

**MINUTES OF THE SUBCOMMITTEE OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-third Session
April 11, 2005**

The subcommittee of the Senate Committee on Commerce and Labor was called to order by Chair Maggie Carlton at 10:16 a.m. on Monday, April 11, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Chair Maggie Carlton
Senator Sandra J. Tiffany
Senator Joe Heck

STAFF MEMBERS PRESENT:

Kevin Powers, Committee Counsel
Scott Young, Committee Policy Analyst
Cynthia Cook, Committee Secretary

OTHERS PRESENT:

William Buzz Harris, Nevada State Board of Cosmetology
Chris Cooke, Field Inspector, State Board of Cosmetology
Jonn N. Potter, Barber Jon's Pro-Shop
Vicky Sakach, Vice President, State Barbers' Health and Sanitation Board
Keith Minty, Nevada State Barbers Association

CHAIR CARLTON:

The hearing is open for discussion of the fingerprinting provisions of Senate Bill (S.B.) 37.

SENATE BILL 37: Revises provisions governing wholesalers of prescription drugs. (BDR 54-13)

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SENATOR TIFFANY:

I am concerned about the extent of the criminal penalties and the fingerprinting.

CHAIR CARLTON:

We understand getting back the fingerprinting can take time, which can be provisional.

KEVIN POWERS (Committee Counsel):

Page 2, lines 10 through 12 of the proposed amendment to S.B. 37 ([Exhibit C](#)) describe the provisional license. The criminal penalties are located in sections 8 and 9 of the bill.

SENATOR TIFFANY:

I do not have a problem with the requirement for a statement, as described in sections 8 and 9.

SENATOR HECK:

Page 2, line 26 concerns the requirement to change employee lists within 15 days. I believe that is onerous.

MR. POWERS:

In the original draft, the employee was required to submit the fingerprints. Under this proposal the employer provides the name, and the board will then make a determination.

CHAIR CARLTON:

Would the members be more comfortable extending the requirement to 30 days?

SENATOR HECK:

It would seem appropriate to provide an updated employee list once a month.

MR. POWERS:

We can easily adjust the language to reflect the list be submitted monthly.

SENATOR HECK:

I hope the State Board of Pharmacy understands they are not to expand on who requires fingerprinting, as that is not the intent of this legislation.

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SENATOR TIFFANY MOVED TO RECOMMEND TO THE SENATE COMMITTEE ON COMMERCE AND LABOR TO AMEND AND DO PASS S.B. 37.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR CARLTON:
We will open the hearing on S.B. 142.

SENATE BILL 142: Provides for appointment of additional member to State Board of Pharmacy. (BDR 54-623)

SENATOR TIFFANY MOVED TO RECOMMEND TO THE SENATE COMMITTEE ON COMMERCE AND LABOR NO FURTHER ACTION BE TAKEN ON S.B. 142.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR CARLTON:
We will open the discussion on S.B. 163.

SENATE BILL 163: Makes changes relating to certain regulatory bodies which administer occupational licensing. (BDR 54-22)

MR. POWERS:
Much of the discussion concerning this bill involved section 4. The section prohibits a regulatory body from issuing a temporary license to the applicant if the applicant has not passed the background investigation, except as otherwise provided by specific statute. As long as the regulatory body has a specific statute that allows it to grant the provisional license, that authority would

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remain in place. In the future if a board was not given that authority, then it would be subject to the restriction in this bill.

SENATOR TIFFANY:
I would like to have section 4 deleted.

CHAIR CARLTON:
I would be uncomfortable with having that section deleted. We gave the authority to the boards. As we move forward and fingerprinting becomes more accessible, this would involve only new boards.

SENATOR TIFFANY:
I will be voting against the measure if section 4 is to remain.

MR. POWERS:
Just for the record, it will affect existing boards if they do not have the specific statutory authority now. They could no longer do temporary licenses through regulation.

SENATOR HECK:
There may be other reasons why a background investigation would be delayed. I would prefer that we have a uniform provisional licensing procedure in each statute while awaiting the background investigation.

CHAIR CARLTON:
We will postpone a recommendation on the bill. We will open the discussion on S.B. 333.

SENATE BILL 333: Revises provisions governing practice of cosmetology and related professions. (BDR 54-764)

WILLIAM BUZZ HARRIS (Nevada State Board of Cosmetology):
The increase for the bond may prohibit those wishing to go into business. We would like to revisit the bond provision next Legislative Session.

CHAIR CARLTON:
Is there an amount that you would consider now?

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CHRIS COOKE (Field Inspector, State Board of Cosmetology):

The bond amount originally was \$50,000. It was lowered to \$10,000 at one time.

CHAIR CARLTON:

The cost of a cosmetology class is significant. In order to protect the consumer if the business fails, there needs to be assurance the students receive a tuition refund.

MR. COOKE:

The class costs vary from \$7,000 to \$10,000. In the past, when schools have failed other schools picked up the contracts on the existing students.

SENATOR TIFFANY:

Many of the enrollment fees were from grants given by the federal government.

MR. COOKE:

The newer schools must be in business for a year and show a proven record in order to qualify for a federal grant.

SENATOR TIFFANY:

There should be a bond for a bad business practice. In that case, there should be a business liability insurance policy.

CHAIR CARLTON:

As long as students have some recourse. That was the whole reason for the bill. Is there any appetite from the members to process this bill?

MR. HARRIS:

Sections 8 and 10 are the two areas of agreement.

CHAIR CARLTON:

I believe the language in section 6 was also an area of agreement.

SENATOR HECK:

Is there anything in the bill that prevents a cosmetology school from providing massage-therapy instruction if it is in accordance with the Commission on Postsecondary Education?

MR. COOKE:

Let me clarify that. We would be able to put therapeutic massage under the Board of Cosmetology.

SENATOR HECK:

I do not believe the Board of Cosmetology has jurisdiction. Does any course of study offered in a cosmetology school have to be approved by the State Board of Cosmetology?

MR. COOKE:

In existing statute, yes. There are logistical issues concerning a school of cosmetology because there is a certain amount of equipment required throughout the school. If therapeutic massage is incorporated in a school, would the 5,000 square-foot minimum be expanded?

SENATOR HECK:

Putting aside the logistic issues, they do not need to come to the Board of Cosmetology to receive permission to teach massage therapy.

MR. COOKE:

Presently, they would. Under certain areas, licensees are taught skin massage.

SENATOR HECK:

If a person owns a cosmetology school and wants to offer this educational program in their school, how do we make that happen? Can they receive permission from the Commission on Postsecondary Education?

MR. COOKE:

The statute would not allow it at this time.

CHAIR CARLTON:

If there was a 7,000 square-foot facility and 2,000 square feet were for massage therapy regulated under the Commission on Postsecondary Education, there does not seem to be a problem.

MR. COOKE:

That would be under the discretion of the Committee. If the school was originally licensed with 7,000 square feet, then the State Board of Cosmetology would have jurisdiction.

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CHAIR CARLTON:

We do not want the State Board of Cosmetology regulating a profession they are not qualified to regulate.

SENATOR HECK:

Section 9 of S.B. 333 attempts to address this issue.

MR. POWERS:

The unintended consequence of that might be to remove the Commission on Postsecondary Education.

SENATOR HECK:

I mean with the provision the requirements of the Commission on Postsecondary Education would still be necessary.

MR. POWERS:

The existing standard can be found on page 6, subsection 3, line 3. To attain the goal put forward by Senator Heck, it would be possible to require the State Board of Cosmetology to approve the school of cosmetology offering a course in massage therapy if that course meets all other requirements.

SENATOR HECK:

That would be acceptable.

SENATOR TIFFANY:

Can the sign on the outside of the building show this is a school of cosmetology and massage therapy?

MR. POWERS:

If the bill were drafted as I described, that would be controlled by the Commission on Postsecondary Education. We would be saying once approval was granted by the Commission and brought to the Board of Cosmetology, the Board would be required to allow the course to be offered. Essentially, control would remain with the Commission on Postsecondary Education.

CHAIR CARLTON:

We want the language in sections 6 and 8 to stay intact. We will repeal the issues concerning the bond. We will amend section 9 to reflect the control is with the Commission on Postsecondary Education.

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MR. POWERS:

We need to repeal *Nevada Revised Statute* (NRS) 644.473 in section 11.

SENATOR TIFFANY:

The action would allow the licensing of massage therapy to be under the Commission on Postsecondary Education, and section 11 to be removed.

MR. POWERS:

The reference to NRS 644.473 would be deleted from section 11. The rest of the section would remain intact. On page 5, line 22, the reference to a year of experience would be removed from the bill.

SENATOR TIFFANY MOVED TO RECOMMEND TO THE SENATE COMMITTEE ON COMMERCE AND LABOR THE LICENSING OF MASSAGE THERAPY TO BE UNDER THE AUSPICES OF THE COMMISSION ON POSTSECONDARY EDUCATION, REMOVE THE REFERENCE TO NRS 644.473 IN SECTION 11 AND DELETE THE REQUIREMENT OF ONE YEAR OF EXPERIENCE IN S.B. 333.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR CARLTON:

We will open the hearing on S.B. 335.

SENATE BILL 335: Revises provisions governing practice of barbering, cosmetology and related professions. (BDR 54-1356)

CHAIR CARLTON:

We have received a proposed amendment from Mr. Harris ([Exhibit D](#)).

MR. HARRIS:

[Exhibit D](#) will amend all the sections in the bill that have been agreed upon by the parties.

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CHAIR CARLTON:

The fines in section 28 apply only to unlicensed facilities.

JOHN N. POTTER (Barber Jon's Pro-Shop):

I am the owner of Barber Jon's Pro-Shop in Reno and I have detailed my concerns about S.B. 335 in a written statement ([Exhibit E](#)). We are a licensed cosmetology establishment and we offer men's haircutting. I am a licensed barber in California, and I have trained the cosmetologists to do barber-style haircuts. The pole in front of the establishment does not meet the description of a barber pole, and we do not advertise as licensed barbers.

CHAIR CARLTON:

In the past, you have received contact from the State Barbers' Health and Sanitation Board. How did you address their concerns?

MR. POTTER:

We received documents from the State Board of Cosmetology to attend a hearing at the Office of the Attorney General. It was decided that we were not violating any barber laws.

CHAIR CARLTON:

Do you think the name of your shop would lead people to believe you are a barber?

MR. POTTER:

That is correct. I can understand the concern.

CHAIR CARLTON:

Do you think this could be solved if you became a licensed barber?

MR. POTTER:

The regulations are prohibitive. I would be required to pass an examination that includes shaves. I have not given shaves in years, and I would have to take a refresher course. There is no place in Nevada that offers a refresher course.

CHAIR CARLTON:

There are many licensed barbers in Nevada. It would seem that if they are able to comply with the regulations, you could also do so.

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MR. POTTER:

Since I cannot prove that I have worked as a barber for five out of the previous ten years, if I pass the state examination I would be required to work as an apprentice for two years.

SENATOR TIFFANY:

I do not understand what Mr. Potter is trying to solve.

VICKY SAKACH (Vice President, State Barbers' Health and Sanitation Board):

Mr. Potter came to Nevada several years ago, and did not apply for his license at that time. The laws pertain to everybody.

SENATOR HECK:

It seems Mr. Potter is advertising as a barber shop by the use of barber in the name of his establishment. The concern I have is the NRS 644.473 says it is unlawful for any licensed cosmetological establishment to represent itself to the public as primarily engaged in the business of cutting men's hair.

MR. POTTER:

If I had received a California and Nevada license at the same time, I could have gone 20 years without ever working in a shop.

CHAIR CARLTON:

As Senator Heck said, you are calling yourself a barber. That seems to be the crux of the problem.

SENATOR HECK:

Would it be acceptable if you were allowed, as a cosmetological establishment, to engage in the business of cutting men's hair but not allowed to use the term barber or put a barber pole in the front of your shop?

MR. POTTER:

That would certainly be helpful.

SENATOR HECK:

You would then have to change the name of your establishment and take down anything that resembles a barber pole.

MR. POTTER:

Regardless of what is in front of the shop, the way the law is written anybody could say it resembles a barber pole. I believe there should be a definitive description of a barber pole.

SENATOR HECK:

A barber pole is described as a red and white revolving cylinder with a ball on top.

MR. POTTER:

My poles do not fit that description.

MS. SAKACH:

It is a misrepresentation to the public. When the public sees the pole Mr. Potter has, it is a barber shop to them. This is an international symbol.

CHAIR CARLTON:

The Committee will study the issue and hopefully return with a suggestion for a solution.

KEITH MINTY (Nevada State Barbers Association):

Mr. Potter's shop is in violation of the current law. He has said most of his business is cutting men's hair. The root of the problem is that barbers want to retain the business of barbering without others encroaching.

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CHAIR CARLTON:

The meeting of the subcommittee of the Senate Committee on Commerce and Labor is adjourned at 11:10 a.m.

RESPECTFULLY SUBMITTED:

Cynthia Cook,
Committee Secretary

APPROVED BY:

Senator Maggie Carlton, Chair

DATE: _____