

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, February 20, 2018

TIME: 1:30 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Brackett, Vice Chairman Nonini, Senators Keough, Winder, Hagedorn, Den Hartog, Lodge, Harris, and Buckner-Webb

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Brackett** convened the meeting of the Senate Transportation Committee (Committee) at 1:31 p.m. He welcomed Senator Hill to the Committee and asked him to present **S 1284**.

S 1284 **Senator Hill** said this bill pertains to booting a vehicle's tire. As background, he told the Committee that on the south side of Rexburg, Idaho is Brigham Young University Idaho, which has nearly 19,000 students. There are privately-owned, five-story apartment complexes that surround the campus. When a student rents an apartment they also rent a parking space, but because of the proximity to the campus it is a convenient place for nonresident students to illegally park.

For many years, some apartment complexes have hired booting companies to boot violators who are parked illegally. He showed a picture of a tire boot and explained it is placed outside the wheel and around the tire so that the vehicle cannot be driven. A note is left on the vehicle explaining the process to get the boot removed. Other cities, generally through city ordinances, have copied this practice for their communities.

In Idaho Code, there is only a reference to towing and none to booting. **Senator Hill** was approached about adding booting to Idaho Code, which is what **S 1284** proposes to do. When the Rexburg City Attorney instructed city police not to enforce booting, boots in place on vehicles had to be removed. Word spread that booting would no longer be enforced.

Senator Hill explored the legislation. The main point of the bill is that only a parking enforcement company would have the authority to boot a vehicle. This would permit local municipalities to allow booting. The option for booting will be at the private property owner's discretion. In addition to towing, booting would be an option to control parking on an owner's private property. **Senator Hill** said he would stand for questions.

DISCUSSION: **Senator Hagedorn** said he could not find where booting is prohibited in Idaho Code. **Senator Hill** agreed with Senator Hagedorn, however, the city attorney interpreted the statute to read that, because towing was specifically mentioned in code, booting also needed to be specifically mentioned in code before the city could allow booting. Other cities agreed with the interpretation and, consequently, booting companies are being forced out of business. There were no further questions.

TESTIMONY: **Chairman Brackett** welcomed Nathan Nuno, owner of Kase Parking Enforcement in Boise, to the Committee and invited him to testify.

Mr. Nuno said he has been in parking enforcement for 17 years; he started towing vehicles and then moved into booting vehicles. For the owner of an illegally parked vehicle, booting is less expensive than towing. Towing involved a minimum fee in Boise of \$150 to release a vehicle, but depending on circumstances, it could cost up to \$250. Other fees include mileage, storage per day, and a lien fee after a certain number of days. There is also the high possibility of the owner losing his vehicle if he cannot pay these fees. The economic impact on an individual can even put their employment in jeopardy because they cannot get to and from work. When a vehicle is booted, it stays on the property and can be released from the boot when the owner calls to remove the boot. **Mr. Nuno** stated the city attorney's decision had an impact on his livelihood. He concluded by stating that passing this bill will solidify his company's future.

Senator Nonini asked what the fee was to have the boot removed. **Mr. Nuno** said it was between \$85 and \$95.

Senator Harris asked what the price of a boot was and how many **Mr. Nuno's** business has in stock. **Mr. Nuno** said the cost depends on the style of boot. He said they can cost up to \$1,000, but because he operates a small business his average cost is \$100. There were no further questions.

TESTIMONY:

Chairman Brackett welcomed Ryan Cobar, owner of RC Booting in Rexburg, Idaho, to the Committee and invited him to testify.

Mr. Cobar testified in support of **S 1284**. He and **Mr. Nuno** have been in communication since the Rexburg city attorney's decision on booting. It has been devastating to their businesses. He was surprised at the quickness of the effects of the decision; he was notified if he placed a boot on a vehicle he would receive a misdemeanor for his action which would put him out of business.

TESTIMONY:

Chairman Brackett welcomed Kerry Meredith to the Committee and invited her to testify.

Ms. Meredith said she was a student at the College of Western Idaho where she was an intern for a property management company and had worked with **Mr. Nuno**. She supported **S 1284**. There are many responsibilities involved with property management, but illegally parking in a tenant's parking spot is a constant complaint. Property managers depend on businesses like those offered by **Mr. Nuno** and **Mr. Cobar** to alleviate the problem and address the issue.

Chairman Brackett thanked **Ms. Meredith** and asked **Senator Hill** if he had closing remarks. **Senator Hill** said the bill has an emergency clause to make sure these businesses can begin operating again as soon as the Governor has signed the bill.

Senator Hagedorn expressed confusion with the conclusion drawn by the Rexburg City Attorney asserting if something is not in statute it is illegal. Booting is not referred to at all in Idaho Code, so he did not understand why it would be deemed illegal to boot rather than tow a vehicle in violation of parking rules. He would have preferred the matter be left to the ruling of a judge, but he supports the bill.

MOTION:

Senator Harris moved to send **S 1284** to the floor with a **do pass** recommendation. **Senator Keough** seconded the motion. The motion passed by **voice vote**. **Senator Hill** said he would carry the bill on the Senate floor.

S 1282

Chairman Brackett welcomed **Senator Crabtree** to the Committee and asked him to present **S 1282**.

Senator Crabtree said **S 1282** intends to correct terminology in Idaho Code by removing all references to a Sheriff's "department" and replacing it with a Sheriff's "office." The corrections in the bill serve to instruct sheriffs, their staff, and others to avoid using the term Sheriff's "Department" and instead encourage the use of the correct terminology of Sheriff's "Office" when referring to the office of sheriff within county government. Many years ago the Idaho Transportation Department (ITD) incorrectly, and likely inadvertently, designated the sheriff's license plates with the identifying letters "SD" not "SO." The sheriff's office is not a department of county government; it is an elected office just as county commissioners are elected. **Senator Crabtree** said he knew of four county sheriffs' offices who have corrected the problem by purchasing specialty license plates for their vehicles with the proper "SO" designation. **S 1282** proposes to revise Idaho Code correcting references to sheriff's department with the proper designation. **Senator Crabtree** concluded by stating sheriffs' offices support this bill.

Senator Hagedorn questioned how many vehicles would need new license plates based on the language of this bill; he was suggesting the Fiscal Note may need to be changed. **Senator Crabtree** said that on the list of license plate designations in the legislation, only those currently designated "SD" would need to update their plates to read "SO."

TESTIMONY:

Chairman Brackett welcomed Vaughn Killeen, Executive Director of the Idaho Sheriffs' Association, to the Committee and invited him to testify.

Mr. Killeen said he devoted several decades of his career to law enforcement, including as the elected sheriff of Ada County. **S 1282** is important to the sheriffs, and being referred to as the "sheriff's office" is also important to Idaho's sheriffs. He explained the history of the designation "sheriff" which began in England when sheriffs were tax collectors and keepers of the jails. The word "sheriff" is a derivation of the English land designation "shire" and the word "reeve" which also meant guardian. A sheriff's office rather than a sheriff's department is important because "departments" are subordinate to a governing body, and sheriffs are independently elected. Putting sheriff's office in statutory language and license plate designator is important.

TESTIMONY:

Chairman Brackett welcomed David Johnson from Idaho County to the Committee and invited him to testify.

Mr. Johnson was critical of the Idaho sheriffs allowing this miscommunication to continue for 25 years. He wanted to see Idaho sheriffs strengthened, but they cannot unless they get their name right. He commended the four sheriffs who spent the extra resources from their budgets to purchase specialty license plates for their vehicles in order to depict the correct designation. **Mr. Johnson** showed a photo of the current license plates with the "SD" designation.

Senator Crabtree said the new license plates would be valid for seven years, and ITD arranged for a reduced fee during the transition to the new plates.

MOTION:

Senator Keough moved to send **S 1282** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion passed by **voice vote**. **Senator Crabtree** said he would carry the bill on the Senate floor.

**PAGE
INTRODUCTION:**

Chairman Brackett welcomed the Committee's new page, Megan Rauvola of Rathdrum, Idaho, to the Committee and asked her to introduce herself.

Ms. Rauvola said she attends Lakeland Senior High School in Rathdrum, Idaho, where she is senior class president and a member of the varsity soccer team. She attended Girls State last year and, after graduating from high school, she will be attending the University of Providence in Great Falls, Montana, where she has received a soccer scholarship. **Ms. Rauvola** plans on majoring in biology with a minor in political science. She would like to attend medical school and become a pediatric anesthesiologist. She is being sponsored by Vice Chairman Nonini and is excited to be a page.

**MINUTES
APPROVAL:**

Senator Keough moved to approve the Minutes of February 8, 2018. **Vice Chairman Nonini** seconded the motion. The motion passed by **voice vote**.

Vice Chairman Nonini moved to approve the Minutes of February 12, 2018. **Senator Hagedorn** seconded the motion. The motion passed by **voice vote**.

S 1283

Chairman Brackett welcomed Michael Kane, representing the Property and Casualty Insurance Association, the American Insurance Association, and the Idaho Sheriffs' Association, among other groups, and asked him to present **S 1283**.

Mr. Kane said this legislation could literally save lives. Later he would explain that he needed to send **S 1283** to the amending order. First, he expressed his concern over the plethora of cell phones and laptop computers that are being used while driving. With the better engineering and safety features of vehicles, driving deaths and injuries had decreased, but over the past few years they have started spiking up again. He quoted studies indicating that auto crash fatalities have increased by 40 percent; over the last two years, an estimated 4.6 million people have been injured seriously enough that they needed medical attention. There have been spikes in accidents involving pedestrians and bicyclists as well.

Mr. Kane stated that when these activities happen or when a person is speaking on a cell phone by holding it to their ear, three things happen: (1) at the very least, one hand is off the steering wheel; (2) a driver's eyes are usually somewhere other than the road; and (3) the driver's mind is not focused on the task of driving. The results of a cell phone application test meant to detect motion on a phone in the car, showed that 71 percent of drivers are still texting.

Idaho experienced the fourth-highest increase in property vehicle damage claims over the past two years nationwide. The use of electronics while driving was up 25 percent since 2015. Based on findings by ITD, there were 65 fatalities in Idaho last year in which distracted driving played a major role. ITD determined that the cost of crashes involved in distracted driving were up 26 percent in the last two years, or \$1.1 billion. He said this is a significant public safety issue that needs addressing.

Mr. Kane acknowledged there were circumstances where cell phone use while driving might be necessary — such as calls to and/or from law enforcement, firefighters, EMTs, etc. He suggested hands-free calls with ear plugs, as long as only one plug is inserted in one ear, leaving the other ear free to hear emergency vehicles, would be an acceptable option. He concluded that **S 1283** is unique from legislation in other states as it addresses only vehicles in motion, which is in the language for the amendment he is proposing.

DISCUSSION:

Chairman Brackett said he has been contacted by people questioning why Idaho needs another law when texting is already covered. **Mr. Kane** said the law only addresses inattentive driving not distracted driving. He suggested this legislation will protect the public by adding that language into Idaho Code.

Senator Harris made a personal observation that when he is travelling home to Soda Springs, a five-hour drive from Boise, he calls his wife when he's feeling drowsy. He wanted to know if that would be in violation of this legislation. **Mr. Kane** said that it would only be in violation if the call is not hands-free.

Senator Keough asked if she did not have Bluetooth capability nor ear buds would she be in violation. **Mr. Kane** said she would be in violation.

Senator Hagedorn asked if a speakerphone would be an acceptable option. **Mr. Kane** said it would be acceptable.

Senator Keough wondered why there was a section of the bill that says no person under 21 years of age can drive while using an electronic device. **Mr. Kane** said that younger people are twice as likely to get involved in an accident.

Senator Den Hartog asked why the age was set at 21 and not 18. **Mr. Kane** said it was part of a model bill and the issue had not been discussed. There were no further questions for Mr. Kane.

TESTIMONY:

Chairman Brackett thanked Mr. Kane and said he would have an opportunity to close once testimony was completed. **Chairman Brackett** welcomed Matthew Conde, Public and Government Affairs Manager for AAA Idaho, and invited him to testify.

Mr. Conde said that AAA has a long history of supporting their members' safety. He stated that six-out-of-ten moderate to severe crashes were caused by common distracted driving, and added that driving demands the driver's complete attention. He concluded by stating that **S 1283** was a forward-thinking piece of legislation that AAA Idaho supported.

DISCUSSION:

Senator Harris asked what the percent of distracted driving violations is a result of eating while driving. **Mr. Conde** said he did not have that delineation.

Senator Den Hartog asked whether voice control, like having Siri make a call for the driver, would be allowed with this legislation. **Mr. Conde** said that voice control elevates the discussion and currently it is still in play. There is a cognitive and visual workload involved and voice control adds another element, but this bill is about reducing the element of holding a device. There were no further questions.

TESTIMONY:

Chairman Brackett welcomed Woody Richards, representing Farm Bureau Insurance Company, Allstate Insurance Company and American Family Insurance Company, and invited him to testify.

Mr. Richards said he was testifying in support of **S 1283**. Electronic devices are highly distractive to drivers, especially at high speeds. This bill offers an incremental improvement for distracted driving, and while it is a small step, it is going in the right direction. **Mr. Richards** thanked the Committee and stood for questions.

DISCUSSION:

Senator Winder asked if any insurance companies have tried to restrict the use of cell phones by cancelling a policy or not paying a claim, or if any are developing industry policies rather than asking the State to regulate the issue. **Mr. Richards** was not aware of company-initiated modifying solution, but American Family Insurance Company has offered installing an interior camera in vehicles.

Senator Keough referred to the section of the bill defining mobile electronic devices including devices capturing images or recording and/or transmitting video. She wanted to know if this language would preclude the devices Mr. Richards had just mentioned being offered by a specific insurance company from being installed in a vehicle. **Mr. Richards** said it would not.

Senator Keough had a question about whether and how the language regarding mobile electronic devices might impact semi-trucks.

Senator Hagedorn offered an answer by referring further in the bill where it stated that not only does it have to have the capability of capturing images, but it also has to be readily removable and can be able to write, send or read text and data, capture images and video through manual input. There were no further questions.

Chairman Brackett asked Mr. Kane if he had closing remarks

Mr. Kane began by addressing Senator Keough's concerns. The definition of "mobile electronic device" was any handheld or portable electronic device capable of writing wireless data or voice communication between two or more persons. **Mr. Kane** believes that electronic device use is distracting. As to Senator Harris' question about eating while driving, the State of Washington passed a law that a driver cannot eat while driving. **S 1283** does not address eating. Another factor not being addressed, but is becoming important especially as traffic increases from Idaho's western neighbor, is marijuana. It is now legal in some states, but it impairs driving. However, the biggest factor increasing driving fatalities with distracted driving is congested roadways. **S 1283** is a modest approach to addressing distracted driving, but it is a way forward.

Senator Keough asked for a definition of "motor vehicle" and whether it included both cars and semi-trucks. **Mr. Kane** said it definitely did.

Senator Den Hartog wanted to return to the topic of voice control and she asked if cell phone carriers have the ability to determine if a text or a phone call was initiated with a voice command as opposed to manual input. **Mr. Kane** said he would only be able to speculate an answer to that question.

Senator Harris said he understood the safety aspect of this bill, but expressed his belief that there are calls that need to be made while driving. He stated he would not be supporting **S 1283**.

Senator Winder said he would vote to amend **S 1283**, but he believes drivers need to take personal responsibility.

Senator Lodge said that it takes her one-hour-and-twenty-five-minutes to drive from her home to the Capitol. She faces distracted and aggressive drivers daily between Marsing and the Capitol along Highway 55 and Interstate-84. Younger drivers need to know they have to take driving as a very serious endeavor.

Senator Lodge said she would support sending **S 1283** to the amending order.

MOTION:

Senator Hagedorn moved to send **S 1283** to the **14th Order** for amendment. **Vice Chairman Nonini** seconded the motion. **Chairman Brackett** called for a **roll call** vote. The motion **passed** by a vote of 8 Yeas and 1 Nay (**Senator Harris**). **Senator Hagedorn** offered to carry the bill on the Senate floor.

ADJOURNED:

There being no further business before the Committee, **Chairman Brackett** adjourned the meeting at 2:58 p.m.

Senator Brackett
Chair

Gaye Bennett
Secretary