

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

**Seventy-third Session  
May 20, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:16 a.m. on Friday, May 20, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 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:**

Senator Randolph J. Townsend, Chair  
Senator Warren B. Hardy II, Vice Chair  
Senator Sandra J. Tiffany  
Senator Joe Heck  
Senator Michael Schneider  
Senator Maggie Carlton  
Senator John Lee

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Barbara E. Buckley, Assembly District No. 8  
Assemblywoman Debbie Smith, Assembly District No. 30

**STAFF MEMBERS PRESENT:**

Kevin Powers, Committee Counsel  
Donna Winter, Committee Secretary  
Scott Young, Committee Policy Analyst  
Lynn Hendricks, Committee Secretary

**OTHERS PRESENT:**

Ernie Adler, American Massage Therapy Association  
Carol Tidd, Commissioner, Division of Financial Institutions, Department of  
Business and Industry  
Kenneth T. Scruggs, The HSBC Group

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Robert A. Ostrovsky, Cox Communications  
Judy Stokey, Nevada Power Company; Sierra Pacific Power Company  
Scott M. Craigie, Sprint

CHAIR TOWNSEND:

I have an amendment to distribute regarding Assembly Bill (A.B.) 384, which we passed earlier this week.

**ASSEMBLY BILL 384 (1st Reprint)**: Makes various changes relating to certain short-term, high-interest loans. (BDR 52-806)

CHAIR TOWNSEND:

The amendment (Exhibit C) adds a section 74 to the bill. If it is acceptable to all parties, it will be introduced next week on the Senate floor.

I will open the work session on A.B. 63.

**ASSEMBLY BILL 63 (1st Reprint)**: Prohibits certain practices by health insurers with regard to injuries sustained while under influence of alcohol or controlled substance. (BDR 57-207)

SENATOR HECK:

I have an amendment to offer (Exhibit D). It adds specific laboratory values of the blood levels of alcohol or certain prohibited substances before a claim can be denied.

SENATOR CARLTON:

The intent of the bill is to encourage doctors to do the tests without fear that a positive result will keep them from getting paid for their work. My concern is that setting a level above which insurance claims can be denied will perpetuate the problem we are attempting to solve.

SENATOR HECK:

These are the same levels specified in chapter 484.379 of the *Nevada Revised Statutes* (NRS) regarding driving under the influence. The idea that doctors are not testing out of fear of not getting paid is based on anecdotal evidence. There are only a handful of insurers in this state who have such a provision. Tests need to be ordered to take care of the patient in any case. Most hospitals do what is known as a qualitative test that indicates only whether the drug is

present in the bloodstream. This is an inaccurate indicator of the patient's level of intoxication, since some drugs will be evident in the bloodstream days after the drug was used. Quantitative blood levels indicate whether the person is currently under the influence. Since most hospitals use only the qualitative tests, they would not be eligible for the exemption.

SENATOR CARLTON MOVED TO AMEND AND DO PASS A.B. 63 WITH AMENDMENT SUGGESTED BY SENATOR HECK.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:  
I will open the work session on A.B. 87.

ASSEMBLY BILL 87 (1st Reprint): Establishes statutory minimum wage for employees in this State. (BDR 53-1110)

CHAIR TOWNSEND:  
I recommend ... we amend the bill as a whole and place in there that the minimum wage would be moved from its current level, increasing by \$1.25 starting October 1, 2006. At the same time, [we would] place on the ballot in November 2006 a referendum that would codify the \$1.25 if it passes and if the other provision, which is the constitutional amendment, fails. ...

There would be two provisions on the ballot: the one that's already going to be there, which is the one that is a constitutional amendment that would hinge minimum wage to the federal level, no matter what that is, and it would either go up with the federal level or it would follow the Consumer Price Index (CPI). There would then be a second referendum on the ballot that would simply codify the \$1.25 that would be put into law under this bill starting October 1, 2006, and it would continue. The only way that would stay in place is if the constitutional amendment failed. The State would continue to have jurisdiction over state minimum wage, as

has been our responsibility since the start of it. There would be no constitutional amendment; there would be no indexing. It would simply be an increase of \$1.25. This would allow business time to get ready for that, those particular businesses that are small enough where they generally get impacted by that. It would give them the next 16 months to get prepared. At that point, the public would have an opportunity to decide one way or the other, whether they want a constitutional amendment or they want [it] to remain as a statutorily dealt-with minimum-wage component of Nevada.

SENATOR LEE:

I like your amendment. I had a real problem with the CPI, but I never had a problem with raising the [minimum wage]. With the CPI out and the additional money, it makes me feel as an employer that this is something we could put into our scheme of bidding and things that we do in business, though we don't have anybody at this level. I think it's easy to understand.

SENATOR LEE MOVED TO AMEND AND DO PASS A.B. 87 WITH AMENDMENT SUGGESTED BY SENATOR TOWNSEND.

SENATOR HARDY SECONDED THE MOTION.

SENATOR CARLTON:

I don't see the need to change what the people voted on. It was merely a way to advance it without dealing with it. I'm a little concerned about removing the CPI. The problem is, when are the next changes going to actually occur? I see this as two ... not really competing measures on the ballot, but possibly a level of confusion amongst folks. But I trust my voters; I know they'll pick the one that's right for them. They're smart enough to vote this at the majority that they did to send to the Legislature, so I'm sure they're smart enough to figure out which one of these measures will be good for them. But I do have some concerns about eliminating the CPI. Everything goes up every single day of our lives, and the second measure can cause stagnation again, so that does give me some concern.

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THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR TOWNSEND:

I will open the work session on A.B. 195.

ASSEMBLY BILL 195 (1st Reprint): Makes various changes concerning purchasing prescription drugs from Canadian pharmacies and regulation of certain pharmacies located outside Nevada. (BDR 54-875)

CHAIR TOWNSEND:

One of the few issues that remains unresolved about this bill is the question of legality. I would recommend an amendment making the measure effective upon the State obtaining all federal waivers and approvals necessary to operate the Web site, which absent those approvals would be unlawful. This would keep us within federal law as much as possible.

SENATOR CARLTON:

I would be opposed to that amendment. I do not think the federal government will respond to us. They will stonewall us and take away the opportunity for the people of this State to do what the people in other states are doing. As we said in the hearing on this bill, the consumers have lapped us on this issue. We are just trying to catch up to them, to protect them from disreputable people and unsafe drugs. I would see this amendment as putting up a federal wall to keep people from participating, and I am not sure the State of Nevada would ever be able to break it down.

SENATOR HECK:

I would recommend that we amend section 3, subsection 2, paragraph (b) of A.B. 195 by deleting the words, "or the Canadian governmental agency responsible for approving prescription drugs." If any drug is going to come into the United States, it should be approved by the federal Food and Drug Administration (FDA). An FDA-approved drug is not a drug the FDA has approved in general that is now made by someone else. It has to be the specific drug approved by the FDA, which includes where it was made, how it was made and how it was stored.

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ASSEMBLYWOMAN BARBARA E. BUCKLEY (Assembly District No. 8):  
Senator Heck has discussed his amendment with me, and I have no objection.

SENATOR CARLTON:

A constituent went to a doctor here in Carson City and was given a drug that, according to its documentation, was manufactured in Japan, shipped to the Philippines, distributed out of Chicago for a United States company and given to a patient in Carson City. Would this meet the criteria in your amendment?

SENATOR HECK:

Possibly. The FDA does approve drugs for United States manufacturers to be made overseas and sold in the United States. Approval by the FDA means that the manufacturing process, the formulation and the pedigree have been ensured by the FDA. If we take out the approval of the Canadian health authorities, we eliminate any drugs approved by them that are not approved by the FDA.

SENATOR CARLTON:

I would be more comfortable with that amendment than with the amendment suggested by the Chair.

SENATOR TIFFANY:

I will not vote in favor of this bill without the amendment suggested by the Chair. We have not resolved the legality issue. The other states that have enacted this type of measure basically said they would rather ask for forgiveness than for permission. I do not want to put Nevada in that position.

SENATOR HARDY:

Both amendments are good. I still have concerns about legality, but I will not hold the bill up for that. On matters like this, we have to set aside the policy issue, as good as it is, because we do not want to pass something that is going to be deemed illegal.

CHAIR TOWNSEND:

Since the two amendments are separate issues, we will vote on them separately.

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SENATOR HECK MOVED TO AMEND A.B. 195 WITH AMENDMENT TO SECTION 3 PROPOSED BY SENATOR HECK.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR CARLTON:

I would remind Senator Hardy of his often-stated assertion that we should never let the perfect be the enemy of the good. This is a good bill, but it is not perfect. If we allow the Chair's amendment to go in, we will not be able to protect people from buying bad drugs.

SENATOR HARDY MOVED TO AMEND A.B. 195 WITH AMENDMENT PROPOSED BY SENATOR TOWNSEND.

SENATOR TIFFANY SECONDED THE MOTION.

SENATOR SCHNEIDER:

Are we setting up people for prosecution by the federal government?

ASSEMBLYWOMAN BUCKLEY:

The FDA's policy is that if an individual chooses to import drugs for personal use for 90 days, they will not prosecute. The Web site will explain this in detail and include a link to the FDA's letter on this matter.

SENATOR HECK:

Requiring the drug to be FDA-approved takes care of all the federal statutes except that regarding reimportation, which states that only the manufacturer can reimport drugs back into the United States. The FDA's personal-use policy leaves this issue up to the discretion of the individual enforcement officer, as to whether they will seize drugs or allow them into the country. They do not usually enforce it, but they have done so in at least one instance.

ASSEMBLYWOMAN BUCKLEY:

The bill was crafted to meet federal requirements completely except for that one issue. We are addressing it by relying on the FDA's policy that they will not

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enforce it against people who import drugs for their personal use. There has not been one arrest on this statute.

CHAIR TOWNSEND:

Will the Web site have a disclaimer holding the State free of responsibility for consumers who receive bad drugs?

ASSEMBLYWOMAN BUCKLEY:

Yes. It will mention that there are risks when you buy drugs over the Internet and discuss the federal importation law and other matters. The State of Nevada does not accept liability if a pharmacy down the street gives you the wrong drug by mistake, and the same law applies here.

I do not support the amendment proposed by the Chair because it guts the bill. The federal government is never going to give us a letter giving us permission to do this.

SENATOR HARDY:

I will withdraw my motion and reserve the right to change my vote on the Senate floor. I did not realize we were down to a single issue of legality.

SENATOR HARDY WITHDREW HIS PREVIOUS MOTION ON A.B. 195.

SENATOR TIFFANY WITHDREW HER SECOND.

\* \* \* \* \*

SENATOR TIFFANY MOVED TO AMEND A.B. 195 WITH AMENDMENT PROPOSED BY SENATOR TOWNSEND.

THE MOTION FAILED FOR LACK OF A SECOND.

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SENATOR HECK MOVED TO AMEND AND DO PASS A.B. 195 WITH AMENDMENT APPROVED BY THE COMMITTEE.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TIFFANY VOTED NO.)

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CHAIR TOWNSEND:  
I will open the work session on A.B. 208.

[ASSEMBLY BILL 208 \(2nd Reprint\)](#): Revises provisions governing physicians and osteopathic physicians. (BDR 54-1108)

SENATOR SCHNEIDER:  
I have a proposed amendment ([Exhibit E](#)) that would add language establishing an institutional review board (IRB) to review and oversee research studies in alternative medicine. We have also received testimony on this from Daniel Royal ([Exhibit F](#)).

SENATOR HARDY:  
I need to disclose that my father is vice president of the Board of Homeopathic Medical Examiners.

I have spoken with the proponents of this amendment and think it is a good addition to the bill. It is a good step in the right direction.

SENATOR CARLTON:  
The proponents of this amendment have assured me that the doctors involved in the IRB will still be held accountable under the jurisdiction of their licensing entity.

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SENATOR SCHNEIDER MOVED TO RESCIND PREVIOUS ACTION TAKEN  
ON A.B. 208.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS A.B. 208  
WITH AMENDMENT OFFERED BY SENATOR SCHNEIDER.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:  
I will open the work session on A.B. 250.

[ASSEMBLY BILL 250 \(1st Reprint\)](#): Provides for licensing and regulation of  
massage therapists. (BDR 54-733)

ERNIE ADLER (American Massage Therapy Association):  
"Before you, you have a mock-up amendment ([Exhibit G](#)) which is quite  
extensive. I think it would be more appropriate to have Senator Carlton  
comment upon this than for me go through it line by line. ..."

SENATOR CARLTON:

Everyone worked very hard on this bill. [Former] Senator Adler and  
the proponents of the bill were very accepting of all the concerns  
that law enforcement had as far as processing this bill and  
establishing this board. One of the unique things that's going to  
happen with this particular board is they're going to be going into a  
different realm, where, as we discussed in the Committee meeting,  
prostitution is a problem. They need to understand and be aware  
that the background and histories and arrest records are going to  
be a little more intense with this board than they probably would

be with any other board in this State. They're going to have to be very wary.

If you want to flip through the amendment, I'll cover just a couple of quick points. I believe everything has been agreed on between law enforcement and the proponents of the bill. We have added a position to the board, a nonvoting member, which is law enforcement, which will help the board in their initial steps to understand the problems that happen in Clark County and how things progress there.

There has been some clarification on language as far as background investigations go. If you're approved by the Board of Massage Therapy, you'll be able to use that concurrently with cosmetology. If you do decide to do dual licensure, it will not go the other way, because the massage therapy license will be harder to get, so we're setting the standard at the higher level.

Those are the significant issues that the Committee is not aware of. Other than that, everything else in this bill has literally been combed through many times by many people. There are still people out there who have concerns and that are opposed, but I believe we have done the best job we possibly can in helping this new Board get established and succeed.

MR. ADLER:

I believe this has been a very well-done amendment to this bill, and we support all the amendments completely. Postcards were sent out to some of the people who are current practitioners, suggesting that there isn't a grandfathering clause, and there always has been a grandfathering clause in this bill. Section 57 really lays out that if you're a current licensee in Clark County, for instance, you're going to be able to keep your license and just move into the state licensure system, as long as you don't have an extensive criminal background or something of that nature, in which case you're going to have a problem. If you've been practicing for 20 years and have no disciplinary actions, no criminal background, you're not going to have a problem with this bill once it's enacted.

The other thing is ... this is kind of a major policy departure here. ... You're moving from local licensure, county licensure, city licensure, to something that really tries to meld some of the different professions that practice at spas and resorts, allowing them to practice together. I think this bill is really necessary if we're going to have large spa-resorts throughout Nevada. This is a departure, and I think it's a good departure, because it elevates professionalism and it adds something to the resort industry within the State of Nevada.

SENATOR HECK:

"Upon passage, then, no one other than somebody who is a licensed massage therapist will be allowed to advertise or hold themselves out to provide massage services, unless they're under the exemption of those areas that are listed."

MR. ADLER:

"That's correct."

SENATOR HECK:

"I think we had discussion in the first hearing about what I guess we could term 'recreational massage houses.' They would no longer be able to advertise that they offer massage."

MR. ADLER:

"That's correct. ... This bill ... will allow the statewide board to control some of that advertising that suggests that massage and other activities occur in tandem, which we want to eliminate."

CHAIR TOWNSEND:

... We may get more calls on this than anything else we get calls on after the session is over, and we want to be able to explain to the current licensee who says, "How does this affect me?" ... It would be my recommendation to the proponents of the bill that you get a copy of this and get it dispersed in some way, shape or form to all the current – certainly the day spas, the resorts, and as many current licensees that are licensed locally as possible, so that it gives them a clear picture of what the law is and how it's going to be implemented. That will take away a lot of the grief that is potentially out there. You can't blame them; they're going along

earning a living, and all of a sudden something happens. ... It's important that we communicate with those people, because this does affect them.

SENATOR CARLTON MOVED TO AMEND AND DO PASS A.B. 250.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:

I will open the work session on A.B. 340.

**ASSEMBLY BILL 340 (1st Reprint)**: Revises provisions relating to certain short-term, high interest loans. (BDR 52-126)

CHAIR TOWNSEND:

We have a mock-up of the bill (Exhibit H).

KEVIN POWERS (Committee Counsel):

I have some background material. As the bill came over from the Assembly, Assemblywoman Giunchigliani's bill had several components in it. Some of them dealt with deferred-deposit loans and short-term loans that were also covered by Assemblywoman Buckley's bill, A.B. 384.

**ASSEMBLY BILL 384 (1st Reprint)**: Makes various changes relating to certain short-term, high-interest loans. (BDR 52-806)

MR. POWERS:

Assembly Bill 384 included a component that was not addressed in A.B. 340 dealing with a completely different type of loan, the tax-refund-anticipation loan. As the Committee processed A.B. 384, components dealing with deferred-deposit and short-term loans were removed from A.B. 340 and fused into A.B. 384. The mock-up ... contains only provisions dealing with refund-anticipation loans. Those provisions are based on a

Washington bill, Substitute Senate Bill No. 5692 from the Washington State Legislature, that was recently enacted by the Washington Legislature in April 2005, I believe. What ... the mock-up for A.B. 340 does is create disclosure requirements with regard to tax-refund-anticipation loans and prohibit certain deceptive trade practices.

CAROL TIDD (Commissioner, Division of Financial Institutions, Department of Business and Industry):

My concern is that it is not clear in the amendment who will have the responsibility for regulating this.

KENNETH T. SCRUGGS (The HSBC Group):

The Internal Revenue Service (IRS) does not allow tax preparers to make loans to the people whose tax returns they prepare. The tax preparer, who is the person who meets with the consumer and works out the details of the loan, is referred to in this bill as the facilitator. As far as I know, there are no state-regulated agencies that make these loans; they are all made by national banks. Assemblywoman Giunchigliani felt a disclosure should be given to anyone taking out such a loan, and this is covered in section 15 of the bill.

I have a technical amendment to offer ([Exhibit I](#)). It specifies that if the refund-anticipation loan is done electronically, the disclosure can be made electronically as well.

MS. TIDD:

I have no objection to the amendment. We do not know how big this matter is going to be at this point. If we have to address it after the Legislative Session, we will go before the Interim Finance Committee.

MR. POWERS:

This is creating a new chapter in title 52, the trade practices act. It creates a misdemeanor with a fine as the penalty and also incorporates the civil and administrative remedies and penalties in the Deceptive Trade Practices Act, all of which can be enforced by the local district attorneys. On a State level, the Deceptive Trade Practices Act is enforced ... by the Bureau of Consumer Protection and the Attorney General.

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SENATOR CARLTON:

I want to be sure that if the refund-anticipation loan is processed electronically, the consumer gets a printed copy of the transaction.

MR. SCRUGGS:

Such loans are generally processed by consumers in their homes using commercial tax-preparation software.

SENATOR CARLTON MOVED TO AMEND AND DO PASS A.B. 340 WITH BOTH AMENDMENTS PRESENTED.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:

I will open the work session on A.B. 540.

[ASSEMBLY BILL 540 \(1st Reprint\)](#): Revises provisions governing certification of crane operators. (BDR 53-1341)

SCOTT YOUNG (Committee Policy Analyst):

We have a mock-up of the bill dated May 17 ([Exhibit J](#)), and there is a second mock-up presented by Assemblywoman Smith dated May 20 ([Exhibit K](#)).

ASSEMBLYWOMAN DEBBIE SMITH (Assembly District No. 30):

[\[Exhibit K\]](#) clarifies the discussion we had and the intent regarding the exemptions for the utility trucks. If you will look on the second page, in subsection 3, paragraph (a), that clarifies that issue. You've also been provided a packet of information [\[Exhibit L\]](#) that refers to that Occupational Safety & Health Administration [OSHA] section that hopefully is the detail that will extend some comfort level. [Subsection 3, paragraph (b)] refers to the exemption that I think was requested by Mr. Bacon, or the clarification of the exemption that has some of the items that were discussed.

This has a correction in it. The mock-up you had the other day referred to in paragraph (b) the American Society of Mechanical Engineers [ASME] standards. This really isn't the ASME standards; it's the American National Standards Institute [ANSI] standards. I clarified that in the mock-up that I did.

This really should clarify all of the concerns from the various parties. There is not an intent to bring the bucket trucks or the trucks with the man-baskets into this. There was never that intent, I'll put that on the record for legislative intent when the regulations are developed. I believe that the language in here also clarifies that.

SENATOR HARDY:

"It looks like you've got it covered. [Section 1, subsection 3] says, '... an electric or utility line truck that is regulated ... .' I assume that also means telecommunications [and] cable trucks as well."

ASSEMBLYWOMAN SMITH:

"Yes."

SENATOR HARDY:

"I'm getting two nods and one shake."

ASSEMBLYWOMAN SMITH:

"It is certainly the intent. I believe, looking back at those regulations, that we have covered that. It is the intent, if I can put that on the record —"

SENATOR HARDY:

"To exclude telecommunications vehicles, cable vehicles, any of those kinds of boom — okay. I just need to make sure that's clear."

ASSEMBLYWOMAN SMITH:

"And certainly, the trucks with the man-baskets and the buckets on them have never been part of this."

SENATOR HARDY:

"I just need to make sure that's very clear, and if we need to further clarify that, Mr. Chairman, that's my only — that's my last remaining question."



ROBERT A. OSTROVSKY (Cox Communications):

We had proposed an amendment to the bill's sponsor which was rejected. Let me tell you what our concerns are. Our concerns are that in the mock-up, which I just have seen, section 1, subsection 3, paragraph (b) talks about lifting devices covered by certain standards of the American National Standards Institute. Two problems: One, those change; and two, those are proprietary. ... We have tried to get those standards yesterday and today, and we have seen some copies of some, but in fact ... the Department of Industrial Relations has them, but they can't legally give them to us. We have to buy them. We have some concerns about putting into the statute by reference a proprietary document which then may or may not define the trucks we're using.

We have an amendment that does that, but the bill's sponsor has some concerns, as we understand, about that amendment because it specifies a height which is more than the bill's sponsor is willing to accept. We have proposed an amendment that would have exempted height and boom length capacity less than 50 feet for the purposes of installing and maintaining and constructing and repairing utilities, and then used the definition of a utility found in NRS 354.598817, which is actually language regarding franchise fees, but it's the part of the statute that combines electric, gas, telephone and cable companies. That's a little point of dispute.

SENATOR HARDY:

"Why is a reference to height so important, if you exclude everything else? It sounds like it's pretty much a catch-all. If the reference to height is the deal-killer —"

MR. OSTROVSKY:

"If you just exempted the industry, that's fine. I think the bill's sponsor could speak to that. I think she is probably opposed to that."

ASSEMBLYWOMAN SMITH:

My opposition was to extending the boom length. As you heard in our original testimony and you saw in some of the pictures from the accidents that occurred, the boom length was an important issue to us that we tried to not go too far out on that. I have made

it, I think, really clear on the record that there was not an intention to capture the utility trucks that we are referencing here that have the man-baskets and the buckets on them. The idea of putting in the ANSI standards was not my idea to begin with. That was an amendment that was brought by someone else. I understand that those are proprietary documents, although it's my understanding that the owner could have released ... 10 percent of the information, which that could have been done. It was documented in an e-mail that I saw from Mr. Wiles representing OSHA that in fact those standards do exclude this type of truck.

SENATOR HARDY:

"Let me get Mr. Ostrovsky to read his proposed amendment one more time, taking out the reference to height. Let's see how that sounds."

MR. OSTROVSKY:

"You could just exempt utility vehicles, and then [say], 'For the purposes of this section, utility vehicles shall be defined by the provisions of NRS 354.598817.' ..."

SENATOR HARDY:

"... The electric or utility line trucks are under a different OSHA regulation, so they're taken care of. You think that completely takes care of the concern?"

MR. OSTROVSKY:

"It does take care of our concern, and it takes care of, I think, part of the power company's concern, but I think the power company that's at the table has issues somewhat separate from that."

CHAIR TOWNSEND:

"Before we debate each other, let's make sure Ms. Stokey gets on the record and find out her concerns."

JUDY STOKEY (Nevada Power Company; Sierra Pacific Power Company):

Actually, we're okay with this language. We did work with the sponsor from the very beginning of this bill, and our concerns were addressed. We were not looking for a complete exemption of every single truck or crane that we use because of the safety issues that were raised. We do extensive training on all of our trucks, and it's

something that our workers do every day. We have no problem having additional training for the extremely large cranes that we use at our power plants.

SCOTT M. CRAIGIE (Sprint):

"... The area where we have had a problem ... [is] in subsection 3, paragraph (b) [of [Exhibit K](#)], where ... the do-not-apply language applies to references that are federal regs ... that are subject to change."

CHAIR TOWNSEND:

"Can't we just take out all utilities and see how well we do, and then if we have a problem, we can deal with them next time?"

MR. CRAIGIE:

"Yes."

CHAIR TOWNSEND:

"Because I'll tell you, no one is more regulated. An awful lot of these guys are under bargaining agreements. These guys have enough problems."

ASSEMBLYWOMAN SMITH:

I will also tell you that when I talked to the representative from the national crane certifying organization who you heard from in testimony, he said the very same thing. He said of all of the industries, the utility companies provide great training; they're really on top of this. So he confirmed that as well. And again, this item (b) was never my idea to begin with. This came from someone else.

CHAIR TOWNSEND:

"... Is that all right, Mr. Ostrovsky?"

MR. OSTROVSKY:

"Yes ... if we could just be taken out ... "

CHAIR TOWNSEND:

"We're already regulated under [NRS] 704."

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MR. OSTROVSKY:

"By the Public Utilities Commission [of Nevada], by franchise agreements, by local governments, lots of things."

CHAIR TOWNSEND:

There's a lot of things. I'm not trying to be contentious, but we could ... wordsmith this to death, which I don't believe is your intention. Your intention is to get to the big stuff. We already have a lot of regulation on these guys. If this becomes a problem in the next 18 months, we'll come back and deal with those that are exempted under this proposal. I think that deals with people's problems and gets us focused. ...

SENATOR HARDY:

... Let me just say that I appreciate [Assemblywoman] Smith working – and this is an important thing. I think it was Senator Carlton that mentioned ... you look at these cranes that are up on the side of these buildings, and you think the guy does not necessarily have any training. I'm sure in most cases he does, but that's a little bit frightening. I appreciate your willingness not to want to sweep everything [under the rug].

SENATOR HARDY MOVED TO AMEND AND DO PASS A.B. 540 WITH AMENDMENT FROM ASSEMBLYWOMAN SMITH AND AMENDMENT SUGGESTED BY MR. OSTROVSKY.

SENATOR LEE SECONDED THE MOTION.

MR. POWERS:

"Just so we're certain, on the mock-up prepared by [Assemblywoman] Smith, we are removing all of subsection 3, lines 11 through 15, and replacing them only with an exemption for the utilities."

CHAIR TOWNSEND:

"It would read something [like] Mr. Ostrovsky's [language], where the provisions of this section do not apply to those regulated under, or defined under, utility in the statute."

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MR. OSTROVSKY:

"That statute would be NRS 354.598817. That's the one that sweeps in gas, electric and telephone cable. There's a different definition of utilities found elsewhere in statute."

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR TOWNSEND:

I will open the work session on A.B. 66.

**ASSEMBLY BILL 66 (1st Reprint)**: Requires reporting of certain gifts and other economic benefits provided by wholesalers or manufacturers of drugs. (BDR 18-562)

CHAIR TOWNSEND:

We have an amended mock-up of the bill (Exhibit M) prepared by Assemblyman Conklin.

SENATOR HECK:

The intent of the amendment was to increase the threshold of the reporting requirements.

In section 1, subsection 1 of Exhibit M, gifts with no direct patient benefit need not be reported. This would include items such as medical textbooks and medical models.

Section 1, subsection 1, paragraph (c) of Exhibit M raises the threshold amount of an individual item to \$100. This is consistent with the policies of both the American Medical Association and the Pharmaceutical Research and Manufacturers of America.

Section 1, subsection 1, paragraph (e) of Exhibit M allows the physician to be reimbursed when contracted for a speaking engagement. The pharmaceutical company would not be allowed to pay for other physicians to attend, but the person presenting the seminar should be reimbursed for providing the service.

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Section 1, subsection 2, paragraph (b) of [Exhibit M](#) removes the requirement that the physician's name has to be reported for every gift, unless in aggregate the physician accepts over \$1,000 worth of items from one vendor in a calendar year.

Section 2, subsection 1 of [Exhibit M](#) expressly states that the name of the prescribing practitioner is not to be released as part of the prescription. Mr. Powers confirms that the name of the physician is part of the prescription and thus not a public record.

CHAIR TOWNSEND:

Where are we with regard to gathering information regarding the prescribing patterns of licensees?

SENATOR HECK:

I believe that is covered under section 2, subsection 1.

SENATOR TIFFANY:

The purpose of this bill was to find out whether gifts from pharmaceutical companies were influencing the prescribing patterns of physicians, and whether this was driving up the cost of health care. I do not believe a report is the way to get to this issue.

CHAIR TOWNSEND:

Section 1 of the bill is well intended, but it is unnecessary. I have a lot of confidence in the integrity of the practitioners of this State. I support section 2 of this bill, but I will not vote in favor of the bill with section 1 in it.

MR. POWERS:

"I'd like to add that since section 2 is clarifying language, I suggest the Committee in the amendment make that effective on passage and approval, whereas the other section ... is still January 1, 2006."

SENATOR CARLTON:

I am not uncomfortable with section 1. This section gathers information only. If there is a problem, we need to know.

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SENATOR LEE MOVED TO AMEND AND DO PASS A.B. 66 AS AMENDED IN EXHIBIT M AND WITH SECTION 2 EFFECTIVE ON PASSAGE AND APPROVAL.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS TOWNSEND, HARDY, TIFFANY, AND SCHNEIDER VOTED NO.)

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SENATOR SCHNEIDER:

I would recommend we add a sunset clause to section 1, bringing the information gathering to a close in February 2007 so the Committee can evaluate the data at the next Legislative Session.

MR. POWERS:

"Section 1 would become effective on January 1, 2006, and expire by limitation on February 1, 2007. Section 2 would become effective on passage and approval and would not expire by limitation."

SENATOR CARLTON MOVED TO AMEND AND DO PASS A.B. 66 AS AMENDED IN EXHIBIT M WITH A SUNSET CLAUSE IN SECTION 1 OF FEBRUARY 1, 2007, AND WITH SECTION 2 EFFECTIVE ON PASSAGE AND APPROVAL.

SENATOR LEE SECONDED THE MOTION.

CHAIR TOWNSEND:

Section 1, subsection 6 of A.B. 66 states that the pharmaceutical company will pay a civil penalty of \$10,000 for failing to file the report as required. That penalty is excessive.

SENATOR SCHNEIDER:

I recommend we delete that section. The report is coming back to this Committee.

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MR. POWERS:

"In subsection 5 of the bill, on the mock-up, page 2, line 26 – right now, the information is set to come back to the Director of the Legislative Counsel Bureau to be distributed to all Legislators. ... Unless we want it directed just to the members of the two Commerce and Labor committees."

SENATOR CARLTON WITHDREW HER PREVIOUS MOTION ON A.B. 66.

SENATOR LEE WITHDREW HIS SECOND.

\* \* \* \* \*

SENATOR CARLTON MOVED TO AMEND AND DO PASS A.B. 66 AS AMENDED IN EXHIBIT M WITH A SUNSET CLAUSE IN SECTION 1 OF FEBRUARY 1, 2007, DELETING THE FINING MECHANISM, AND WITH SECTION 2 EFFECTIVE ON PASSAGE AND APPROVAL.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HARDY AND TIFFANY VOTED NO.)

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CHAIR TOWNSEND:

I will reserve the right to vote against this bill on the Senate floor.

Is there any further comment? Hearing none, I will adjourn this meeting at 10:11 a.m.

RESPECTFULLY SUBMITTED:

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Lynn Hendricks,  
Committee Secretary

APPROVED BY:

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Senator Randolph J. Townsend, Chair

DATE: \_\_\_\_\_