

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TRANSPORTATION**

**Seventy-Third Session
May 5, 2005**

The Committee on Transportation was called to order at 1:41 p.m., on Thursday, May 5, 2005. Chairman John Ocegüera presided in Room 3143 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. John Ocegüera, Chairman
Ms. Genie Ohrenschall, Vice Chairwoman
Mr. Kelvin Atkinson
Mr. John Carpenter
Mr. Chad Christensen
Mr. Jerry Claborn
Ms. Susan Gerhardt
Mr. Pete Goicoechea
Mr. Joseph Hogan
Mr. Mark Manendo
Mr. Rod Sherer

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Warren Hardy, Clark County Senatorial District No. 12
Senator Sandra Tiffany, Clark County Senatorial District No. 5
Senator Terry Care, Clark County Senatorial District No. 7

STAFF MEMBERS PRESENT:

Marjorie Paslov-Thomas, Committee Policy Analyst
Angela Flores, Committee Manager

Linda Ronnow, Committee Attaché

OTHERS PRESENT:

Brent Bell, Legislative Advocate, representing Whittlesea Blue Cab Company and Henderson Taxi
George Balaban, Legislative Advocate, representing Desert Cab Company
Jack Owens, Legislative Advocate, representing Yellow Cab Company, Checker Cab Company, and Star Cab Company,
Steve Hill, President, Silver State Materials, Inc., Las Vegas, Nevada; and Legislative Advocate, representing Southern Nevada Concrete and Aggregates Association
Steve Holloway, Executive Vice President, Associated General Contractors, Las Vegas Chapter, Las Vegas, Nevada
Steve Benna, Legislative Advocate, representing CB Concrete and Granite Construction
Mike Rich, Legislative Advocate, representing Q & D Construction
Michael Geeser, Media/Government Relations, American Automobile Association of Nevada
Judy Stokey, Director of Government Affairs, Nevada Power Company and Sierra Pacific Power Company
Debra Jacobson, Director, Government and State Regulatory Affairs, Southwest Gas Corporation, Las Vegas, Nevada
Colonel David Hosmer, Chief, Nevada Highway Patrol, Nevada Department of Public Safety
Lieutenant Bill Bainter, Statewide Commercial Enforcement Coordinator, Nevada Highway Patrol, Nevada Department of Public Safety
Daryl Capurro, Managing Director, Nevada Motor Transport Association, Sparks, Nevada
Troy Dillard, Administrator, Compliance Enforcement Division, Nevada Department of Motor Vehicles
Cheri Edelman, Legislative Lobbying Team, City of Las Vegas, Nevada
Jan Christopherson, Administrative Services Officer, Nevada Department of Transportation
Berlyn Miller, Legislative Advocate, representing Nevada Contractors Association
Barry Duncan, Legislative Advocate, representing Southern Nevada Home Builders Association
Kimberly McDonald, M.P.A., Special Projects Analyst and Lead Lobbyist, City Manager's Office, City of North Las Vegas, Nevada
Stephanie Garcia-Vause, Legislative Advocate, representing the City of Henderson, Nevada

Dan Musgrove, Director of Intergovernmental Relations, Office of the
County Manager, Clark County, Las Vegas, Nevada

Chairman Ocegueda:

[Meeting called to order. Roll called.] We will open the hearing on
Senate Bill 243.

**Senate Bill 243 (1st Reprint): Revises provisions governing operation of
taxicabs in certain counties. (BDR 58-919)**

Senator Warren Hardy, Clark County Senatorial District No. 12:

Senate Bill 243 was brought to me by the taxicab industry, which was
concerned about some verbiage in law that was being interpreted in a way that
was making it difficult. It is an attempt to clean that up.

**Brent Bell, Legislative Advocate, representing Whittlesea Blue Cab Company and
Henderson Taxi:**

Our new administrator interprets the length of a taxicab service a little bit
differently than the previous administrators. We had put together some
language that was confusing. It was brought up in the Senate hearing, and
Senator Carlton asked us how many months we needed. Sixty-seven months is
about a month or two longer than what we are currently operating taxicabs.
This allows us to put taxicabs in service.

We used to have the COMDEX convention in Las Vegas—it was always late
October—and hopefully it will come back. This allows us to put new taxicabs in
service prior to that convention, so we can maximize the number of cabs on the
road, keep our old taxicabs in service, and keep them in service through the
calendar year, all the way through April, when NAB [National Association of
Broadcasters] leaves. That way we have the largest possible fleet to cover the
largest convention period that we have.

George Balaban, Legislative Advocate, representing Desert Cab Company:

We are supporting this bill. This bill is not permitting us to do anything that we
haven't been doing since 1979. We usually purchase the new model year cars,
the 2006 models that are coming out now. We order the 2006 models in June
for delivery in August, and we get them ready and put them into service by
September. We are able to run them from September through December, and
then we run them for the life of the car, which is the four model years
historically, and that is where the confusion came up.

[George Balaban, continued.] In 1979, we were purchasing 1980 models, and it was enforced by the Taxicab Authority (TA) for the last 25 years that a 1980 vehicle put into service could not run in 1985. It could run through 1984, which would be the four years. You include 1981, 1982, 1983, and 1984; that is actually 60 months. It's four model years, and it turns out to be 60 months because we we're not counting the model year. It has never been enforced that way. The new administrator has realized that we were not counting that model year, and we need to clean that up. Historically, we have been running the cars three or four months before the model year started—60 months as four model years. The convention season has changed over the years.

The convention season has been pushed into the early spring, and we need extra cars. The Taxicab Authority has allowed us to run those in January, February, March, and April. March is historically our busiest month of the year.

This new bill puts the exact number of months in, so we don't have this interpretation of the model years. There is a 67-month figure, which is for a used vehicle. We put that in because we felt it was the legislative intent to reward companies for putting brand new model cars on as quickly as you could to serve the public with brand new cars. Used cars, which usually come out of rental car fleets, are already a year old. That is the reason for those reduced months on the used vehicles.

Chairman Oceguera:

If you had a vehicle and the TA came out and found that this vehicle had been in service 68 months, would you be in violation?

George Balaban:

That is correct. The Taxicab Authority, by regulation, inspects every one of our vehicles in Las Vegas every quarter. They are driven to make sure the meters are correct and the mechanics on the vehicle are working. If they come out and look at a vehicle, they know when it was put into service. If they found a vehicle that had run past its time, we would be in violation of the law.

Jack Owens, Legislative Advocate, representing Yellow Cab Company, Checker Cab Company, and Star Cab Company:

The administrators and our interpretation of the TA over the last 20 years has been the way we have been retiring the cars. We bought our 2000 model cars in 1999. Those were in service for the years 2000, 2001, 2002, and 2003. They were in service in 2004 as spares. We have already purchased the next year's vehicles. We buy vehicles every year to replace the ones we are taking out of service. The oldest cars become spares and are there to replace a bid car that is in for service, or for a large convention where the TA issues medallions

to service that convention. They are used that fifth year only as spares with a minor amount of miles put on them, but they are still subject to inspection on a quarterly basis and still regulated by the Taxicab Authority.

[Jack Owens, continued.] We would like to see things stay the way they have been for the last 20 years, and simplify it by putting the number of months in statute. If we shorten that a year, it would cost us another 20 percent of our vehicle cost each year to have to replace the number of cabs we need to receive our medallions.

Chairman Oceguera:

I am surprised the Taxicab Authority is not here. Were they at the Senate Committee meeting?

Senator Hardy:

They were not. The existing law speaks to a calendar year, which is causing a great deal of confusion. This bill speaks out the number of months, which clears up the confusion. It really doesn't have an impact on current practice whatsoever.

Chairman Oceguera:

We will close the hearing on S.B. 243 and open the hearing on S.B. 245.

Senate Bill 245 (1st Reprint): Establishes provisions concerning hours of service for intrastate drivers. (BDR 58-80)

Senator Warren Hardy, Clark County Senatorial District No. 12:

Senate Bill 245 addresses an issue that is related to federal law. Currently, the hours of service that a truck driver may operate his vehicle are regulated federally in two different categories. One is long-haul, and the other is short-haul. The federal regulations provide that the state may develop their own standards, within specific federal guidelines, for short-haul drivers. The existing federal standard causes some difficulty for some of our short-haul drivers in the state; therefore, we have introduced S.B. 245. This has been quite a long process, because we wanted to make very sure that we weren't doing anything that would jeopardize federal funding. We thought we had the language correct in the Senate. I committed at the time to the Highway Patrol, and the TSA [Transportation Services Authority] that we would double-check. It came back that there were some concerns. The amendment that has been placed in front of you now (Exhibit B) is the final effort that we are certain has no federal impact. It is not less stringent than the federal standards require.

[Senator Hardy, continued.] The amendment that is before you now essentially deletes S.B. 245 in its entirety. It removes Sections 9, 10, and 11 of the existing bill, which is where some question remained. This bill and the proposed first reprint amendment has been agreed to by everybody concerned. It is my understanding that there is an amendment that is going to be brought forward by some of the public utilities. We agreed early on to work with the public utilities to try to find a solution to their concerns, with the caveat that if it impacted in any way our access to federal funding, I would not accept it as a friendly amendment. We thought we had that just prior to the hearing, but Highway Patrol indicated some concerns. I want to make clear that if we are able to work those issues out within the next 48 hours, I am willing to accept that as a friendly amendment. If we are not able to work those out, I do not want to jeopardize the bill that we have spent two months making sure did not jeopardize federal funding, but at the same time provided some leeway for our short-term haulers. In addition, I know you were approached by Mr. Geeser prior to the hearing with some concerns. I was able to confirm with him that his concerns are resolved by the removal of Sections 9, 10, and 11.

This is the product of several months' work to make sure that the concerns of everybody are addressed. This is a clean product. The public utilities are going to present an amendment that potentially still needs work. I want to restate: unless we can get absolute assurances from the Highway Patrol and the TSA that it doesn't jeopardize federal funds, then it is not a friendly amendment.

Steve Hill, President, Silver State Materials, Inc., Las Vegas, Nevada, and Legislative Advocate, representing Southern Nevada Concrete and Aggregates Association:

The Federal Motor Carrier Safety Administration (FMCSA) issues federal hours-of-service regulations. They govern both interstate and intrastate drivers. The FMCSA also allows states to adopt tolerances to those guidelines for intrastate drivers. This is in recognition of the fact that conditions for drivers who drive around town within a 100-mile radius of where they start and stop work are different than the conditions for over-the-road drivers. Twenty other states have adopted guidelines, including most of the states that surround Nevada. Intrastate drivers have different circumstances. They start and stop work at the same location, they sleep in their own beds at night, and they aren't subject to the monotony that comes from long-haul driving.

The current hours-of-service regulations that are in place paint both intrastate and interstate drivers with basically the same brush. The FMCSA has recognized that this has not helped intrastate safety. FMCSA reported that reduction in short-haul crashes was much smaller than the reduction in long-haul crashes, both in relative and in absolute terms. The FMCSA found that restricting those

drivers who returned to the reporting locations at the end of every shift has the unintended consequence of requiring a significant increase in new drivers. These new drivers increase both costs and crashes. That has certainly been my experience in my company, where more than half of the accidents that we have come from drivers who have less than two years' experience.

[Steve Hill, continued.] In Nevada, drivers don't work as many hours as are permitted. When we send a driver out to deliver a load of concrete, we don't know if that load will take one hour or five. The way the federal regulations are written, a driver is allowed to drive 11 hours in any given day and be on the clock for 14 hours. This bill requests that be extended to 12 hours of driving and 15 hours on the clock. The driver may not drive, regardless of how many hours he has driven during the day, once he has reached 15 hours. The current regulation allows a driver to work 60 hours in a 6-day week, and we are asking that be extended to 70 hours in a 7-day week. Drivers at this point don't often get near the 11 or 14 hours, because of the uncertainty of how long loads will take, and they also don't get close to the 60 hours, as once they have achieved 54 hours, we don't bring them into work the next day.

The allowances that we are asking for would permit drivers to work some extra hours. This is a particularly onerous situation in the north, where the construction season is short, and drivers need every hour they can get when the weather allows them to work in order to earn their income. We have to hire extra drivers in order to make up for the needs that we have as the days lengthen and the weeks progress. Those newer and inexperienced drivers are statistically less safe than those who have experience in Nevada. Our labor situation is good, but it is tight, and it's hard to find good, qualified drivers.

The provisions of this bill simply provide the option for companies to use allowances. This bill might make operating confusing for companies that haul both interstate and intrastate. I am not sure if those concerns are still there, but I would like to assure those people that they are free to ignore those provisions of this bill. It is not mandated; it just provides the ability to use those tolerances. We feel that S.B. 245, the way it's currently amended, makes sense. It reduces the unintended consequences of hiring more drivers and driving up costs that are passed on in the form of higher housing prices, higher public works costs, and potentially making road safety worse.

Assemblyman Goicoechea:

Sections 5 through 13 are deleted out of S. B. 245. Is that correct?

Senator Hardy:

That is correct. What we contemplate is this being the act in its entirety.

Assemblyman Goicoechea:

Section 9 of the existing bill states that if you are driving within 100 miles of your base, you don't have to carry a log book. If you delete that, does it go away for the interstate carriers?

Senator Hardy:

If that is deleted out of the bill, it simply means that the existing federal regulations stay intact.

Steve Holloway, Executive Vice President, Associated General Contractors, Las Vegas Chapter, Las Vegas, Nevada:

Associated General Contractors (AGC) does support this bill as amended. We would add that this has applicability not just to concrete truck drivers, but to our entire industry, and it offers a lot of benefits to both contractors and drivers. We can now negotiate and maintain 12-hour shifts so that a driver could work three 12-hour days one week, and work four 12-hour days another week. It does have applicability to union and non-union drivers. Consequently, the AGC does support this bill as amended.

Steve Benna, Legislative Advocate, representing CB Concrete and Granite Construction:

We are in favor of this bill. We had drivers off the road for over two months with the bad weather conditions in the north this year. It would allow them to make up missed time to support their families and stay in the industry. It does put a hardship on us, as we are running out of hours by noon on Friday, and we can't work on Saturdays, and with the construction demands, we are not meeting them.

Assemblyman Christensen:

Mr. Benna, are you a driver?

Steve Benna:

Yes, I have a CDL [commercial driver's license].

Assemblyman Christensen:

You and your colleagues are talking about making up for time lost. How does this affect you mentally and physically if you are working more and longer hours?

Steve Benna:

Typically, ready-mix drivers are in and out of their trucks a lot during the day, and they are standing by waiting to discharge their loads, or at the plant waiting to be loaded, so they have a lot of time out of their cabs to walk around. They don't even approach the maximum number of driving hours. It's just a matter of extending the hours that they can work, so that we can be more productive as a company and service our customers.

Mike Rich, Legislative Advocate, representing Q & D Construction:

I think the biggest thing that is forced on us right now is trying to keep within this 60-hour rule within the week. I would like to support this bill, because we have to work long days to finish all the work we have ahead of us. If the pump machine breaks down on a concrete job, we have to bring the guys back in and switch drivers, so then we are running two shifts.

Michael Geeser, Media/Government Relations, American Automobile Association of Nevada (AAA):

Senator Hardy was able to work out some of the concerns that we had, and AAA appreciates the help that we were able to get. We support the bill with the 12-hour shifts; we think that will help alleviate some of the concerns. We wish there would be an exemption for tow-drivers, but that is not going to happen, so we can live with the 12-hour shifts.

Judy Stokey, Director of Government Affairs, Nevada Power Company and Sierra Pacific Power Company:

We do support S.B. 245. We did discuss the amendment on the Senate side. We needed some more time to work out some language, and we thought we did that. Our attorneys believe that this is not going to jeopardize the funding, but we would like the LCB [Legislative Counsel Bureau] to look at it and give us their interpretation.

We are not looking for an exemption. This is just a clarification of procedure to help us declare an emergency. The way the hour of service works right now, we would have to call the Governor's Office and ask for a declaration of emergency to go out and fix any extended outages. For safety and health reasons, we do not think that is necessary. It is normal course of business that we have at least 5 to 6 outages daily in the south from dig-ins, and maybe 3 or 4 here in the north. There are extended outages because of fires or weather conditions that we can't control, but for safety and health reasons, we want to get those customers restored as soon as possible. I am here to support this amendment. It's no longer Section 10 now that things have changed, but this language was put together from the attorneys, and we have been working with the Highway Patrol, Southwest Gas, and the Governor's Office on this.

Chairman Ocegüera:

In my position with the fire department, we often call the power or gas company in the middle of the night. I understand that they have already worked a full shift, and now they need to come back. It's not really the same thing as a long-haul driver, but I don't want to jeopardize any funding of the Highway Patrol.

Debra Jacobson, Director, Government and State Regulatory Affairs, Southwest Gas Corporation, Las Vegas, Nevada:

All we are trying to do is establish a procedure which allows the State government to implement the federal regulations; we are not asking for an exemption. The federal regulations already contemplate emergency situations for interruption of central services. When we have dig-ins constantly by accident or for whatever reason, that is an interruption. It involves natural gas, so all of those are considered emergencies as far as the Public Utilities Commission is concerned. It just won't work going through the Governor's Office as it is now to get permission to do that. We are trying to put in a procedure by which they can be in compliance with the federal regulations and we can be in compliance with the federal regulations, but still get out there when we need to. We do have similar language to what we provided in Arizona, because we service Arizona and California. We worked with the Arizona Legislature last year to get this done. We do have regulations that deal with how we declare emergencies in Arizona. In California it is self-declared, and I think that has something to do with their acceptance of the federal guidelines.

Chairman Ocegüera:

What is the acronym for the agency that we might be able to work with?

Debra Jacobson:

Federally, we are trying to work with the American Gas Association and the Edison Electric Association. We are working in Washington to try to be completely exempted from the federal hours of service regulations. The Highway Patrol can tell you more about it.

Colonel David Hosmer, Chief, Nevada Highway Patrol, Nevada Department of Public Safety:

We are neutral; we do not see ourselves as policymakers in any of this. However, we do take a \$1.3 million grant through FMCSA [Federal Motor Carrier Safety Administration] and their MCSAP [Motor Carrier Safety Alliance Program]. Lieutenant Bill Bainter has been working with them, with all of the amendments that he has been privy to. It is our impression that they still have some problems with it. They see it as less stringent than the federal regulations.

Unfortunately, as a division, we don't get to pick which of the CFRs [Code of Federal Regulations] we want to adopt and which ones we don't. There is the possibility that this could jeopardize the \$1.3 million grant from them.

[Colonel Hosmer, continued.] On the other side of the coin, with the switch over to the 800 megahertz system for our radios, we are in partnership with the utility companies. I would hate to have a problem with my radio systems on a mountaintop and their technicians not be able to get there because they worked a full shift. I would recommend that LCB Legal staff work with FMCSA to see if we can come to an acceptable agreement.

Chairman Oceguera:

I will have our Committee Legal Counsel contact FMCSA, to get to an opinion on whether it does or does not affect our federal funding.

David Hosmer:

Lieutenant Bainter will be available for them with contact numbers. If the Legislature gives me \$1.3 million in highway funds, then I don't have to take that grant.

Assemblyman Hogan:

I am interested in knowing about the extent of our jeopardy if we try to adopt numbers that are in excess of the federal maximum. Have any other states been able to wangle this kind of leeway to address their problems of business in utilities in their respective states?

Lieutenant Bill Bainter, Statewide Commercial Enforcement Coordinator, Nevada Highway Patrol, Nevada Department of Public Safety:

Several states have pursued the possibility or adoption of bills that are less stringent than the federal regulations. Florida passed a bill that exempted log companies, and that resulted in a 50 percent reduction in funding. I have been told by FMCSA that there is not a percentage attached to a penalty with funding; it is simply all or nothing.

Assemblyman Claborn:

Does this only pertain to vehicles that drive on highways? If you were working at the airport and had a batch plant that was on airport property, would they be able to work the employees 12 hours a day because they do not drive on highways?

Bill Bainter:

That is correct. This is pertaining to vehicles on the roadway.

Assemblyman Carpenter:

Is there a provision in the federal lot for emergency vehicles?

Bill Bainter:

That is correct. There is a clear definition for emergency vehicles in the federal regulations and a clear definition of the way that those types of vehicles are applicable for that exemption. Under the federal regulations, for an emergency vehicle to be exempt from hours of service, it has to be declared by a government official.

Chairman Oceguera:

Colonel Hosmer, with the amendments that Senator Hardy submitted, this letter that you sent me ([Exhibit C](#)) now doesn't apply. Is that correct?

David Hosmer:

I believe it still would.

Chairman Oceguera:

Can you detail this letter ([Exhibit C](#)) for me on your concerns? Part of this letter spoke to some of the concerns that were deleted. This was a letter addressed to me on May 2, 2005, from Colonel Hosmer, regarding this bill and some issues he had with it.

Bill Bainter:

The first concern had to do with the provision that 8 consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours. That has been taken care of in the current draft that you were provided by Senator Hardy. The second issue, regarding 7 consecutive days with a 24-hour restart, also has been addressed in the draft that was provided by Senator Hardy to you today. The only concerns we have now are the potential changes that are going to be included in this bill. We want to work with everyone to come up with language that is not going to be less stringent than the federal regulations.

Daryl Capurro, Managing Director, Nevada Motor Transport Association, Sparks, Nevada:

I have not seen the proposed amendment to the bill as it was presented to you today in the first reprint form. As I understood from listening to the testimony, it essentially allows for a 12-hour driving period, 15 hours on duty, and then a restart period. That would be in line with the exceptions that FMCSA has

indicated would be acceptable. One of the problems is that the federal hours of service rule was kicked back by the courts to the Federal Motor Carrier Safety Administration to, in effect, try again on specific parts of it. As of this moment, there has not been a reissuance that would satisfy the court order that it be restudied in its part.

[Daryl Capurro, continued.] Our concern has been that this creates a two-tier system of hours of service for the interstate companies. The companies like UPS [United Parcel Service], FedEx [Federal Express], and Con-Way operate both interstate and intrastate. Their drivers also operate interstate and intrastate. Whether or not they are union companies, they will operate off of a seniority board. For example, if I am a senior driver, during the winter months, I may not want to be putting chains on going over Donner Summit. I would probably bid a local job so that I could avoid that. I am now working on an intrastate basis. After the weather clears, and with my seniority, I would probably bid in the long-haul job because it pays better. It will present some issues with respect to dispatch when you have a different driving period of time and the 7 day, 70-hour service rule. Those are issues that can be worked out.

My concern over all of this is the feds themselves after putting this rule into place. After 3 years of intensive study and review of the old hours of service and such issues as sleep, time, and circadian rhythms, they came out with a rule that was basically in effect for about 3 months, and then we are back to the drawing board as far as the finality of that rule. With the feds, it's either all or nothing. I would have preferred to have seen them allow for an amendment for mostly intrastate activity, and construction would fall into that category. I am sympathetic with the fact that the utilities sometimes need to be there on hours that aren't convenient, which is generally all the time during the winter. Their rules are not as elastic as we would like to see them; otherwise, I would be here recommending that you apply this particular exemption from the federal hours of service to construction activity. At this point in time, we're remaining neutral on this bill.

Assemblyman Goicoechea:

Would this apply to any intrastate drive at this point?

Daryl Capurro:

The bill and the federal law both indicate that it has to apply to all. The bill as it's written, with the proposed amendment, specifically speaks to intrastate drivers.

Assemblyman Goicoechea:

The amendment did take out the language for having to carry a log book as long as you are within 100 aerial miles of your base. Would that exemption still be in place?

Daryl Capurro:

That exemption is still in the federal rules and regulations as we are operating under now.

Assemblyman Carpenter:

If these judges ruled that a lot of this is unconstitutional, then what's remaining, or has it all been thrown out?

Daryl Capurro:

They left the latest rules as they were adopted in place, pending a review on the part of the Federal Motor Carrier Safety Administration of certain specific areas that the court felt that it needed some additional testimony and some additional input. The new rules that were adopted are in place until that review takes place.

Assemblyman Carpenter:

Should we be back there trying to get the rules to where these situations that occur have a little more leeway, or is anybody talking to them?

Daryl Capurro:

We have participated in federal hearings in the past. I think you have set forth one of the things that we find unfortunate. The west often isn't heard very well with respect to federal regulations. They are one-size-fits-all, and this is not a one-size-fits-all region or state. Unfortunately, that is how those rules are issued, and as long as we accept Federal Motor Carrier Safety grants, then we are subject to their regulations.

Assemblyman Carpenter:

That doesn't prohibit you from going back there and telling them about the west, does it?

Daryl Capurro:

Some of the things we have a problem with right now are the tie-downs, or securement rules, that were issued on a federal basis, which do not work well. We are thrown into a general securement rule that doesn't work well, and we are hard at work trying to open that. Once they have issued their rule, it is extremely difficult to go back and reopen the issue.

Chairman Oceguera:

Ms. Stokey and Ms. Jacobson were talking about working on legislation. Are you aware of that legislation, and where they are at?

Daryl Capurro:

The utilities made the same pitch to the Federal Safety Administration. I presume they will continue to make that pitch at the federal level. The emergency rules that were adopted by FMCSA still require that they get approval from the government official.

Chairman Oceguera:

Maybe we could see some input from the minority leader in the Senate if we are going to lose some federal funding.

Daryl Capurro:

It might be helpful if you ask Mr. Bill Bensmiller, who is the FMCSA official for the state of Nevada. His office is here in Carson City.

Senator Hardy:

Mr. Bensmiller was one of our sources as we were trying to work through all of these issues. I didn't want to leave the Committee with any confusion of the discussion regarding potential jeopardy of federal funds surrounding the issue that the utilities brought forward. Although there are two different classifications here, there is no requirement that they are used. If a company is confused, they don't need to do it; they don't need to use the separate classification. We can only deal with the federal issues that are in front of us. We can only deal with those that are legal and are impacting our industries. That is what this bill endeavors to do.

The Highway Patrol always makes the point that they are not going to make a policy determination; they say that is for the Legislature. Lieutenant Bainter was true to that word. His concerns were legitimate, and he has been working with me for months to address this, as have the representatives of the utilities. I fully support what they are trying to accomplish. I think there is wisdom in it, and I am very hopeful that we can come up with a resolution. I still think the bill, as it is, is worth processing for a number of different reasons.

Chairman Oceguera:

We will close the hearing on S.B. 245 and open the hearing on S.B. 55.

Senate Bill 55 (1st Reprint): Authorizes certain persons to arrange sale of certain governmental vehicles without being licensed as broker or dealer. (BDR 43-722)

Senator Sandra Tiffany, Clark County Senatorial District No. 5:

Senate Bill 55 came about because I have an Internet eBay business, and I have three eBay IDs. I have Stockdales Gallery Auction, which sells new clothes; Stockdales Property Auction, which sells government property, like surplus property, unclaimed property, or confiscated property; and I have Stockdales Motors. I have been on eBay since 1999. About a year and a half ago, I visited 35 states, and I visited state purchasing and state supply folks to see what they were doing for alternatives to public auctions, and how many of those states were moving towards online auctions. A majority of them are online auctions and some of them are using private websites, some of them are using eBay, some do it in-house, and some use contractors. Oregon has a state mandate that they have to sell everything that would go to a public auction. Everything has to go to an online auction, and they use eBay. Their sales are about \$3 million a year, so I spent two days with them. They had a staff of 21 and a huge warehouse. I thought that if government can do this and make it profitable, then so can the private sector. Then I incorporated Stockdales Properties, got an LLC [limited liability company], and opened up a couple of the other eBay sites. After that time, I talked to Troy Dillard and asked if we could sell vehicles, even though I don't want to be a car dealer, I am not a car dealer, and I don't fit the definition of a car dealer. If I met someone who said they had a motorcycle and wanted to sell it on eBay, it is under the realm of what they call an "advertising company."

This was all approved by DMV [Nevada Department of Motor Vehicles]. If you are an advertising company, there are requirements around that: you can never take possession of the vehicle, you can never set the auction price, you can never transfer the title, and you have to have a separate account to receive the money and have it distributed through an escrow company. You can do it today; there are no statutes that are required.

In S.B. 55, there is one nuance, and that is limited to state government. Page 2, line 15 states that the compensation for the services would be received as a flat fee for the vehicle as sold or as listed. As an advertising company, the difference is that I would receive a flat fee whether the car sold or not. I didn't think that was right to do with the state government, so we put a provision in here that says that if it doesn't sell, I get nothing. That is the only difference. I thought it was also important to codify this in language because Troy Dillard gets calls frequently. A man in Nye County thought that he could take all the

government cars to a lot and just auction them off. You can't do that unless you are a car dealer. I thought it was important to put into statute what you can and can't do.

Troy Dillard, Administrator, Compliance Enforcement Division, Nevada Department of Motor Vehicles:

The Department's position on the policy issue of this bill is a neutral position. Subsection 5 of this bill allows for compensation to be paid based on the sale of a motor vehicle, which is what is prohibited in the statute today. This bill limits that to any government body within the state of Nevada, or the vehicles that go for sale over the Internet. It does add some language into the bill that also clarifies what you can't do, which is an implication under the statutes today. It is implied that you can't do it, but it is not spelled out. This does spell it out; that is basically the entire effect of the bill. An advertising company can advertise the vehicles on the Internet as long as they are being paid for the advertising; they can't profit from the sale of the vehicle. This allows the profit from the sale of the vehicle, with those restrictions being government and sales over the Internet.

Senator Tiffany:

I had a second bill, which I decided not to process because it had so much negative attention from the press. They were trying to make it look like it was personal, self-serving, and made only for me. I hope you can see today that is not true. If you would like to amend the second bill into this one, I feel it is very important to start regulating and licensing entities like myself. There are many people who have a camera, leaving notes on cars that say, "I will put this online and sell this for you." There are lots of renegades out there. My second bill was to license an individual like me, and I think it's important to do that. If you are going to be licensed, then you are going to have a bond, and you are going to have business insurance. Even as an advertising company, if I misdescribe something on eBay, they are going to come back to me, and I will be the one liable. I have the bonds; I have the insurance.

Chairman Ocegüera:

If everyone else has the bond to sell vehicles, why doesn't someone who sells on the Internet have that same bond?

Senator Tiffany:

I have that whole bill prepared. If you would like to tack it on or look at it in a work session, I would be happy to give it to you. I worked with their agency on that part of it, and they don't take a position on the policy of it, but we worked on creating a category for Internet sales for vehicles that I believe should be

licensed and bonded. I feel that I should be responsible and accountable to the public for what I do.

Assemblywoman Gerhardt:

Are there any other entities that are selling government vehicles in the same way that you are?

Senator Tiffany:

I don't have an answer to that, but there are cars that are being sold on private websites that are government vehicles, and I believe in the state of Nevada that is happening. What I mean by a private website is the same thing as Bid4Assets, which sells government vehicles online.

Chairman Ocegueda:

It seems like there would be a way to find that out. You wouldn't be able to sell State vehicles without some kind of authorization. Someone would have to authorize other folks to do the same.

Troy Dillard:

The governments already have an exemption so that they can sell their own vehicles without being required to be a dealer. Many of them choose to use licensed dealers to sell their vehicles. They either go through an auction company or they hire the dealer to liquidate the vehicles. The dealer may purchase them and resell, or they may just sell them through auction, that is the most common practice. The Department has not been made aware of any additional private parties who are performing services that Senator Tiffany is. Utilizing the advertising basis that we have looked at, we approve that she is operating as an advertiser, she is not profiting from the sale of the vehicle itself. She is not doing the other things as laid out in S.B. 55. That would require the person to be a dealer.

Chairman Ocegueda:

As far as the State, would that be a no? It seems that you would have to get some type of authorization to get the advertising and/or selling of State vehicles.

Senator Tiffany:

Government does not need to have permission to sell a vehicle. That is why it would never go through the DMV. If staff wanted to call a county, the city, or surplus supplier, they could do that, but there is no way for the State to know, because they are not required to report, and they are not required to have a license. On the Internet, if we did license somebody like me, he really doesn't have much of a way to do a preemptive search on us with respect to whether

we are following the rules or not. It is time that our statutes came up to speed on Internet technology and the people who are dealing on the Internet.

[Senator Tiffany, continued.] If you wanted staff to call a city or county, and ask whether there is anyone doing this on eBay right now, they could. There wouldn't be anyone or a collective body that you could ask that, because they are exempt.

Chairman Oceguera:

I understand that the government is exempt, but if they were contracting with you to do that, we would know about it.

Senator Tiffany:

You would have to call the city or the county and ask that, because there is no collective area for that.

Chairman Oceguera:

I will close the hearing on S.B. 55 and open the hearing on S.B. 219.

Senate Bill 219 (1st Reprint): Revises provisions governing issuance of permits for certain oversized vehicles. (BDR 43-642)

Senator Terry Care, Clark County Senatorial District No. 7:

Several months ago, I had a conversation with representatives of the construction industry, and they brought to my attention a problem of which I was unaware. As the law now reads, the state, cities, and counties are each authorized to issue their own permits for movement of an oversized vehicle through the roads in their respective jurisdictions. Imagine if you are in that industry and you need some equipment moved from North Las Vegas to Henderson. That means going through North Las Vegas, maybe the county, the city of Las Vegas, and ultimately Henderson. The problem is, each different jurisdiction may have its own permitting system and its own requirements. It may require that oversized equipment be moved only during certain hours, and those hours would not correspond with the hours required in the other jurisdictions. This bill attempts to address that.

The first reprint is broken down into how this would be handled in counties of fewer than 400,000 and in Clark County. The bill also provides for an expedited process for the application of the necessary permits to move the oversized vehicles. I want to specify that this is not an attempt to end-run safety hazards or concerns dealing with traffic flow. That would very much be a consideration

under the bill. I should point out there is an amendment coming, and I agreed to it between Las Vegas and Associated General Contractors. I think we are there with this amendment; that is certainly my impression.

Assemblyman Goicoechea:

If I have an oversized load permit from NDOT [Nevada Department of Transportation], does it extend to a county or a city jurisdiction?

Senator Care:

What you are going to hear is that each jurisdiction is authorized to issue the permits. There have been complications in the past where folks in the construction industry have run into that problem.

Steve Holloway, Executive Vice President, Associated General Contractors, Las Vegas Chapter, Las Vegas, Nevada:

Any city or county, along with the Nevada Department of Transportation in this state, may elect, and is authorized under this statute as it exists now, to issue permits and to develop regulations on the movement of oversized loads or oversized vehicles. Some counties, and a few cities, actually do that today. Where we have the problem is in Clark County, because Clark County does issue these permits, and all of the municipalities have ordinances to issue these permits, and they have all developed localized regulations on the movement of oversized loads. As it stands today, Clark County will only allow you to move a load on one of their roadways between the hours of 1:00 a.m. and 5:00 a.m. The State of Nevada and most of the municipalities would prefer that you move those oversized loads during the day.

Technically speaking, if you wanted to move a crane from North Las Vegas to a site on the Strip, it would require four permits, and it would require you to go to each of these different entities and try to coordinate that move. This bill says that in Clark County, and counties with a population of over 400,000, it would be the jurisdiction of origination that would issue one single permit, and that jurisdiction would then coordinate the road with those other jurisdictions, except where a state highway is involved, and then NDOT would issue that permit. The bill does say that there would only be one permit in that case, and that would be the permit issued by the Nevada Department of Transportation.

It says that in Clark County, the different municipalities, the county, and NDOT will get together with the industry and make consistent those regulations in an effort to promote commerce. It requires that those regulations be as consistent as is practical with the regulations of the Nevada Department of Transportation. It also provides for an expedited permitting process so that when you go to Henderson to get a permit issued and you have to involve the Cities of

Las Vegas and North Las Vegas in that permit as well, the smaller loads, they will issue that permit and coordinate that move within one day. As you know, time is money. If you have to wait several weeks for a crane to get to the Wynn Casino, you are talking about a loss of \$2 million a day in interest. That is basically what the bill does. The bill is a consensus bill. I believe that the amendment is a consensus amendment. I think just about everybody who was involved in the initial discussions and the initial hearing is on board with this bill. The amendment is more of a conforming amendment. We need to get the dimensions on these vehicles right to protect our federal highway funding.

Chairman Oceguera:

I was wondering how this would work practically. If you wanted to move a piece of equipment, you would have to go to each entity and arrange with them so that it would work out. Now you are asking the first entity to arrange that for you. There have to be some costs involved in that. I think it needs to be organized to make sure that something doesn't fall through the cracks here, where one entity just says, "Fine," and signs off, and then you drive through North Las Vegas and block all the traffic.

Steve Holloway:

We have thought about that, and it is covered in the bill. There is a provision that would allow the different entities to charge a permit fee. That would be part of the regulations that would be developed as a result of this bill to cover those kinds of costs and coordinate among the different entities. The Nevada Department of Transportation already does that now if a state highway is involved. They have actually done a couple of test cases where they would have a request, and NDOT would then contact all the entities involved and they would attempt to map out the route, the time of the move, et cetera. Both those considerations have been looked into and are incorporated into the language of this bill.

Assemblyman Sherer:

What is the fee for moving that type of equipment now, and what is the fee going to be through all of the different municipalities?

Steve Holloway:

NDOT is the only one right now that charges a fee for the permit itself. Most of the entities will charge a fee if a police escort is required, which is the case on some of the larger loads. A police escort is \$150 per motorcycle per hour, and you are usually looking at three motorcycles for large size loads. For a lot of the other loads, you can hire an escort vehicle. The escort fees have not entered into this. I don't see that changing, but NDOT is the only one who charges a fee

for the issuance of a permit. This bill will allow some of the other originating entities to also charge a fee for the permit.

Chairman Oceguera:

Is the fee permissive for the counties and cities—they can or they can't?

Steve Holloway:

They will, but it is permissive.

Cheri Edelman, Legislative Lobbying Team, City of Las Vegas, Nevada:

I would like to thank NDOT, the trucking industry, AGC [Associated General Contractors], and all the other entities that have been involved in this process to come up with a bill that is in the best interest of all parties. We understand their issue, and we certainly want to work with them to try to help them resolve their problem. We have an amendment ([Exhibit D](#)) and a mockup ([Exhibit E](#)) for you to follow; the mockup might be easier to follow. This amendment is to clarify some of the bill drafter's language—the way it came out of the Senate side—to more accurately reflect what our intent was as a group. With your approval and in the interest of time, I was hoping to go through the amendment conceptually, or if you would like, I can go line by line.

We changed some instances of the word "highways" to more accurately reflect the fact that local governments are allowed to issue permits on local roadways, and not just highways. We can't do highways; NDOT does highways. In certain places it will say highways, in certain places it will say roadways, and in certain places it will say both highways and roadways, but we have taken that all into consideration.

In the first section it says the city or county "shall." We have changed it to "may" issue a permit, because not all of the entities are required to issue a permit. However, if they get over the legal size limit, many of them do. We have changed the legal maximum width, length, and/or height; anything larger than that we can't issue permits for. In Section 2 we have added Chapter 484 to that section, because Chapter 408 is the section that allows NDOT to issue permits, but Chapter 484 goes into more detail on how those permits are issued. In Section 1, paragraph 2(b), we took out the words "upon application in writing," because we don't make everyone apply in writing. Sometimes those people call on the phone or come into the front counter. We added paragraphs (c) and (d) to Section 2, which helps address some of the concerns that were brought up. Paragraph (c) says that the department or governing body shall coordinate the issuance of the permit with each affected entity prior to the issuance of the permit. We need to do that interagency coordination between the State, county, city, North Las Vegas, and Henderson. Part (d) states that

the governing body shall issue either single-trip or annual permits consistent to the greatest extent practicable with regulations adopted by the Department of Transportation. Currently, not all agencies issue annual permits, and we would like to be able to go in that direction.

[Cheri Edelman, continued.] In Section 3, we bring up the current legal vehicle dimension, which is 102 inches in width, 14 feet in height, or 70 feet in length. Anything larger than that will need a permit. Section 5 is the area where we have added, under the expediting process, anything larger than a vehicle that is 110 feet or less in length, or 15 feet or less in height. We have separated them out into two different widths. Anything that has those two measurements, but also is 144 inches or less, we have to do an expedited permit in one day, and anything between 144 and 168 inches, we have two days. In case Nevada Power lines need to be moved or street light poles need to be moved, it gives us a little more time to determine what needs to be done to accomplish that. Anything that is above and beyond those dimensions is going to be done on a case-by-case basis, because it may take longer than two days if we have a lot of reconstructive work to do or come up with a different pathway, or if we have structural loads that might have other considerations involved.

Chairman Ocegüera:

When you say you think you have the cooperation of all those involved, I see you here from the City of Las Vegas, but I don't see representatives from the City of North Las Vegas, Henderson, or Clark County. I would feel more comfortable if they said they saw this and would be willing to do that.

Cheri Edelman:

I can speak on behalf of North Las Vegas and Henderson. They have seen this amendment and are in support of it. Clark County still has some concerns. However, we felt as a group that this bill offers the opportunity to have a Committee that meets periodically, which is made up of all those different members, and we felt that any outstanding issues that weren't addressed in this bill could be worked out through that committee. Most of the parties have agreed and it is a consensus amendment.

Chairman Ocegüera:

Before we move on the bill, I would rather have them come by and say, "I love that amendment to S.B. 219."

Jan Christopherson, Administrative Services Officer, Nevada Department of Transportation:

We are here to concur with this amendment. We wanted to make sure that whatever was being done was being done consistently with what we have done in issuing permits for the highways.

Berlyn Miller, Legislative Advocate, representing Nevada Contractors Association:

We have been working with the other organizations and the various entities on this. This is a result of an ongoing proposition that we have been working on for six years. We have been unable to do that until the Committee on the other side finally said, "if you don't get this worked out, we will work it out for you," and all of a sudden, it got resolved. I would like to thank the City of Henderson, Las Vegas, and NDOT.

Daryl Capurro, Managing Director, Nevada Motor Transport Association, Sparks, Nevada:

Mr. Miller has indicated to you a problem that we have had for the past 6 years that had to be resolved, and it's really a problem mostly in Clark County. It is because we go through multiple jurisdictions on the same highway, and each jurisdiction wanted to do it somewhat differently. The problem we had originated from the fact that NDOT would not issue permits to operate after dark, and yet some of the entities wanted to do precisely that. It made it impossible to move a crane or any large piece of equipment to expedite service to the new hotels that required that type of oversize equipment. It is a situation that has to be resolved if we are to meet the needs of the growing areas, particularly in Clark County, and be able to move equipment that is necessary to build these large establishments that are going in. It's been a long time coming—a lot of people involved—and it's my pleasure to indicate that we support S.B. 219, with the amendment that you have in front of you today ([Exhibit D](#)).

The amendment makes substantial changes to the bill from the way it came out of drafting from the Senate side. To get this bill over here for you to be able to consider it, there was no chance to try to incorporate the correct language as seen in the new amendment; otherwise, you wouldn't have a bill to work with at all. That is the reason why it's being brought to you here. The chairman of the Senate Transportation Committee and the members of that Committee are well aware of what this amendment does, and I don't think there is any problem getting concurrence from them following your adoption.

Assemblyman Hogan:

If a contactor is preparing to go through several jurisdictions, and somewhere along the way he will either travel on or across a designated state highway, in that circumstance, under current law, they would have to go to NDOT, and NDOT alone could grant the entire permit for the movement. Is that accurate?

Daryl Capurro:

The law does provide that each entity can issue a permit, and I believe it's in NRS 484.477 [*Nevada Revised Statute*], providing that it's consistent with the state rules as they are applied. That is where we were not consistent with the state rules and that is the basis for the bill. The problem is where you have multiple jurisdictions, and multiple highways within those jurisdictions, and some of which are state highways practically throughout. But they go through those different jurisdictions, which would like to have some control because of traffic lights and other situations. It is important that there be coordination and consistency with respect to the issuance of these permits.

Assemblyman Hogan:

Would it be accurate to say that the operator could approach NDOT, obtain the necessary permit, and then make the move, notwithstanding what the local jurisdictions might think? They would not be able to prevent the move so long as the move was permitted by the state.

Daryl Capurro:

Under current conditions, that is not true. That's where the problem has come in; they have taken an exception to it.

Barry Duncan, Legislative Advocate, representing Southern Nevada Home Builders Association:

We are pleased to support S. B. 219.

Berlyn Miller:

Given the expenses that we have had in the past and the delays that we have incurred, we would be happy to pay whatever permit fees are set in the regulations, and we will support that.

Kimberly McDonald, M.P.A., Special Projects Analyst and Lead Lobbyist, City Manager's Office, City of North Las Vegas, Nevada:

We do support the amendments. We have worked with NDOT and the other local governments, as well as the AGC, and we support them as presented today.

Stephanie Garcia-Vause, Legislative Advocate, representing the City of Henderson, Nevada:

We support the bill as amended by Cheri Edelman.

Dan Musgrove, Director of Intergovernmental Relations, Office of the County Manager, Clark County, Las Vegas, Nevada:

There are a few folks in our Public Works Department who still have some concerns, but I believe the efforts made by all of the parties, especially those appearing before you today, were valiant. I think, as Ms. Edelman testified, perhaps we can work out our final differences in the meetings that will take place as we put this into implementation. It is not my intent to slow this bill down. We will simply stand aside and let progress of the Legislature go forward.

Chairman Ocegüera:

We will close the hearing on S.B. 219.

The months-of-service bill for the taxicabs—S.B. 243—I don't see that as a huge issue.

ASSEMBLYWOMAN OHRENSCHALL MOVED TO DO PASS

SENATE BILL 243.

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Sherer was not present for the vote.)

Senate Bill 290: Removes limitation on issuance of special license plates commemorating 100th anniversary of founding of Las Vegas. (BDR 43-223)

Chairman Ocegüera:

We passed S.B. 290 out of Committee last week. It was the bill on the issuance of special license plates for the City of Las Vegas. Two issues have come up; I need a motion to reconsider. One issue is that veterans' plates have a spot for Air Force, Army, Coast Guard, Marines, Army Airborne, Navy, and Navy Sea-Bees, and we had a request from the National Guard that they be able to put their moniker on the plate. That is one amendment that I would like to place on that bill. The other amendment is on that same veteran plate. The

statute currently doesn't allow for a personalized plate to contain letters; there are just numbers. I need a motion to reconsider S.B. 290.

ASSEMBLYWOMAN OHRENSCHALL MOVED TO RECONSIDER
SENATE BILL 290.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION

THE MOTION CARRIED. (Mr. Sherer was not present for the vote.)

Chairman Oceguela:

With those two changes that I just described, I described all the license plates, I gave you the proposed National Guard Insignia, and also the amendment simply stating that it would include National Guard, and they could also personalize those plates.

ASSEMBLYWOMAN OHRENSCHALL MOVED TO AMEND AND DO
PASS SENATE BILL 290 WITH THE AMENDMENTS THAT
VETERANS' PLATES HAVE A LOCATION FOR THE ADDITION OF
AN AIR FORCE, ARMY, COAST GUARD, MARINES, ARMY
AIRBORNE, NAVY, NAVY SEABEES, OR NATIONAL GUARD
INSIGNIA AND THAT PERSONALIZED VETERANS' PLATES ARE
ALLOWED TO INCLUDE LETTERS AS WELL AS NUMBERS.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Sherer was not present for the vote.)

Chairman Oceguera:

I think that's all we have for today. We are adjourned [at 3:27 p.m.].

RESPECTFULLY SUBMITTED:

Linda Ronnow
Committee Attaché

APPROVED BY:

Assemblyman John Oceguera, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Transportation

Date: May 5, 2005

Time of Meeting: 1:41 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda (2 pages)
SB 245	B	Senator Hardy / Clark County Senatorial District No 12	Proposed amendment S.B. 245, first reprint
SB 245	C	Colonel David Hosmer / Nevada Highway Patrol	Letter stating hours of service for intrastate drivers (2 pages)
SB 219	D	Cheri Edelman / City of Las Vegas	Amendment S.B. 219, first reprint (2 pages)
SB 219	E	Cheri Edelman / City of Las Vegas	Mockup S.B. 219 (4 pages)