

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

**Seventy-Eighth Session  
April 8, 2015**

The Committee on Commerce and Labor was called to order by Chairman Randy Kirner at 2:10 p.m. on Wednesday, April 8, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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/App/NELIS/REL/78th2015](http://www.leg.state.nv.us/App/NELIS/REL/78th2015). In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Randy Kirner, Chairman  
Assemblywoman Victoria Seaman, Vice Chair  
Assemblyman Paul Anderson  
Assemblywoman Irene Bustamante Adams  
Assemblywoman Maggie Carlton  
Assemblywoman Olivia Diaz  
Assemblyman John Ellison  
Assemblywoman Michele Fiore  
Assemblyman Ira Hansen  
Assemblywoman Marilyn K. Kirkpatrick  
Assemblywoman Dina Neal  
Assemblyman Erven T. Nelson  
Assemblyman James Ohrenschall  
Assemblyman P.K. O'Neill  
Assemblyman Stephen H. Silberkraus

**COMMITTEE MEMBERS ABSENT:**

None



**GUEST LEGISLATORS PRESENT:**

Assemblyman James Oscarson, Assembly District No. 36

**STAFF MEMBERS PRESENT:**

Kelly Richard, Committee Policy Analyst  
Matt Mundy, Committee Counsel  
Jennifer Russell, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Chris Ferrari, representing Consumer Healthcare Products Association

**Chairman Kirner:**

Today is a work session. We will hear several bills. [Assembly Bill 229](#) and [Assembly Bill 365](#) will be heard at a later date because there is still some clarification needed.

[Assembly Bill 229](#): Revises provisions governing workers' compensation.  
(BDR 53-754)

[Assembly Bill 365](#): Enacts provisions governing vehicle protection product warranties. (BDR 57-1055)

I am going to open the work session on [Assembly Bill 6](#).

[Assembly Bill 6](#): Revises provisions relating to autism spectrum disorders.  
(BDR 54-67)

**Kelly Richard, Committee Policy Analyst:**

[Assembly Bill 6](#) was heard in this Committee on March 6, 2015. The bill relates to autism spectrum disorders ([Exhibit C](#)). We went through this in our last meeting, so I will not go through the whole bill again. Now there are three amendments. The first addresses registered behavior therapists. The second provides that the mandatory sections of the bill apply only to health plans delivered, issued, or renewed, on or after January 1, 2017. The third amendment proposes to limit the maximum benefit for applied behavior analysis treatment to the actuarial equivalent of \$72,000 per year.

**Chairman Kirner:**

I will entertain a motion to amend and do pass.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 6.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

**Assemblywoman Seaman:**

I am going to vote this out of Committee, but I reserve my right to change my vote on the floor.

**Assemblyman Ellison:**

I will do the same.

**Chairman Kirner:**

Is there any other discussion?

**Assemblywoman Carlton:**

I am not going to change my vote. I support this bill. I want to thank you for all of the work that you have done. You have listened to the concerns of all the members and tried to come up with the best thing that we can do for these kids. I want to thank the Chairman and all of the people who worked on this. We are doing the right thing by the kids.

**Assemblyman Ellison:**

Sir, you have done more on this bill than anyone. I am impressed with the time that was put into this. I am still worried about getting the age limit up, but I do not think that could happen.

**Chairman Kirner:**

I appreciate that.

**Assemblyman Ohrenschall:**

It had to be frustrating having to move a bill from hearing to hearing, but I really thank you for doing that with this bill and giving the stakeholders time to "get the soup right." We worked so hard in 2009 to get this on the books. Prior to that, there was no insurance coverage. I was getting emails from parents of 18- and 19-year-old children talking about the progress they had made. They were worried that if the hours were cut, the kids might regress. I appreciate all of the stakeholders and you for leading the charge.

**Assemblyman Nelson:**

I will vote to get it out of Committee. I have a question on exactly what the "actuarial equivalent" means. Until I have that resolved, I will reserve the right to change my vote on the floor. I would also like to commend you on the hours you spent getting everyone together.

**Assemblyman Silberkraus:**

I wanted to thank you for your hard work and dedication on this important issue.

**Chairman Kirner:**

We will take a vote.

THE MOTION PASSED. (ASSEMBLYMAN PAUL ANDERSON WAS  
ABSENT FOR THE VOTE.)

Our next bill is Assembly Bill 182.

**Assembly Bill 182: Revises provisions relating to collective bargaining by local government employers. (BDR 23-646)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 182 was heard in Committee on March 25, 2015. [Work session document ([Exhibit D](#)).] This bill makes various changes to collective bargaining agreements between local governments and their employees. The bill prohibits the deduction of dues from employee compensation. It excludes school administrators and other supervisory and administrative employees from being part of the bargaining units they supervise, and it excludes confidential employees from membership in a bargaining unit. Further, the measure revises certain requirements related to local governments' consideration of layoffs or reductions in force. The bill eliminates "evergreen" language designed to keep agreements in effect while new agreements are negotiated and it eliminates the statutory right of arbitration to resolve an impasse. Assembly Bill 182 provides that a budgeted ending fund balance for certain governmental funds of not more than 16.6 percent of the total budgeted expenditures, less capital outlay, is not subject to collective bargaining negotiations and must not be considered by a fact finder in certain circumstances.

There is an extensive mock-up attached for the members' review. The amendment makes the following changes, although there are certain other technical changes in the mock-up.

In section 1, the mock-up allows a local government to agree to deduct dues from employees' paychecks if the employees are free to resign from the labor organization. In section 3, the mock-up explicitly allows a local government employee to resign from an employee organization at any time. Section 4 reinstates deduction of dues in the scope of mandatory bargaining and defines the term "loss of revenues" for purposes of rights to reduce in force or lay off employees. In section 5, the amendment revises the considerations a local government employer is required to make in determining whether to lay off an employee. In section 7, the amendment modifies the employees who may not be members of a bargaining unit. Section 8 of the amendment allows the parties of an agreement to agree to include or exclude certain terms or conditions of employment, and to make any such terms effective prospectively or retroactively. Section 10 of the amendment makes changes to the final offers submitted to fact-finding. Section 13 increases the percentage of an ending fund balance from 16.6 percent to 25 percent. Section 14 clarifies the application of the bill to existing agreements.

**Chairman Kirner:**

I will accept a motion to amend and do pass.

ASSEMBLYWOMAN SEAMAN MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 182.

ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.

Is there any discussion?

**Assemblywoman Kirkpatrick:**

Although there are some things that were changed, the crux of the bill has not changed. I have some disagreements with some of the issues that are still outstanding. I understand why you changed it to 25 percent, but there are some national standards of 16.6 percent. I do not agree with removing certain groups from the process. If someone is going to make these changes, then we need to include everyone in the process. It is only fair. This is about parity across the board. I also think that, as we talk about these issues, there is more discussion to be had. I understand that we need to compromise this time, but I do not believe that this is being compromised at this rate. I hope there is still time to work on it. We will agree to disagree, but I hope there is further discussion on this bill. Some of the people did explain that, through collective bargaining, they were able to work on their paid leave. However, I do not think we took that into consideration. That was something that they bargained for. I will not be supporting this because I do not think that this is a fair and balanced bill at this point.

**Chairman Kirner:**

I appreciate your comments. Is there other discussion?

**Assemblywoman Carlton:**

I, too, have concerns, and mine go back to the layoff provisions and the reduction in force. It does still say, "employer may consider without limitation...." The seniority issue is still in there. I think that will set us up for lawsuits—someone saying they were fired because they were male, female, too old, religion, creed, all of the things we went through in the hearing. I still have concerns about that. I am also concerned with the language on page 2 of the mock-up about being able to resign at any time. Most organizations have an open enrollment period and a closing enrollment period. You have a designated time when you know you can either sign up or leave, and I have a problem with employees not being able to collect any money that may be due them because it says, "dues accruing before, on or after the date of resignation." Someone could get away with not paying their bill and resign, expect representation during that time, and leave without paying their fair share. I think that sets it up as an unfair standard for those employees who do pay their fair share. I will be in opposition to the bill.

**Assemblyman Paul Anderson:**

What we are looking at is still a living and breathing document as we have deadlines looming, and as we have other bills related to these same sections. There is a lot of discussion still happening, a lot of folks still at the table, and a lot of things to hammer out. I will support this bill getting out of Committee and look forward to further discussions and working with both sides to make sure we get something that works for everybody.

**Chairman Kirner:**

To address the concerns and questions of my colleagues, I did visit with several union organizations. We talked at length about the dues collection. What you see here is the agreed upon resolution. It does keep "right to work" concepts in the framework. Regarding Assemblywoman Carlton's concerns with the layoff provisions, it is the same that we see in schools and there are regulations that deal with discrimination. I am hopeful that we will not see a lot of lawsuits, but there are rules in law that guard and protect people against discrimination.

**Assemblywoman Kirkpatrick:**

History repeats itself. In the past, when things like this have come to fruition, there has been a dialogue amongst the minority and the majority as well as the people being affected. I did not agree to this, so I feel that it is not a fair statement to say that it was agreed upon. The minority did not agree to it. I want to be clear. I understand there will be changes this time, but it has to

be reasonable and there has to be further discussion on it so that folks who are truly impacted know what is at stake. This is not a partisan issue. There are many people affected who are from both parties. I did not agree to this. It is a start and it is a living document. I hope we can continue to further the dialogue.

**Chairman Kirner:**

I will call for the vote.

THE MOTION PASSED. (ASSEMBLYMEN BUSTAMANTE ADAMS, CARLTON, DIAZ, KIRKPATRICK, NEAL, OHRENSCHALL, AND SILBERKRAUS VOTED NO.)

Assemblyman Hansen, will you take the floor statement. We will move to Assembly Bill 211.

**Assembly Bill 211: Revises provisions relating to mechanics' and materialmen's liens involving certain renewable energy projects. (BDR 9-414)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 211 was heard in Committee on March 11, 2015 and it is sponsored by Assemblyman Ohrenschall. [Work session document ([Exhibit E](#)).] As drafted, the bill reduces the amount a lessee making certain renewable energy improvements to a leased property must put into the required construction disbursement account; lessees making these types of improvements are not required to cover the cost of the material or equipment for improvement in the construction disbursement account. The bill makes similar changes to provisions requiring supplemental funding in such an account for additional or changed work and modifies the surety bond required as an alternative to the construction disbursement account for these projects by allowing the bond to be obtained at 1.5 times the amount of the total cost of the work, excluding materials and equipment.

There is an amendment attached which removes sections 1, 2, 4, and 5 of the bill. It removes references to renewable energy improvements in section 3 and instead provides that a lessee need not include the cost of materials and equipment that a supplier provides in the required account under certain circumstances.

**Chairman Kirner:**

I will accept a motion to amend and do pass.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 211.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

Are there any comments?

**Assemblyman Ohrenschall:**

As members will recall from the hearing, we had presentations from the Associated General Contractors (AGC), both in northern Nevada and southern Nevada, and from Mr. Richard Peele, an attorney in Las Vegas who works with Nevada electrical contractors and others and really had a big role in writing *Nevada Revised Statutes* (NRS) Chapter 108. We spent a lot of time trying to work with stakeholders. I believe we have all parties working together and the version in the mock-up will protect the contractor and make sure that development happens on private lands. I wanted to point out the concern about germaneness, and I spoke with Mr. Mundy, Committee Counsel, and the final ruling is that the amendment is germane to Assembly Bill 211.

**Chairman Kirner:**

To that point, we had a question and we researched it. We have a legal opinion on that and it is germane.

**Assemblyman Hansen:**

Is it still limited to 18 megawatts?

**Matt Mundy, Committee Counsel:**

No, and it is not limited to renewable energy products.

**Chairman Kirner:**

As you recall, that was the question of germaneness, and that is the one we got answered.

**Matt Mundy:**

Assemblyman Hansen, just to follow up, I spoke with Brenda Erdoes, Legislative Counsel Bureau, Legal Division, this morning about that because it was a close call. I let her make the final decision, and she believed that it was germane.



**Assemblyman Hansen:**

Would this apply to any construction project in Nevada?

**Matt Mundy:**

It would apply to any disbursement account under NRS Chapter 108.

**Chairman Kirner:**

I will call for the vote.

THE MOTION PASSED UNANIMOUSLY.

We will move to Assembly Bill 292.

**Assembly Bill 292: Revises provisions relating to providers of health care who provide services through telehealth and various other provisions relating to insurance coverage for such services. (BDR 54-606)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 292 is sponsored by Assemblyman Oscarson, and was heard in Committee on March 30, 2015. [Work session document ([Exhibit F](#)).] It defines "telehealth" as the delivery of health care services from a provider of health care to a patient at a different location through the use of certain technology. Only a health care provider licensed in this state can practice via telehealth to a patient in Nevada. The measure requires any policy of health or industrial insurance and Nevada Medicaid to include coverage via telehealth to the same extent and in the same amount as services provided in person. The bill authorizes a hospital to grant staff privileges to a health care provider at another location to allow the provider to treat a patient via telehealth to patients at the hospital.

There is a mock-up attached for the members' review, and the Legal Division prepared a summary of the mock-up. Section 1 makes clarifying changes to require a provider to have a license before using telehealth to direct care, render a diagnosis, or write a treatment order or prescription for a patient in this state. The subsection has been amended to exempt providers who work for, or pursuant to a contract, with an urban Indian organization from this licensing requirement. There is a modification to subsection 3 which provides that a provider is subject to the jurisdiction of this state if that provider uses telehealth to direct care, render a diagnosis, or write a treatment order or prescription for a patient in this state. It also clarifies that providers are required to comply with all applicable regulations adopted by occupational licensing boards as well as all state and federal laws that would apply as though the

provider were providing services here. The amendment adds the terminology "distant site" and "originating site" where appropriate.

Moving down to section 21, it clarifies that in paying the nonfederal share of expenses for services provided through telehealth, the state can use funds from local governments in circumstances where local governments would be used if they were being provided in person. Subsection 1(b)(1) clarifies that the State Plan for Medicaid can require prior authorization if prior authorization would have been required in person. Subsection 2 clarifies that the state is not required to provide coverage under the State Plan for services that it is not otherwise required by law to cover.

Concerning sections 27, 29, 31, 32, 36-38, 41, and 43, subsection 3 of the amendment clarifies that an insurer could require prior authorization again, and clarifies that an insurer is not required to ensure that covered services are available through telehealth to a patient at a particular location, provide a service that is not a covered service, provide coverage for services that are not otherwise required to be covered, or contract with a provider whom the insurer is not otherwise required by law to contract with.

**Chairman Kirner:**

I will entertain a motion to accept the amendment and do pass.

ASSEMBLYMAN SILBERKRAUS MOVED TO AMEND AND DO  
PASS ASSEMBLY BILL 292.

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

Is there any discussion?

**Assemblyman Nelson:**

I would like to thank Assemblyman Oscarson for bringing us well into the twenty-first century. It looks like this is the future of medicine and I think it is a good bill.

**Chairman Kirner:**

I will call for the vote.

THE MOTION PASSED UNANIMOUSLY.

We will move to Assembly Bill 325.

**Assembly Bill 325: Enacts provisions governing persons engaged in the business of a private professional guardian. (BDR 54-976)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 325 was sponsored by Assemblyman Sprinkle, and it was heard in Committee on March 30, 2015. [Work session document ([Exhibit G](#)).] This bill generally provides for the licensure and regulation of private professional guardians by the Commissioner of Financial Institutions. The first amendment you see was submitted during the hearing and, as Assemblyman Sprinkle indicated during that hearing, he wanted to remove the first line of that amendment, which would have amended section 20, subsections 1-4. Consider that portion of the amendment stricken at his request. The remainder of the amendment addresses duties that are outside the scope of the Department of Business and Industry.

The second amendment proposes to clarify that relatives, including those who live outside the state, are allowed to provide court-appointed guardianship to a relative before a court appoints a public or private professional guardian, as long as the relative is willing and able to do so. The amendment replaces the word "trust" with "guardianship" throughout the bill and adds Assemblywoman Seaman as a sponsor of the measure.

**Chairman Kirner:**

I will accept a motion to amend and do pass.

ASSEMBLYWOMAN NEAL MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 325.

ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

Is there any discussion?

**Assemblyman Nelson:**

I appreciate the amendments, but I am going to have to vote against this bill.

**Chairman Kirner:**

This bill will be a two-thirds bill, but I would like to move it to the floor.

**Assemblyman Ellison:**

You are right. We need to move it to the floor. I was going to vote against it, but instead I will reserve my right to change my vote on the floor.

THE MOTION PASSED. (ASSEMBLYMEN FIORE AND NELSON  
VOTED NO.)

We will move to Assembly Bill 389.

**Assembly Bill 389: Revises provisions governing employee leasing companies.  
(BDR 53-766)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 389 is sponsored by Assemblyman Paul Anderson and it was heard in Committee on April 6, 2015. [Work session document ([Exhibit H.](#))] This measure allows an employee leasing company to choose whether to use its own calculated contribution rate or the calculated contribution rate of a client company for purposes of unemployment insurance. The measure also revises the definition of "employee leasing company," allows such a company to submit consolidated financial statements for purposes of applying for a certificate of registration, and repeals provisions requiring an employee leasing company to maintain a physical presence in this state.

There is an amendment attached, and we received this during the hearing, but it may not have been in the Nevada Electronic Legislative Information System (NELIS) at that time. It was submitted by Helen Foley on behalf of TriNet, and strikes section 1 and subsection 3 of section 4 of the bill. It also revises subsection 1 of section 4 to address the option of a client of an employee leasing company to choose the lower of unemployment insurance rates. Under the amendment, the client would be required to use its own rate for purposes of unemployment insurance.

**Chairman Kirner:**

This is another situation where we have a living bill, but I would like to move it to the floor, so I will accept a motion to amend and do pass.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO  
PASS ASSEMBLY BILL 389.

ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

**Assemblyman Paul Anderson:**

This bill has a fiscal note and will end up in the Assembly Committee on Ways and Means. I am meeting with all of the agencies that have concerns, and we will make sure we work through those before that bill moves further.

**Assemblywoman Carlton:**

I was not sure if the appropriate motion was to send it to the floor and then pull it into Ways and Means. However it needs to be done, I want to make sure that it gets there because it definitely has a fiscal impact.

**Chairman Kirner:**

Yes it does. Seeing no further discussion, I will call for the vote.

THE MOTION PASSED UNANIMOUSLY.

We will move to Assembly Bill 409.

**Assembly Bill 409: Revises provisions relating to cosmetology. (BDR 54-1050)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 409 is sponsored by Assemblywoman Seaman and was heard in Committee on April 1, 2015. [Work session document ([Exhibit I](#)).] It exempts makeup artists from licensure and regulation by the State Board of Cosmetology. The measure also eliminates the passage of a nationally recognized examination as a requirement for certain applicants licensed in another jurisdiction to obtain a license to practice in Nevada. Finally, A.B. 409 repeals an existing law, which allows the Board to issue a limited license to practice cosmetology in a resort hotel and in other locations designated by the Board.

There is an attached amendment from Assemblywoman Seaman. The amendment allows the Board to register makeup artists who work in a licensed cosmetology establishment and reinstates the repealed language related to limited licensure.

**Chairman Kirner:**

I will accept a motion to amend and do pass.

ASSEMBLYWOMAN SEAMAN MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 409.

ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.

**Assemblywoman Carlton:**

With this registration scheme, is there a dollar amount for the registration? I did not see any numbers. We usually have a fee to register.

**Assemblywoman Seaman:**

There is no registration fee.

**Assemblywoman Carlton:**

But they will be registering, so all of the other licensees in the state will have to pick up the costs of those being registered. Typically, amongst the boards, we ask each licensee to bear his or her own costs because there is no general fund. They are all contributing. I would have concerns about that.

**Assemblywoman Bustamante Adams:**

I want to acknowledge your leadership in bringing the groups together to work on the two bills regarding the cosmetology industry. I was saddened that we had moved the other bill off of work session today, but I am grateful that we have the opportunity to bring up A.B. 409. I want to thank Assemblywoman Seaman for working with us to move this forward. There is that one provision that Assemblywoman Carlton talked about that creates an unlevel playing field, but I will support the bill moving forward, reserving my right to change my vote on the floor if necessary.

**Chairman Kirner:**

I appreciate the work you participated in as well. I know this is one of the areas that you worked over the last biennium in the interim.

**Assemblywoman Diaz:**

I want to echo Assemblywoman Bustamante Adams' remarks. I will vote it out of Committee and reserve my right to change my vote on the floor.

**Chairman Kirner:**

I will call for the vote.

THE MOTION PASSED. (ASSEMBLYWOMAN CARLTON  
VOTED NO.)

We will move to Assembly Bill 453.

**Assembly Bill 453: Provides for the regulation of the sale of dextromethorphan.  
(BDR 40-392)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 453 was heard in Committee on March 25, 2015. [Work session document ([Exhibit J](#)).] It would prohibit the sale of certain medications containing dextromethorphan to a person under the age of 18 without a prescription. The measure requires retailers to take certain steps to prevent an unlawful sale from taking place and provides penalties for noncompliance.

There is an amendment attached for your review that was submitted by Chris Ferrari on behalf of the Consumer Healthcare Products Association. The amendment replaces section 1 of the bill. The amendment does not require retailers to take any steps to prevent an unlawful sale other than obtaining proof of age from the purchaser, and it does not contain references to penalties for retailers. The amendment proposes to preempt any local ordinance relating to the sale of these medications containing dextromethorphan.

**Chairman Kirner:**

We have a question on this. Is Mr. Ferrari here?

**Matt Mundy, Committee Counsel:**

For clarification, section 1.1 says that it shall be unlawful for any commercial entity to knowingly or willfully sell to an underage person. We need to know whether or not that is meant to apply to any employee of, for instance, a pharmacy or any retail establishment, because we do not have a lot of clarification for the sake of applying a criminal penalty in this case.

**Chris Ferrari, representing Consumer Healthcare Products Association:**

In discussions with law enforcement, municipal government, and retail, the intent was to make the purchase thereof similar to what it would be for cigarettes or alcohol requiring the furnishing of identification. For instance, in the case where a parent found that their child had illegally purchased cigarettes, they then went back to the retailer and said they knew their child bought them at that particular establishment, thereby making that retailer aware, there is nothing that law enforcement could do because they did not see it occur. At the same time, that penalty will be driven by the retailer themselves. This would be in the same regard and the intent is to make sure that it covers any store—whether it be a pharmacy or retail establishment—that sells products containing dextromethorphan.

**Matt Mundy:**

For clarification, it would be the business owners on the hook then, and not the employees?

**Chris Ferrari:**

Yes, that is my understanding. I have spoken with retail who are supportive of this language.

**Assemblyman Hansen:**

My concern is that you mention cigarettes and alcohol, and you have law enforcement "stings." Can we expect cough syrup stings in the future?

**Chris Ferrari:**

Not that I am aware of.

**Assemblyman Nelson:**

The amendment proposes to preempt any local ordinance. Are there local ordinances that you are aware of?

**Chris Ferrari:**

There are none that I am aware of. I think the goal is to create uniform and consistent regulations so that retailers or others who may sell the products are not burdened by multiple different interpretations thereof.

**Assemblyman Nelson:**

Another thing came up in the hearing. This applies not just to pharmacies, but to any place that sells dextromethorphan, correct? It includes convenience stores, grocery stores, everything?

**Chris Ferrari:**

That is correct.

**Assemblywoman Carlton:**

I understand where we are trying to go but, I am sorry, if I have to show my identification (ID) to buy cough syrup, I am about done. Last session, I had to fight to get Sudafed for myself and my husband because they would only sell me one package at a time; we were both sick, and he could not leave the house. I know you say they are only going to ask for identification from people of only a certain age, but they ask for your ID in the airport now to get a drink because they ask everybody for an ID. You go to buy a pack of cigarettes, they ask everybody for an ID. We are going to be standing in line at grocery stores while people go digging for their IDs so they can prove they can buy cough medicine. I am sorry; I understand the problem. Some 21-year-old is going to



buy a case of this stuff and sell it on the street corner for twice the price and make a fortune off of it. That might be me. I do not know, but you hit a point when you have to say no.

**Chairman Kirner:**

They are asking for your ID because you look so young.

**Assemblywoman Fiore:**

I am proud to say that I agree with Assemblywoman Carlton's comments.

**Assemblywoman Diaz:**

I am still weighing the pros and cons. I understand there is a growing problem and we are trying to find a balance. I see the benefit of limiting access, but we have to weigh the other side. I will vote it out of Committee, but I will reserve the right to change my vote on the floor because I am not 100 percent either way.

**Assemblywoman Bustamante Adams:**

I agree with the comments of my colleague, Assemblywoman Diaz.

**Assemblywoman Neal:**

I agree as well.

**Assemblyman Ohrenschall:**

I also agree.

**Assemblyman Silberkraus:**

I agree with that also.

**Assemblywoman Kirkpatrick:**

Mr. Chairman, I am a no. I get it, but it goes too far. I understand the federal piece of it, but we cannot always be rushing because the government tells us that if we do not do it, they are going to do it for us. The last time I checked, they are not as effective as we would like them to be. I have a problem with the ID part. I can attest that no matter how old you are, they do card you for cigarettes. This is a terrible personal story to tell, but I had been sick and looked amazingly terrible, beyond belief, and the cashier said, "I am sorry, you do not look like the picture on your identification." She would not sell me cigarettes, and I was ready to go off the deep end. I can see where something like that would come about because, when you are sick, you do not look good. Let us be honest, we look good when we go to get our driver's license, at least that is the intent. I am a no.

**Chairman Kirner:**

Thank you, Assemblywoman Kirkpatrick, and we do enjoy these conversations and the history lessons.

**Assemblyman Nelson:**

I would like to jump on the bandwagon. I will vote to get this out of Committee, but I will reserve my right to change my vote on the floor. I have the utmost respect for Mr. Ferrari; I have worked with him on a number of bills. I trust his integrity, but I have the same concerns.

**Assemblywoman Fiore:**

As I listen to my peers, because we want everyone to feel warm and fuzzy, we will pass this just to get it out of Committee. I vote we kill it right now.

**Chairman Kirner:**

Ms. Richards reminds me that I did not even take a motion and went right into discussion. Is there a motion to amend and do pass?

ASSEMBLYWOMAN SEAMAN MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 453.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE  
MOTION.

Is there further discussion?

**Assemblyman O'Neill:**

I agree with Assemblywoman Fiore, Assemblywoman Kirkpatrick, and Assemblywoman Carlton and will be voting no on this bill. I have the same problems with it.

**Chairman Kirner:**

I think the genesis of this bill is to preempt federal intrusion on Nevada. The federal government has indicated they are moving in a direction to regulate this. If we preempt that, the thought process is that if we do a minimal amount of regulation, that might keep the federal government out of Nevada. To be honest, I do not know that anything keeps the federal government out of our state. That was the genesis of this bill. Is that a fair statement?

**Chris Ferrari:**

That is a fair statement. There was a dialogue between two federal agencies as to whether dextromethorphan would need to be a scheduled drug or not. In the initial hearing, Assemblywoman Neal expressed concerns, as did other

members, about access to those medicines. If a drug becomes scheduled, there is increased likelihood that access to that medicine will become more difficult. When that conversation occurred in 2010, the abuse rate was at a certain level and that level has since been cut in half through an educational campaign. Much as we are seeing now, with the abuse of opioid-type drugs and an increase use of heroin, drug abuse fluctuates dramatically. To the Chairman's point, if different laws are passed, even at a minimal level, it will be a minor inconvenience for residents of our state; however, it will be less of an inconvenience should the federal government decide to schedule the drug.

**Assemblywoman Carlton:**

If this is categorized as a scheduled drug, that will override anything that we do. I am even more confused than when we started. Honestly, a kid can go to a store and buy airplane glue right now, and that is much more dangerous than cough syrup. I have concerns about the federal component.

**Matt Mundy:**

If they make it a scheduled drug, then you have to get a prescription to get it. That would preempt anything we do in state law, and it would be subject to getting a prescription. The federal government may also say that if the states do not regulate this in a certain manner, they will have a model statute that regulates it in a certain manner. I think the idea is that in lieu of that potential of the feds saying if the states do not do it they will, they will respect the states if they meet certain minimum requirements. That may be what the proponents are speaking to.

**Assemblywoman Kirkpatrick:**

We spent the entire interim working on the prescription drug piece of this, and we cannot even get that figured out. I think that is a bigger issue that we need to take on this session as opposed to worrying about cough syrup. I know sometimes I try to be funny, but the prescription drug piece is a serious issue. If we cannot, as a body, agree to that, how can we agree on cough syrup which is something that everyday people rely on every day when they are sick? I think it is onerous to talk about the IDs and whether people are being carded. I mean no disrespect, Mr. Ferrari, and I never committed, but what I am saying is we have a bigger issue with prescription drugs. We need to address that when it comes to our youth and others who abuse prescriptions rather than cough syrup. Maybe it is something people can look at in the interim, but I am concerned that we are focusing too much on this small issue instead of the bigger picture of prescription drug abuse.

**Assemblyman Nelson:**

I thought I had this resolved. For a first offense, they get a warning and for the second offense, they get a civil penalty. Is this not a crime?

**Chairman Kirner:**

Assemblyman Nelson, that part was amended out. We are just talking about asking for an ID.

**Assemblyman Nelson:**

On the federal issue, no, we do not want the federal government to come in here and schedule the drug, but as we all know, if the federal government does not want to enforce a law, it does not enforce a law. Marijuana is a perfect example of that.

**Chairman Kirner:**

I will call for the vote.

THE MOTION PASSED. (ASSEMBLYMEN CARLTON, ELLISON,  
FIORE, HANSEN, KIRKPATRICK, AND O'NEILL VOTED NO.)

We will move to Assembly Bill 454.

**Assembly Bill 454: Revises the applicability of provisions governing manufactured home parks. (BDR 10-1127)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 454 was presented by Assemblyman Ellison on April 1, 2015. [Work session document ([Exhibit K](#)).] As drafted, the bill revises the definition of "manufactured home park" or "park" to mean an area or tract of land where ten or more homes or lots are rented or held out for rent, for purposes of certain statutes regulating parks and park management. There is an amendment that removes sections 1 and 3 of the bill and retains section 2, which would be modified so that a manager or assistant manager of a manufactured home park which has six or more lots will be required to complete certain continuing education. As a result, the definition of "manufactured home park" or "park" remains unchanged at two or more.

**Chairman Kirner:**

I will accept a motion to amend and do pass.

ASSEMBLYMAN SILBERKRAUS MOVED TO AMEND AND DO  
PASS ASSEMBLY BILL 454.

ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

**Assemblyman Hansen:**

I thought it was ten rather than six on the lot. Am I mistaken?

**Kelly Richard:**

The measure as drafted raised it from two to ten, then the amendment changed it from two to six.

**Assemblyman Ellison:**

We went back and calculated what constitutes the point where you would lose money on the size of the manufactured home park and the different costs associated with it. At six, you are starting to generate revenue, and at ten you are making money. We were trying to keep people from losing money.

**Assemblywoman Carlton:**

Was this the continuing education piece? People had to travel to get the continuing education? Some of that education was safety-related, and that was my concern. If the education is not life-safety, I am okay.

**Assemblyman Ellison:**

It is *Nevada Revised Statutes* Chapter 118B that relates to contracts, evictions, and other legal matters. All of the laws regarding education stay in the bill; it just says people do not have to travel to obtain the education.

**Assemblywoman Carlton:**

My concern was the life-safety issue, and you had shown me the chart. As long as people cannot opt out of that continuing education if it applies, I am good. Otherwise, it is a business function, and I do not want to get in the way of that.

**Assemblywoman Kirkpatrick:**

I am going to support this because I spoke with the manufactured home representatives, and they are going to try to offer some training online or via videoconference, so that will give people the opportunity to get the education. From my conversations with people affected, they want to do the training, but it was just too far away. This keeps the manufactured home industry on alert because they want participation in this process, and they should ensure training is accessible.

**Chairman Kirner:**

I appreciate your outreach and the feedback from the manufactured home industry. I will call for the vote.

THE MOTION PASSED UNANIMOUSLY.

That is the end of our work session. Is there any public comment? [There was none.] I will adjourn the meeting [at 3:04 p.m.].

RESPECTFULLY SUBMITTED:

---

Jennifer Russell  
Committee Secretary

APPROVED BY:

---

Assemblyman Randy Kirner, Chairman

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Assembly Committee on Commerce and Labor

**Date:** April 8, 2015

**Time of Meeting:** 2:10 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 6	C	Kelly Richard/Committee Policy Analyst	Work session document
A.B. 182	D	Kelly Richard/Committee Policy Analyst	Work session document
A.B. 211	E	Kelly Richard/Committee Policy Analyst	Work session document
A.B. 292	F	Kelly Richard/Committee Policy Analyst	Work session document
A.B. 325	G	Kelly Richard/Committee Policy Analyst	Work session document
A.B. 389	H	Kelly Richard/Committee Policy Analyst	Work session document
A.B. 409	I	Kelly Richard/Committee Policy Analyst	Work session document
A.B. 453	J	Kelly Richard/Committee Policy Analyst	Work session document
A.B. 454	K	Kelly Richard/Committee Policy Analyst	Work session document