

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Sixth Session
March 14, 2011**

The Committee on Commerce and Labor was called to order by Chair Kelvin Atkinson at 1:36 p.m. on Monday, March 14, 2011, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Kelvin Atkinson, Chair
Assemblyman Marcus Conklin, Vice Chair
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblyman Richard (Skip) Daly
Assemblyman John Ellison
Assemblyman Ed A. Goedhart
Assemblyman Tom Grady
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman William C. Horne
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Kelly Kite
Assemblyman John Ocegüera
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Debbie Smith, Washoe County Assembly District
No. 30
Assemblyman Paul Aizley, Clark County Assembly District No. 41
Assemblyman Richard Carrillo, Clark County Assembly District
No. 18

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Committee Policy Analyst
Sara Partida, Committee Counsel
Andrew Diss, Committee Manager
Jordan Grow, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Adam Porath, Clinical Coordinator, Pharmacy Services, Renown Regional
Medical Center, Reno, Nevada
Lawrence Matheis, Executive Director, Nevada State Medical Association
Fred Hillerby, representing State Board of Pharmacy
Carolyn J. Cramer, General Counsel, State Board of Pharmacy
Renee Coffman, Dean, College of Pharmacy, University of Southern
Nevada
Patrick Sanderson, Private Citizen, Carson City, Nevada and representing
Laborers International Union Local 872 and Nevada Alliance of
Retired Americans
Michele De Fazio, Private Citizen, Las Vegas, Nevada
Karen Smith, Private Citizen, Las Vegas, Nevada
Ken Valentino, Private Citizen, Las Vegas, Nevada
Cheryl Wisecup, President, Global Indoor Health Network
George Flint, representing Reno Wedding Chapel Alliance and Select Legal
Brothels of Nevada
Peter Krueger, representing Nevada Petroleum Marketers and
Convenience Store Association
Constance Brooks, Senior Management Analyst, Office of the County
Manager, Clark County
John Cracchiolo, Executive Director, Nevada Catholic Conference
Tray Abney, representing Reno Sparks Chamber of Commerce
Lisa Foster, representing Nevada League of Cities and Municipalities
Lee Lawrence, Agriculturalist IV, Pest Control Licensing and Enforcement,
Division of Plant Industry, Department of Agriculture

Grady Jones, Pest Control Member, State Board of Agriculture
George Botta, Operations Manager, JS Pest Control, Las Vegas, Nevada
Kurt Trombetti, Owner, Enviro Safe Pest Control, Las Vegas, Nevada
Renny Ashleman, representing City of Henderson
Morgan Baumgartner, representing Nevada Resort Association
Dean Baker, representing Dean Baker Ranch
James R. Lawrence, Administrator and State Land Registrar, Division of
State Lands, Department of Conservation and Natural Resources
Edwin James, representing Carson Water Subconservancy District
Keith Lee, representing State Contractors' Board
Jack Mallory, representing International Union of Painters and Allied
Trades District Council 15 and Southern Nevada Building and
Construction Trades Council

Chair Atkinson:

[Roll was called, and there was a quorum present.] We have three bills today, and we will be taking them in order. We will open the hearing on Assembly Bill 199.

Assembly Bill 199: Revises provisions governing the practice of pharmacy.
(BDR 54-875)

**Assemblywoman Debbie Smith, Washoe County Assembly District
No. 30:**

I am here to introduce Assembly Bill 199. This bill was drafted at the request of Adam Porath. He will talk to you in detail about the concept of the bill and what we are hoping to accomplish with it. There is also an amendment to the bill.

Mr. Porath came to me several months ago as a pharmacist and as an individual who was interested in expanding a type of environment he works in as a pharmacist. As we move forward in health care reform and attempt to give more of our residents' access to health care, we need to constantly be looking at more creative ways to provide health care in reasonable areas with reasonable costs. The idea is for pharmacists to be able to work in a collaborative agreement with a physician, as they commonly do now within hospitals, but to be able to move that outside of the hospital walls for specific purposes.

Mr. Porath presented the original concept to me using the example of Coumadin, which is a blood-thinning drug that requires a lot of management. What they have done within the hospital environment is to allow, with an agreement between the physician and the pharmacist, the pharmacist to help

manage that patient's medication dosage through evaluation, lab tests, and so on. It often takes many approaches and a lot of work to keep that patient in the right situation with medication. The concept was to expand that possibility into a different environment. There has been a lot of discussion and a lot of work done on this, and the amendment will address that. I will turn this over to Adam Porath and let him talk in more detail about the concept and the conclusion they have come to on the amendment. I think it is a really good concept. When I talked to those involved when we first conceived this bill draft, there was broad and general support for the idea. It allows the people we serve to have reasonable access to the type of attention and care they need but under carefully constructed terms and in an environment that allows work between a pharmacist and a doctor.

Adam Porath, Clinical Coordinator, Pharmacy Services, Renown Regional Medical Center, Reno, Nevada:

I came up with this concept on behalf of the Nevada Society of Health-System Pharmacists. We were looking to expand the concept of the collaborative practice agreements that we have within the hospitals. When we came up with this concept for the outpatient anticoagulation service, we looked at the current law in Nevada. We were looking at different models for how we could roll out this service when we quickly realized this is a practice that could not happen outside of a hospital under the current constructs of Nevada law. Currently we can see outpatients if they come back into the hospital, but if we wanted to expand this for patient convenience to one of our ambulatory settings around the community, it would not be possible under Nevada law.

This proposed legislation would allow us to optimize our patients' medication regimens more in the ambulatory practice settings. I believe Nevada is highly underutilizing pharmacists. Pharmacists in California, Oregon, Idaho, Utah, and Arizona all have the ability to practice collaboratively outside of a hospital setting; in Nevada we do not. As the medication therapy experts on the health care team, I believe pharmacists are uniquely trained to provide optimal chronic disease therapy management, to improve patient outcomes and reduce hospital admissions. Several published studies have shown that when a pharmacist provides a direct patient care, it improves patient outcomes across several disease states. It has also been shown that if a patient is cared for by a team that includes a pharmacist, he has fewer hospital readmissions. This information is supported by local data from the facility where I work. As I mentioned, the outpatient anticoagulation service at Renown Regional Medical Center is a pharmacist-managed outpatient hospital service that is designed to help these patients manage these complicated blood-thinner medications, known as anticoagulants, upon their discharge from the hospital. We did an initial study looking at the first six months this clinic has been open

and compared that to historical control data of patients we have discharged. We found patients managed by the pharmacist-run service were 89 percent less likely to be readmitted to the hospital with a clotting complication. I think pharmacists have the potential to make a major impact, not only from the patient's perspective, but also from that of the hospital and the third party payer. I believe this legislation and the proposed amendment would allow for further realization of the benefits of collaborative pharmacy practice.

Chair Atkinson:

Do you know what the effect on the state will be?

Assemblywoman Smith:

We do not know exactly, but we do not believe there will be a large effect on the state. As you will see, the amendment deletes the language in the bill and replaces it with a much simpler version. I am sure there will be some regulation setting that needs to happen. The State Board of Pharmacy is here to testify on the bill too. I think they can answer the questions about necessary oversight. Beyond regulations, I do not perceive there will be much of an effect on the state, but we do not have a fiscal note yet.

Chair Atkinson:

Are there any questions from the Committee?

Assemblyman Hickey:

How are you going to address the concerns of physicians?

Assemblywoman Smith:

We have been talking with the Nevada State Medical Association throughout this process. Mr. Porath has done a commendable job of working with them and you will see the amendment being offered is from Larry Matheis, the Association's executive director. We have worked with them to make sure everyone is content with the language of the bill. This really will benefit the physician, the pharmacist, and ultimately the patient.

Lawrence Matheis, Executive Director, Nevada State Medical Association:

If you look into the existing language in section 9, the current collaboration agreements are done under written protocols and guidelines between a physician and a pharmacist in a medical facility. It seemed simpler to amend that part to allow for the collaboration to be extended following the release of the patient, with the physician and pharmacist agreeing on the protocols. As health care reforms go on, there are more extensions of hospital-based services into settings that do not require individual licensing. The amendment I am proposing ([Exhibit C](#)) first addresses the issue of where a licensed medical

facility or a hospital will have these outpatient units, which are a continuation of the facility, but not necessarily licensed. Whether or not the term “extension” is the best term for this I am not sure, but it was the best I could come up with. The second issue it addresses is when the hospitalization has ended but the course of treatment has not. This says these guidelines and protocols may be extended beyond a patient’s stay in the licensed medical facility if approved by the practitioner and the pharmacist to ensure continuity of treatment. These guidelines and protocols must be approved by the State Board of Pharmacy, which may adopt regulations as guidance. Much of the language that is in the initial draft of the bill is more appropriate as regulatory language if the Board needs that. This does make it clear that the State Board of Pharmacy has the ability to develop regulations regarding this.

Fred Hillerby, representing State Board of Pharmacy:

We are here to answer any question you may have of the State Board of Pharmacy.

Carolyn J. Cramer, General Counsel, State Board of Pharmacy:

We spoke with Mr. Porath about eight months ago when he brought this idea to us. We think it is a great idea and a nice, sound way to improve patient care. We have reviewed it and are supportive of it. It is not everything we want, but we will be able to work on some of those issues in regulation. We think this will be an advantage for Nevada patients.

Assemblywoman Carlton:

With the executive orders that have been in place for drafting regulations, are you comfortable that, should this bill pass, you would have the ability to draft these regulations and move forward on this?

Carolyn Cramer:

I believe that we would. We have not had any problems with the Governor’s Office. They have been supportive of our efforts with regards to the synthetic cannabinoids and other matters. They understand our purpose and what we are trying to accomplish.

Assemblywoman Carlton:

When you look at the sites where these collaborations are going to be located, will you have regulatory authority over those? Or will you regulate only the pharmacist and doctor?

Carolyn Cramer:

We would have regulatory authority over the pharmacist. When the drug is regulated under Chapter 454 of *Nevada Revised Statutes* (NRS), doctors have

direct prescribing authority. We do not have any oversight of that or doctors' offices. Our regulatory intervention would be strictly with a pharmacist.

Assemblywoman Carlton:

I am concerned that we have been moving towards health care at the retail pharmacy level, and I know this is much more complicated than that. I want a level of comfort in knowing where this care is actually going to be given and how it is going to be managed. Since you have no jurisdiction over that, I will wait for other witnesses.

Renee Coffman, Dean, College of Pharmacy, University of Southern Nevada:

I am testifying in support of A.B. 199 because I believe it clarifies and modernizes current provisions regarding collaborative practice agreements between physicians and pharmacists. Importantly, this bill recognizes the contemporary practice of medicine, and pharmacy is not necessarily bound to any particular facility or location. Today, advances such as telemedicine and electronic medical records mean that managing patients' diseases, and their medication therapies, need not necessarily take place in an institutional setting or even in a pharmacy. This is particularly significant for our traditionally underserved patients, either in economically challenged areas or geographically remote areas of our state.

Patrick Sanderson, Private Citizen, Carson City, Nevada:

I am speaking in favor of this bill. I have been on Coumadin for ten years. It is very hard to control. I have pulmonary thromboendarterectomy, which is my reason for using Coumadin. About two months ago my doctor decided that my blood was a little too thick and gave me a higher dosage. I did not have a chance to get back in to see him for three weeks, and in that time my blood got extremely thin. If I had gotten in an accident, I could have died very easily. I support whatever we can do to improve the way things are done. Doctors do not always know your body as well as you do. I would be happy with any kind of collaboration between pharmacists and doctors to improve this drug therapy.

Chair Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in favor of this bill? [There was no response.] Is there anyone wishing to testify in opposition to the bill? [There was no response.] Is there anyone neutral wishing to testify? [There was no response.]

Assemblywoman Smith:

I appreciate your attention this morning. I am sorry we had to start with an amendment, but I believe it really makes the bill much simpler.

Assemblywoman Carlton:

I was concerned about where these clinics would be located, but I feel comfortable they will not be located in a Walgreens or anything like that. I want to understand where these unlicensed outpatient facilities are. Whenever I hear unlicensed, my radar goes up. I need a level of comfort from you or Mr. Porath about what type of facilities we are talking about.

Assemblywoman Smith:

We will get those answers to you soon. This idea focuses on a very particular type of treatment with these collaborative agreements. I want to reiterate that they have to have the collaborative agreement signed to do this, so there is an absolute interest from the doctor and the pharmacist to work together for this type of drug therapy. We are looking at a very specific kind of work that would take place in a very particular situation.

Chair Atkinson:

Are there any questions from the Committee? I see none. We will close the hearing on A.B. 199. The Committee will entertain a motion.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 199 WITH MR. MATHEIS'S AMENDMENT.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We have two Committee bills for introduction.

BDR 57-591—Revises provisions relating to the payment of the proceeds of any benefits under a life insurance policy. (Later introduced as [Assembly Bill 274](#).)

Chair Atkinson:

We will entertain a motion.

ASSEMBLYMAN CONKLIN MOVED TO INTRODUCE BDR 57-591.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

BDR 3-561—Revises provisions governing deficiencies existing after foreclosure sales. (Later introduced as [Assembly Bill 273](#).)

ASSEMBLYMAN CONKLIN MOVED TO INTRODUCE BDR 3-561.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Atkinson:

We will now open the hearing on [Assembly Bill 234](#).

[Assembly Bill 234](#): Revises provisions governing places of public accommodation. (BDR 54-301)

Assemblyman Paul Aizley, Clark County Assembly District No. 41:

[Read from a prepared statement ([Exhibit D](#)).]

Chair Atkinson:

Have you seen the amendment proposed by Mrs. De Fazio? Are you okay with this language?

Assemblyman Aizley:

I have seen the amendment. I think today will be the start of a long conversation about how we can accommodate people like Mrs. De Fazio. I have known many other people equally affected by various pesticides and chemicals in buildings. I have spoken with many of the opponents of the bill. There are clearly problems with the bill as written and with this amendment that need to be worked out. I would like this to be considered an opening of the topic. I think it is needed to respond to federal legislation.

Chair Atkinson:

I was thinking the same thing. There is language in the bill for population caps. Will that make this effective statewide or only in Clark County?

Assemblyman Aizley:

I think it will be statewide.

Sara Partida, Committee Counsel:

The Legal Division is working on a bill that would go through *Nevada Revised Statutes* (NRS) and make the adjustments that will be voted on later in the session. We are still using the old numbers, so that when we do change those numbers they will all be consistent.

Assemblywoman Kirkpatrick:

My concern is the definition of "public accommodations" offered in the bill. Also, as long as my children have been in school, officials have sent out notices to inform parents when they will be spraying pesticides, so you can keep your children home. There are many casinos that give notification as well. So what specific types of places are not giving this notification? I see it all over.

Why does the bill have such broad restrictions, including air fragrances? There are many restaurants that use those air freshener sprays. In Las Vegas, during the summer when it is 120 degrees outside, I see the benefit of air fresheners. It keeps places from smelling like a gym.

Assemblyman Aizley:

I think there are several places, schools included, that are already using some form of pest management. I do not think they spray the pesticides on Monday morning; they are more likely to do it on a Friday afternoon when the students are not there. We are concerned with more than just schools; it is every place you go in town where this can be a problem. Pest management in the rurals is a much different issue than in the larger cities, although there is overlap. I think the problem is broad. I think it needs to be addressed. I think people are addressing it. I think accommodations have to be made. I think the bill needs to be amended. I also think awareness is required, so that people with disabilities can live normal lives and travel about freely without worrying about the possibility of an attack, whether it is asthma, epilepsy, or any other ailment brought on by chemicals.

Assemblyman Ohrenschall:

Mr. Aizley, you mentioned studies about places that have adopted integrated pest management. Do those studies show that kids with asthma are doing better and having fewer attacks?

Assemblyman Aizley:

I do not have that information.

Assemblyman Grady:

You mentioned the rurals. Right now any farmer or business that deals with pesticides or herbicides goes through training and licensing procedures. Is this adding more to what they already have to go through? I know they have to take many precautions. There are limitations for using these chemicals around schools and even in the vicinity of roses. It is a difficult burden on them. Are we going to put more bureaucracy into what they have to do in order to conduct business?

Assemblyman Aizley:

I think the potential lawsuits will be expensive also. I think the likelihood of litigation is becoming more likely. I do not know the rural areas very well. I am not sure that spraying an agricultural field is a problem, because I do not picture children or senior citizens playing in those areas. I think they are separate. I think it is more a situation for confined buildings that you would go into in normal daily life.

Assemblyman Grady:

In my own community I can think of a number of instances of a senior citizen center located right next to an agriculture field, and the same with schools. They are being regulated right now. I do not disagree with what you are trying to do. I just do not want to see us overregulate businesses.

Assemblyman Ellison:

Do you have any data that shows how many people have been affected by these chemicals? Are you looking only at the school systems?

Assemblyman Aizley:

That is just one example. I would think there might be problems in assisted living places or anywhere that there are people with weakened immune systems.

Assemblyman Ellison:

Are there any amendments that are going to propose addressing only those areas you mentioned?

Assemblyman Aizley:

I think you will hear some very good suggestions for improving the bill from those who oppose it.

Assemblyman Ellison:

My concern is the data. I would really like to know how many people are affected and where they are typically located.

Assemblyman Goedhart:

Speaking as a farmer, I have used pesticides and herbicides. Most of the farming I do is organic, but I do have some conventional fields as well. I use these chemicals very minimally. I am required to have an applicator's license. There are dosage limitations. They cannot be used when there is wind above 60 miles per hour. I always follow the guidelines, and even then people as far as 15 miles away lodge complaints. Complaints are not raised only for personal health issues, but sometimes because they do not agree with the nature of your

business. These people will exploit anything they can in a legal setting to try to put you out of business. I do not want this to be so broad that people utilize these laws and regulations to pursue any type of vendetta.

Chair Atkinson:

Are there any questions from the Committee? I see none.

Michele De Fazio, Private Citizen, Las Vegas, Nevada:

I have a vested interest in this bill and my proposed amendment ([Exhibit E](#)), because I am permanently and irreversibly disabled with a chemically derived neurological disability. Some of the barriers I encounter are discussed in the bill and my amendment. I think my testimony will answer some of the questions that were posed to Assemblyman Aizley. As Assemblyman Aizley mentioned, there are two Department of Justice complaints filed against Las Vegas properties for Americans with Disabilities Act of 1990 (ADA) barrier issues. There will probably be two more filed within the next two weeks for failure to even address accommodating this increasing segment of the national population.

I am sure this Committee is going to hear from the industry how safe and well tested its products are considering that fragrances, air fresheners, and scent branding industries are basically unregulated and the research they have is from industry-related centers. Their centers assess individual ingredients, not their synergistic affects or barrier issues. Almost every ingredient carries a warning of neurological, dermal, respiratory, and ocular irritation in varying degrees. One very common ingredient is coumarin, which is a drug precursor to the anticoagulant warafin. So those who are being treated with warafin are being exposed through the dermis and the respiratory system to air fresheners that use coumarin. The public is not given full disclosure of the inert ingredients from pesticides, which at times are more toxic than the active ingredients. The barriers referenced in both the bill and the amendment are systemic throughout the state, affecting disabled residents and prohibiting disabled visitors from coming to the state because of said barriers. There is an increasing segment of the population in Nevada who are injured, disabled, or becoming disabled from environmental chemical exposures. Most of those who are completely disabled are homebound, and the public is not exposed to their plight. Nationally the numbers are 6 to 10 percent totally disabled, with 30 percent who are affected to varying degrees. They cannot obtain medical care because of the air fresheners used in a preponderance of medical offices and hospitals. Nor can they go somewhere as benign as a movie theater.

The amendment serves to expand the type of dispersal units the public is exposed to in public accommodations and which must be more clearly defined

in this bill. Some businesses just assume that using a can of air freshener or a wall plug-in is innocuous and does not fit the classification of a barrier. It is irrelevant how it is dispersed into the environment. Volatile organic compounds (VOCs) introduced into the ambient indoor environment are barriers. The Architectural and Transportation Barriers Compliance Board is an independent federal agency devoted to accessibility for people with disabilities. The Board is responsible for developing and maintaining accessibility guidelines to ensure new construction and altered buildings and facilities covered by the ADA and the Architectural Barrier Act of 1968 are accessible to, and useable by, people with disabilities. They have stated that exposure to fragrances can trigger asthma attacks, migraines, and aggravate sinus conditions. For those who are chemically sensitive, fragrance exposure can also cause irregular heartbeat, memory loss, confusion, fatigue, and neurological and vascular problems. In addition, some fragrance chemicals are implicated in causing cancer and/or damaging the liver, kidney, and central nervous system. Fragrance chemicals can enter the body via inhalation, skin absorption, or nasal passageways. The Centers for Disease Control, in an internal memo, has completely banned all the fragrances that are referenced in both the bill and the amendment, as they are problematic and create health and barrier issues. The American Lung Association has references that VOCs from fragrances are problematic to asthmatics.

Nevada should adopt the Compliance Board's recommendation regarding indoor air and environmental quality to promote places that prevent or reduce the contamination of indoor air, thereby contributing to a safe, healthy, productive, and comfortable environment for building occupants. The benefits may include the good health of occupants, the decrease in the spread of infectious disease, the protection of susceptible populations, the increased productivity of occupants, improved relationships, fewer complaints, less deterioration of buildings and equipment, reduced maintenance costs, and decreased liability.

Assemblywoman Carlton:

I want to make sure I understand this correctly. One of the biggest concerns is that there is not a comprehensive list of ingredients on a number of these products. So if you are susceptible to their effects, you would not know if that chemical is in that product. Is that one of the biggest concerns?

Michele De Fazio:

That is one of the concerns regarding pesticides, because the label requires that only the active ingredient be listed. Normally the active ingredient is only 2 to 3 percent of the total product. The rest is inert ingredients. The problem with the inert ingredients is they are usually chemicals like benzene, and other

chemicals that cause neurotoxic effects. Pesticides are designed to affect life systems.

Assemblywoman Carlton:

What about air fresheners?

Michele De Fazio:

Air fresheners, under the guise of proprietary blends, do not list what is included under fragrance. The Food and Drug Administration (FDA) has allowed a chemical called methylene chloride, which is banned right now, to be used in fragrances or air fresheners in a proprietary blend. People are not told about it. Coumarin is in air fresheners. So people who are on anticoagulants should not be exposed to dermal or inhalant effects of a blood thinner without their knowledge.

Assemblywoman Kirkpatrick:

Fragrances are listed on your amendment as something you want banned in places of public accommodation. Sometimes I am sensitive to people's perfume. What would the difference be walking through a place of public accommodation with someone wearing a lot of perfume as opposed to some of these air fresheners and pesticides that are used in public accommodations? Personally, I can be more affected by one person's perfume rather than a scent being sprayed through the air filters.

Michele De Fazio:

When a person walks by, based on general air currents, sooner or later that scent is going to disperse. When you have it constantly introduced through the ventilation system there is no abatement. So you are constantly exposed to it. What most of the public does not understand is that fragrances are not tested for safety, or are required to be, under federal law. They assume the manufacturer has tested the fragrances. If you go into a store, you will see that almost every product has a fragrance-free version. This is how widespread it is.

There is no reason for the introduction of an air freshener in a public facility, because all you have to do is increase the air exchanges. The prime example of this in Las Vegas is the Red Rock Hotel. Their air is fine. The perception of secondhand smoke is undetectable, and all they have done is increased the number of air exchanges. If they can do it, then the rest of the properties can too.

Karen Smith, Private Citizen, Las Vegas, Nevada:

I am here to urge you to pass A.B. 234. As a cocktail waitress in Las Vegas for over 15 years, I have suffered from the negative health consequences of

aromatic air fresheners. I am a nonsmoker who has developed asthma, migraines, and countless respiratory infections from poor indoor air quality. The use of air fresheners does not actually clean or freshen the air but instead adds extra chemicals to the air. The addition of these chemicals causes migraine headaches, vertigo, nausea, and breathing problems. I have witnessed all of these reactions to aromatic air fresheners among my coworkers. At least five other beverage employees I work with also have developed asthma, since working in the casino with aromatic air fresheners. For 14 years I wondered what was wrong with me. I have never smoked. I became a vegetarian in 1997. I watch what I eat. I do not eat junk food or drink sodas. I have cleaned up all my habits trying to get myself healthy. All the good habits I have did not pay off in my health, and I could not figure why.

A year ago I went to an extraordinary effort to find out exactly what was wrong with me, and why all the respiratory infections, asthma, bronchitis, and migraines were occurring. I traveled to the Mayo Clinic in Scottsdale, Arizona, to be tested. I knew there was a chance that whatever was making me sick was at work. I had to talk with in-house counsel and the casino safety director to get the material safety data sheet (MSDS) of the dishwasher chemicals. There was no MSDS for the air freshener; I had no idea that could cause my ailments. I ended up making three trips to the Mayo Clinic last spring, never expecting the casino's air freshener to be the culprit.

There were only five days that I worked and felt good in 2010; the rest of the time I felt awful. I took vacation in December of last year. I was rested and felt good at the start of 2011. I started the year off strong, clocking more hours at work in the month of January than I had for over seven years. On January 17 at about 10 p.m. the casino began pumping massive amounts of air fresheners through the vents. I had an asthma attack after my lunch hour. I tried to get one of my bosses to come and smell my section; they would not do it. On Tuesday I finally convinced someone from management to come and smell my section. That was January 18; the chemicals were pumping so high that the girl I relieved had a migraine also. The casino continued pumping the air freshener the entire day. I hung in there, had lunch, and felt a little better. After my lunch break, though, I got nauseous. Since that exposure to those chemicals there has not been one day I have worked with out having a migraine or nausea. I missed work for half of February. March is not shaping up too well either. Despite four rounds of antibiotics I still have the same sinus infection that started in January, around the time they pumped those chemicals so high. A couple of weeks ago I stumbled on the cure. I had been so sick at work I could not breathe. I told the security guard, and he noticed my face was gray/purple in color and I had a fever. He walked me outside the building, and

within a couple lung fulls of fresh air the fever disappeared, the color in my face came back, and I felt like a whole new person.

Most of the time, I recover on my days off and feel fine, only to return to work again and not feel well. Breathing these chemicals feels like there is a slab of concrete on my chest. I battle through work, like a soldier battles with everything he has, to my last breath. Two months ago I had never heard of aromatic air fresheners, but I have battled their effects for almost 15 years. This has cost me a lot of time and suffering, not to mention money in lost wages. Please do not let other casino workers continue to suffer the way I have. I implore you to accept the bill and its amendments for the sake of the health and welfare of the public.

Ken Valentino, Private Citizen, Las Vegas, Nevada:

I worked at the MGM Grand Hotel and Casino from December 1993 to October 2010. I was diagnosed with thyroid cancer in April 2010 and had my thyroid removed in June of that year. I was not aware of the problems caused by air fresheners until recently. There have been a lot of people who worked with me at that casino who also received a cancer diagnosis. From what I have read, many of the ingredients that are prevalent in these air fresheners can cause cancer. We have lost quite a few people in the last five to six years to cancer, and many of them had thyroid cancer. Some people complain every day, because as soon as they step inside the property their noses are running or they are having problems breathing. We always talked about what we believed was causing everyone to feel bad there. I believe there is a good chance that this could be a problem with the air freshener. I know they are dispersed every few minutes. At one point I was working close to a vent that was spraying these air fresheners. I got an eye irritation from it and bronchitis quite a few times. I never made the connection until recently. It seems to be a problem. I know I got cancer from it, and I have lost many of my friends from the MGM to cancer.

Cheryl Wisecup, President, Global Indoor Health Network:

I support this bill and the amendments. I am the President of the Global Indoor Health Network. We are a worldwide network of experts and laypersons who are uniting to promote healthy indoor environments in homes, schools, and businesses. We are growing rapidly. We currently have members throughout the United States and in six other countries. There are many factors that affect indoor air quality. You have heard several of those mentioned today by other speakers, so I will not go through that list again. In addition to the things that have been mentioned, there are molds, microtoxins, bacteria, and endotoxins in addition to radon, lead, asbestos, air fresheners, and pesticides.

I know you have been given some statistics. I heard recently that, at an international environmental science conference, a senior program officer from the Environmental Protection Agency (EPA) said that 50 percent of illnesses globally and 8.5 million deaths each year are caused by indoor air pollutants. We are talking about millions of illnesses. I know there have been comments made about how this is affecting schoolchildren and teachers. Another EPA report estimates that more than 50 percent of the schools in the United States have problems with poor indoor air quality. You can find additional information and details about this important topic through the American Academy of Environmental Medicine. They issued a position statement on chemical sensitivity. They refer to some statistics in that report too, such as there are 90,000 chemicals that are commonly circulating in the modern world and affecting the health of all of us. They state that chemical sensitivity is a very real chronic medical condition. We need to pay more attention to this to protect us and our children now and in the future. Mrs. De Fazio also mentioned the recent policy by the CDC regarding indoor environments. According to the CDC policy, they are not allowing incense, candles, diffusers, any type of fragrance-emitting devices, potpourri, plug-ins, spray air fresheners, or other fragrance deodorizers and odorizer products. They also specifically state that personal care products such as colognes, perfumes, and essential oils should not be applied at or near workstations, restrooms, or anywhere in the building. The CDC is encouraging employees to be as fragrance-free as possible. They say fragrance is not appropriate for professional work environments and the use of some products with fragrance may be detrimental to the health of workers.

From a personal standpoint, I am chemically sensitive. There are times when I feel relatively normal, but other times, especially if I am hit by certain exposures, I become very ill. In December I visited a large hotel here in Las Vegas. I immediately started noticing the effects of the air-freshening system. I was having trouble breathing, had a severe headache, and my eyes started to hurt. I did not stay in the hotel long, but I continued to feel ill for several days. I had a new reaction that I had never experienced before; I had a lot of fluid draining from one of my eyes for many hours. It was very scary, and I did report it to the hotel. I was concerned about my safety and that of the hotel workers and guests. I tried to get the MSDS, but they refused to give it to me. My doctor wanted to have that information so she could know what I was exposed to and figure out the best way to treat me. I continue to have effects from that visit.

From my standpoint, as the President of the Global Indoor Health Network, this bill ties in with our mission and vision. We would like to hold a conference later this year. I, of course, prefer to have it in Las Vegas, but currently there is

really no safe hotel for our members to hold the conference. From your standpoint, why would the Committee care about this bill? There are several reasons. From a practical and business standpoint it would help to set Nevada out as one of the first states in the country to promote safe indoor air quality. It would help with tourism. It would provide a new marketing pitch to bring other businesses to the state. It would expand our economy with more visitors and conferences. Please help protect the health of all Nevadans, workers, schoolchildren, and teachers. Please support this bill and the proposed amendments.

Chair Atkinson:

Are there any questions from the Committee?

Assemblywoman Carlton:

What does the term MSDS mean? I know when I worked in the casinos there was a listing on a bulletin board that would delineate the different chemicals used in different areas of the casinos. When you refer to MSDS, is that the same listing?

Cheryl Wisecup:

Yes, it is a material safety data sheet. It lists the details of what is in those products. That is why I needed one to give to my doctor, but the hotel is refusing to comply. I also contacted the manufacturer and the supplier; they are all refusing to provide that information. The hotel is very aware of this problem. They told me there have been other complaints. They specifically asked about certain symptoms I was showing, so they are aware there is a problem.

Assemblyman Ohrenschall:

Are you are aware of any resorts, either in Nevada or elsewhere, that have removed air fresheners in an attempt to cater to those who are chemically sensitive?

Cheryl Wisecup:

Through Mrs. De Fazio, I am aware of the Red Rock Hotel here in Las Vegas. They have made great strides in that. They do not use an air-freshening system, but instead use more air exchanges. They do a great job and are moving in the right direction. I am not aware of other specific details with that hotel. I can tell you that a couple years ago, before I had met Mrs. De Fazio, I was at the Red Rock Hotel and I noticed that I felt good there. I just felt good. I thought maybe it was because that hotel was newly built or because of the high ceilings. I was not sure why, but now I know why. It is because the air is cleaner.

Chair Atkinson:

Are there any questions from the Committee? I see none. We will move to opposition.

George Flint, representing Reno Wedding Chapel Alliance and Select Legal Brothels of Nevada:

I had originally signed in as neutral but the longer the conversation went on, the more I realized I felt opposed. Over 200,000 people came to Nevada last year to be married. The number-one request from those people was for a candlelit wedding ceremony. The wedding industry represents close to 20 percent of our entire tourist economy. I do not think it is the intention of the bill to interfere with that, but in all reality, if you look at page 2, there a few lines that would put a lot of us out of business. Subsection 1 of section 2 would ban the use of "an ozone generator, any volatile organic compound, any candle or any type of air additive, including, without limitation, any air fragrance, air freshener or potpourri, in any area within the place of public accommodation which is open to the public." Mr. Chairman, I think the intention here is wonderful, but I do think there have to be some exemptions created. As I read that subsection, I think floral shops would be illegal. I believe that if you do not make some exemptions every Italian restaurant in Nevada would be illegal, because every one I know of puts a candle on the tables. Now, there may be some ways to address the issue. There may be candles or air fresheners, and I think Mrs. De Fazio referred to them as being nonlethal or not carrying specific destructive odors or chemicals. We may have to address and change our procedures a bit to accommodate that. In addition, the burning of candles is a very important part of the Catholic religion, the Greek Orthodox religion, and Judaism. There is so much here that has to be thought through carefully and brought to your attention in front of those people whose health is affected by these outside interferences. Last Saturday I officiated a wedding of 30 people in my wedding chapel who do not believe in bathing. It took me 35 minutes to make the chapel accessible to the next wedding, and I did use some air fresheners as a part of that.

As far as my other client goes, we quit using candles when we accidentally burned downed the Sagebrush Ranch about ten years ago. So we do not have a problem with no candles in the brothels. On the other hand, sometimes those cowboys get off their horse and bring some residue inside with them that does require some attention. I understand the concern of people who have health issues, but there are so many unintended consequences that could come from the passage of this bill in its present condition. Anybody in business deals regularly with odors and other interferences that make other customers uncomfortable. I suppose we have to find a balance in there to take care of

those things that might cause physiological problems, but we also have to take care of our customers who expect our business to smell nice.

Peter Krueger, representing Nevada Petroleum Marketers and Convenience Store Association:

Our concern is squarely in line 4 of section 2, regarding volatile organic compounds (VOCs). All petroleum products have VOCs in them. The way I read the bill as written, gas stations and other fuel dispensing facilities would not be able to dispense fuels of any kind that contain VOCs.

Constance Brooks, Senior Management Analyst, Office of the County Manager, Clark County:

Clark County is opposed to A.B. 234. We are concerned about the language in subsection 1 of section 2 that makes it unlawful to use an ozone generator or any volatile organic compound in any area within a place of public accommodation. The term "public accommodation" is very broadly defined, as has been discussed earlier. As you know, all Clark County-owned and -operated facilities are places of public accommodation. With respect to ozone generators, in operating airports this includes all aircraft, including those owned by the airport, its air carriers, tenants, vendors, and all passenger vehicles. This legislation has the potential to cripple airport operations, which, as you know, has a \$30 billion economic impact to Clark County. With respect to VOCs, most materials used at the airport, from liquid paper in offices to paint, oils, and adhesives, all contain various levels of VOCs. In addition, our Real Property Management Department often uses supplies that contain VOCs such as paints, adhesives, and cleaning compounds in public areas.

Clark County also has concerns about the language in section 3 that would seem to prohibit the indoor application of any pesticide when a place of public accommodation is occupied. As you know, McCarran International Airport is 24-hour-operated facility. This provision would be impossible for us to implement. In addition, there appears to be a conflict in the provision that requires notice to the public that we would be using the pesticide, because it prohibits the use of the pesticide when the public place of accommodation is occupied. Again, that would be a problem for us in our 24-hour facilities. Because of these reasons, we are opposed.

Chair Atkinson:

Are there any questions from the Committee?

Assemblywoman Carlton:

If a constituent of mine came to Clark County after visiting a property owned by Clark County and asked for the MSDS, what would Clark County's position be on providing that data sheet?

Constance Brooks:

Clark County believes in transparency, and we would be happy to provide that information. We do have a pest management control system in place. We have a scheduled operation as it relates to pesticide implementation. We try to spray when there are not a lot of people in the buildings.

Assemblywoman Carlton:

And what is your policy relating to air fresheners?

Constance Brooks:

I am not aware of the amount of air fresheners we use. I know in the restrooms of the Clark County Government Center there are not automatic air fresheners, but they are there for individuals to use of their own free will. If there is a problem as it relates to individuals having issues with that, we would be happy to make some accommodations.

Assemblyman Ellison:

I know we use pesticides to kill a little bit of everything: bacteria, rats, and germs. But I wanted to ask how many businesses are there in Clark County that sell candles, incense, or fragrant sprays? I think this will affect many little shops there.

Constance Brooks:

Clark County dispenses over 60,000 business licenses every year. I believe a good portion of those businesses would be associated with the sale of air fresheners. I do not have the exact number but I could provide it for you. It is my assumption that this would impact several businesses, and the economic impact could be very negative and troubling for many.

Assemblyman Ellison:

Do you know if those businesses carry MSDS sheets? Is that an Occupational Health and Safety Administration (OSHA) requirement?

Constance Brooks:

That is my understanding. I do not have exact information for you, but it is my understanding that businesses licensed by Clark County would have to adhere to OSHA guidelines.

John Cracchiolo, Executive Director, Nevada Catholic Conference:

I have an amendment ([Exhibit F](#)) specific to our concerns, which are the candles and the use of incense in the liturgical celebration of our Mass. I am also speaking on behalf of the Religious Alliance in Nevada. This would impact other faith-based groups, not only Catholics. My amendment would add a place of worship to the exemptions listed in section 5 of the bill. Also, after line 4 of section 5, the amendment would replace the rest of the sentence after the word "public." We believe the term "public accommodation" is so broadly defined in the bill that it would encompass every church in the entire state. At this point we are opposed to the bill for those reasons.

Chair Atkinson:

Would you be in support of the bill with your amendment?

John Cracchiolo:

No, we would be neutral with the amendment.

Tray Abney, representing Reno Sparks Chamber of Commerce:

We have the same concerns about the broad definition of "public accommodation." Under this bill it would mean restrooms and areas where trash cans may be located. I am not sure it is healthier to smell trash and areas of the restroom than it is to use fragrances to cover those scents. Also, there is language regarding the indoor application of any pesticide during the time public accommodation is occupied; we have the same concerns regarding our 24-hour businesses.

Chair Atkinson:

Are there any questions from the Committee?

Assemblywoman Carlton:

If a customer came to one of the businesses you represent and asked for the MSDS sheet, would they comply?

Tray Abney:

I would hope and expect that any Chamber member or any business would comply with all laws and OSHA requirements and regulations.

Assemblywoman Carlton:

I think that is something we need to clarify. The requirement delineated under OSHA pertains to workers, not customers.

Chair Atkinson:

From my understanding of MSDS, I do not think a customer can just come and ask for it, unless there is a valid reason. I think we do need clarification on that.

Lisa Foster, representing Nevada League of Cities and Municipalities:

While I understand and appreciate the intent of the bill, many of our members have expressed concerns similar to what you have heard already, including the enforcement of the provisions of section 2 and the direct and indirect costs of sections 2 and 3. There was a question about the use of green pesticides, also called Green Seal pesticides, which you have to use in Leadership in Energy and Environmental Design (LEED) certified buildings. Some of the cities have constructed these buildings and they are not sure how that would fit with this bill. In summary, we are opposed to the bill.

Lee Lawrence, Agriculturalist IV, Pest Control Licensing and Enforcement, Division of Plant Industry, Department of Agriculture:

[Introduced ([Exhibit G](#)).] The Nevada Department of Agriculture makes sure people use pesticides correctly and do pest control correctly. We assist with a lot of integrated pest management programs here in the state. All of the fines we receive from the pest control industry are deposited with the school districts where the violations occurred. Those monies go into coffers for integrated pest management programs. We license and certify individuals on ranches and in communities to make sure these things are done correctly. I have been doing this for many years and will continue to do so. Integrated pest management is a part of our program, and we train and teach the public as well as other entities. I would like to say, the program that is suggested in the bill would take quite a few resources to enact. I do not know if there has been any consideration of the resources that would have to be allocated to do this, but I would imagine it would be fairly expensive.

Assemblywoman Carlton:

In reading the statement from the member of the State Board of Agriculture ([Exhibit H](#)), there is a part of a sentence where I am not sure what you mean. It says that "inexperienced individuals cannot be allowed to establish law regarding pest control." Are you talking about the Legislature or are you criticizing the citizens who have come here with a problem that they would like addressed?

Lee Lawrence:

I am not the Board representative for the Department of Agriculture. That is not my statement.

Grady Jones, Pest Control Member, State Board of Agriculture:

Mrs. Carlton was referring to my statement, and I would like to address her concern. The statement about inexperienced individuals is referring to one of the sections in the bill that appoints the State Board of Health to implement an integrated pest management program. I do not believe they are the correct entity to undertake that because they are not familiar with pest control. This is something the Department of Agriculture already does very well. They have already established an integrated pest management program. This is not a new process; it has been around for over three decades. Most reputable pest control companies already practice integrated pest management. Integrated pest management programs use pesticides. They are used as a method of last resort and in order of least toxicity, but they do use pesticides. Even some of the least toxic pesticides can be effective but also pose problems with allergies and sensitivities.

The other problem the industry has with this bill is that it is all-comprehensive. It includes all kinds of facilities. Controlling bedbugs is already very difficult; this bill would impact that greatly. This bill has a huge implication for the pest control industry. It does place undue pressure on businesses, not just pest control businesses, but also restaurants and casinos, which would have to close. It would also increase the likelihood of misapplication, because you would have two regulating bodies. There would be the Department of Agriculture regulating residential pest control application, and the public facilities would be regulated by the Board of Health. Even if that part of the bill were to be amended, I believe, and the industry believes, an integrated pest management program should be developed by those people who have the experience and the scientific backing to do it.

On the question of litigation, there is always a concern. We all empathize with those who are affected adversely by pesticides and chemicals. We also empathize with children who are stung by bark scorpions. I get about 100 calls a week in southern Nevada regarding bark scorpions. It is the most venomous scorpion in North America and is very common down there. When it gets into schools it is very difficult to eradicate. I empathize with those who take bedbugs home and have to spend thousands of dollars during the hardship and litigation that arises from that. I empathize with emergency room facilities that are trying to keep flies, rats, and mice out of their buildings and keep them from contaminating things. We stand on the fact that the Department of Agriculture already does a great job, and pest control operators already practice integrated pest management. There is a lot of talk about air fresheners, but from the pest control side of it, the bill is more than impractical; it poses some deep problems.

Assemblywoman Carlton:

I heard you reference both the Board of Agriculture and the industry in your testimony. Which are you speaking on behalf of?

Grady Jones:

Both. I represent the pest control industry on the Board of Agriculture. That is the position which was created. The industry contacts me to represent their interests on the Board.

George Botta, Operations Manager, JS Pest Control, Las Vegas, Nevada:

I am from the pest control industry. I sat on the Board of Agriculture for nine years. I served for two governors. Now I am strictly industry. I have been in the industry for 32 years. I am licensed as an operator and a principle licensee of a corporation. I currently service over 3,000 monthly customers, encompassing everything from residential to commercial facilities. Integrated pest management programs began in 1980 and have been drilled into our heads by every manufacturer, the EPA, and the Department of Agriculture. We practice it on a daily basis. Our customers' safety comes first. When I walk into a hospital and I have to inspect 16 operating rooms, I better know what I am doing. Every operator principal has to have six continuing education units on a monthly basis. I am also an officer of the Nevada Pest Control Association. We brought in three entomologists in January to discuss the latest techniques and chemicals available to us. We do not carry a \$2 million liability for the heck of it. We have to know what we are doing, and believe me, in this state, education is number one. The state exam is not the easiest thing; it is equivalent to two years of college entomology. When I sat on the Board I helped to rewrite the state exam, because I felt at that time our exams were outdated. I believe everything the pest control operators are doing in this state is for the safety of Nevadans. German cockroaches induce asthmatic attacks in children when they shed their cast skin and their wings. There is a problem with roaches getting lodged in children's ears. Bedbugs are a big issue and there will be a lot of litigation regarding that, but the industry is prepared for it.

Kurt Trombetti, Owner, Enviro Safe Pest Control, Las Vegas, Nevada:

I currently sit as the President of the Nevada Pest Control Association. The name of my company is Enviro Safe Pest Control, so this is a position very close to my heart. I struggle with this simply because I think there are two issues in the bill. I do not think the pest control industry should be put in with candles and MSDS sheets; we have no issues with those things. Material safety data sheets are documents we always provide to our customers. We document every time we go into a facility; we have a pest management program manual that is required by the facility. There is also the economic issue of closing businesses. I do not see how having an integrated pest

management program developed by the Board of Health will solve that problem. Even when I say it verbally, it makes no sense to me. Integrated pest management is a process of applying pesticides. Closing a facility is an economic crush on the State of Nevada. You cannot close the facilities. The number-one product on the market today to deal with German cockroaches is not a liquid spray; it is a gel that is placed in cracks and crevices. We are working to the best of our ability. There is no documentation to back up the claims being made today for the reason of this bill. I have been working in this state for 17 years. I do not know of one case of somebody in our industry applying pesticides on a daily basis, according to label directions, who has contracted cancer from these pesticides. I am a father, uncle, son, and husband. I do this for a living. If there is a problem with these pesticides, I would be the first one to jump on the bandwagon to go after the manufacturer. It is a common sense thing to me. I had a brother who was disabled from the age of 17 to 41, when he passed away, so I sympathize with their position, but I do not think this is the answer to their problem.

Renny Ashleman, representing City of Henderson:

In the interest of brevity, I will join in what the other governments had to say. The only thing I want to add is that we do have an integrated pest management practice in place. They are particular to the type of facility; the program for a public park is different from a school. A broad-scale, countywide program that would cover all the possibilities that you might find in each institution might be difficult and complicated to write. I noticed that the health district did not think there was a fiscal note, but from their answer it seems they would impose the plan on someone they found to be in violation, and not a countywide plan. So I am concerned about that as well.

Morgan Baumgartner, representing Nevada Resort Association:

We do value the health and welfare of our employees and our patrons. We have communicated our concerns and our opposition to the sponsor. We would be happy to work with the Committee or the sponsor as this bill progresses.

Dean Baker, representing Dean Baker Ranch:

We have raised alfalfa seed from before I was in grade school. I have spent my life dealing with chemicals. The training and licensing required by the Department of Agriculture helps us to be safe. I have to be very conscience of when I spray. I record the wind, so that it is known whether it could go to the school. If it goes to homes or other places nearby, I have to keep track. I do not think a bill like this should affect agriculture, because we work very diligently to do it correctly. I am also on the Board of Agriculture, and I think it is already addressing this issue.

Chair Atkinson:

Are there any questions from the Committee? I see none. Is there anyone neutral wishing to testify?

James R. Lawrence, Administrator and State Land Registrar, Division of State Lands, Department of Conservation and Natural Resources:

I think there are many good intentions associated with the proposal. I am neutral on the bill, but I am here to relay some concerns of possible unintended consequences. In particular, I am hearing concerns about the impact this might have on managing noxious weeds on public lands and other types of lands. The control and eradication of noxious weeds is an ongoing challenge we have in Nevada. It requires a continued and sustained level of effort. There is concern the bill is not clear with the intent regarding the control of these invasive weed species. Chapter 555 of *Nevada Revised Statutes* (NRS) has a long definition of what constitutes a pest, and that includes weed species. In addition, in NRS Chapter 651 there is a broad definition of a place of public accommodation, which includes parks and any place which is intended for public use. As a result, the bill appears to include noxious weed management on all state-owned or public land properties. Current law requires property owners to be responsible for the control of invasive weeds on their property. As a result, there are continued efforts to control these weeds in the backcountry of our state parks and all of our state-owned properties. It includes park rangers who are certified in weed management, who are making an ongoing effort to comply with the provisions of weed management.

One concern is that the public notice requirements may hinder these ongoing weed management efforts in our parks. If the intent of the bill is not to include weed management efforts, it maybe helpful to clarify the legislative intent of the bill as it relates to weed management. A suggestion might be a definition of what constitutes pest management or a statement as to how the bill applies to noxious weed management.

Edwin James, representing Carson Water Subconservancy District:

Our concerns follow along the lines of what James Lawrence just said. Herbicides are part of pesticides. For years we have been working with the communities in the whole watershed, dealing with noxious weeds and how to control them. We have been training people and different government agencies, so if people see a noxious weed on the roadside they can go out and spray it. They follow the rules and requirements on the labels. We have some of the largest weed-free feed in Nevada in this watershed. Without dealing with those noxious weeds we are starting to lose some of those areas, so it really is a critical economic impact. Understanding how to treat them is important.

They follow the rules and regulations. We want to make sure this bill does not have an adverse impact to us and our dealing with the noxious weed issue.

Chair Atkinson:

Are there any questions from the Committee? I see none.

Assemblyman Aizley:

I think there is a problem. I think the health of even one or two people is important to consider. I think all the people in the room are willing to work on those solutions. I would welcome any amendments to the bill.

Assemblyman Hardy:

I want to comment on the MSDS compliance. It is very simple; in the construction industry, in which I work, we have to have books on hand regarding the MSDS for the jobs we do. There are a lot of people who have moved to put this on the Internet for site-specific jobs. When people go to casinos or hotels they usually book their reservations through the Internet; why not have the MSDS available to them there? That way, they can see what is there, and if they do not like it they can stay away. I think that is an option to consider.

Chair Atkinson:

Are there any questions from the Committee? I see none. We will close the hearing on A.B. 234. We will now open the hearing on Assembly Bill 251.

Assembly Bill 251: Provides penalties for certain actions by contractors against persons who are older or vulnerable. (BDR 54-670)

Assemblyman Richard Carrillo, Clark County Assembly District No. 18:

This bill has to do with protecting our senior citizens and other people who are vulnerable. I am a fully licensed, bonded, and insured C-21 air-conditioning contractor. I do volunteer work through the Plumbers, Pipefitters, and Service Technicians Local 525 Community Action Program, which helps senior citizens on fixed incomes and vulnerable people with their air-conditioning and heating problems. On several occasions I have encountered stories of senior citizens being taken advantage of by unscrupulous contractors. Senior citizens and vulnerable people are currently not protected when it comes to dealing with contractors. Oftentimes contractors will tell them that they need certain work done when they really do not, or they will overcharge them for work being performed. Current law protects people from certain misrepresentations relating to services or repairs. However, there is nothing specific that has to do with giving senior citizens or vulnerable people that extra protection. Assembly Bill 251 will give the State Contractors' Board more tools when it

comes to protecting Nevadans, specifically those who are most vulnerable, our senior citizens and those who are physically or mentally impaired.

Section 1 of this bill makes certain misrepresentations relating to services or repairs made by a contractor to a person who is vulnerable, or a person who is 60 years of age or older, a misdemeanor on the first offense, a gross misdemeanor on the second offense, and a class E felony on the third or subsequent offense. On the first offense the person will be fined no more than \$1,000 and may be imprisoned in county jail for no more than six months. On the second offense the person will be charged no less than \$2,000 and no more than \$4,000 and may be imprisoned for no more than one year. On the third offense the person will be fined no less than \$5,000 and no more than \$10,000 and may be imprisoned in state prison for no less than one year and no more than four years. Currently the only punishment he faces is paying fines and having his contractor's license suspended or revoked. However, as I mentioned earlier, there is nothing in the statutes that would protect our most vulnerable population. This bill will strengthen current law and make unscrupulous contractors think twice before they take advantage of those who cannot easily protect themselves.

Assemblywoman Carlton:

Where does the money from the fines go? Will it be put in the Construction Education Account or the General Fund? I believe there is a fiscal note associated with this bill because of the possibility of imprisonment; can you address that?

Assemblyman Carrillo:

I believe the money would go into the Construction Education Account because we would be dealing with licensed contractors. When it comes to fining an individual as a contractor, there are certain ramifications and we do not want to take their means of making money away from them. I think if you revoke or suspend his license, he still has the opportunity to work; it does not stop him. I think a punishment with the possibility of jail time associated with it will serve as more of a deterrent.

Assemblywoman Carlton:

I have a little problem with the age delineations. If I were lied to and taken advantage of by a contractor, I have been hurt just as much as someone who is 61 years old. I understand the intent of the bill; perhaps we need to have a more in-depth discussion of the bill.

Assemblyman Carrillo:

When it came down to the age, that is what is already in statute. I know we are all susceptible to these types of crimes. You have every right to turn a contractor away, but sometimes contractors will intimidate this vulnerable population into believing they are in dire need of fixing something in their homes. As a volunteer I have gone to people's homes and have witnessed situations where people were lied to and they ended up paying for more work than needed to be done. I want to give this vulnerable population a voice through A.B. 251.

Assemblyman Hickey:

Will the State Contractors' Board be the one to adjudicate these complaints?

Assemblyman Carrillo:

Yes, I believe so.

Assemblyman Hickey:

I know they are stretched really thin already, but have you had discussions with them about taking on this additional task? Would the hearings be similar to the ones they already hold? Can you explain what the hearing process would be like when there is a complaint of this nature?

Assemblyman Carrillo:

That is not something I have discussed with the State Contractors' Board specifically. I can get an answer to you at a later date.

Chair Atkinson:

I am having concerns. I think some of the information is inaccurate. I think the money from the fines will end up in the General Fund. I also do not believe the Contractors' Board would adjudicate these claims because they cannot assess fines.

Keith Lee, representing State Contractors' Board:

As I read this, all the new language has to do with criminal prosecution. To answer Mr. Hickey, the language that currently exists allows us to discipline a contractor who misrepresents something and ends up harming that citizen. We can impose administrative penalties and fines against that person. The fines imposed by the State Contractors' Board generally go to the Construction Education Account. The new language would enhance the penalty for misrepresentations made against persons over 60 years of age and otherwise vulnerable people. In addition to what the Board can already do, this bill would make it a criminal offense as well. I envision the Board holding a hearing to make the determination of whether there was a misrepresentation, and if the

evidence showed that a misrepresentation was made to a person of 60 years or older or a vulnerable person, as defined in statute, we would refer it to the local prosecuting attorney. They would then make the determination of whether or not to go forward with the criminal prosecution. I hope I clarified that a little bit. The penalties that are new in this bill would go to wherever criminal penalties and fines go.

Chair Atkinson:

Mr. Horne, are you familiar with where criminal fines go?

Assemblyman Horne:

Typically, fines, fees, and court administrative costs stay in the jurisdiction unless it is indicated in statute to go elsewhere.

Sara Partida, Committee Counsel:

Section 3, Article XI, of the *Nevada Constitution* does require that all fines collected under penal laws of the state are for the purpose of education.

Keith Lee:

We appreciate the clarification, Ms. Partida.

Assemblywoman Carlton:

Mr. Lee, could you find out for me how much money is currently in the Construction Education Account?

Keith Lee:

I certainly can.

Jack Mallory, representing International Union of Painters and Allied Trades District Council 15 and Southern Nevada Building and Construction Trades Council:

We are here today in support of the bill. I wish that this applied not only to individuals who are licensed to be contractors but also to those who are not properly licensed but act in the capacity of a contractor.

Back in 1998, I had a problem with my air conditioner. A contractor came out and replaced a capacitor in the unit, a very simple fix for which I paid \$250. Within an hour the air conditioner began making very strange noises. When he returned I found out the contractor had miswired it. It ended up burning up the condenser cooling fan motor. The contractor just so happened to have that type of motor on his truck and installed it for the cost of \$600. I have had the experience of being taken advantage of. I had a discussion with the company's owner and was refunded my money.

I think the real intent here is to protect individuals who are the most vulnerable in our society. Those are people who are on fixed incomes. People may not have access to resources to gain recourse when they are presented with this kind of situation.

Assemblyman Grady:

Under the Legislative Counsel's Digest in the bill, it addresses pools and spas. I hope your intent under this legislation is for all contracting, is that correct? I am on line 4 of the Legislative Counsel's Digest.

Assemblyman Carrillo:

Sections 1 and 2 have two different scenarios. There are service and repairs, and the next deals with pools and spas. The bill is intended to cover any and all construction work.

Sara Partida:

The first section of the bill would apply an enhanced penalty for any unfair business practice, which is a misrepresentation involving services that are found in *Nevada Revised Statutes* (NRS) 624.30165. In existing NRS there is currently a whole subset of regulations and penalties that apply specifically to residential pool and spa contractors. Section 2 of this bill would apply an enhanced penalty under those separate provisions.

Assemblyman Ohrenschall:

Is there evidence that the current fines and the threat of suspension and revocation of contractors' licenses are not working, and we need criminal penalties to address this problem?

Assemblyman Carrillo:

I cannot speak for the State Contractors' Board. There is a continuing problem, and seniors and vulnerable people do not always file a complaint. This would help them feel that they have more recourse under the law. The way the law is currently, contractors can easily recover from any action taken by the Board. I believe this law serves as a better deterrent.

Assemblyman Hardy:

When I look at society, I think they are all vulnerable. There are so many people out there who are vulnerable and do not know what is going on around them. I feel if we are going to go this direction, why not add everyone to this bill? I think the bill should encompass everyone. Would you be opposed to that?

Assemblyman Carrillo:

No, I am not opposed to anything that would protect my fellow Nevadans. I think that is a good point, and perhaps we can amend the language to include everyone.

Assemblyman Ellison:

I believe my colleague is correct. There are already laws which pertain to this issue. I think it is important to make sure we are not duplicating any laws. The State Contractors' Board has the right, at any point in time, to pull a license or impose a fine under disciplinary action. I want to make sure we are not creating something that already exists.

Patrick Sanderson, representing Nevada Alliance of Retired Americans:

I support this bill. I personally worked construction my entire life up until I retired. Seniors are vulnerable. If you amended the bill to encompass everyone, I would be in support of that as well. I believe we need to straighten out some of these contractors.

Assemblyman Hardy:

This may be a question for Mr. Lee. I would like to know how much money is spent right now to help make people aware of choosing the right contractor. I have heard those advertisements a number of times, and I wonder why they are not working.

Keith Lee:

I will get that information to you. We spend a substantial amount of money on our public relations program. I will find out how much we spend and what our programs are.

Assemblyman Carrillo:

I wanted to point out that there is a letter of support submitted by Barry Gold on behalf of AARP ([Exhibit I](#)).

Chair Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in favor? [There was no response.] Is there anyone wishing to testify in opposition? [There was no response.] Is there anyone neutral wishing to testify? [There was no response.]

Assemblyman Carrillo, I believe there are a few things the Committee would like to address before we bring this bill back. I hope you will work with the members who have concerns.

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We will close the hearing on A.B. 251. Is there any public comment?
[There was no response.]

The meeting is adjourned [at 4:08 p.m.].

RESPECTFULLY SUBMITTED:

Jordan Grow
Committee Secretary

APPROVED BY:

Assemblyman Kelvin Atkinson, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: March 14, 2011

Time of Meeting: 1:36 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 199	C	Lawrence Matheis	Proposed Amendment
A.B. 234	D	Assemblyman Paul Aizley	Prepared Testimony
A.B. 234	E	Michele De Fazio	Proposed Amendment
A.B. 234	F	John Cracchiolo	Proposed Amendment
A.B. 234	G	Lee Lawrence	Handout
A.B. 234	H	Grady Jones	Handout
A.B. 251	I	Barry Gold	Letter of Support