan, Attorney, appearing on behalf of the Las Vegas Taxicab Owners Association, felt that Senate Bill No. 397 addressed concerns which the T.A. should be facing. He stated that presently law is not necessarily rational because it states that a vehicle which is more than four years old is unsafe while a vehicle which is less than four years old is safe. He suggested that the proper criteria would be to focus on the determination of the annual safety inspection. He cited cases where it would be unfeasable to determine whether a car is safe on the basis of its age. Mr. Sloan pointed out that nearly 80 percent of the states which have laws to determine the safety of a taxicab do not have an age limit but rather focus on the actual safety of the taxicab. He stated that the cost of replacing a vehicle is higher than the cost of properly maintaining a vehicle.

Chairman Blakemore asked the amount of miles a taxicab travels. Mr. Schwartz stated a taxicab travels 100,000 miles per year.

Senator Bilbray asked who would do the inspection to determine if a taxicab is safe after four years. Mr. Slaon stated that the bill provides for a qualified safety inspector under the Department of Motor Vehicles who presently does inspections. He stated that current statutes require that certain standards be met. The T.A. has the right to seek compliance with these standards. He stated that he was not sure that he agreed with Mr. Taylor's comments with regard to inspections. Mr. Sloan suggested that the committee consider amending the bill to provide that replacement taxicabs, which are currently required to be new up to 10,000 miles, be

allowed to be new up to 20,000 miles. This amendment would be for economic reasons. Mr. Schwartz pointed out that 20,000 miles is only 60 days in a taxicab. He stated that a large amount of money can be saved by buying vehicles with between 10,000 and 20,000 miles on them. He pointed out that the ability to use cabs until they are determined unsafe by inspection rather than by age allows the cab companies to invest in better quality vehicles.

Senator Hernstadt asked if an annual safety check is adequate or should the check be more frequent. Mr. Schwartz stated that to the best of his knowledge all of the states which determine safety by safety checks conduct the inspections annually.

Mr. Sloan explained that in addition to the annual inspection, the regulating agency has the authority to inspect a vehicle at any time if there is concern for the safety of that vehicle.

Senator Hernstadt asked if there were any statutes that require a specific amount of cleanliness or upkeep to the vehicle. Mr. Sloan explained that existing law sets forth standards for cleanliness and upkeep of the vehicle.

Mr. Sloan stated that Senate Bill No. 397 is to the benefit of both large and small companies.

Mr. Sloan stated that Senate Bill No. 398 would accomplish the intent of Senate Bill No. 319 without inviting the same criticism that Senate Bill No. 319 received. One of the advantages is that the lessee does not have the expense or commitment of buying the medallion or the taxicab. He stated that since the lessor and the T.A. will still have authority over the lessee service will not be impeded.

Senator Hernstadt asked who would choose which vehicle would be leased. Mr. Schwartz stated that the determination would be made by the same method that any lessee/lessor agreement is reached, it would be determined by the lessor.

Mr. Sloan felt that Senate Bill No. 398 creates a compromise between existing circumstances and those proposed in Senate Bill No. 319. There is more incentive for the driver. Pride would create better conditions of service. The national experience is reflective of those results. He felt that leasing is better for the public, driver and the industry.

Senator Hernstadt asked why the lessee would not be able to choose which car he would like to lease. Mr. Sloan pointed out that the taxicabs would be leased daily. Because the leases are short the lessor has control. All regulations that currently apply to the drivers would still apply to a lessee driver. There are obvious economic advantages for a company to lease their taxicabs. Mr. Sloan felt that the points which Mr. Joerg and Mr. Taylor brought up with regard to the employee/employer relationship were inaccurate. He stated that the only condition which establshed the lessor as an employer rather than a lessor would be the condition where the lessor receives a percentage of the fares which are collected by the lessee. In the case where the lessor receives a flat rate in payment of the lease it is considered a valid lessee/lessor relationship.

Chairman Blakemore pointed out that the P.S.C. requires that leases for trucks spell out the provisions for the lease. Also, only 50 percent of the trucking fleet can be leased.

Mr. Sloan stated that only when the controls held by the lessor exceed government regulations by a significant degree will the relationship be considered to be that of an employee/employer. He noted that the controls which are being imposed in Senate Bill No. 398 onto the lessee driver are currently imposed for regulatory purposes onto company drivers. They are requirements being imposed by the state and not the company.

Senator Hernstadt asked if it would clarify the lessee/lessor relationship if the leasing periods were longer, such as six months to one years. Mr. Sloan stated that the committee should not be concerned that the Internal Revenue Service would rule that the companies are creating an invalid lessee/lessor relationship. There have been court decisions nationwide which determine that such relationship are in fact valid.

Senator Hernstadt did not feel that his comments on Senate Bill No. 319 were applicable to Senate Bill No. 398. Because of the short lease period he did not feel that the driver would have pride in the taxicab and, therefore he would not take care of it as much as he would if it were leased for a longer period. Mr. Sloan stated that the short duration of the lease insures that the company is ultimately responsible to the T.A. and the P.S.C. for the operation of the taxicab. The company has more control over the driver in seeing that regulations are not violated. He pointed out that the driver is his own businessman and, therefore he would provide better service.

Mr. Avance stated that in regard to Senate Bill No. 397 he had spoken to Mr. Jacka, Director, Department of Motor Vehicles, and Mr. Jacka stated that he was reluctant to have the employees of the department conducting the inspections of taxicabs. Mr. Avance felt that the proper agency to conduct taxicab inspections would be the T.A. He stated that the T.A. is currently inspecting every taxicab in Clark County at a minimum of four times per year. He gave the committee statistics on the amount of inspections which had been conducted by the T.A. during 1980. (See Exhibit F.)

Mr. Avance stated that he felt that the age of the taxicab should be limited to three years as opposed to four years which is presently allowed. There is such a bill in the Assembly at this time, Assembly Bill No. 179. Senator Hernstadt felt that the more durable automobiles should be allowed to run until they are determined unsafe by an inspector. Chairman Blakemore pointed out that there are important components of the vehicle which cannot be checked by an inspection.

Senator Hernstadt suggested that the date at which the term of age of a taxicab begins be at the date of acquisition rather than the date of manufacture. Mr. Avance stated that the question of when the term of age begins is presently in a court case being decided. He supplied the committee with a copy of Findings of Fact with regard to replacement vehicles and the safety of such vehicles. (See Exhibit G.) Mr. Avance stated that there is a situation where the companies are tying up the T.A. in court cases and are able to keep their vehicles on the street longer than four years. Mr. Avance stated that he is opposed to Senate Bill No. 397.

Senator Jacobsen asked where the inspections are conducted. Mr. Avance said that the inspections are all conducted at the taxicab yards. The T.A. will stop a vehicle on the street and order it off of the road. Senator Jacobsen asked if complaints are investigated. Mr. Avance stated that they are. Senator Jacobsen asked if the T.A. is able to keep up with its workload. Mr. Avance stated that the T.A. is able to keep up with its workload.

Senator Hernstadt complimented Mr. Avance on the operation of the T.A.

In regard to Senate Bill No. 398, Mr. Avance felt that leasing should not be considered by the legislature but rather by the T.A. The T.A. rule #106 states that there shall be no leasing of taxicabs. Senator Bilbray stated that state law supercedes agency rulings and, therefore it is proper that the bill be heard by the

legislature. Mr. Avance noted that the legislature had given the T.A. the right to regulate taxicabs. He stated that the prohibition of leasing came from a P.S.C. regulation.

Senator Hernstadt asked what was the rationale for prohibiting leasing. Mr. Avance believed that the rationale for prohibiting leasing was that leasing would lessen the control of the agency over the driver.

Mr. Avance stated that there had been no applications with the T.A. for leasing as long as he had been administrator. He stated that if the leasing concept were valid the members of the T.A. board, who have experience is passing ordinances and laws, would give the concept a fair hearing. This would provide that if leasing were allowed and after such allowance it was determined that leasing was not a valid concept it would be possible to take action immediately to correct the problem, rather than waiting until the legislature convened in two years.

Mr. Avance stated that there had been nationwide interest in leasing among taxicab owners. He said that while in San Francisco he asked taxicab drivers if they preferred being an employee or a lessee. Three out of every five drivers preferred leasing. Mr. Avance went on to say that the reason that owners would like to be able to lease is to relieve them of their responsibilities as employers, in regard to taxes and fees. Those responsibilities are shifted to the drivers. Mr. Avance quoted some N.I.C. premium figures for 1979 which were very substantial. Mr. Avance cited cases where it was determined that the lessee/lessor did indeed have an employee/employer relationship. He noted that the requirement of drivers to respond to dispatches is not definitely spelled out in state law and, therefore the lessor requiring the lessee to respond to a dispatch could be construed as excessive control over the lessee. If the lessor does not have this control over the lessee there is the possibility that not all of the public will receive adequate service. Mr. Avance supplied the committee with a graph of monthly trips by taxicabs. (See Exhibit H.) He felt that telephone requests would suffer if leasing were enacted. Mr. Avance explained that the lessee pays the lessor a fee every day and also buys the gasoline to run the taxicab. Any fares over the amount for gasoline and to the lessor is the lessee's. He felt that both the lessee and the lessor would make more money under the leasing concept. Mr. Avance supplied the committee additional information regarding taxicabs and the T.A., (this information is available in the Transportation Committee Office).

Senator Hernstadt asked who would pay the insurance premiums of the lessee. Mr. Avance did not know who would be responsible for medical insurance although the lessor would be responsible for automobile insurance. Chairman Blakemore pointed out that it is much cheaper for the lessor to carry the insurance under a blanket policy rather than the lessee holding the policy on an individual basis.

Senator Hernstadt asked Mr. Avance his opinion of a long term lease in order to upgrade the quality of the taxicabs. Mr. Avance stated that he preferred to use the daily lease concept. In a long term lease situation there is the possibility of the taxicab being sublet. Mr. Avance assumed that under the daily lease concept the lessee would use the same vehicle daily.

Mr. Dave Willden, Yellow Cab Company in Las Vegas, felt that in regard to Senate Bill No. 397 four inspections per year would be too many. He was concerned that the taxicabs in Las Vegas, under the T.A., can only use a taxicab for four years while a taxicab in other parts of the state is under the P.S.C. regulations which are different.

Ir regard to Senate Bill No. 398, Mr. Willden felt that since leasing had worked throughout the nation it would work in Las Vegas. He felt that the cab companies should have the option to lease.

Mr. Walls stated that his companies, Whittlesea-Blue and Henderson Taxi, were opposed to Senate Bill No. 398. He believed that the companies represented by Mr. Lawman also opposed the bill. He stated that this would be half of the companies in Las Vegas opposing the bill. He felt that the major concern should be for the service to the public. He did not feel that the possibility that the cab companies would not have to retain the responsibilities as an employer was enough justification for passage of the bill. He was uncertain as to whether the lessor would be freed of his duties as an employer under the provisions of Senate Bill No. 398. Mr. Walls agreed with Mr. Schwartz with regard to his remarks on Senate Bill No. 319. He felt that if either bill were passed there would be a deterioration in taxicab service. There would be no control over the driver. Because of this lack of control there is the possiblity that not all income will be reported and, therefore rates would be set too high. In order to try and create more control over the driver the T.A. will require more money for policing the drivers, this would be very difficult to do. He realized that the companies would probably make more money if they were allowed to lease.

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Mr. Goddard from the Department of Motor Vehicles did not feel that the department should be inspecting the taxicabs. The T.A. has the staff and the expertise to conduct the inspections. Also, by requiring the department to inspect the taxicabs it would simply require the taxicabs owners to deal with another agency in regard to regulations.

Mr. Pete Eliades, Owner, Star Cab and Yellow Cab, noted that Senate Bill No. 398 is not a compulsory bill. It gives the owner the option of leasing. He did not feel that leasing would harm the companies which did not support leasing.

Mr. Drake noted that ten years ago only ten percent of the companies nationwide were leasing. Today only ten percent of the companies are not leasing. He stated that leasing has become a working concept. He stated that the taxicab companies have had a problem with drivers not turning the meter of the taxicab although they still charge the customer. He felt that leasing would prevent this problem because the driver would have no reason not to turn the meter on.

Senator Hernstadt asked if a driver is caught not turning the meter on if his driver's permit is cancelled. Mr. Drake stated that such action is grounds for termination. Mr. Avance stated that in Las Vegas they have to give the driver a hearing and if he is convicted he is fined $25 to $30 for the first offense.

Mr. Drake stated that he favored leasing and that the problems which had been brought to the committee's attention in regard to leasing could be avoided by proper wording of the lease.

Mr. John Sherer, a private citizen, spoke in support of Senate Bill No. 319. He felt that if a private individual wished to make a living driving a taxicab and that individual has the means to acquire a safe vehicle, he should be allowed to do so.

There being no further business, the meeting adjourned at 5:45 p.m.

Respectfully submitted by:

Kelly R. Torvik

APPROVED:

Senator Richard E. Blakemore
Chairman

Dated: 3/31, 1981

EXHIBIT A

SENATE AGENDA

COMMITTEE MEETINGS

Committee on Transportation, Room 323.

Day Tuesday, Date March 24, 1981, Time 2:00

S. B. No. 318--Abolishes taxicab authorities and permits counties to establish such authorities by ordinance.

S. B. No. 319--Provides for issuance of certificates of public convenience and necessity to operators of single taxicabs and for allocations between these operators and fleet operators.

S. B. No. 396--Establishes minimum allocation of taxicabs for each certificate holder under jurisdiction of taxicab authority.

S. B. No. 397--Limits use of taxicabs by standard of safety instead of by age.

S. B. No. 398--Allows holder of certificate of public convenience and necessity to lease taxicabs to independent drivers.

S. B. No. 399--Provides for equal allocation of taxicabs among all certificates holders under jurisdiction of taxicab authority.

ATTENDANCE ROSTER FOR COMMITTEE MEETINGS

SENATE COMMITTEE ON TRANSPORTATION

EXHIBIT B

DATE: 3/24/81

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
Zel LOWMAN	ABC Union Cab Co (Lowman Mgmt)	871-1123
HILTON I SCHWARTZ	CHECKER CAB CO	739 8113
PETE ELIADES	STAR CAB YELLOW CAB	386 9408
DALE WILDEN	YELLOW CAB L.V.	382-4444
Mike SLOAN	L.V taxicab owners assoc	385-4202
Mary F. Flanders	Bureau of Services to the Blind	885-4444
Ricke Kuhlmey	Nevada Council of The Blind	642-5856
Jean Ford	Senate	
Sidney Wagstein	Las Vegas	
Phil Stout	TAXI CAB AUTHORITY Board Mem.	452-5426
DONAL WALLC	WHITE HORSE - BELL	383 5036
JEFFCE TAYLOR	ASM+T for [illegible]	882-8282
[illegible]	[illegible]	882-3361
JIM ADAMS	State of [illegible]	
HEBER HARDY	P.S.C.	885-4117
Ronald L Dodd	Baker + Dodd Inc	331-2506
William Goddard	DMV. Motor Carrier Div	885-5340
JOHN SHERER	590 GENOA AVE RENO	747-4123

BILL HERNSTADT
SENATOR
CLARK COUNTY DISTRICT 3
HOME: 3111 BEL AIR DRIVE, APT. 25G
LAS VEGAS, NEVADA 89109
732-2100
OFFICE: 401 S. CARSON STREET
CARSON CITY, NEVADA 89710
885-5629
1-800-992-0973

COMMITTEES
VICE CHAIRMAN
TRANSPORTATION
MEMBER
COMMERCE
JUDICIARY

Nevada Legislature

EXHIBIT C

SIXTY-FIRST SESSION

March 24, 1981

M E M O R A N D U M

TO: Senate Committee on Transportation

FROM: Senator William Hernstadt

SUBJECT: Senate Bills No's and 319

In practically all communities taxicabs are an essential part of the public transportation system. Unlike buses and subways which run on fixed routes and schedules, taxis offer individualized services. Most taxicab drivers either work directly for a cab company or rent their cabs from a company. Others own their taxicabs and operate independently.

The taxicab industry can be placed on at least equal basis with the other transit industries, in terms of both passenger service provided and significance to the U.S. economy, particularly in respect to employment levels.

Taxi service makes up the second largest transit mode with buses rating first and urban rail systems third. The degree of employment for the taxi industry is 3.5 times that of any other mass transit industry. The industry generates twice the revenue of the bus system and more than one billion more than the other transit industries as a whole.

The taxicab industry may be classified into three types of operations: Commission Operations, where each driver is an employee of a company usually paid on a commission basis; Lease Operations, where each driver leases his cab from a company and acts as an independent contractor; Owner Operator, where each driver owns his own vehicle and may or may not subscribe to dispatch and maintenance services from a sponsoring company. The last government

survey indicates that 66 percent of all operations in the U.S. are commission operations, 7 percent are lease operations, 11 percent are owner operations, and 16 percent are combinations of the categories.

Comparative city analysis indicate that Washington, D.C., has the highest percentage of owner operators, almost 90 percent. Chicago, in contrast, has 80 percent fleet operators and 20 percent independents. The independents in Washington, D.C., may work on a part-time basis, whereas all of the independents in Chicago operate on a full time basis. In both cities many independents are affiliated under a common name with common dispatch facilities by means of an operating agreement.

Other comparable cities are Atlanta, all drivers lease or own their cabs; Boston, half fleets and half independents; Columbus, all fleet owned; and Dallas, 2/3 are fleet operators and 1/3 are independents.

The survey as a whole indicated that the most striking difference between independent operators and fleet operators is the profitability of the independents versus the relative unprofitability of the fleets. The trend indicated that 50 percent of all fleet operators did not cover their total costs and 25 percent did not cover their fixed costs.

Perhaps one last point should be mentioned about cab operation in Washington, D.C., where independent operators tend to be most successful. The taxicab business is unique there in that the industry is made up of individuals operating their own businesses. Therefore, the passengers get a better, safer ride because of the driver's personal interest in his own taxicab. This is not true in other cities where operations are controlled by fleets.

Because the driver is an independent businessman, the owner operator has better equipment and exercises better care and caution than a driver that is not an owner. Washington, D.C., drivers and the industry as a whole have been acclaimed as the best taxi service in the United States. Testimony has been provided to that effect by a random sample of tourists and Congressmen.

to the extent necessary to protect its investment, and to discharge him if his conduct jeopardizes its contract with the carrier.

Accordingly, it is held that the driver engaged in performing services under the circumstances described above is an employee of the leasing company for purposes of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and the Collection of Income Tax at Source on Wages.

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26 CFR 31.3121(d)–1: Who are employees. (Also Sections 1402, 3306, 3401, 6015; 1.1402(a)–1, 31.3306(i)–1, 31.3401(c)–1, 1.6015(a)–1.)

Taxicab drivers operating vehicles purchased from a taxicab association under conditional sales agreements requiring specified daily payments, but giving the association no right to control their operations, are not employees of the association; S.S.T. 241 superseded.

Rev. Rul. 71–571 [1]

The purpose of this Revenue Ruling is to update and restate, under the current statute and regulations, the position set forth in S.S.T. 241, C.B. 1937–2, 404.

The question presented is whether, under the circumstances described below, drivers of taxicabs who purchase their cars from a taxi association under conditional sales agreements with the association are its employees, for purposes of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and the Collection of Income Tax at Source on Wages (chapters 21, 23, and 24, respectively, subtitle C, Internal Revenue Code of 1954).

The association enters into conditional sales agreements with the taxicab drivers providing that the association shall sell and the driver shall buy a certain taxicab. The driver agrees to pay all taxes, licenses, fees, and charges for operation of the taxicab and to use the taxicab solely for passenger hire. He accepts the taxicab subject to the sales contract, makes a down payment, executes a note for the unpaid balance, and agrees to make specified daily payments until the taxicab is paid for in full and to make daily payments for telephone service. The agreement stipulates that the driver has no interest in the association other than the privilege of purchasing telephone service. The association has no control over the movements of the taxicab or the operator. The driver may either accept or refuse any telephone calls for taxicab service. The drivers in question pay daily fees to the taxi association for telephone service. No fee is paid to the association other than that for telephone service and the association has no right to discharge any driver.

Guides for determining whether an individual is an employee are found in three substantially similar sections of the Employment Tax Regulations: sections 31.3121(d)–1, 31.3306(i)–1, and 31.3401(c)–1. Section 31.3121(d)–1(c) of the regulations provides, in part, that every individual is an employee if, under the usual common law rules, the relationship between him and the person for whom he performs services is the legal relationship of employer and employee. Generally, the relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the results to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors, not necessarily present in every case, are the furnishing of tools and a place to work to the individual who performs the services.

In this case the drivers have purchased, or are purchasing, the taxicabs and the association has no right to control their activities. Accordingly, the drivers are not employees of the taxi association for purposes of chapters 21, 23, and 24 of the Code, However, their income from the operation of the taxicabs should be considered in computing their net earnings from self-employment for purposes of the Tax on Self-Employment Income (chapter 2 of subtitle A of the Code) and in determining whether they are required to file declarations of estimated income tax and self-employment tax returns under sections 6015 and 6017 of the Code. Compare Revenue Ruling 71–572, below, concerning the status of drivers who own their taxicabs or lease them from a taxicab company on the basis of a specified daily or weekly rental and drivers who "lease" their taxicabs from a taxicab company on the basis of a percentage of gross fares.

S.S.T. 241 is superseded, since the position set forth therein is restated under current law in this Revenue Ruling.

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26 CFR 31.3121(d)–1: Who are employees. (Also Sections 1402, 3306, 3401, 6015; 1.1402(a)–1, 31.3306(i)–1, 31.3401(c)–1, 1.6015(a)–1.)

Whether taxicab drivers operating vehicles under a "lease" agreement with a taxicab company are employees of the company is dependent upon controls exercisable by the company that are not economically beneficial to the lessee's interests; Mim. 6652 and Revenue Ruling 66–267 superseded.

Rev. Rul. 71–572 [1]

The purposes of this Revenue Ruling are to update and restate, under the current statute and regulations, the positions set forth in Mim. 6652, C.B. 1951–2, 162 (see Situation 2 below) and Revenue Ruling 66–267, C.B. 1966–2, 443 (see Situation 1 below).

The issue presented is whether taxicab owners or operators, carrying on

[1] Prepared pursuant to Rev. Proc. 67–6, C.B. 1967–1, 576.

[1] Prepared pursuant to Rev. Proc. 67–6, C.B. 1967–1, 576.

their transportation services pursuant to "lease" agreements with a taxicab company under the circumstance described below are employees of the taxicab company for purposes of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and the Collection of Income Tax at Source (chapters 21, 23, and 24, respectively, Internal Revenue Code of 1954).

Individuals are employees for Federal employment tax purposes if they have the status of employees under the usual common law rules applicable in determining the employer-employee relationship. Guides for determining that status are found in three substantially similar sections of the Employment Tax Regulations, namely, sections 31.3121(d)-1, 31.3306(i)-1, and 31.3401(c)-1.

Generally, the relationship of employer and employee exists when the person for whom the services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which the result is accomplished. That is, the employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct and control the manner in which the services are performed; it is sufficient if he has the right to do so.

In the cases of "leases" of taxicabs, the first question to be asked is whether a valid lessor-lessee relationship exists since, if it does, an employer-employee relationship cannot exist at the same time between the same parties with respect to the same subject matter. However, some of the "control" factors usually considered relevant in determining whether or not an employer-employee relationship exists are equally relevant in determining the existence of a valid lessor-lessee relationship. Thus, the use of two-way radio communication, dispatchers, and advertising media, although usually considered important factors in establishing an employer-employee relationship in taxicab cases, is not repugnant to the interests of both lessor and lessee in a true lessor-lessee relationship since it will enhance the lessee's profits by making more "trips" available to him at the same time that it increases the lessor's ability to rent his taxicabs to the optimum extent, thereby increasing his profits.

On the other hand, "controls" which are not economically beneficial to the lessee's interests (or are even detrimental), tend to suggest both that a lessor-lessee relationship does not actually exist and that an employer-employee relationship does. None of the "control" factors mentioned above are of this latter type.

In each of the situations described below, the company operating the taxicab system provides the services mentioned above that are generally provided in the operation of a taxicab business, namely, two-way radio communication, the use of a dispatcher, and the use of advertising media. However, the following differences exist:

Situation 1. The taxicab company owns the taxicabs and "leases" them to taxicab operators who pay as a regular fee a set percentage of the fares they collect. In order to insure that it receives the proper amount, the company requires the submission of financial reports by the operators showing the amounts of the fares they have received for providing taxicab services.

It is concluded, upon the basis of the stated facts in the instant situation, that the taxicab company exercises, or has the right to exercise, such direction and control over the taxicab operators in the performance of their services as is necessary to establish the relationship of employer-employee under the usual common law rules. The receipt-sharing arrangement diminishes the likelihood of a true lessor-lessee relationship since the company necessarily retains the right to direct and control the drivers in the performance of their services, including requiring an accounting from them with respect to the fares that they have collected, in order to protect its investment and to insure the receipt of the maximum amount of income possible in return for its financial risks. Accordingly, it is held that the taxicab operators who use the taxicabs furnished by the company under the circumstances described above are employees of the company for purposes of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and the Collection of Income Tax at Source on Wages.

Situation 2. The taxicab company has (a) a contractual relationship with taxicab owners who operate their own cabs and pay the company only fixed fees at regular intervals for its services in connection with the operation of their cabs, or (b) a "lessor-lessee" relationship with taxicab operators who pay only fixed fees at regular intervals for the use of both the company's taxicabs and services. The company does not require an accounting by the owner or operator of the fees received, its interest being limited to the receipt of fixed fees at regular intervals.

It is concluded, upon the basis of the stated facts in the instant situation, that the taxicab company does not exercise, nor does it have the right to exercise, such direction and control over the taxicab owners or the taxicab operators in the performance of their services as is necessary to establish the relationship of employer-employee under the usual common law rules. The company has only the right to receive the specified regular payment. It has no right to obtain, for its own benefit, an accounting with respect to the fares collected for operation of the taxicabs by either the owners or the "lessees". In the case of the "lessees," it possesses no other "control" factors that would be detrimental to their interests and negate a true lessor-lessee relationship. Accordingly, it is held that the taxicab owners who utilize the services of the company and the taxicab operators

who use the taxicabs and services provided by the company under the circumstances described above are not employees of the company for Federal employment tax purposes. However, their income from the operation of the taxicabs must be taken into account in computing net earnings from self-employment for purposes of the Tax on Self-Employment Income (chapter 2 of subtitle A of the Code) and in determining whether they are required to file declarations of estimated income tax and self-employment tax returns under sections 6015 and 6017 of the Code.

Compare Revenue Ruling 71-571, page 347, this Bulletin, concerning the status of drivers who purchase their taxicabs from a taxi association under conditional sales agreements.

Mim. 6652, C.B. 1951-2, 162, and Revenue Ruling 66-267, C.B. 1966-2, [illegible], are superseded, since the positions set forth therein are restated under current law in this Revenue Ruling.

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26 CFR 31.3121(d)-1: Who are employees. (Also Sections 3306, 3401; 31.3306(i)-1, 31.3401(c)-1.)

Individuals engaged in performing services in the operation of real properties by a bank that is a mortgagee in possession under assignments of rents are employees of the bank; S.S.T. 314 superseded.

Rev. Rul. 71-573 [1]

The purpose of this ruling is to update and restate, under the current statute and regulations, the position set forth in S.S.T. 314, C.B. 1938-2, 302.

The question presented is whether, under the circumstances described below, individuals engaged in performing services in the operation of real properties by a bank that is a mortgagee in possession under assignments of rents are employees of the bank or of the mortgagor-owners of the properties for purposes of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act and the Collection of Income Tax at Source on Wages (chapters 21, 23, and 24, respectively, subtitle C, Internal Revenue Code of 1954).

Under written agreements rents are assigned to the bank (mortgagee) by the mortgagor-owners of certain income producing property, and the bank manages the property. The individuals engaged to perform services in connection with the management of the property are hired, controlled, and discharged by the bank. These individuals are paid by the bank from the income of the property, but a full accounting of all wage payments is furnished to the mortgagor. In the event a property does not produce sufficient income to pay employees or maintenance expenses, the bank advances the necessary funds and charges them to the property. The mortgagor has no control over the performance of services of the employees in connection with the property and no control over the management of the property, except legal recourse to prevent waste. The mortgagor is not consulted at any time with respect to the policies followed in the management and operation of the property, except in the case of an extensive capital expenditure.

The assignment agreements used by the bank provide in part as follows:

> The bank in its sole discretion shall operate the premises in the ordinary and usual course as such premises are usually operated; and the bank may in its sole discretion make such repairs and structural changes to, in, and about the premises as it deems necessary and proper. The bank in its sole discretion shall from time to time determine to which one or more of the aforesaid purposes the rents and revenues shall be applied and the amount to be applied thereto. It is understood and agreed that the bank shall be liable to account only for moneys actually received by it under this assignment. The mortgagor does hereby authorize the bank or its duly authorized agent to make and execute on behalf of the mortgagor leases on the premises described herein. The mortgagor hereby agrees to cooperate with the bank in carrying out the intent and purposes of this instrument. It is expressly understood and agreed that this assignment is made for the sole purpose of furnishing additional security to the bank (the mortgagee) and to facilitate the collection of obligations described in the mortgage.

An individual is an employee if under the usual common law rules the relationship between him and the person for whom he performs services is the legal relationship of employer and employee. Guides for determining that status are found in three substantially similar sections of the Employment Tax Regulations: namely, sections 31.3121(d)-1, 31.3306(i)-1, and 31.3401(c)-1. Generally, the relationship of employer and employee exists when the person for whom the services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished.

Section 31.3121(d)-2 of the Employment Tax Regulations provides, in part, that an employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group, or entity. A trust or estate, rather than the fiduciary acting for or on behalf of the trust or estate, is generally the employer. See Revenue Ruling 69-657, C.B. 1969-2, 189.

In the instant case, the bank as mortgagee in possession of property under an assignment of rents is, while such assignment is in effect, operating the property primarily in its own interest and not in a fiduciary capacity. The services performed with respect to the property are performed for the bank, and it alone has the right to control the individuals performing such services. The individuals are hired, controlled, and discharged by the bank and the mortgagor has no right to control them or the assigned property except to prevent misuse or waste. The mortgagor is not consulted with respect to the policies followed in the management of the property except in the case of extensive capital expenditures and he cannot disturb the lawful possession of the mortgagee until the obligations are satisfied. The fact that the individuals

[1] Prepared pursuant to Rev. Proc. 67-6, C.B. 1967-1, 576.

EXHIBIT E

New Twist In Taxi War

CARSON CITY (UPI) — The Nevada Legislature Wednesday rejected efforts to reconsider passage of a bill increasing the number of taxicabs in Clark County.

Attorneys representing taxicab drivers and some of the major companies tried to get both the Senate and Assembly to reverse their action in approving the bill.

The Assembly first denied reconsideration and the Senate followed suit.

James Ujlom (D-Las Vegas) tried to get the Assembly to reconsider its Tuesday passage of SB 593, but he lost 16-17.

The bill requires the Clark County Taxicab Authority to allocate a minimum of 15 cabs per certificate holder if desired. Opponents said this would mean a 20 to 25 per cent increase over the present allocation of 282 taxis, and would cut profits for the drivers.

Assemblyman Zel Lowman, (R-Las Vegas) predicted there would be "taxi wars" violence and even bombings if the bill passed. Majority Floor Leader Darrell Dreyer, (D-Las Vegas,) also opposed the measure on grounds it did not get proper committee hearings.

Under normal procedure the bill after passage in the assembly is returned to the senate for processing. Sen. John Foley, (D-Las Vegas) urged the Senate to rescind its passage. He said another hearing should be held. He said the bill has "tremendous impact", which some senators did not realize when it was first approved.

He said he had talked with attorneys Louise Weiner who represented Yellow Cab, William Morris and Norman Hilbrecht and Taxicab Administrator Ray Sheffer who all opposed the bill. Foley said they complained they did not get a hearing in the senate.

But Sen. Helen Herr, (D-Las Vegas,) chairman of the Transportation Committee said a hearing was held and there was adequate notice of one week prior to the hearing. Foley's motion lost 6-12.

One-Taxi Cab Companies? Regulation Change Sought

In the most surprising move of the current taxicab strike, the Clark County Taxicab Authority was asked Monday to allow firms to rent vehicles to individuals who would operate them as one-taxicab companies.

The petition was brought by Ace and ABC Union cab companies, both of which are owned by one man and both of which are struck by Teamsters Local 881. It asks for a change in General Order No. Three of the authority, which requires that taxicab drivers be licensed by the authority and regular employes of companies.

"It is the logical alternative for the drivers, management and the public in a strike situation where there is not a foreseeable end," said Charles Frias, president of the two companies.

The petition filed by attorney William Morris said the authority should approve the request to enable companies to "compete economically with other forms of transportation and to expand in an orderly fashion, thereby preserving the taxi industry as a financially-sound service to the tourists and general public."

Frias also pointed out that the move, if granted, could be expected to ease burdened facilities this weekend when the area will be jammed with Labor Day tourists.

Vegas taxi bill vetoed by governor

CARSON CITY, (UPI) — Gov. Mike O'Callaghan vetoed a bill Saturday that would have guaranteed every taxicab company in Clark County a minimum of 15 cabs.

It was O'Callaghan's first veto of a bill passed by the 1973 Legislature.

He said he rejected it because he didn't think it would "serve the interests of the individual taxi driver" and "because it violates the concept of the legislation which created the state Taxicab Authority in 1969."

The governor said he was concerned that a sharp increase in the number of cabs serving the Las Vegas area would reduce individual incomes "unless it could be clearly proven that a need for the additional cabs existed."

Drivers appeared before the lawmakers during debate on the bill, saying it would reduce their daily take-home pay to slightly more than $16. They said the bill would put 74 more cabs on the streets of Las Vegas but that the volume of customers would remain the same.

His veto means the bill is dead for at least two years because the Legislature adjourned sine die Thursday.

Cab Czars Study Request To Permit Taxi Leasing

The Clark County Taxicab Authority will study a request of Union and Ace Cab Companies to lease its taxicabs to the drivers idled by the strike.

The question was referred to Administrator Ray Sheffer, legal counsel Gary Logan, the chief deputy attorney general, and B. J. Handlon of the Authority board.

Ace and Union sought to have the lease arrangement approved as an emergency measure, suspending the usual procedure required in repealing a regulation. A similar petition has been filed by Whittlesea Blue Cab.

Leasing of cabs now is prohibited by the Authority regulations.

In other action the Authority granted Checker Cab Co. President Eugene Maday permission to acquire the two medallions of Vegas Western Cab Co. from Don Walls. Vegas Western is controlled by Checker, but operated separately.

It would give Maday direct operation of two additional taxicabs, boosting his fleet from 76 to 78, but the Vegas Western certificate will continue to be treated as a separate operation.

He has been trying for months to obtain the additional certificate of public convenience, but was blocked by former Authority Chairman Joe Collett, who was replaced by Dr. James Jones recently.

The Authority also agreed to appoint two persons to the board at the next meeting, Sept. 20. The three member board was appointed by the governor. The two additional persons willl serve in an advisory capacity.

Meanwhile, the troublesome McCarran International Airport sanitation situation appeared headed for solution with the decision that airport caterer Fred Harvey, Inc. will provide restroom and snack bar facilities for taxicab drivers on duty there.

The drivers had been using outhouses, and chancing loitering citations for going inside the terminal, they complained.

STATE OF NEVADA TAXICAB AUTHORITY

1980 STATISTICAL TOTALS

	Background Invest. Applicants	Inspection of Taxicabs	Sealing of Taximeter	Sealing of Transm.	Out-of-Service Notices Issued	24 Hour Notices Issued	Out-of-Service Notices Cleared	24 Hour Notices Cleared	Invest. of NRS & G.O#3 Violations	Invest. of Accidents	Defensive Driving Attendance	Taxicabs Impounded
ANLV	273	138	56	27	78	122	76	114	26	27	180	-0-
ACE	170	330	124	83	213	519	208	510	31	62	24	-0-
CHECKER	362	695	165	139	427	788	409	820	42	182	69	-0-
DESERT	110	94	36	34	41	131	39	92	44	28	44	-0-
HENDERSON	52	106	43	18	46	97	45	99	13	17	30	-0-
NELLIS	104	94	31	23	30	68	28	62	32	26	29	-0-
STAR	112	126	56	33	67	148	71	148	41	27	33	-0-
UNION	102	327	124	72	167	434	157	434	27	35	25	-0-
VEGAS-WESTERN	26	123	36	28	49	121	60	122	13	30	5	-0-
WESTERN	77	86	45	23	38	92	37	92	17	36	24	-0-
WHITTLESEA	355	567	213	124	249	578	247	576	50	79	112	-0-
YELLOW	378	727	244	140	187	314	184	333	35	114	84	-0-
YEARLY TOTAL	2,121	3,413	1,173	744	1,592	3,412	1,561	3,402	371	663	659	-0-

EXHIBIT F

ATTORNEY GENERAL

SEP 17 1980

LAS VEGAS, NEV.

CASE NO. 79-0405

EXHIBIT G

BEFORE THE STATE OF NEVADA TAXICAB AUTHORITY

State of Nevada Taxicab Authority
Plaintiff

vs.

Checker Cab Company Inc.
Respondent

FINDINGS OF FACT
CONCLUSIONS OF LAW
JUDGEMENT AND ORDER

STATEMENT OF FACTS

Respondent, Checker Cab Company, is presently being charged, in the above referenced case, with thirteen (13) violations of Nevada Revised Statutes Section 706.8834-2, which provides that " any replacement or supplement vehicle which a certificate holder acquires for use as a taxicab shall: a.) be new; or b.) register not more than 10,000 miles on the odometer".

All thirteen (13) vehicles in question were purchased by Respondent from Ardmore Leasing Corporation, who had purchased them from the Los Angeles Dealers Auction. The odometer statements filed by the Los Angeles Dealers Auction show that at the time of the sale of the vehicles to Ardmore, each vehicle showed mileage far in excess of ten thousand (10,000) miles, ranging between nineteen thousand (19,000) miles to eighty six thousand (86,000) miles.

When the same vehicles were received by Respondent, Checker Cab Company, the odometers all read under ten thousand (10,000) miles, and when they were inspected by the Taxicab Authority, they had less than ten thousand (10,000) miles.

The alleged violations came to light by means of a secret informant, whose identity the Plaintiff refused to disclose.

EXHIBIT A

Nevada Revised Statutes, Section 706.8834 (2) in each of the thirteen (13) violations as alleged.

2. The Legislature, by enactment of the aforesaid Statute intended strict compliance therewith and did not intend that the Statute be satisfied merely by odometer readings less than the maximum allowed; which showing could easily be obtained by illegally rolling back the odometers.

3. These proceedings are adminstrative in nature rather than criminal. Therefore, it is not necessary for the Respondent to be guilty of express criminal intent in order to violate the Statute.

4. The State can properly claim the priviledge of refusing to disclose the identity of an informant under Nevada Revised Statute, Section 49.335 because there is insufficient evidence to indicate that the informer could give testimony necessary to a fair determination of the Respondent's guilt or innocence. Refusal of the State to disclose the identity of the informant does not fall within the purview of Nevada Revised Statute, Section 49.365 mandating a dismissal of the proceedings.

JUDGEMENT AND ORDER

IT IS HEREBY ORDERED ADJUDGED AND DECREED that Respondent be and hereby is assesed a fine in the amount of five hundred ($500.00) dollars for each of the thirteen (13) violations, herein established.

IT IS FURTHER HEREBY ORDERED ADJUDGED AND DECREED that Respondents Checker Cabs numbered: 663, 660, 664, 662, 651, 645, 646, 648, 652, 657, 659, 1640, 666 be, and the same are hereby ordered removed from service forthwith.

Dated this 16th day of September, 1980.

David M. Schreiber, Esq.
Hearing Officer-State of Nevada
Taxi Cab Aithority

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The informant gave information that the odometers were being rolled back.

ISSUES

1. Whether Nevada Revised Statues Section 706.8834 (2) has been violated by Respondent.
2. Whether refusal of Plaintiff to disclose the identity of an informant in these proceedings requires a dismissal of the instant proceedings.

FINDINGS OF FACT

1. The thirteen (13) vehicles, which are the subject of these proceedings all had travelled in excess of ten thousand (10,000) miles at the time of their purchase by Respondent; notwithstanding the fact that they had less than ten thousand (10,000) miles appearing on their odometers when so purchased.
2. The guilt or innocence of the Respondent does not rest upon the tip of the confidential informant, nor would such guilt or innocence be determined by such informant's testimony. Rather, the tip furnished by the informant did no more than precipitate an investigation, which investigation, in and of itself, produced facts and evidence sufficient to warrant findings of innocence or quilt.

CONCLUSIONS OF LAW

1. Plaintiff has sustained its burden of proof that Respondent has violated Nevada Revised Statutes Section 706.8834 (2) and each of thirteen (13) instances by reason of the uncontroverted testimony and evidence that the thirteen (13) vehicles in question had in fact, travelled in excess of ten thousand (10,000) miles at the time of their purchase; Respondent is therefore quilty of violating

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EXHIBIT H.

MONTHLY TRIPS

1975 1977 19
1976 1978 19

JAN FEB MAR APR MAY JUNE JULY AUG SEPT OCT NOV DEC

1980
1979
1978
1977
1976
1975

7,647,804
7,685,869
6,808,853
5,981,179
5,631,844
5,942,46
5,328,45

NUMBER OF TRIPS IN (1,000's)