

Amendment No. 296

Assembly Amendment to Assembly Bill No. 147

(BDR 40-172)

Proposed by: Assembly Committee on Health and Human Services**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____	Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____	Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____	Receded	☐	Not	☐ _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

AAK/RBL



Date: 4/16/2013

A.B. No. 147—Requires the notification to certain patients regarding
supplementary mammographic screening tests. (BDR 40-172)



ASSEMBLY BILL NO. 147—ASSEMBLYMEN OHRENSCHALL, PIERCE, KIRKPATRICK, DONDERO LOOP, KIRNER; AIZLEY, ELLIOT ANDERSON, BENITEZ-THOMPSON, BOBZIEN, BUSTAMANTE ADAMS, CARLTON, CARRILLO, COHEN, DALY, DIAZ, FIORE, FRIERSON, HAMBRICK, HEALEY, HICKEY, HORNE, MARTIN, MUNFORD, NEAL, SPIEGEL AND SWANK

FEBRUARY 18, 2013

JOINT SPONSORS: SENATORS SEGERBLOM, DENIS, MANENDO, JONES, SPEARMAN; FORD, KIHUEN AND WOODHOUSE

Referred to Committee on Health and Human Services

SUMMARY—Requires the notification ~~to certain~~ of patients regarding **breast density and** supplementary mammographic screening tests. (BDR 40-172)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to mammography; requiring a notice regarding ~~supplementary mammographic screening tests~~ **breast density** to be included in a report provided to a patient; ~~if the patient is categorized as having dense breasts;~~ authorizing an administrative fine for failure to provide such notice; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under federal law, a facility that performs a mammogram must provide directly to each patient a summary report describing the results of the mammogram written in terms that are easily understood by a lay person. (42 U.S.C. § 263b) Existing state law imposes certain requirements on the operation of a machine used to perform mammography and further provides for the imposition of an administrative fine for operation in violation of those requirements. (NRS 457.182-457.187) ~~This bill expresses the sense of the Legislature as to the importance of the awareness of a person's breast density.~~ This bill ~~also~~ requires the owner, lessee or other person responsible for the radiation machine for mammography that was used to perform a mammogram to ensure that the summary report required by federal law includes a **statement of the density of the patient's breasts and a notice** ~~stating that~~ **encouraging** the patient ~~may benefit from supplementary screening tests if the patient is categorized as having heterogeneously dense breasts or extremely dense breasts.~~ **to discuss the notice with his or her physician or other provider of health care.** In addition, this bill authorizes the Health Division of the Department of Health and Human Services to impose an administrative fine for failure to provide such notice. (NRS 457.187)

1 WHEREAS, Forty percent of women have dense breast tissue; and
2 WHEREAS, Breast density is one of the strongest predictors of the failure of
3 mammography to detect cancer; and

4 WHEREAS, Breast density is a greater risk factor for breast cancer than having
5 two first-degree relatives with breast cancer; and

6 WHEREAS, The vast majority of women are unaware of the density of their
7 breasts; and

8 WHEREAS, Less than 1 in 10 women with dense breast tissue learn about their
9 dense breast tissue from their doctors; and

10 WHEREAS, Several states, including Connecticut, Texas, Virginia, New York
11 and California, have enacted legislation relating to notification of breast density;
12 now, therefore,

13
14 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
15 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
16

17 **Section 1.** Chapter 457 of NRS is hereby amended by adding thereto a new
18 section to read as follows:

19 1. If a patient undergoes mammography, and, on the basis of that
20 mammography, the patient is categorized as having heterogeneously dense
21 breasts or extremely dense breasts based on the Breast Imaging Reporting and
22 Database System established by the American College of Radiology, or its
23 successor organization, the owner, lessee or other person responsible for the
24 radiation machine for mammography that was used to perform the
25 mammography must ensure that each report provided to the patient pursuant to
26 42 U.S.C. § 263b(ff)(1)(G)(ii)(IV) includes, without limitation, a statement of the
27 category of the patient's breast density which is determined based on the Breast
28 Imaging Reporting and Database System or subsequent guidelines established by
29 the American College of Radiology, or its successor organization, and the
30 following notice:
31

32 ~~Because your mammogram demonstrates that you have dense breast~~
33 ~~tissue, which could hide small abnormalities, you might benefit from~~
34 ~~supplementary screening tests, depending on your individual risk factors.~~
35 ~~A report of your mammography results, which contains information~~
36 ~~about your breast density, has been sent to your physician's office. You~~
37 ~~should contact your physician if you have any questions or concerns~~
38 ~~about this notice.~~ The information about the results of your
39 mammography report in relation to the density of your breast tissue is
40 provided to you to raise your awareness. Dense breast tissue is common
41 and not abnormal. As breast density increases, the ability of a
42 mammogram to identify cancer or suspicious abnormalities decreases,
43 which may increase the risk of breast cancer not being detected until a
44 later stage. Density may change over time and generally diminishes with
45 age, but varies by person. Many factors affect a person's risk of
46 developing breast cancer, including family history, personal medical
47 history, smoking and, according to some studies, increased breast density.
48 Use this letter when you speak with your physician or other provider of
49 health care about your own individual risk factors for breast cancer. At
50 that time, ask your physician or other provider of health care if further
51 testing might be useful.

1 2. Nothing in this section shall be construed to:
2 (a) Create a duty of care or other legal obligation beyond the duty to provide
3 the notice as set forth in this section.

4 (b) Require a notice to be provided to a patient that is inconsistent with the
5 notice required by the provisions of 42 U.S.C. § 263b or any regulations
6 promulgated pursuant thereto.

7 **Sec. 2.** NRS 457.182 is hereby amended to read as follows:

8 457.182 As used in NRS 457.182 to 457.187, inclusive, *and section 1 of this*
9 *act*, unless the context otherwise requires:

10 1. "Mammography" means radiography of the breast to enable a physician to
11 determine the presence, size, location and extent of cancerous or potentially
12 cancerous tissue in the breast.

13 2. "Radiation" means radiant energy which exceeds normal background levels
14 and which is used in radiography.

15 3. "Radiography" means the making of a film or other record of an internal
16 structure of the body by passing X rays or gamma rays through the body to act on
17 film or other receptor of images.

18 **Sec. 3.** NRS 457.187 is hereby amended to read as follows:

19 457.187 1. The Health Division may impose an administrative fine, not to
20 exceed \$5,000, against the owner, lessee or other person responsible for a radiation
21 machine for mammography for a violation of the provisions of NRS 457.182 to
22 457.186, inclusive, *and section 1 of this act*, or for a violation of a regulation
23 adopted pursuant thereto.

24 2. Any money collected as a result of an administrative fine imposed pursuant
25 to subsection 1 must be deposited in the State General Fund.