

MINUTES**SENATE INTERIM COMMITTEE ON TRANSPORTATION, TECHNOLOGY
AND LEGISLATIVE AFFAIRS****HOUSE INTERIM COMMITTEE ON PUBLIC TRANSPORTATION****Tuesday, December 18, 2012**

The Senate Committee on Transportation, Technology and Legislative Affairs and the House Committee on Public Transportation met jointly at 1:30 p.m., Tuesday, December 18, 2012, in Room B, MAC, Little Rock, Arkansas.

Committee members in attendance: Senators Linda Chesterfield, Senate Chair; Jake Files, Missy Irvin, and Bill Sample; Representatives Jonathan Barnett, House Chair; Denny Altes, Lori Benedict, Bruce Cozart, David Fielding, Mary P. "Prissy" Hickerson, Jon Hubbard, Josh Johnston, Loy Mauch, Reginald Murdock, Betty Overbey, Leslie Milam Post, Walls McCrary, and David Meeks

Other legislators in attendance: Senator Eddie Joe Williams; Representatives Fred Allen, John Burris, Eddie Cheatham, Ann Clemmer, Charlie Collins, Gary Deffenbaugh, Jody Dickinson, Justin Harris, Bobby Pierce, James Ratliff, Bruce Westerman, Butch Wilkins, Jon Woods, and Tommy Wren

Members-Elect in attendance: Senator Jimmy Hickey, Jr.; Representatives Bob Ballinger, Charlotte Douglas, Dan Douglas, Andy Davis, Joe Farrer, Charlene Fite, Bill Gossage, Fonda Hawthorne, David Hillman, Mike Holcomb, John Hutchinson, Patti Julian, George McGill, Micah Neal, John Payton, Sue Scott, and Richard Womack

The meeting was called to order by Senator Linda Chesterfield.

Senator Chesterfield stated it has been an honor to serve this term as Chair of the Senate Committee and to share the dais and chairpersonship with a distinguished colleague, Representative Jonathan Barnett, House Chair, who has been fair, efficient, and a friend. Senator Chesterfield added it would be an honor to return as a member of this committee.

Representative Barnett asked that all members-elect introduce themselves.

Consideration to Approve Minutes of October 15, 2012 [Exhibit C]

Without objection, the minutes were approved as written.

Presentation and Discussion of Draft Legislation for Interim Study Proposal 2011-220 [Exhibit D]

Representative Fielding discussed his draft legislation addressing ISP 2011-220. The draft proposes for the first offense a \$200 fine and up to a 30-day license suspension. The second offense would be a \$300 fine and up to a 90-day license suspension. The third offense would be a \$500 fine and 1-year license suspension.

Ms. Bridget White, Administrator, Highway Safety Office, Arkansas State Police (ASP), responded to the portion of the draft concerning distracted driving issues as part of the written test when applying for a driver's license. The new Department of Transportation reauthorization, Map 21 (Moving Ahead for Progress in the 21st Century), has grants available to states that pass strong distracted driving laws. One provision in Map 21 requires testing of distracted driving issues as part of the state's license exam. In response to Senator Sample's inquiry, Ms. White stated that approximately \$22 million overall is available to states that pass distracted driving laws; a specific amount for Arkansas has not yet been determined.

Representative Meeks asked if police reported driver distraction incidents were statistics from Arkansas or nationwide. Ms. White stated those are drivers involved in crashes where a distraction was or was not recorded. It is a general category because it could include anything that distracted the individual, either inside or outside the vehicle, such as a deer running across the road, a billboard, etc.

Mr. David Foster, Assistant Commissioner for Operations/Administration, Department of Finance and Administration (DFA), stated he worked with Representative Fielding and his committee to draft the bill and make positive changes. The changes will not result in any physical cause for programming or administrative changes within DFA. The draft includes a graduated provision for license suspension based on occurrences.

Mr. John Snyder, Office of the Prosecutor Coordinator Staff Attorney and Arkansas Traffic Safety Resource Prosecutor, stated he and his office have met with Representative Fielding and others regarding ISP 2011-220. He added that the penalties of this draft have substantially increased and believes this act could substantially deter texting and driving.

Mr. Ron Burks, Chief, Highway Police Division, Arkansas Highway and Transportation Department (AHTD), advised that his division enforces regulations against commercial motor vehicles. Regarding federal regulations concerning texting and driving and the use of cell phones, Chief Burks stated in January 2012, the Federal Motor Carrier Safety Administration published a final rule on texting and driving as well as the use of a hand held telephone by commercial motor vehicle drivers which essentially banned the use of a hand held telephone and texting while driving a commercial motor vehicle. The exception would be an emergency situation where law enforcement or emergency services need to be contacted. A hands free or Bluetooth device is acceptable for use while driving but dialing can only consist of one touch, otherwise it is considered a serious violation under the Motor Carrier Safety Regulations. The first offense can result in a civil penalty of up to \$2,750 for the commercial driver and up to \$11,000 for a company that fails to comply with regulations. The second offense within a 3-year period can result in up to a 60-day license suspension. More than two offenses in a 3-year period can result in up to a 120-day license suspension. Representative Fielding said that in regard to citations issued for texting and driving, there were 86 in 2010, 57 in 2011, and 180 in 2012 to the present. Senator Chesterfield asked if these violations become part of the driver's record. Chief Burks said the violation would show up on a driving record but not on a criminal record.

Senator Files asked about monies that would potentially be generated from these citations and requested a report be generated to reflect the amount we would receive or have received. Ms. White asked for the parameters on the time period to which Senator Files replied six to eight years. Ms. White said she would provide the information.

Mr. Gill Rogers, Staff Attorney, Bureau of Legislative Research (BLR), stated that Paul's Law outlaws texting and has been in place for several years. The draft does not change the terms of what is legal or illegal under the texting laws, it only changes the punishment for the texting laws. Under Paul's Law, "*to be engaged in wireless interactive communication, meaning reading e-mails, reading texts, browsing the web, or sending e-mails or texts*" would constitute a violation.

Senator Sample asked how law enforcement would know if a person is just looking at the phone or texting. Chief Burks said it is extremely difficult to tell if a person is texting while driving. **Senator Sample asked Chief Burks how many arrests are made monthly for texting and driving in his area.** Chief Burks said he would get the information to Senator Sample.

Senator Irvin asked about the need for awareness or educational programs on texting and driving/drinking programs. Ms. White said that through grants received from the National Highway Traffic Safety Administration, the office will be implementing programs to educate the public about the issues with distracted driving.

Representative Benedict asked Chief Burks about instructions given ASP officers as far as implementing the procedure when they see a violation. Chief Burks said in regard to ASP, violations are enforced mainly on commercial vehicles. As far as individuals, if there is evidence of violation of other laws, and because this law is difficult to enforce, it has to be an obvious violation of the law. Officers are instructed about the laws that are in the law book.

Major J. R. Hankins, Eastern Region Commander, ASP Highway Patrol, stated if someone is stopped in a texting incident, ASP cannot confiscate a phone or force a statement. In the case of an accident, especially in a fatality, phone records can be subpoenaed and the phone confiscated.

Discussion of Issuance of Antique Vehicle License Plates [Exhibit E]

Mr. Roger Duren, Administrator, DFA Office of Motor Vehicle, gave a brief overview of the procedures for the issuance of an antique vehicle license plate. The affidavit must be signed by the applicant before a license plate can be issued. The language on the affidavit is taken from the language in the law that the vehicle must be at least

25 years old and restored as reasonably as possible to manufacturer's specifications with certain modifications for safety. The applicant must have a regular license plate registered to a regular vehicle that is in use.

Representative Hickerson asked why this statute was originally put in place. Mr. Duren said it was originated for antique car collectors. Representative Hickerson said she understood that the tags were for traveling from home to an antique car show, but not to be driven on a daily basis. Mr. Duren said an antique vehicle license plate can be used in the same manner as any other license plate. Senator Chesterfield asked the difference between an actual restored antique car and an old car. Mr. Duren replied the applicant signs an affidavit stating the car is in restored condition and DFA must rely on the honesty of the applicant.

Senator Sample asked about licensing requirements for an antique motorcycle. Mr. Duren said it would be the same affidavit that is required for an antique car license.

Representative Cozart asked how many antique vehicle and antique motorcycle licenses plates have been issued in Arkansas. Mr. Duren stated that currently 178,000 antique licenses plates have been issued but DFA has no way of knowing how many plates are still active.

Status of Recent Voter-Approved Highway Programs (GARVEE and ½-Cent Sales Tax)

Mr. Scott Bennett, Director, Arkansas Highway and Transportation Department (AHTD), introduced Frank Vozel, Deputy Director and Chief Engineer; Ron Burks, Chief, Highway Police Division; and Scott Munsel, Public Information Officer.

Mr. Bennett stated he has received many inquiries since the passage of Issue #1. He thanked the Transportation Committees for their leadership in getting the issues to the public. He noted the support of Move Arkansas Forward, Arkansas Highway Commission, Farm Bureau, Arkansas Good Roads, local and regional Chambers of Commerce, and cities and counties throughout the state. Fifty-eight percent of the electorate voted in favor of Issue #1. The total value of transportation issues approved, nationwide, was \$2.4 billion with \$1.3 billion being approved in Arkansas. AHTD will work with the private sector by hiring a program manager, a financial advisor, and bond council. AHTD has retained several existing on-call design consultants and will be assigning and scheduling those projects in early 2013. Bonds will be issued in the latter part of 2013 and the first contracts for the program will be awarded. The ½¢ sales tax will go into effect July 1, 2013. The program consists of a \$1.3 billion bond issue and will support a \$1.8 billion program statewide. One benefit of this program is that it will support approximately 40,000 jobs statewide and will generate approximately \$700 million in turn-back revenue for cities and counties, with a \$20 million annual state aid city street program. The tax is a 10-year program. AHTD remains the 12th largest highway system in the country but is at the low end of highway revenue per mile to take care of the system. Construction costs have become a challenge. In 1977, the overlay cost for 400 miles of highway was \$10 million; today the overlay cost for 47 miles of highway is \$10 million. The per gallon fuel tax is a primary funding source for highways but fuel consumption is declining. As the price of gas and diesel fuel increases, people are driving less. Another factor is there are more fuel-efficient vehicles on the road. AHTD has the second lowest administrative cost per mile in the country.

Senator Chesterfield asked Mr. Bennett for a report of project locations and the cost per project.

Mr. Bennett will send the information to Estella Smith, Analyst, to be distributed to those who have requested it.

Representative Meeks asked the number and percentage rate of GARVEE bonds issued. Mr. Bennett said GARVEE bonds issued were just under \$2 million of the \$575 million at 1.62%. The next issue will be mid 2013, which will be about the same time as the start of issuance of the general revenue bonds. Representative Meeks asked if the construction projects had begun. Mr. Bennett said the projects under the GARVEE bonds have begun. The first three contracts have been awarded with construction scheduled to begin early 2013; Russellville (I-40), Van Buren-Fort Smith (I-540), and Grant County (I-530). The ½¢ sales program has not yet started because the sales tax will not be available until July 2013.

There being no further business, the meeting adjourned at 3:30p.m.