

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-third Session
May 10, 2005**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 8 a.m. on Tuesday, May 10, 2005, in Room 2149 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:

Senator Mark E. Amodei, Chair
Senator Mike McGinness
Senator Dennis Nolan
Senator Valerie Wiener
Senator Terry Care
Senator Steven Horsford

COMMITTEE MEMBERS ABSENT:

Senator Maurice E. Washington, Vice Chair (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Joe Hardy, Assembly District No. 20
Assemblywoman Kathy A. McClain, Assembly District No. 15

STAFF MEMBERS PRESENT:

Nicolas Anthony, Committee Policy Analyst
Bradley Wilkinson, Committee Counsel
Ellie West, Committee Secretary

OTHERS PRESENT:

Buffy G. Martin, Government Relations Director, American Cancer Society
Jim Avance, Nevada Retail Gaming Association
Alfredo Alonso, R.J. Reynolds Tobacco Holdings, Reynolds American, Incorporated
George A. Ross, Phillip Morris USA, Incorporated, Altria Group, Incorporated; Nevada Subcontractors Association; Coalition for Fairness in Construction
Anthony Bandiero, Nevada Petroleum Marketers and Convenience Store Association
Margi A. Grein, Executive Officer, State Contractors' Board
Robert L. Crowell, Nevada Trial Lawyers Association

Chair Amodei said Assemblyman Hardy was here to present Assembly Bill (A.B.) 118.

ASSEMBLY BILL 118: Revises provisions governing smoking of tobacco in certain places. (BDR 15-807)

Assemblyman Joe Hardy, Assembly District No. 20, testified in support of A.B. 118 and stated the bill precluded smoking in video arcades and child care facilities, which were defined as establishments caring for five or more children. Chair Amodei asked if this bill was the condensed version of a bill from the last Session. Assemblyman Hardy replied in the affirmative.

Assemblywoman Kathy A. McClain, Assembly District No. 15, testified A.B. 118 was recommended by the Task Force for the Fund for a Healthy Nevada. She said it encouraged not smoking and was a good bill.

Buffy G. Martin, Government Relations Director, American Cancer Society, said she also spoke on behalf of the American Lung Association, the American Heart Association and the Nevada Tobacco Prevention Coalition. She read from her written testimony (Exhibit C). The groups supported the intent of A.B. 118 that created measures to protect Nevada's children from the dangers of second-hand smoke. She pointed out asthma in children was exacerbated by second-hand

smoke. Although Ms. Martin's groups supported the bill, they would like it to go further toward protecting children.

Jim Avance, Nevada Retail Gaming Association, suggested a motion to "do pass" on A.B. 118. Chair Amodei said the Committee lacked a quorum.

Chair Amodei closed the hearing on A.B. 118 and opened the hearing on A.B. 486.

ASSEMBLY BILL 486: Makes various changes to provisions governing provision of bond in certain civil actions concerning manufacturers of tobacco products. (BDR 2-1375)

Alfredo Alonso, R.J. Reynolds Tobacco Holdings, Reynolds American, Incorporated, said A.B. 486 was an extension of the appeal bond cap placed two sessions ago regarding tobacco products. He said if you were in the middle of a lawsuit and the tobacco company lost, anyone, for example a convenience store owner, who was also a party of that suit would not fall under the appeal bond cap. This bill extended the previous bill, A.B. 576 of the 71st Session, to apply to the remaining parties, so he favored passage of the bill.

George A. Ross, Phillip Morris USA, Incorporated, Altria Group, Incorporated, testified his group was in favor of A.B. 486.

Anthony Bandiero, Nevada Petroleum Marketers and Convenience Store Association, testified in support of A.B. 486.

Chair Amodei closed the hearing on A.B. 486 and opened the hearing on A.B. 537.

ASSEMBLY BILL 537 (1st Reprint): Revises provisions concerning submittal of certain questions and disputes to State Contractors' Board. (BDR 3-294)

Mr. Ross, Nevada Subcontractors Association; Coalition for Fairness in Construction, testified the contractors tried to reform the construction-defect litigation environment in the 2003 Session. The bill contained the right for the contractor or subcontractor to repair an alleged defect prior to litigation. A key

part of that bill was a section with the words "and/or." The intent was for a homeowner to avoid hiring an attorney or going to court to get his or her house repaired. The intent was also to establish an informal, friendly process, whereby a homeowner called the State Contractors' Board and someone came over to review the complaint. The Board determined whether there was a valid problem the contractor needed to fix. The Board held the license for the contractor, so it could influence the contractor to correct the work. In some cases, the problem was already fixed by the contractor, but the homeowner needed reassurance it was done correctly. That was why the State Contractors' Board was chosen to deal with those issues as an intermediary, he said.

This process was designed to prevent unnecessary litigation that was costly and could take years, Mr. Ross said. What ended up happening was not the simple, friendly solution they had envisioned and intended, but a complex, difficult, intimidating experience often causing legal problems due to the words "and/or." They had intended the exact opposite to happen with the passage of S.B. No. 241 of the 72nd Session, and A.B. 537 would rectify the problem.

Chair Amodei said he interpreted A.B. 537 with the wording in the bill to say, "I can go complain to the State Contractors' Board by myself, now."

Margi A. Grein, Executive Officer, State Contractors' Board, said Chair Amodei was correct. She supported the bill with the change requested and submitted a packet ([Exhibit D](#)), which consisted of letters she had written regarding the homeowners' dispute process and a proposed amendment to the *Nevada Administrative Code* (NAC) chapter 624.

Senator Horsford asked for clarification of the intent and the effect of section 1, subsection 5 of A.B. 537. Chair Amodei asked Bradley Wilkinson, Committee Counsel, for clarification. Mr. Wilkinson explained the effect provided the court would not stay or delay the proceedings while the State Contractors' Board considered the issue. He said perhaps Mr. Ross or Ms. Grein could explain why that provision was included in the bill.

Robert L. Crowell, Nevada Trial Lawyers Association, testified the Association agreed with the spirit of A.B. 537. He answered Senator Horsford's question,

and stated either remedy could be pursued by a homeowner. He said a homeowner could not unilaterally be taken to the Contractors' Board and precluded from exercising his other legal rights. He concluded section 5 was designed to achieve that goal.

Chair Amodei closed the hearing on A.B. 537.

SENATOR HORSFORD MOVED TO DO PASS A.B. 537.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

Chair Amodei asked the Committee if they wished to vote on the remaining two bills. He asked for the pleasure of the Committee on A.B. 486.

SENATOR MCGINNESS MOVED TO DO PASS A.B. 486.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

Chair Amodei asked Senator Care if he would manage A.B. 486 on the Senate Floor, and Senator Care agreed. Chair Amodei then asked for a motion on A.B. 118.

SENATOR WIENER MOVED TO DO PASS A.B. 118.

SENATOR HORSFORD SECONDED THE MOTION.

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THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR
THE VOTE.)

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Chair Amodei adjourned the meeting at 8:25 a.m.

RESPECTFULLY SUBMITTED:

Ellie West,
Committee Secretary

APPROVED BY:

Senator Mark E. Amodei, Chair

DATE: _____