

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

**Seventy-sixth Session
May 25, 2011**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Michael A. Schneider at 1:20 p.m. on Wednesday, May 25, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Michael A. Schneider, Chair
Senator Shirley A. Breeden, Vice Chair
Senator David R. Parks
Senator Allison Copening
Senator James A. Settelmeyer
Senator Elizabeth Halseth
Senator Michael Roberson

GUEST LEGISLATORS PRESENT:

Assemblyman David P. Bobzien, Assembly District No. 24

STAFF MEMBERS PRESENT:

Scott Young, Policy Analyst
Matt Nichols, Counsel
Suzanne Efford, Committee Secretary

OTHERS PRESENT:

Tom Clark, Quick Space
Gene Temen, Quick Space
James V. deProsse, Administrator, Manufactured Housing Division, Department
of Business and Industry
Patsy Roumanos, Pac-Van, Inc.
Susan Fisher, Nevada Housing Alliance

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Mark Cobb, Williams Scotsman, Inc.
Shawna DeRousse, Deputy Commissioner, Division of Insurance, Department of
Business and Industry

CHAIR SCHNEIDER:
We will open the hearing on Assembly Bill (A.B.) 358.

[ASSEMBLY BILL 358 \(2nd Reprint\)](#): Revises provisions governing certain
manufactured buildings. (BDR 43-1069)

ASSEMBLYMAN DAVID P. BOBZIEN (Assembly District No. 24):
Assembly Bill 358 addresses manufactured housing and portable buildings.

TOM CLARK (Quick Space):
This bill will help clarify how portable buildings and commercial coaches are regulated by the Manufactured Housing Division (MHD), Department of Business and Industry (DBI). There has been some confusion over the years about what is regulated, how it is regulated and what the fee structure is. With this bill, we are asking the MHD to promulgate regulations to resolve the confusion. We have also submitted a proposed amendment to A.B. 358 ([Exhibit C](#)).

GENE TEMEN (Quick Space):
In this bill, we are asking the MHD to recognize there are three types of commercial coaches or portable buildings used on construction sites in Nevada. A commercial coach is included in all of the categories we have. We would like the MHD to separate commercial coaches from special purpose commercial coaches which are commercial coaches but would not necessarily be for public use. They are most commonly used on mine sites, construction sites and industrial sites where there would be no access by the general public.

We also would like the MHD to recognize that a portable building does not have wheels, tires or a tongue and does not get pulled down the road by a power unit. It is a building that sits on the ground on skids. It does not have the same application or installation required for a commercial coach or a special purpose commercial coach.

We thought we had addressed portable buildings in the 72nd Session. But for nine years, the MHD has ignored portable buildings as something they did not regulate in northern Nevada. In the last few years, the MHD decided they should

regulate portable buildings because they look like commercial coaches. We had a fair amount of confusion because portable buildings and commercial coaches are not the same thing. We are asking the MHD to establish guidelines for commercial coaches, which are for public use, for special purpose commercial coaches and for portable buildings. They are different, and their applications are different.

The installation of an 8 feet wide by 20 feet long office trailer falls under the same criteria as a residential, triple-wide manufactured home. This is excessive regulation. We would like to simplify the process to make it easier for contractors, and easier for dealers who provide commercial coaches, special purpose commercial coaches and portable buildings to our clients.

MR. CLARK:

Section 2 of A.B. 358 contains the definition of a portable building, and section 3 gives the administrator of the MHD the ability to adopt regulations.

Section 5 of the original bill stated that a commercial coach was not for public use. This generated a fiscal note. We agreed to delete that portion of the original bill. The proposed amendment, [Exhibit C](#), addresses that issue by adding a definition for special purpose commercial coach. A special purpose commercial coach is not for public use and must not exceed 750 square feet. The proposed amendment, [Exhibit C](#), would require the administrator of the MHD to draft regulations based on that definition.

The difference between a commercial coach and a special purpose commercial coach is access by the public. A commercial coach would be used at a special event for public access. A special purpose commercial coach is on axles, as is a commercial coach, but the public does not have access to it. A special purpose commercial coach is used on a job site, a mine site or someplace where it has been installed by a contractor.

The other issue is that a special purpose commercial coach could be moved from one site to another site on a job. As the bill is written now, it could be interpreted to mean that every time the coach is moved, it would have to be reinspected and new fees paid. We will work with the MHD to draft regulations to clarify those issues.

JAMES V. DEPROSSE (Administrator, Manufactured Housing Division, Department of Business and Industry):

I am neutral on A.B. 358 because I have been working with the industry trying to address what happened in the 72nd Session, which was to try to regulate these small buildings better.

At an event, there is an issue with a small building that sits on the ground. It would not have electricity, and it would fall into a different category than an office building that is 12 feet wide by 60 feet long. There is a difference, and there is a need to have differentiation regarding how they are regulated, set up and installed throughout the State. The MHD developed the portable building portion of A.B. 358.

The MHD supports the bill as it was written prior to the proposed amendment submitted today. It would allow the MHD to write regulations that would apply to portable buildings as they are defined.

Late yesterday, I received a copy of the proposed amendment, [Exhibit C](#). I did not have much time to review it. However, there were some issues with the amendment of which you should be aware. The testimony you heard earlier was centered around the installation of portable buildings, commercial coaches and special purpose commercial coaches. That is only part of what the MHD regulates. The MHD also regulates and certifies buildings when they are constructed.

When a manufactured commercial coach or a portable building is built, the MHD inspects the plans, visits the site for quality and certifies the building when it is completed. The proposed amendment would require a building coming out of a plant to be certified as a commercial coach or a special purpose commercial coach because of the definitions in the bill. We would have two buildings built on the same production line, but labeled differently. Their use in Nevada would be restricted.

Another problem is that many of our constituents and businesses have fleets of commercial coaches. The definition would change the certification of the building as a special purpose commercial coach. It would fall outside of the definition and would no longer be certified by the State. It would have to be recertified under this new definition which would be costly for our constituents.

The definition, as written in the bill, comes in part from the California Health and Safety Code 18012.5 which pertains to special purpose commercial modulars. This may or may not fit Nevada's purposes. The real issue is centered around how the building is installed and what is required at the installation and set up.

The MHD has a complete set of installation standards for all commercial structures and manufactured homes. We will add the installation and set up of portable buildings to the MHD standards. There would be no changes from a safety and set-up perspective for the new category of special purpose commercial coaches which is defined in the bill.

The idea of exempting certain uses of the coaches could be considered, but the coach itself is still certified. The state of Arizona has an exemption for construction sites but does not have an exemption for the certification and safety of the building itself when it is new and put into service.

CHAIR SCHNEIDER:

Special purpose commercial coaches should be treated as commercial coaches for the purpose of sales, service, installation and repairs.

MR. DEPROSSE:

They are essentially the same thing. By this definition, other than not being used by the public, they could be addressed in a different way. I would suggest it be done through regulation. That is what I thought we were going to do.

SENATOR SETTELMAYER:

Would it be a problem to pass the bill without the amendment? Is the amendment creating the problem?

MR. DEPROSSE:

The discussion on this bill began because of a ticket booth at a fair. Of course, that is an exception. This is a small unit used for a special purpose. A company puts the unit in place for a weekend or a week or two. It is very costly to have an inspection and full installation.

That is the genesis of A.B. 358. It has since morphed into something much larger. I would suggest we handle everything, except portable buildings, through regulation for which we have the tools and the ability.

CHAIR SCHNEIDER:

Does a person who installs, sells, repairs or constructs these buildings need a special license?

MR. DEPROSSE:

Yes, there is a license required for the set up and installation of a commercial coach. There are a few exemptions in statute. A construction company that owns their own units is exempt. However, the construction company is required by statute to be able to move its unit to different sites and complete the installation, since it is the company's personal property. An installation inspection is still required from the MHD.

There is another exemption for any manufacturer that builds its own units which become part of its fleet. The manufacturer can avoid hiring a licensed service person to move the unit from place to place, but, it is also required to have the installation certified by the MHD.

PATSY ROUMANOS (Pac-Van, Inc.):

I am confused about the labeling of buildings. I have been in the industry for 25 years. I have worked in Las Vegas as an administrator and a sales representative. I am a licensed dealer and a licensed service person/installer. Every building in Pac-Van, Inc.'s fleet was labeled "factory housing" (FH). Every one of them has an FH tag on it.

It was explained to us that since we are using our buildings like commercial coaches, the MHD can enforce the inspection by regulation that is meant for commercial coaches. I do not understand what Mr. deProsse is saying. If MHD is able to enforce this inspection on our factory-built housing because we are using them like commercial coaches, how does that differ from a special purpose commercial coach? Is it determined by the actual use of the building?

In the past, unless a building had an FH tag on it, we could not install it permanently. I was instrumental in building our units as FH buildings because we always wanted to have the ability to sell these buildings as permanent structures. We would not have had that if they were commercial coaches because commercial coaches are temporary buildings.

If the use is being considered now, why would that not continue? Why would not all of our FH buildings that are being treated as commercial coaches now be

treated as special purpose commercial coaches in the future? We are saying anything we want to anyway.

In fairness to the construction industry, we have been doing inspections now for about 16 or 17 years. Prior to that, we did not have to tie down these buildings unless we wanted to do so. We did not have any inspections. What you have to realize is that the person building a "Taco Bell" has a three-month project. Until recently, we were required to put 10 tie-downs on an 8 feet wide by 20 feet long mobile office. That meant the least the contractor would pay was \$550 to install the tie-downs, \$250 for the State inspection and \$350 to remove the tie-downs. The difference to the contractor was over \$1,000 on a three-month project. It costs \$300 to \$400 a month to comply with MHD regulations.

We are the only State in the nation that requires mobile offices for construction use to be inspected. Arizona still requires every commercial coach and FH building to be approved. The plans have to be approved, the manufacturer has to be approved and they are inspected coming out of the factory. It is legislated in Arizona that every mobile office, modular building or commercial coach plans be approved. They are inspected and tagged coming out of the factory.

Nevada requires the same thing. I do not know why that would have to change because we give special consideration for the use of a mobile office. Contractors are having a tough time in this State. They are being regulated from every direction. The counties, the cities and others are getting fees from contractors. Contractors have told me that Nevada is the toughest state in which to do business.

Our industry wants to stand by our contractors. They are our primary customers. We lease to other entities, but we want to stand by our contractors and keep the costs as low as possible for them. My primary concern is to make it a little easier for them to do business in Nevada.

I want to clarify that we do not have commercial coaches. However, they are regulated like commercial coaches because the MHD says we are using them like commercial coaches. What is the difference between a special purpose commercial coach and an FH building?

MR. DEPROSSE:

The MHD has been working with the industry to try to simplify things, not incur additional costs and burdens on business. That is what we were trying to do with the portable-building concept when we first started working on the bill several months ago.

The MHD plans to write regulations that will support the new concept of a portable building. The regulations would save the industry money by allowing short-term uses and the movement from place to place on a more fluid and cost-effective basis

In the past, buildings with FH tags on them were called factory housing. By today's definition, they are commercial coaches. The MHD did not go back and charge businesses to recertify those buildings. We just "grandfathered-in" the old style under the new definition.

MR. CLARK:

The testimony you have heard specifically addresses the need for this bill and the proposed amendment. There is much confusion among the people who place these structures on where they place them and how the use of the structure is going to be interpreted by the MHD.

The MHD is already going through the regulation process on buildings for public use. Can commercial coaches and special purpose commercial coaches be included in the regulation process?

SUSAN FISHER (Nevada Housing Alliance):

We support A.B. 358 and the proposed amendment. While the majority of our members are manufactured home dealers, we also have members who have commercial coaches and special purpose commercial coaches. There are many special events in northern Nevada, and inspections are very expensive. This bill would help streamline the process for getting units placed on a site and help keep down costs.

MARK COBB (Williams Scotsman, Inc.):

I am neutral on A.B. 358. I have concerns about special purpose commercial coaches. I would like to have clarification that these coaches are only used for special purposes and not used on construction sites. If this product was moved from special events to the construction industry, we would have more

competition and less regulation on this building. Section 2, subsection 2 states " ... is for nonresidential use" I would also like to include "for non-construction use."

Regarding inspections of the buildings, we cannot afford to reclassify any of our units. We are like most in the industry with two yards full of construction trailers. We cannot afford the additional cost of regulating certain buildings for certain projects.

My other concern is with the State not having any authority. We work with the State and the county on permit issues. I have been able to receive help from the State to resolve permit issues. Some permits have taken eight to ten months to obtain. This is unacceptable. These are construction trailers. There should be no reason to take eight to ten months to obtain permits from the county or the city. I would like these issues to be resolved through this bill.

CHAIR SCHNEIDER:

We will close the hearing on A.B. 358 and open the hearing on A.B. 521.

[ASSEMBLY BILL 521 \(1st Reprint\)](#): Consolidates certain funds and accounts of the Division of Insurance of the Department of Business and Industry into the Fund for Insurance Administration and Enforcement. (BDR 57-1189)

SHAWNA DEROUSSE (Deputy Commissioner, Division of Insurance, Department of Business and Industry):

Assembly Bill 521 was brought forward on behalf of the Budget Division, Department of Administration, to clean up fiscal language regarding the funds and accounts in the Division of Insurance, Department of Business and Industry.

CHAIR SCHNEIDER:

We will close the hearing on A.B. 521.

SENATOR COPENING MOVED TO DO PASS A.B. 521.

SENATOR BREEDEN SECONDED THE MOTION.

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

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CHAIR SCHNEIDER:

The meeting of the Senate Committee on Commerce, Labor and Energy is
adjourned at 1:56 p.m.

RESPECTFULLY SUBMITTED:

Suzanne Efford,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 358	C	Tom Clark	Proposed Amendment