

**MINUTES OF THE
SENATE COMMITTEE ON HUMAN RESOURCES AND EDUCATION**

**Seventy-fourth Session
April 18, 2007**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 2:29 p.m. on Wednesday, April 18, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 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 in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Maurice E. Washington, Chair
Senator Barbara K. Cegavske, Vice Chair
Senator Dennis Nolan
Senator Joseph J. Heck
Senator Valerie Wiener
Senator Steven A. Horsford
Senator Joyce Woodhouse

GUEST LEGISLATORS PRESENT:

Senator Dina Titus, Clark County Senatorial District No. 7
Assemblyman Moises Denis, Assembly District No. 28
Assemblywoman Heidi S. Gansert, Assembly District No. 25

STAFF MEMBERS PRESENT:

Marsheilah D. Lyons, Committee Policy Analyst
Joe McCoy, Committee Policy Analyst
Sara Partida, Committee Counsel
Patricia Vardakis, Committee Secretary

OTHERS PRESENT:

Trudy A. Larson, M.D., University of Nevada School of Medicine
Lawrence P. Matheis, Nevada State Medical Association

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Mark Kemberling, Senior Deputy Attorney General, Office of the Attorney General
Catherine Cortez Masto, Attorney General, Office of the Attorney General
Mary F. Lau, Retail Association of Nevada
Tom Clark, Meth Community Response Alliance
P. Michael Murphy, Coroner, Clark County
Danny Coyle, State of Nevada Employees Association; American Federation of State County and Municipal Employees Retiree Chapter 4041

CHAIR WASHINGTON:

We will open the hearing on Assembly Bill (A.B.) 75.

ASSEMBLY BILL 75 (1st Reprint): Revises the provisions governing use of money in the Anatomical Gift Account. (BDR 40-1031)

ASSEMBLYWOMAN HEIDI S. GANSERT (Assembly District No. 25):

Assembly Bill 75 is seeking to increase the amount of funds that can be used for administration, raising the amount from 5 percent to 20 percent. The point of the Organ and Tissue Donor Taskforce is to get more people to sign up to donate their organs.

TRUDY A. LARSON, M.D. (University of Nevada School of Medicine):

The Anatomical Gift Account, also known as the "gift of life account," was established by the *Nevada Revised Statute* (NRS) 460.150 to support education and to advance and increase the number of individuals signing up to donate organs as well as the awareness and importance of organ donation. This is particularly true for Nevada which is growing at a rapid rate. This bill covers the establishment of the registry and the fund administers the registry in addition to supporting education.

The Nevada School of Medicine is here to ask that we be permitted to use up to 20 percent of the Anatomical Gift Account. We have an administrator who has worked for the last year. I was able to obtain a grant to do an outreach program. As part of that grant, we were able to pay the administrator's salary. This position has been invaluable and necessary to be able to respond to the education requests, to do the DMV education and handle the other components of this program.

Currently, the Anatomical Gift Account comes from the dollar or more that people donate when they renew their driver's license and from the sale of the Organ Donor License Plates. That fund is receiving approximately \$17,000 a quarter. Presently, there is \$135,000 in the account. The expenses on a regular basis are for our educational Website and for the donor registry which amounts to approximately \$20,000 a year. To this would be added an administrative function and would be self-generating.

ASSEMBLYWOMAN GANSERT:

The 20 percent seemed a high amount, but to do the outreach and education takes administration and their account is approximately \$70,000 a year. I am supportive of the amount because 20 percent of \$70,000 is not unreasonable.

SENATOR WIENER:

What was changed from the original bill?

ASSEMBLYWOMAN GANSERT:

We needed to come up with what the percentage was based on. We added the average balance of the account for the immediate preceding year on page 2, lines 6 and 7 of A.B. 75. We needed to define the time period.

LAWRENCE P. MATHEIS (Nevada State Medical Association):

On behalf of the Nevada Organ and Tissue Donor Taskforce which is co-chaired by First Lady Dawn Gibbons and former Attorney General Frankie Sue Del Papa, we support A.B. 75. We have come a long way with the voluntary effort. We have tried to make it more professional, and moving the program to the Nevada School of Medicine was a step in the right direction. This program needs to be integrated into our medical care infrastructure.

CHAIR WASHINGTON:

The chair will entertain a motion on A.B. 75.

SENATOR WIENER MOVED TO DO PASS A.B. 75.

SENATOR HECK SECONDED THE MOTION.

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

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CHAIR WASHINGTON:
We will open the hearing on A.B. 68.

ASSEMBLY BILL 68 (1st Reprint): Revises provisions governing the operation of certain medical and care facilities and agencies. (BDR 40-505)

MARK KEMBERLING (Senior Deputy Attorney General, Office of the Attorney General):

I am here in support of A.B. 68. It is a bill that adds to the existing NRS 449.188. Additional crimes when added to the list of convictions in the NRS would prohibit certain types of health care employees and licensees from being able to work in certain types of health care facilities. I have prepared my written testimony and a letter from Margaret A. McConnell, Chair of the Nevada State Board of Examiners for Administrators of Facilities for Long-Term Care supporting the proposed amendments (Exhibit C). As it presently reads, there is a list of offenses in NRS 449.188 which, if a facility operator or owner has been convicted of one of the offenses, would make them unable to obtain a license to operate the facility. If an employee of one of those facilities is convicted of a listed offense, that facility would be unable to maintain its license so long as that convicted person is employed. This bill adds to that list of offenses two primary areas of crime which are Medicaid fraud offenses and abuse and neglect against the elderly or vulnerable persons. It also adds similar criminal offenses that may have occurred in other states. This would prohibit someone who was convicted in another state from coming into Nevada and applying for a license or employment in a licensed facility.

SENATOR CEGAVSKE:
If a person is employed at a facility and commits any of these violations, is the facility responsible?

MR. KEMBERLING:
The statute is overseen or enforced by the licensing agency. The Bureau of Licensure and Certification has jurisdiction over a licensed facility and a licensee

based on the NRS 449.188. Part of the existing statute states that if the licensee has continued to employ a person who has been convicted of one of the crimes listed above, then they can also take action against the licensee for continuing to employ the individual. The licensing agency does not have direct authority over some of the individuals. They only have authority over the licensees.

SENATOR CEGAVSKE:

If an employee is guilty of any of the crimes listed in the bill, then the facility gets punished, not the person.

MR. KEMBERLING:

Correct.

SENATOR CEGAVSKE:

I have a problem with that language because the person who committed the crime should be punished. I can understand if they hire someone knowing that person had been previously guilty, but if this is a first offense for that person, then why would the facility be penalized?

MR. KEMBERLING:

The licensee has an obligation to conduct background checks on its applicants. It is a continuing obligation.

SENATOR CEGAVSKE:

I do not have a problem with that responsibility.

MR. KEMBERLING:

When new information is received, the licensee is expected to take corrective action with the employee. The employee applications and background checks are done at the time of initial employment and periodically thereafter. I cannot speak to all of the safeguards that are enacted through the Bureau of Licensure and Certification. There are ways in which that regulatory body will check personnel records of licensees and bring potential problems to the attention of the employer. At that point, the employer has the option of making corrections and taking corrective action. If the employer chooses not to take any action, then the action against the employer would go forward.

SENATOR HECK:

There should be an amendment to line 36, on page 2 of A.B. 68, stating that if the licensee continues to employ the person who has been convicted of a crime after the licensee has been notified by the licensing agency, then the licensee is held liable also.

CHAIR WASHINGTON:

I echo those sentiments. We need to confer with the parties and draft language that will take the liability off the licensee, if the employee has committed an offense.

CHAIR WASHINGTON:

We will close the hearing on A.B. 68 and open the hearing on A.B. 148.

ASSEMBLY BILL 148 (1st Reprint): Enacts provisions governing the sale of products containing materials that are used in the manufacture of methamphetamine and other controlled substances. (BDR 40-512)

CATHERINE CORTEZ MASTO (Attorney General, Office of the Attorney General):

Methamphetamine is a costly problem that places a large toll on communities, families, on our State and local agencies. According to the federal Substance Abuse and Mental Health Services Administration, 40,000 Nevadans use methamphetamine. This number is continually increasing. This addiction increased 58 percent between 1995 and 2005. Nevada is ranked number 1 for methamphetamine use per capita in the nation in 3 categories: the number of people who use methamphetamine in their lifetime; the number who have used the drug in the past year and the number who have used it in the last 30 days.

Nevada's children are at risk of becoming methamphetamine users. In 2005, Washoe County School District's Youth Risk Behavior Survey found a strong correlation between methamphetamine use and the age of the first use of alcohol and marijuana. Methamphetamine impacts our State agencies. It has been stated that more than half of all criminal activity can be related to the use of methamphetamine. Our current prison population stands at 12,800 inmates and 85 percent have an addiction problem. Of that population, 40 percent of the men and 77 percent of the women admit that methamphetamine is their drug of choice.

The Governor created the Methamphetamine Working Group. Part of the group looked at various areas involving methamphetamine, such as treatment, education, prevention and legislation. In the preliminary report, the group voted to support a number of pieces of legislation. Assembly Bill 148 places restrictions on the sale and/or purchase of ephedrine and pseudoephedrine, the main precursor ingredients for the manufacturing of methamphetamine. This legislation requires the seller of products containing these ingredients to place them in a locked case, cabinet or behind a store counter. This would restrict the public's access to them. Assembly Bill 148 limits the amount of ephedrine, pseudoephedrine or other precursors that can be purchased by a person to 3.6 grams within a calendar day or not more than 9 grams during any 30-day period.

The bill requires the seller to maintain a logbook. The logbook is used to record the name of the products sold; the quantity sold, the name and address of the person purchasing the product and the date and time of the sale. The purchaser is required to present photo identification that has been issued by the U.S. government or the State. This logbook must contain a notice to the purchaser that entry of false information will subject that person to criminal penalties. Each logbook entry must be maintained by the retail distributor for two years. The distributor cannot share any information from the logbook unless it is shared to ensure compliance with this statute. If law enforcement requests the logbook information, the distributor must disclose it.

MS. MASTO:

A retail distributor under this statute is subject to civil penalties of up to \$250,000 for violating any of the provisions relating to this storage of the product, the quantity sold or the maintenance of the logbook. In addition, any person who violates the provisions relating to the purchase amount is subject to civil and criminal penalties. If a person enters false information into the logbook this act constitutes a category D felony and is subject to a \$250,000 fine.

Assembly Bill 148 is one step in the war against the manufacture and use of methamphetamine in this State. It is an important step because it places restrictions at the beginning of the manufacturing process. If we make it harder for individuals to purchase the products necessary to make methamphetamine we will see a reduction in the drug being manufactured in our State and sold on the street.

CHAIR WASHINGTON:

Section 9 of the bill addresses most of the penalties. What is the difference between Assembly Bill 148 and Senate Bill (S.B.) 112 concerning civil and criminal penalties?

SENATE BILL 112: Enacts provisions governing the sale of products containing materials that are used in the manufacture of methamphetamine and other controlled substances. (BDR 40-27)

MS. MASTO:

In A.B. 148 there are civil penalties against the retailer but no criminal penalties. If you look at section 9 of A.B. 148, there is a provision for a habitual criminal penalty against a retailer. If the retailer has been ordered two or more times or has violated and has two prior civil penalties or two prior convictions, then he is subject to civil and criminal penalties. We previously had a criminal provision against a retailer but it was amended to a civil penalty. Senator Titus was working with the retailers, but I have not reviewed the amendments for S.B. 112.

SENATOR CEGAVSKE:

On page 7, lines 5 through 8 of S.B. 112 there is a \$25,000 penalty for each violation. What was the reasoning behind the \$250,000 penalty? Is this penalty for the store or the clerk?

MS. MASTO:

Assembly Bill 148 mirrors the federal Combat Methamphetamine Epidemic Act of 2005. The \$250,000 is similar to the federal law. We have defined the retail distributor. If a retail distributor violates any of the three sections such as the logbook, selling of the drug products or the locking up of the drug products, they would be subject to that civil penalty.

SENATOR CEGAVSKE:

Who did you say was the supplier?

MS. MASTO:

The retail distributor would be subject to the \$250,000 fine. There are provisions in A.B. 148 that the purchaser could also be subject to the civil and criminal penalties with a fine.

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SENATOR CEGAVSKE:
Is there any time served?

Ms. MASTO:
No.

SENATOR CEGAVSKE:
On page 5, line 23, on page 5 of A.B. 148, it addresses a category D felony. Is there a fine?

Ms. MASTO:
Yes.

SENATOR CEGAVSKE:
The language on page 5, lines 14 through 20 addresses two or more prior convictions then it becomes a D felony. What is the difference between those two?

Ms. MASTO:
This is the criminal penalty against the purchaser. The purchaser is subject to criminal and civil penalties.

SENATOR CEGAVSKE:
They must have two or more prior convictions for the offense to be considered a felony. To what would the first conviction be subject?

Ms. MASTO:
A purchaser could be subject to both civil and criminal penalties. The first offense would be a misdemeanor and then it would be successive depending on how many offenses followed. We could also bring a civil action against the purchaser for the \$250,000 fine.

CHAIR WASHINGTON:
I would like our Committee Counsel to outline the differences between A.B. 148 and S.B. 112.

SARA PARTIDA (Committee Counsel):
The two bills, A.B. 148 and S.B. 112 were identical at the onset. This Committee has adopted several amendments to S.B. 112. One of changes made

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to S.B. 112 was to change any 24-hour period to any calendar day. This is also in A.B. 148. On page 3, lines 39 through 43 of S.B. 112, there was a significant change requiring that the logbook must include the notice which is required by federal regulations. In section 9 of S.B. 112, all of the criminal penalties were removed; therefore, only the civil penalties would apply.

SENATOR WIENER:

Based on a suggestion by the Retail Association of Nevada, did we put in a generic description rather than the specific ingredients for the future?

MARY F. LAU (Retail Association of Nevada):

We matched the description to the Drug Enforcement Administration (DEA).

SENATOR HECK:

The Committee amended the language in S.B. 112 to any 24-hour period and in A.B. 148, it states any calendar day. There needs to be an agreement on that issue. On page 3, lines 10 through 14 of A.B. 148 there are exceptions made for products packaged in blister packs and unit dose packs which is not in S.B. 112.

SENATOR CEGAVSKE:

One of the concerns was it had to be 9 grams. Was that in S.B. 112?

SENATOR HECK:

The 9 grams is in both bills, which is the amount that can be purchased in a 30-day period.

SENATOR DINA TITUS (Clark County Senatorial District No. 7):

I would be agreeable to increasing the penalty from \$25,000 to \$250,000. The criminal penalty should be kept for the purchaser not for the retailer.

CHAIR WASHINGTON:

Senate Bill 112 did not address that issue.

SENATOR TITUS:

Was that added in the Assembly?

CHAIR WASHINGTON:

Yes.

SENATOR TITUS:

I would support adding that language to S.B. 112. Senator Heck, please repeat what you said about the blister packs.

SENATOR HECK:

In A.B. 148, on page 3, lines 5 through 14, the language addresses gel caps, blister packs or unit dose packages. It would allow more than the 3.6 grams to be sold if it is in a blister pack or unit dose.

SENATOR TITUS:

Do many of these products come in blister packs?

SENATOR HECK:

It was suggested that persons buying these products for illicit use would not take the time to open all the blister packs. When persons are high on methamphetamine, they have nothing better to do than sit and open the blister packs.

SENATOR TITUS:

I would support raising the fees to something comparable. I would support the penalties for the purchaser and would not support excluding the blister packs.

Ms. LAU:

Blister packs were addressed in the DEA language.

Ms. MASTO:

We did change the language to any calendar day versus any 24-hour day. The blister pack language is in A.B. 148 because it mirrors the Combat Methamphetamine Epidemic Act of 2005. Under Nevada rules in our pharmaceutical boards, blister packs are allowed and there is a limitation of no more than two-dosage units. We support S.B. 112. It is important that we stop the manufacture of the drug.

TOM CLARK (Methamphetamine Community Response Alliance):

These bills do not exactly mirror the Combat Methamphetamine Epidemic Act of 2005 but strengthen it, which is needed. We are here to support these measures.

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CHAIR WASHINGTON:

We will combine the bills. I will close the hearing on A.B. 148 and open the hearing on A.B. 294.

ASSEMBLY BILL 294 (1st Reprint): Revises provisions governing the testing of certain governmental employees who may have been exposed to a contagious disease while performing their official duties. (BDR 40-1274)

ASSEMBLYMAN MOISES DENIS (Assembly District No. 28):

Assembly Bill 294 adds the county coroner and State employees who are exposed to bodily fluids and contagious diseases expressed in the bill to request to be tested when the person causing the exposure is deceased. Hepatitis C and tuberculosis were diseases added to be tested. It allows for the disclosure of the test results to the person who is tested or the family of the deceased.

P. MICHAEL MURPHY (Coroner, Clark County):

It has always been a concern of first responders and government employees that are involved with individuals and their possibility for exposure to certain diseases and infections, and our ability to be able to provide that information when appropriate to those individuals. Assembly Bill 294 will allow us to do that in an appropriate manner while protecting all the confidentiality issues that are of concern to those that may be exposed or the individual that needs to be tested. This bill gives us the vehicle by allowing us to do that testing. We support A.B. 294 and encourage the bill's passage.

SENATOR NOLAN:

I am a sworn coroner investigator in reserve status with Clark County. This bill will not affect me any more than anyone else. I will be voting on the bill.

DANNY COYLE (State of Nevada Employees Association; American Federation of State County and Municipal Employees Retiree Chapter 4041):

We support A.B. 294.

CHAIR WASHINGTON:

I will entertain a motion on A.B. 294.

SENATOR HECK MOVED TO DO PASS A.B. 294.

SENATOR WIENER SECONDED THE MOTION.

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

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CHAIR WASHINGTON:

There being no further issues before us today, I will adjourn the meeting of the
Senate Committee on Human Resources and Education at 3:17 p.m.

RESPECTFULLY SUBMITTED:

Patricia Vardakis,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: _____