

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Seventh Session
June 2, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 12:34 p.m. on Sunday, June 2, 2013, in Room 3138 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 nelis.leg.state.nv.us/77th2013. 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 Jason Frierson, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Lesley E. Cohen
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Wesley Duncan
Assemblywoman Michele Fiore
Assemblyman Ira Hansen
Assemblyman Andrew Martin
Assemblywoman Ellen B. Spiegel
Assemblyman Tyrone Thompson
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Tick Segerblom, Clark County Senatorial District No. 3

Minutes ID: 1369



STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Nancy Davis, Committee Secretary
Macy Young, Committee Assistant

OTHERS PRESENT:

None

Chairman Frierson:

[Roll was called and standing rules were reviewed.] I will open the work session on Senate Bill 374 (2nd Reprint).

Senate Bill 374 (2nd Reprint): Provides for the registration of medical marijuana establishments authorized to cultivate or dispense marijuana or manufacture products containing marijuana for sale to persons authorized to engage in the medical use of marijuana. (BDR 15-89)

Dave Ziegler, Committee Policy Analyst:

Senate Bill 374 (2nd Reprint) was sponsored by Senator Segerblom and was heard in this Committee on June 1, 2013. Since the amendment is lengthy, I will point out a couple of places in my remarks where the amendment changes the bill as it came to us. Senate Bill 374 (R2) provides for the registration of three types of medical marijuana establishments: cultivation facilities, facilities for the production of edible products, and dispensaries. The measure establishes requirements for applying for a registration certificate, including a one-time nonrefundable application fee of \$5,000 and a three-year residence requirement. The bill also establishes maximum fees for the issuance and renewal of registration certificates and agent registration card. [Continued to read from work session document ([Exhibit C](#)).] There were a couple of amendments proposed during the hearing on June 1, 2013; the attached revised mock-up is a consolidation that was approved by the sponsor.

Chairman Frierson:

Are there any questions on the bill?

Assemblyman Carrillo:

In section 22, one ounce of usable marijuana was struck out and replaced with 2.5 ounces. How and why was 2.5 ounces arrived at? I am concerned that it may not be enough.

Senator Tick Segerblom, Clark County Senatorial District No. 3:

The 2.5 ounces was based upon other states in the area that we used as models. One testifier yesterday stated he uses that amount in two days. In our discussions, there have not been many people claiming that it is an unreasonable amount. The reality is 2.5 ounces is a considerable amount. Perhaps if a doctor feels the patient needs more, we could make exceptions.

Assemblyman Carrillo:

There are different types of situations. I am not advocating for everyone to have 4 ounces, for example, but what is a discretionary measure. Are you going to leave it up to the doctor or put it in statute? Obviously the doctor would be violating statute if he prescribes more.

Senator Segerblom:

What we are trying to do is avoid the situation where people with a medical marijuana card buy more than they need and sell it on the black market.

Chairman Frierson:

I believe that amount of 2.5 ounces came from what the limit is in Arizona.

Assemblywoman Spiegel:

Does this work session document contain the amendments that were put forth by law enforcement?

Senator Segerblom:

Yes.

Assemblyman Hansen:

Is there anything in our bill that would prevent the federal government from coming in and arresting people who have medical marijuana in any quantity?

Brad Wilkinson, Committee Counsel:

No, I do not believe we could put anything in this bill to restrain the federal government from doing what it is going to do.

Assemblywoman Diaz:

Mr. Segerblom, when you went to Arizona and toured the dispensary there, had the federal government shown an interest in going to the dispensaries and shutting them down?

Senator Segerblom:

The federal government has gone to some states, such as California, but the U.S. Attorney General actually stated on record that if the dispensaries strictly

comply with state law, the federal government will not bother them. In California there were some noncompliance issues, and the federal government did shut down some dispensaries. In Colorado, which is the ultimate model where everything is very tightly controlled, there have been no federal raids.

Assemblyman Wheeler:

Did the Supremacy Clause change overnight?

Assemblywoman Fiore:

I have a few reservations with my "pot constituents" not being able to grow, and the firearm concerns, so I will be reserving my right to change my vote on the floor.

Assemblyman Duncan:

We discussed the interplay between the Supremacy Clause and the state's rights. Have any of the other states set up a Tenth Amendment challenge and worked that into a bill, to essentially say that they are exercising their right under the Tenth Amendment to regulate marijuana for medicinal purposes? Have you thought of setting up a legal challenge? That is basically what we are saying here, that it is a state's rights issue.

Senator Segerblom:

We have not put anything like a preamble that says this is based on the Tenth Amendment. The reality is it is based upon the *Nevada Constitution*, which would be the Tenth Amendment argument. When Arizona passed their law, the district attorney tried to claim that they were preempted by federal law. There was a lawsuit filed in federal court, and the federal judge said it was a state's rights issue. There are lots of case laws stating that states have the right to regulate this.

Chairman Frierson:

Are there any other questions? Seeing none, I will entertain a motion to amend and do pass.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO
PASS SENATE BILL 374 (2ND REPRINT).

ASSEMBLYMAN CARRILLO SECONDED THE MOTION

Chairman Frierson:

Is there any discussion on the motion?

Assemblyman Duncan:

I appreciate the good discussion we had on this bill yesterday. I am struggling with this in terms of the Tenth Amendment issue and the Controlled Substance Act. I will be voting no out of Committee with the right to change my vote on the floor. I will also state that the possession of up to 2.5 ounces is troublesome. I also have concerns regarding possibly limiting the number of dispensaries in Clark County. If we are predicated this argument that we need medical marijuana because it has medicinal purposes, I wonder if there is a way to control it a bit more.

Assemblyman Hansen:

I will be voting no. Although I am highly sympathetic, it is troubling to me. If we were doing this on a Tenth Amendment challenge basis, I would support it. But the way we are going about this conflicts with my oath to uphold the *United States Constitution* as part of my duty here. I think the Supremacy Clause is being challenged in a backhanded way.

Chairman Frierson:

I know that has come up before. I will say that did not stop folks from saying "Obamacare" five times each time it came up in this Committee, even though we are not a health committee, and that is federal law. So, it is what it is, but we do have the *Nevada Constitution* that addresses it providing a directive from the people.

Assemblywoman Spiegel:

This is something that my constituents are asking for; they support it wholeheartedly. On a personal note, I had a lot of preconceived misconceptions about medical marijuana until one of my friends who lives in California had pancreatic cancer. I was visiting him when he received his first dose of medical marijuana. It was the only thing that enabled him to eat, and it took the last week of his life from something that was absolutely horrific to something that was still horrific but somewhat tolerable. It is important that we think about the people who will benefit from this and all of the Nevadans who really need this. I encourage everyone to support this.

Assemblyman Martin:

I am a solid yes, primarily because I think the evidence presented is overwhelming in terms of the medicinal quality. I hope more studies will be done. I am a little concerned about the 2.5-ounce limit in the bill. I think it is best left up to a medical doctor to determine how much is necessary. Maybe that is a tweak moving forward. I personally have known a lot of people who had the need for medical marijuana. I am very compelled by that.

My constituents have weighed in on this, and they want it; therefore, I am voting yes.

Chairman Frierson:

Are there any other thoughts or questions?

THE MOTION PASSED (ASSEMBLYMEN DUNCAN, HANSEN, AND WHEELER VOTED NO).

I will assign the floor statement to Mr. Martin. There being no other business, I will recess [at 12:50 p.m.].

[Meeting was reconvened at 4:02 p.m. behind the bar.]

Chairman Frierson:

I will entertain a motion to introduce Bill Draft Request S-1249.

BDR S-1249—Makes technical corrections to measures passed by the 77th Legislative Session. (Later introduced as [Assembly Bill 512](#).)

ASSEMBLYWOMAN SPIEGEL MOVED TO INTRODUCE BILL DRAFT REQUEST S-1249 (LATER INTRODUCED AS ASSEMBLY BILL 512).

ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will again recess this meeting [at 4:03 p.m.].

[Meeting was reconvened at 8:53 p.m.]

Chairman Frierson:

We will now consider Assembly Bill 512, which we introduced on the floor today.

Assembly Bill 512: Makes technical corrections to measures passed by the 77th Legislative Session. (BDR S-1249)

Brad Wilkinson, Committee Counsel:

Assembly Bill 512 is what we call a trailer bill. It makes several changes to bills that have already been passed this session. Section 1 makes Senate Bill 134 effective upon passage and approval. Section 2 resolves some language that

may be construed as a conflict between Senate Bill 199 and Senate Bill 220. The other sections of the bill account for the passage of Senate Bill 224 and Senate Bill 243, which had to do with the DNA bill and a new administrative assessment for DUI cases, respectively. Basically, this bill just makes technical corrections so all of those bills work together.

Chairman Frierson:

Essentially, we have two kinds of bills in this family. The one is retroactive, which makes corrections to *Nevada Revised Statutes*. This one deals with adjustments that need to be made with respect to bills that have been passed this session.

Are there any questions? Is there anyone wishing to offer testimony in support? Seeing no one, is there anyone wishing to offer testimony in opposition? Seeing no one, is there anyone wishing to offer testimony in a neutral position? I will close the hearing on A.B. 512. So we do not have conflicting laws, and since we have suspended the rules, I am willing to accept a motion to do pass.

ASSEMBLYWOMAN DIAZ MOVED TO DO PASS ASSEMBLY BILL 512.

ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Mr. Martin. With that, this meeting is now in recess [at 8:58 p.m.].

[The meeting reconvened on June 3, 2013, at 11:58 a.m.]

Chairman Frierson:

We recessed yesterday, and I will now adjourn the meeting [at 11:58 a.m.].

RESPECTFULLY SUBMITTED:

Nancy Davis
Committee Secretary

APPROVED BY:

Assemblyman Jason Frierson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: June 2, 2013

Time of Meeting: 12:34 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 374 (R2)	C	Dave Ziegler	Work Session Document