



**Minutes of the Advisory Board on
Automotive Affairs**
held on December 16, 2008 at 10:00 am
at the Washoe County Health Department
Building C, Room #110, Reno, NV. 89512

*These minutes are prepared in compliance with NRS 247.035. Text is in summarized rather than verbatim format.
For complete contents, please refer to meeting tapes on file at the Nevada Department of Motor Vehicles.*

**THIS MEETING WAS PROPERLY NOTICED AND POSTED IN THE FOLLOWING
LOCATIONS ON DECEMBER 01, 2008.**

Department of Motor
Vehicles
555 Wright Way
Carson City, NV. 89711

Nevada
State Library
100 N. Stewart St.
Carson City, NV. 89701

Department of Motor
Vehicles
2701 E. Sahara
Las Vegas, NV. 89104

Department of Motor
Vehicles
305 Galletti Way
Reno, NV. 89512

Department of Motor
Vehicles Website
www.dmvnv.com

1. Call to Order

- A. Michael Spears called the meeting of the Advisory Board on Automotive Affairs to order at 10:10 am.
- B. Board introductions took place along with the public that was present.

MEMBERS PRESENT:

Dick Mills, Pick -N- Pull
Michael Spears, Collision Authority – Co-Chairman
Robert Ellis, B&E Auto Auction
Samuel Stern, Consumer
Steve Yarborough, Sierra Service Station Co. - Chairman
Steven Craig, AAA Nevada
Troy Dillard, DMV-CED

INTERESTED PARTIES:

Andy Mackay, NTA
David Ziegler, LCB
James Campos, NCAD
Jeanette Belz, DCI

John McGlamery, AG-BCP
Marji Thomas, LCB

2. Approval of April 18, 2008 Meeting Minutes

- A. The Co-Chairman opened the April 18, 2008 meeting minutes for discussion, comment and approval. The Board approved the minutes with one change.
- Change the date of posting from, “MARCH 28, 2007” to “MARCH 31, 2008”.

3. Covert/Investigation Methods of the Bureau of Consumer Protection (BCP) (*Taken Out of Order, Originally Agenda Item # 6*)

- A. At the last meeting of the Advisory Board, discussions took place pertaining to AB 393 that passed during the 2007 legislative session. This bill authorized the Commissioner of Consumer Affairs Division (CAD) or the Director of the Department of Motor Vehicles (DMV) to request an undercover investigation of a person by the BCP in the Office of the Attorney General (AG) for alleged violations of automotive repairs. The Board is tasked with analyzing and advising the DMV regarding issues relating to garagemen, automobile wreckers and the operations of body shops and salvage pools, including the methods of disciplinary action against such persons. The Board voted to send a letter to Eric Witkoski, the Chief Deputy Attorney General, requesting his participation in the next Board meeting to discuss the Board’s concerns and the Division’s operational methods.
- B. John McGlamery, Senior Deputy Attorney General with the BCP appeared at the request of the Board to discuss the Bureau’s involvement. John informed the Board that the Bureau is responsible for enforcing the deceptive trade laws found under NRS 598, which involve all criminal and complex cases.
- C. Covert investigations are conducted only after several complaints have been filed against the same business or franchise due to lack of resources. A covert operation is conducted by the Bureau utilizing their own vehicles. That allows them to monitor the condition of the engine before the investigation. The integrity of the repair is observed. If a violation has been made, the Bureau writes a required letter identifying the problem and returns to the business to address the violation(s). Some violations are handled through the Bureau, while others result in prosecutions.
- D. Complaints that are received by the BCP come primarily from the public.
- **Q.** Troy Dillard – Does the BCP ever move forward without the involvement of CAD in any cases?
 - **A.** John McGlamery – Sure, if the case is criminal. All criminal cases come directly to us because CAD does not have any criminal authority. A first offense is a misdemeanor, the second offense is a gross misdemeanor and the third is a category C felony under deceptive trade. If the C felony is tied to a theft then it becomes a category D felony. So we cover a lot of different types of areas when it comes to deceptive trade. We do not deal with poor customer service; it has to be fraudulent in nature.

- **Q.** Michael Spears – Does your Department (BCP) have enough authority with regards to the actual fraud chapter violations?
- **A.** John McGlamery – Yes, it is the administrative end that does not have the authority they need to administer fines and penalties. The laws are not quite what we would like to have with regards to CAD and their lack of administrative authority.
- **Q.** Robert Ellis – Do you know why tow truck companies were de-regulated? Are you opposed to having them regulated?
- **A.** John McGlamery – No, I don't oppose them being regulated.
- **A.** Andy McCain – I am the Chairman of the Nevada Transportation Authority (NTA) and we are tasked with regulating that program industry. State regulation of the tow car industry has been partially preempted by the Federal Government. The permissive regulatory authority the State has regarding consent-only tows is limited to safety and insurance. With respect to non-consensual tows, the State has the authority to regulate rates as well. So with respect to the State's ability to regulate tow cars that is us, the NTA, and we regulate up to what Federal Law permits. It is all due to Federal Regulation found under Title 49 of the United State Code §14501.

E. John McGlamery with the BCP wanted to emphasize that by statute, their job is to make sure that the market place is fair and honest.

F. Troy Dillard with the DMV informed BCP that it is the preview of the Board to complete a report every other year making recommendations for updates or changes that may be in regulation pertaining to the industry. Troy requested BCP's opinion regarding suggestions that should be made in the report to the Legislature on behalf of the Board that would strengthen the authority of the program. BCP suggested strengthening the administrative portion of the law for CAD.

- **Q.** Robert Ellis – When you are completing an investigation and you find something that conflicts with Chapter 487, how do you proceed? Do you handle stuff that falls under Chapter 487?
- **A.** John McGlamery – No we do not handle issues that fall under Chapter 487, we handle 3 major areas under Chapter 598 which covers close to 98% of today's transactions, the other percentage usually falls under Federal law and if they are in Nevada we are able to enforce that too.
- **Q.** Robert Ellis – Do you refer cases to DMV if necessary or do you work with them?
- **A.** John McGlamery – We work with DMV closely, we don't have the resources a lot of the times that DMV has, so we either contact them or they contact us and we let the experts cover their areas of expertise. If we need each others assistance we give a call. There is a lot of overlapping in jurisdictions, but that does not mean we both go out, we do our part and they do theirs. We stretch our resources as far as we can.

4. Review of Board Bylaws

A. During the last meeting the Board voted to amend the bylaws under Section 8.4 Officers. The amendment was to change the terms of the elective officers who served 1 year to 2 years since the membership is on a full four year rotation. The change was reviewed and approved by the members of the Board.

5. Legislative Items Being Proposed by the NCIA

A. Steven Craig informed the Board that the Nevada Collision Industry Association (NCIA) has a potential bill draft moving forward in the 2009 Legislative Session. Most of the items listed in the bill draft are agreeable while others seem anti-insurance in nature. Some of those items included:

- Inability of an insurance company to adjust an estimate
- Inability of an insurance company to ask for a second opinion.
- Inability of an insurance company to be in the body shop industry.
- Insurance companies must respond at the request of payment within 2 days.

Steven feels that a number of these amendments would not only have a negative impact on the consumer but also on the insurance companies and their ability to operate a business in the State of Nevada. Michael Spears suggested inviting the President of NCIA Jim Jackson to the next Board meeting to discuss the intentions of proposed bills and perhaps offer any recommendations. The Board was in favor of this idea.

B. AAA Nevada is moving forward with a bill that will affect the Public Transportation Authority. The bill endorses an anti-tipping measure for both the towing and car industries. The language inside this bill will incorporate a penalty phase for the body shop or vehicle repair shop. The goal is to tie up any loose ends by mirroring California and Arizona and giving the State the authority to enforce. Troy believes that a bill draft has already been prepared as a recommendation of the task force.

- **Q.** Bob – Has the NTA entertained the idea of regulating the towing industry regulations?
- **A.** Andy – We currently do, but can we set the rate? That is not currently the practice of the authority. That might be something that the industry would want to put forth to have tightened up. The authority would not be opposed to setting rates, nor would we be advocating.

6. Letter Honoring Dr. Raymond Sparks

A. Dr. Raymond Sparks was an original member of the Advisory Board on Automotive Affairs and served as the Deputy Director of the Nevada Department of Public Safety. He then went on to pursue his doctorate degree and became a professor at Cal State. Dick Mills found that Dr. Sparks has passed away and would like to recommend that the Board issue a letter in Honor of Mr. Sparks service to his wife. The Board voted in support of the recommendation. A letter will be prepared, addressed to Mr. Sparks' family, and be ready for the signatures of the Board members at the next meeting.

7. 01/15/2009 Report

A. As required by NRS 487.002 the Board is required to, on or before January 15th of each odd-numbered year, prepare and submit a report concerning its activities and recommendations to the Governor and the Director of the Legislative Council Bureau for transmission to the Legislature. The Board needs to determine as a body what information they would like to have reported. The Board requested that the following activities be added to the report:

- Vote in support of Recommendation to add the Commissioner of the Consumer Affairs Division as a member of the Board.
- Vote in support of recommendation to add the Commissioner of the Nevada Transportation Authority as a member of the Board.
- Vote in support of the anti-tipping concept. (Troy Dillard disclosed that he is a member of the Governors task force and sustained from voting.)

B. Troy is currently tracking legislation and offered to watch out for the bills that the Board has discussed pertaining to Chapter 487. The Board voted in support of Troy's recommendation of finding a sponsor and having a letter drafted which includes the language and/or amendments from the Chairman.

8. Consumer Complaints – Statistical Data Review (DMV)

A. Due to recent legislation, the Department now has authority over registration complaints only. SB452 required motorcycle and electrical shops to register as garages. This increased the amount of registered garages for the year however, Troy reported a large number did go out of business and it was not due to revocations. Troy believes the two major reasons for this overturn, is one being the economic downturn and the other is the new \$5,000.00 bond requirement of AB393. The total number of garages in operation today is estimated at 1,500.

B. Troy reminded the Board that during the last meeting he explained that statistical data pertaining to cases is currently only reported by the strongest violation. The reporting system has been undergoing a redesign. Currently, this project has been placed on hold due to projects that hold larger priorities. It is expected that the program will be in place within the next 6 months. Stats will not be provided based on the Boards outlined request until that time.

C. Statistical data is insignificant today because the Department's primary authority is over registration requirements in garages, body shops and salvage pools. The State only has 4 salvage pools so there are not many issues with that part of the industry. There have been some recent actions against body shops, resulting in business closure due to inappropriate activity on their part. There are still a couple of cases that are outstanding.

9. Consumer Complaints – Statistical Data Review (CAD)

A. James Campos with CAD informed the Board that CAD is still undergoing a computer upgrade. There have been some issues with data integrity that have slowed the upgrade but the programmers have estimated that the project will be complete by the end of the month. James is hopeful that by the next meeting of the Board, the CAD will be able to provide the statistical data requested for review.

B. James notified the Board that CAD has been engaged in investigations in both the North and South. The auto repair industry is rated the number one consumer complaint issue in the country and in Nevada. Due to a decrease in funds, the ability to investigate in rural areas has ceased which has resulted in an increase in fraudulent activity, but CAD is keeping track.

- **Q.** Steven Y – Do you know if the majority of the cases that you are seeing are workmanship complaints? If so, are the shops willing to compensate and correct the mistake when the complaint is filed? Do you have a sense or a feel of the breakdown in the number of complaints? We make mistakes in the industry and sometimes they are very legitimate and willing to correct and then there is definite fraud where it is an intentional act to defraud a customer. To say that the auto repair industry is the largest complaint issue in the Country, that is because it is largest repair industry in the Country. Servicing of an automobile is continuous, so there is a chance for higher activity.
 - **A.** James – Unfortunately CAD’s previous computer system was unable to maintain a lot of information, but with the new system that should be in effect by the end of the month we will be able to track that information accurately.
- C. Steven Yarborough is concerned and feels that there is a need for more detail on the complaints that are received. A problem being experienced by industry is the legislatures see what look like high visibility complaints against one industry and there is no statistical data to support the complaints. Steven stated that it is the responsibility of the board to oversee the affairs of the automotive industry and resolve any issues, by finding the problems and recommending solutions. James agreed with Steven and expressed that as long as he is not exposing business names within the complaints, there should be no problem identifying complaints by category.
- **Q.** Dick – James when a complaint is filed, how is it filtered through the system? Is it graded by category or assigned randomly?
 - **A.** James – There are designated investigators for different case types. In Nevada CAD regulates garages along with six other industries. When a complaint is received under deceptive trade, it is filtered through our intake staff and is assigned to the investigative track for that industry. It is then assigned a file number. There is no preference on the cases; they are investigated on a first come first serve basis.
 - **A.** Troy – Additionally when CAD receives a complaint they visit DMV’s website where all registered garages and body shops are listed. If the business that is listed on the complaint is not registered on our site they refer that complaint over to us at DMV and we investigate the registration portion of the complaint.
 - **Q.** Steven Y – Troy if the complaint received against that business has a financial charge attached and there is apparently no bond in place, what happens? Is there a criminal charge brought against the business?
 - **A.** Troy – No, that would become a civil action between the business and consumer.
 - **Q.** Steven Y – How about the complaint that they still have with CAD?
 - **A.** James – That is when we will bring that particular business in and give them the choice of carrying forward with the criminal process or they can enter into an Assurance of Discontinuance (AOD) agreement.
- D. James wanted to thank Troy and the Board for allowing him to participate in the Board discussions. He feels that as the Commissioner of Consumer Affairs, these are issues that he needs to be aware of.

- E. This Board was originally sponsored by Bob McCleary who is no longer in office. There is neither regulatory authority nor bill draft requests (BDR) designated, it was created specifically as an advisory board and the mission is being fulfilled by making recommendations and reporting them. There have been some barriers with getting good, solid information due to the outdated methods that are currently used by the state agencies to collect data, and with confidentiality of complaints. Since the Board lost its creator there has been no active interest expressed by any other member of the legislature to sponsor it. Troy knows that there are members of the legislature that are interested in the automotive industry and believes that it might be in the best interest of the Board to come together and write a letter and send it to those members of the legislature to see if they would be interested in participating in the Board meetings. The Board agreed with the suggestion. The chairman will write a letter of introduction of the Board and inform the members of the legislature that the board is looking for a chair sponsor or legislative sponsor.

10. Informational Items – Discussion Only

- A. There were no informational items.

11. Public Comment – Discussion Only

- A. There was no public discussion.

12. Next Meeting and Adjournment

- A. The next Advisory Board on Automotive Affairs meeting will be set tentatively for the month of March in Carson City or upon the call the Chairman.
- B. The meeting adjourned at 12:34 pm.