

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

**Seventy-Eighth Session  
May 6, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settlemeyer at 8:35 a.m. on Wednesday, May 6, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 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 James A. Settlemeyer, Chair  
Senator Patricia Farley, Vice Chair  
Senator Joe P. Hardy  
Senator Becky Harris  
Senator Mark A. Manendo  
Senator Kelvin Atkinson  
Senator Pat Spearman

**GUEST LEGISLATORS PRESENT:**

Assemblyman Pat Hickey, Assembly District No. 25  
Assemblywoman Victoria Seaman, Assembly District No. 34

**STAFF MEMBERS PRESENT:**

Marji Paslov Thomas, Policy Analyst  
Dan Yu, Counsel  
Christine Miner, Committee Secretary

**OTHERS PRESENT:**

Randi Thompson, Nevada Wine Coalition  
Daniel Hopper, Nevada Wine Coalition  
Dennis Eckmeyer, President, Nevada Wine Coalition; Nevada Vines and Wines  
Irene King  
Warren Hardy, Pahrump Valley Winery  
Bill Loken, Owner, Pahrump Valley Winery

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Alfredo Alonso, Southern Wines and Spirits of America, Inc.; Nevada Beer Wholesalers Association  
Tray Abney, The Chamber  
Victor Joecks, Nevada Policy Research Institute  
Mike Steedman, Nevada Vine & Wine  
Agata Gawronski, Executive Director, Board of Examiners for Alcohol, Drug and Gambling Counselors  
Kevin Quint, Bureau Chief, Substance Abuse Prevention and Treatment Agency, Division of Public and Behavioral Health, Department of Health and Human Services  
Charlene Frost, Statewide Family Network Director, Nevada PEP  
Barry Lovgren  
Tim Keller, Managing Attorney, Institute For Justice  
Edin Carpenter  
Kyle Waugh, Owner, Enrollment Director, L Makeup Institute  
Lissette Waugh, Owner, Education Director, L Makeup Institute  
Tom Devlon  
Perry Nixdorf, Owner, Paradise Salon Spa and Wellness  
Karen Moreno  
Mia Cavaricci  
Gary Landry, Executive Director, State Board of Cosmetology

**Chair Settlemeyer:**

I will open the hearing on Assembly Bill (A.B.) 4.

**ASSEMBLY BILL 4 (1st Reprint)**: Revises provisions relating to the operation of a winery in this State. (BDR 52-228)

**Assemblyman Pat Hickey (Assembly District No. 25):**

I am presenting A.B. 4 and will read from my written testimony ([Exhibit C](#)). The bill proposes to remove geographic restrictions on winemaking in Nevada. This bill is a result of cooperation with interested stakeholders, the existing wineries and oversight considerations raised by the liquor industry.

**Randi Thompson (Nevada Wine Coalition):**

The Nevada Wine Coalition supports A.B. 4. Current law allows commercial wineries only in counties with populations of 100,000 or less with the intention to keep wineries as a rural business. The law has prevented the industry from growing in Nevada. Nevada has the fewest wineries of any state in the Nation. I

refer to the map ([Exhibit D](#)) that illustrates the economic impact of the western wine producing states. The number one and number three wine producing states border Nevada—Oregon and California. Washington state is second for wine production. Nevada has a similar climate to eastern Washington's grape growing region. Whether the law is preventing expansion of this industry or lack of awareness that grapes can grow in Nevada, is speculation. Not allowing wineries in our most populous counties limits access to customers and discourages growth of the industry.

The Nevada Wine Coalition, an offshoot of Wines and Vines, has over 200 members growing grapes and making wine in northern Nevada. These are Nevadans who want to be part of creating a vibrant wine industry. The goal of A.B. 4 is to expand the wine industry across Nevada, diversify our economy, create jobs and bring needed tax revenue to our State and counties. The Coalition worked with the current winery owners and the liquor distributors to amend the bill as originally proposed to avoid hurting existing wineries or disrupting the current three-tier system. Existing Nevada winery owners agree that more wineries benefit the wine industry. Critical mass is needed to make a vibrant wine industry and changing the law will help. Current winemakers, who have made significant investments in our State, will benefit.

The 1,000 case production cap per year, unless the wine produced contains 25 percent Nevada grown grapes, is of some concern to the Coalition. It may deter winery startups in Nevada. Limiting the amount of money a winemaker can make will limit the amount of money invested in growing grapes. The bill as presented will allow Nevadans who want to grow grapes and make wine to begin to do so. Our goal is for Nevadans to make an investment in Nevada, grow grapes, establish processing facilities, create jobs and make quality wine.

**Daniel Hopper (Nevada Wine Coalition):**

Since 2009, I have been a student working for Grant Cramer, Professor, Department of Biochemistry and Molecular Biology, University of Nevada, Reno (UNR). Recently, while working on my Ph.D., I was involved in a number of research projects in the field and laboratory. My dissertation focused on the dehydration response of different grapevine cultivars of the gene protein and metabolite level. The UNR biochemistry lab has contributed to the grape research community through its numerous domestic and international collaborations. This has been vital, especially in Washoe County, in developing the potential wine industry. The experimental winery at UNR holds classes and

workshops that include wine tastings of Nevada-made and commercial wines. We cannot sell our wines, though many ask where to purchase UNR wines.

Current wineries in Nevada, Churchill Vineyards, Tahoe Ridge Winery, Sanders Family Winery and Pahrump Valley Winery have established the wine industry in the rural counties. We seek to add to the wine industry throughout Nevada. New projects are being planned in Washoe County for the development of commercial vineyards and wineries. Assembly Bill 4 is a step in the right direction. The restrictions in the bill may hamper the industry as a whole, but wineries in Washoe and Clark Counties will help the Nevada wine industry flourish.

**Dennis Eckmeyer (President, Nevada Wine Coalition; Nevada Vines and Wines):**

I support A.B. 4. In Pleasant Valley and Washoe Valley, there are three separate for sale signs for ranch winery operations. In the last 2 years, Nevada Vines and Wines has increased membership from 40 to 200. Polling our members revealed there are 25,000 wine vines planted in Washoe County. This demonstrates an economic impact of \$8.83 per vine, which is \$221,000 going back into the community for trellising and drip systems. The poll did not include outlying areas or nonmembers. This is an economically viable operation and the progress is encouraging. I wish for more wine to be made to increase economic impact and tax revenue to the State.

**Senator Farley:**

Some new winemakers may have tastings at their vineyard locations and may want to set up tastings in their local towns. Why does the bill limit winemakers entering the market from having more than one tasting location?

**Ms. Thompson:**

Concerns for out-of-control direct sales lead to the limitations in the amendment to A.B. 4. One of the concessions made in the bill allows existing wineries a second tasting facility and for new wineries just one. The challenge is treating all wineries fairly. This is a potential problem that may have to be addressed in the future. The goal is to create wineries, grow grapes, create jobs and have wine in a beautiful Napa-style setting.

**Chair Settlemeyer:**

Maintaining the historic qualities of some of the older vineyards is part of the intent of A.B. 4.

**Irene King:**

I am a level one sommelier, California wine appellations specialist and a certified sommelier French wine scholar and certified specialist of wine candidate. I support opening new wineries in Nevada. The original proposed A.B. 4 was straightforward. My concern is the 1,000 case limit provision in the amendment. Nevada does not have the bandwidth from its wineries to be able to support large vineyard and winery operations. The provision is effective October 1, 2015. This sends the message that wine business growth in Nevada is limited. Allowing more time to institute this provision would lessen my concerns.

There are some grapes that will not grow in Nevada, like pinot noir. This grape grows better near lots of water. If a winery wanted to specialize in pinot noir, the provisions in A.B. 4 would not allow the winery to import the grape. I support the elimination of the population cap, but do not agree with the other limitations. Competition is part of owning a business. The tasting room limitation can be worked out later as wineries start up and grow. Nevada is losing millions of dollars by not expanding the industry. Let us not let protectionist legislation keep us from taking part in a growing industry.

**Warren Hardy (Pahrump Valley Winery):**

Pahrump Valley Winery supports A.B. 4. When an industry has been regulated for some time, businesses have come to Nevada, and invested under that regulation, we have an obligation when we remove the regulation to be sure those businesses are not harmed. I thank Assemblyman Hickey and the others for doing this. The amendment to A.B. 4 assures the wineries that have invested under the old regulation are not hurt by this legislation. We want to encourage growth in Nevada, but not damage our existing wineries. The amendment does that.

**Bill Loken (Owner, Pahrump Valley Winery):**

My wife and I own Pahrump Valley Winery and have been in the Nevada wine industry since 2003. We are the largest winery in the State. We planted vines and experimented with grape growing using our own money. We encourage vineyard growth. The industry in southern Nevada is growing. There are a number of vineyards under development. We want the growth to be done responsibly. The development of vineyards is the key to growth of this industry. Assembly Bill 4 allows a smaller wine business to begin and develop a business

model with a modest investment and achieve success. I support A.B. 4 and encourage the development of the wine industry in Nevada.

**Alfredo Alonso (Southern Wines and Spirits of America, Inc.; Nevada Beer Wholesalers Association):**

Southern Wines and Spirits of America, Inc. and the Nevada Beer Wholesalers Association are the major distributors of alcoholic beverages in Nevada. We thank Assemblyman Hickey and Mr. Logan for their work on A.B. 4. A winery can operate without limitation in Washoe and Clark Counties today. The only provisions as proposed in the bill are in tasting rooms and sales on premises. The intent of the bill is to have balance and allow the wineries in the State that started from scratch, not to be overwhelmed by startup wineries that bring large amounts of pre-fermented juice into the State and call their business a winery. This bill addresses this by limiting the import of grapes or fruit to 1,000 cases annually. If a winery uses 25 percent or more of Nevada grapes, the import is unlimited. This is a fair bill and achieves what Governor Sandoval indicated was important for the agricultural aspect of his economic plan.

**Tray Abney (The Chamber):**

The Chamber supports A.B. 4. It is important for tourism, economic development and job creation.

**Victor Joecks (Nevada Policy Research Institute):**

The Nevada Policy Research Institute supports A.B. 4.

**Mike Steedman (Nevada Vine & Wine):**

I am neutral on A.B. 4. This bill is a winery bill, not a vineyard bill. A winery is different from a vineyard. A winery comes first. I can open a winery this year and produce grapes, white for next year, red in 2 to 3 years. The provision for wines to contain 25 percent Nevada grapes extends the time needed to create wine by 5 to 7 more years. The limitations in the amendments to the bill make it prohibitive to start a winery in Nevada. The costs of producing and selling wine are great. Grape production is limited in Nevada because not all grapes grow here.

Tahoe Ridge is experimenting with the Frontenac grape for which they have won awards. A huge freeze 2 weeks ago destroyed most of their crop. They must go outside the State to bring in more grapes. Nevada Vine & Wine will need to do the same. Every 10 years brings a hard frost. It seems there has

been enough time for wineries to find success in Nevada. I want to start a winery, but the nonsensical provisions in A.B. 4 make it impossible. This bill should not have been approved by the Assembly with these amendments. We wanted five words taken out of the law.

**Chair Settlemeyer:**

You can submit written testimony by email and you can contact the sponsors of the bill for more discussion.

**Senator Farley:**

Do you want to start a winery?

**Mr. Steedman:**

Yes.

**Senator Farley:**

On average, it takes 9 years for a winery to be profitable. What did you want changed in A.B. 4?

**Mr. Steedman:**

The original bill should have just taken out the population provision about the location of the winery in a county of 100,000 or less.

**Chair Settlemeyer:**

The original bill was a simple five-word deletion with a 4 1/2 hour hearing.

**Assemblyman Hickey:**

Thank you for hearing the A.B. 4. Much work went into creating it. It is not a perfect bill, but it is a big step forward in helping the fledgling wine industry, which will be good for the State.

**Chair Settlemeyer:**

We will close the hearing on A.B. 4 and open the hearing on A.B. 85.

**ASSEMBLY BILL 85 (1st Reprint)**: Revises provisions governing alcohol, drug and gambling counselors. (BDR 54-388)

**Agata Gawronski (Executive Director, Board of Examiners for Alcohol, Drug and Gambling Counselors):**

The Board of Examiners for Alcohol, Drug and Gambling Counselors sponsored A.B. 85. The majority of the bill cleans up language to ensure the standards set for our insurance and licenses are up to date. We transferred some duties from the secretary-treasurer to the executive director for better functionality. We are adding peer support specialists in the amendment. I am aware of some challenges in the language of the amendment and we are willing to work on this in work session.

**Chair Settlemeyer:**

Was the amendment added to the bill while in the Assembly?

**Ms. Gawronski:**

Yes.

**Chair Settlemeyer:**

The amendment has been engrossed in the bill and is properly before us.

**Kevin Quint (Bureau Chief, Substance Abuse Prevention and Treatment Agency, Division of Public and Behavioral Health, Department of Health and Human Services):**

The Division of Public and Behavioral Health opposes A.B. 85 as amended. Our concerns are only with Amendment No. 78, which adds peer support specialists to the bill. Medicaid has covered peer support services since 2007. Provider qualifications exist in the Medicaid Services Manual chapter 400 describing the criteria an individual recovering from a mental illness or behavior health disorder, which includes substance use, must meet in order to provide and bill for Medicaid covered services. Requiring people recovering from mental illness or substance use disorder to take a written or oral examination to provide peer services is not consistent with the federal Substance Abuse and Mental Health Services Administration's (SAMHSA) model that Medicaid's qualifications were based upon.

This amendment is more restrictive than the Medicaid qualifications and would limit the number of peer supporters currently being used and trained by the National Alliance on Mental Illness to serve the mentally ill population. The amendment will require the lowest paid providers in the behavioral health arena to pay a credentialing fee not to exceed \$150 initially, and not to exceed



\$300 upon renewal. This is another potential barrier to recruiting these support providers.

We understand that the individual certification of peer support workers is part of a national trend and part of the larger recovery movement called Recovery-Oriented Systems of Care (ROSC). Individual certification is not considered a requirement in ROSC, but it is something that has allowed states to develop and to regulate this part of the workforce. The Division supports a peer organization model as demonstrated in Senate Bill (S.B.) 489.

**SENATE BILL 489:** Provides for the regulation of peer support recovery organizations. (BDR 40-1191)

This bill allows a business to hire peer supporters and become their employer of record. The peer organization would supervise and ensure the quality of the peer support services worker. The agency model allows the organization to meet Medicaid requirements as a behavioral health community network by providing the required clinical supervision, assure treatment plan adherences are met, prior authorizations for reimbursable services are documented and received and billings are completed accurately and timely. Our experience with this type of worker has been that licensing an agency versus an individual is more effective, as the agency is held accountable for compliance with the Medicaid rules and regulations. This model has proven to be effective as demonstrated with personal care agencies and personal care attendants.

We are open to further discussion with the sponsor of the amendment, but S.B. 489 will meet the needs of this community. If additional regulatory oversight is needed over time, the Board of Examiners for Alcohol, Drug and Gambling Counselors could work with the Bureau of Health Care Quality and Compliance to develop regulations, as long as they are not so restrictive that we limit people in recovery from a severe mental illness from being able to qualify as a peer support specialist.

**Charlene Frost (Statewide Family Network Director, Nevada PEP):**

I am a nationally certified parent support provider. I work for Nevada PEP. We have provided family peer support services for over 15 years in Nevada. I did not bring my concerns to the Assembly hearing; I just became aware of A.B. 85 as amended. Nevada PEP supports the peer model. This bill will have unintended consequences. A statewide conversation must take place with Medicaid, the

Department of Health and Human Services, stakeholders, individuals and families to bring forward peer support that is meaningful to the multiple populations that take part. Peer support is being used in many service sectors such as adult and children's mental health for addiction, aging and disability, child welfare, vocational rehabilitation and others.

Nevada PEP, Children's Cabinet and Washoe County Children's Mental Health Consortium are collaborating on a federal grant to develop a youth-move chapter in Nevada. This is a young adult peer-to-peer program. This amendment to A.B. 85 institutes a minimum age of 21 years, which is in opposition to the national model. National core competencies are in the final stages of development at SAMHSA. I have submitted the competencies and center for Medicaid bulletins on peer support, ([Exhibit E](#)), which creates a framework to develop training and certification for Medicaid. Assembly Bill 85 does not include all of the required content. I ask that the Department of Health and Human Services and Medicaid convene work groups of all interested parties to develop the process for our State. The bill as written will have negative repercussions. Nevada needs to take the time to gain full collaboration to ensure a comprehensive plan and effective implementation of peer support.

**Chair Settelmeyer:**

I urge you to reach out to the Board of Examiners for Alcohol, Drug and Gambling Counselors. It is sad to see a situation where opposition testimony comes after the bill leaves the other House. There are some issues with SAMHSA. I hope these can be resolved by speaking to the Board.

**Barry Lovgren:**

Assembly Bill 85 passed out of the Assembly with Amendment No. 78 that requires certification of peer recovery support. I have sent an email to each member of this Committee about potential exponential increases in Medicaid costs if the State Medicaid plan provides peer recovery support and subsidy programs. This came to light during the hearing on S.B. 489. The Division of Public and Behavioral Health is seeking to address peer recovery support in a way that minimizes potential Medicaid fraud and abuse by licensing peer recovery support organizations instead of certifying individual peer recovery support specialists.

My concern is overregulation by the State. Section 12.7, subsection 1 of A.B. 85 requires fees for this certification. Section 1.4 defines a peer support

specialist. It describes what someone in recovery does for a troubled friend, family member or a person who serves as a sponsor in Alcoholics Anonymous or Narcotics Anonymous. Section 1.6 states this service is a "learned profession." With the passage of A.B. 85, the State would regulate friendship, family and fellowship. Sections 14 and 15 of the bill prohibit a person who is not certified from providing this nonprofessional assistance. *Nevada Revised Statute* (NRS) 193.170 states, "Whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the committing of such act shall be a misdemeanor." Assembly Bill 85 criminalizes friendship, family and fellowship. The provision for peer recovery support specialist certification is an example of overregulation and unwarranted expansion of governmental authority into private lives.

**Ms. Gawronski:**

The opposition to A.B. 85 is directed at the amendment to the bill. I am disappointed the opposition was not presented in the Assembly, but we are willing to work on the language.

**Chair Settlemeyer:**

As the sponsor of the bill, please speak with Assemblyman Randy Kirner, Chair of the Assembly Committee on Commerce and Labor to communicate the concerns and decide how to proceed.

Hearing no further discussion, I will close the hearing on A.B. 85 and open the hearing on A.B. 409.

**ASSEMBLY BILL 409 (1st Reprint)**: Revises provisions relating to cosmetology.  
(BDR 54-1050)

**Assemblywoman Victoria Seaman (Assembly District No. 34):**

I will present why A.B. 409 was initiated. Tim Keller is the managing attorney of the Institute for Justice in Arizona. He litigates to protect economic liberty nationwide by challenging occupational regulations and other barriers to entrepreneurship in both state and federal courts. Since 2012, he has been litigating a case here in Nevada on behalf of two makeup artists with over 40 years of combined experience. Nevada exempts many hard-working makeup artists from the State Board of Cosmetology's licensing scheme. Those working on sets of movies, television or for a photographer are exempt. The State does not exempt all makeup artists from the State's cosmetology licensing even

though most makeup artists are not licensed by the State Board of Cosmetology because cosmetology schools do not teach makeup artistry.

Assembly Bill 409 clarifies that those who teach and those who practice makeup artistry do not fall under the jurisdiction of the State Board of Cosmetology. The bill attempts to clean up the State's regulatory mess. Nevada's economic well-being depends on dialing back or repealing burdensome government regulations for many occupations. We worked with the State Board of Cosmetology and it supports the bill.

**Tim Keller (Managing Attorney, Institute For Justice):**

Most makeup artists in Nevada are not required to obtain a license from the State Board of Cosmetology in order to practice as makeup artists. The reason for this is cosmetology schools do not teach makeup artistry. They do not train their students to use an airbrush or apply high-definition makeup for special effects. In 2010, two professional makeup artists, Lissette Waugh and Wendy Robin, each opened up makeup artistry schools. Until that time, most artists trained while working for a cosmetics company, by taking weekend seminars or by on-the-job training. Ms. Waugh and Ms. Robin wanted to provide structured education for aspiring makeup artists. Independent of one another, Ms. Waugh opened L Makeup Institute; Ms. Robin opened Studio W of Las Vegas. Shortly after they opened their businesses, the State Board of Cosmetology told them the schools had to be transformed into full-blown cosmetology schools and the teachers become licensed cosmetology instructors. It made no sense to obtain a license to teach, but not to practice. We filed a lawsuit challenging the Board's jurisdiction over the two schools. The lawsuit is stayed until this bill goes through the legislative process. If the bill passes, the lawsuit will be dismissed.

Assembly Bill 409 does four things: 1) it clarifies in sections 2 and 8 that makeup artist instructors and schools are not under the jurisdiction of the State Board of Cosmetology. The schools are still regulated and licensed by the Commission on Postsecondary Education; 2) it defines and recognizes that makeup artists are distinct from cosmetologists and aestheticians. There are gray areas in the law as to where the makeup artist can work; 3) it opens up the market for makeup artists to work in licensed salons. We worked with the Board to establish a process by which makeup artists could register with the Board and train in sanitation; and 4) it eliminates the requirement for individuals moving to Nevada to take the national licensing exam administered by a private

organization. Most have not taken the exam and only 34 states administer the exam as part of their licensing scheme.

**Edin Carpenter:**

I support A.B. 409. I am the owner of Edin Carpenter Makeup Artistry. I have been a professional makeup artist for 14 years and am based in Nevada. I have worked around the world, in television, commercials, films, editorial makeup runways, weddings, special events and more. I worked the New York fashion week, have had international contracts with high-end fashion houses and have worked on a broad range of celebrities, including Clint Eastwood and even Governor Sandoval. I am an artist. I received a bachelor of arts degree in fine arts, started my makeup artistry career with M.A.C. Cosmetics, Inc. and completed every level of certification available with them. After 7 years and with moving to Nevada, I decided to become an independent contractor and start my small business. I am not a cosmetologist. I have no training in hair, nails or aesthetics. I can speak from experience that none of these skills are necessary in my chosen career. I have worked in many states and have never seen any imposed licensing enforced on makeup artists. The art form presented as makeup application dates back thousands of years. It is a fundamental expression of our humanity, as with dancing, singing and other forms of art. As a Nevada small business owner, my trade is my art.

There will be no incentive for others or me in my industry to stay in Nevada if A.B. 409 fails. With California offering broader exemptions and more opportunity, there may be artists, schools and agencies in Nevada closing their businesses or moving elsewhere. The small business makeup artist is competing with big businesses like makeup counters at Macy's, Dillard's, ULTA Beauty and M.A.C. Cosmetics, Inc., who are afforded complete exemption from the law. Passing A.B. 409 would support small Nevada businesses and communities and prevent revenue from being siphoned out of state. As the law stands, my profession is being asked to spend 2 years and up to \$20,000 on a license that is irrelevant to my trade. It discourages new artists from entering the makeup artistry industry and if enforced, the law displaces thousands of people who have successful careers.

I am thoroughly trained. I use safe over-the-counter products that are readily available. The products I use have been rigorously tested and approved by the U.S. Food and Drug Administration. An aesthetician, nail technician or hair stylist uses chemicals that if improperly used or used by an untrained person

could become very dangerous. The tools for the cosmetology trade require specific training for the purchase and use of chemicals. I work hard and stay informed on new products, current trends, styles and techniques. None of this is being taught in cosmetology school. I am hired by them to teach a 2-hour course on makeup once a year. A 2-hour makeup application course in a 2-year curriculum does not make this industry or customers safer and does not constitute an education in makeup. If makeup schools are not in place, aspiring artists must go out of state or online for makeup artistry training.

When hair stylist, nail technician or aesthetician students graduate from cosmetology school, they leave with the knowledge to work in their craft. If a makeup artistry student graduates from a cosmetology school, he or she does not graduate a makeup artist. That student graduates with an education he or she cannot use or apply to their chosen career.

**Chair Settlemeyer:**

I disclose that my wife is a cosmetologist and my association is not in conflict to A.B. 409.

**Senator Atkinson:**

Where are makeup artists recognized in Nevada?

**Mr. Keller:**

Makeup artists are not recognized in Nevada. It is unclear who has jurisdiction over them.

**Senator Atkinson:**

Are they covered in any way under the jurisdiction of the State Board of Cosmetology?

**Mr. Keller:**

It is unclear to what extent the Board has jurisdiction over makeup artists. Makeup artists are not allowed to work in a licensed salon unless they are licensed cosmetologists or aestheticians.

**Senator Atkinson:**

Do you think they are recognized under the Board of Cosmetology?

**Mr. Keller:**

No, I do not.

**Assemblywoman Seaman:**

The State Board of Cosmetology agreed to the registration and sanitation exam of makeup artists working in a salon to satisfy the gray area of jurisdiction. As a licensed cosmetologist from California, I am qualified by licensing to practice makeup application, but I did not get any training on makeup. We worked with the Board to define makeup artistry in A.B. 409.

**Senator Atkinson:**

Are you saying the makeup artist must take an exam? What does current law say?

**Assemblywoman Seaman:**

There is no clear definition of a makeup artist in law. This bill seeks to define a makeup artist and add that if a makeup artist is working in a cosmetology establishment, he or she is required to work under the regulations of the establishment.

**Senator Atkinson:**

Will the makeup artist become unregulated if the bill passes?

**Mr. Keller:**

Makeup artists are unregulated now. Individuals who work as makeup artists have no requirements to obtain any specific education or training.

**Senator Atkinson:**

Are makeup artists unregulated now and will they continue to be if the bill passes?

**Mr. Keller:**

Yes.

**Chair Settlemeyer:**

An individual must register as a makeup artist if that person works in a salon. For makeup artists who work in theatrical, television, modeling or weddings, there are no age or character requirements. Language for minimum age, good moral character and lawful residency in Nevada should be inserted in the bill for

those not required to register with the Board. There should be something that shows some formal education.

**Mr. Keller:**

The bill requires registration of individuals who are makeup artists working in a licensed salon only. No one else needs to register with the State.

**Chair Settlemeyer:**

Do you agree with the way the bill reads? It concerns me that someone could be practicing makeup artistry under authorization of revised statutes with no age requirement.

**Mr. Keller:**

The bill could be amended for a minimum age requirement. Nevada law has current statutes that prohibit child labor. I do not think it is a necessary amendment to the bill. No one is going to register with the State before working as a makeup artist. In order to be hired, an audition is necessary to get the job. As long as current law is not violated, age is not an issue if the person has the skills.

**Chair Settlemeyer:**

There should be some minimum parameters on individuals operating in the State, such as good moral character.

**Mr. Keller:**

The requirements can have an unintended detrimental effect. An individual in a correctional facility often receives training there to work as a cosmetologist or a barber. When released, that person is prohibited by the moral character requirements from obtaining a license for which he or she was trained. This results in the inability to obtain employment and possibly a return to a life of crime.

**Chair Settlemeyer:**

I appreciate the viewpoint, but laws are meant to protect members of our society from other members of our society for various reasons.



**Mr. Keller:**

If you would like an amendment to the bill to add similar requirements as contained in section 3, subsection 3, paragraph (a) to apply to all makeup artists, we will not object.

**Chair Settlemeyer:**

I will follow up with the sponsor of the bill.

**Senator Manendo:**

How is "of good moral character" defined in NRS?

**Chair Settlemeyer:**

That statement exists in the boards for cosmetology and barbering. The purpose is for people with a proven track record to be allowed to work with the elderly and disadvantaged. I will have our legal counsel clarify this for you.

**Senator Manendo:**

I would like to see the definition. If someone were judged by what he or she does in his or her private life, I would have an issue with that. Who are the judge and jury in that description?

**Chair Settlemeyer:**

We will get that information for the Committee to understand the concepts. I want to have this definition in this statute as in other statutes.

**Senator Atkinson:**

Section 3.7, subsection 1 of A.B. 409 reads, "The Board shall prepare and administer a written examination on sanitation for makeup artists who are required to register with the Board, pursuant to section 3.3 of this act." Are they currently required to take a written exam?

**Mr. Heller:**

No, they are not currently required to take an exam.

**Senator Atkinson:**

Who is going to set what the written exam is going to look like? Are they going to set the parameters for testing?

**Mr. Heller:**

Yes, the Board will set the parameters.

**Senator Atkinson:**

Why is the Board not charging a fee for the exam?

**Mr. Heller:**

The Board agreed not to charge for registration. When they register, they must take the exam. The Board also registers eyebrow threaders and that registration has no fee. There is symmetry between makeup artists and eyebrow threaders.

**Senator Atkinson:**

I will follow up with the Board because registration does not mean written exam. The Board charges fees for other things. I am unsure how many people will want to register and take an exam and how much of a burden it will be on the Board to score and administer the exam.

**Assemblywoman Seaman:**

We preferred to require just a registration, but the Board wanted to also have an exam and this is what we agreed to.

**Senator Spearman:**

There have been makeup artists who have relocated from Florida, Texas, Ohio, Wyoming, California and New York to learn and to teach. What are the requirements for a makeup artist to be recognized in some of these other states to pursue their craft?

**Mr. Heller:**

They do not have to obtain cosmetology licenses in those other states. There are makeup artistry schools operating in New York and California that are governed by those state's boards of private post-secondary education, the same way Ms. Waugh's school is governed by Nevada. Once the students graduate, they are permitted to practice without an occupational license. They are hired by the industry once they demonstrate their skills and talents when they audition for their roles.

**Kyle Waugh (Owner, Enrollment Director, L Makeup Institute):**

I will read my supporting written testimony on A.B. 409 ([Exhibit F](#)). The L Makeup Institute requires students be 18 years old or 17 years old with

parental permission and possess a high school diploma or GED equivalent. We support this bill because it will allow makeup artists to train and work as makeup artists without the costs and burden of learning unrelated skincare.

**Lisette Waugh (Owner, Education Director, L Makeup Institute):**

I have worked as a makeup artist in Nevada for over 15 years. I will read from my written testimony in favor of A.B. 409 ([Exhibit G](#)).

**Tom Devlon:**

I have been a working makeup artist for 15 years. I am an instructor at the L Makeup Institute. My specialty is special makeup effects. I make monsters using foam, latex and silicone rubber. I am not a cosmetologist and I do not work in a salon. My students may choose that path because they have the education as a makeup artist. I moved from Florida to employ at L Makeup because it is a quality facility and the only one in Las Vegas. There is plenty of work for makeup artists in Las Vegas in theatre, television and film. A tax incentive is rumored to be available in the near future to bring celebrity actors and directors from other states. Hiring locally is a better option. Hiring local makeup artists, wardrobe and craft services personnel improves the Las Vegas economy. Without the proposed regulation, I can work in a theater, film or television show or at a school. If the bill passes, I can continue to teach many to work in the local community. Cosmetology school does not teach the skills of my craft.

**Mr. Joecks:**

The Nevada Policy Institute supports A.B. 409. Government regulations and licensing requirements have the impact of hurting budding entrepreneurs and this bill is a step forward for economic freedom.

**Perry Nixdorf (Owner, Paradise Salon Spa and Wellness):**

As the owner of Paradise Salon Spa and Wellness, I employ 18 people. I hire makeup artists for my salon and my beauty supply business is one-third makeup. Assembly Bill 409 will help level the playing field. I have difficulty balancing the regulations of cosmetology with the needs for makeup artistry. My beauty supply section was specially built with a door so my makeup artist was not working as part of the salon. ULTA Beauty supply is required to employ a cosmetologist to sell their makeup. These individuals attend school to become cosmetologists, not makeup artists. I have never hired a cosmetologist who knew anything about makeup unless this individual was personally invested and

passionate about it. I hire inexperienced cosmetologists who want to be employed, but I have to train them in makeup. The bill does not change anything in the industry. Makeup artists who work at makeup counters for beauty companies have learned the skills of makeup, but I cannot hire them. Cosmetology law limits my employees from working in the wedding industry. The law limits my ability to compete legally for that type of business. The bill will allow me to expand my business by better utilizing my employees and provide classes in makeup.

**Karen Moreno:**

I am a salon manager at Cavaricci's Salon in Las Vegas. My daughter is attending school to become a makeup artist. I am surprised to realize my daughter will be unable to be employed at my salon or offer this extended service to our clients. It is important for this reason to pass A.B. 409.

**Mia Cavaricci:**

I am a student at L Makeup Institute and support A.B. 409. I would like the opportunity to work in my parents' salon upon graduation. Passage of the bill will permit me to work in the family business and not struggle to establish a freelance makeup artistry business.

**Chair Settlemeyer:**

Our legal counsel has reported that each board has its own determination of what good moral character means based upon the field and job the individual performs in a given career.

**Gary Landry (Executive Director, State Board of Cosmetology):**

The State Board of Cosmetology is neutral on A.B. 409. The policy and procedure for determining good moral character used for individuals applying for licensure begins with a questionnaire asking if the person has had any convictions. If he or she has, the circumstances of the conviction and associated legal documents are required. These are reviewed individually and if there is a pattern of abuse and treatment and retribution, we allow the testing and licensure. The Board has the option to reject the application and there is an appeals process for the individual to pursue reconsideration.

**Senator Hardy:**

Is the Board ready to create a written examination on sanitation upon registration by individuals as described in A.B. 409?

**Mr. Landry:**

The Board is working with the bill sponsor and investigating the requirements for a sanitation test for makeup artistry that would be similar to sanitation requirements of other licensees in the aesthetics field. We will be required to create and administer the test and have put a revised fiscal note forward to summarize the impact of this, as we are not allowed to charge a fee. We will follow the law as proposed. The Board has the in-house expertise and an outside sanitation consultant we work with.

**Senator Hardy:**

If you cannot charge a fee, how do you afford the \$30,000 fiscal note?

**Mr. Landry:**

The \$30,000 would come out of the other licensee fees, which is our general budget.

**Senator Harris:**

I have a question about your application process that is irrelevant to the current discussion and would like a private conversation on this.

**Mr. Landry:**

I can meet with you at any time.

**Senator Atkinson:**

How was the \$30,000 derived?

**Mr. Landry:**

The estimate is based on testimony from cosmetology salons that provide makeup services. Our figures show one-third of salons are hiring makeup artists and we factored in the amount of time it would take to process applications and administer the examination and licensure.

**Senator Atkinson:**

Which licensure fees pay for processing applications and administering the examination?

**Mr. Landry:**

The fees come from licensures of cosmetologists, nail technicians, aestheticians, hair designers, hair braiders and others.

**Senator Atkinson:**

How is it fair to the other licensees who pay a fee to subsidize these new applications? You are going to administer an exam and I do not see why makeup artists are excluded from a fee schedule.

**Mr. Landry:**

The authors of the bill are better qualified to answer this.

**Senator Atkinson:**

As a Board member, why are you not in strong opposition of this? It is unfair, in my opinion.

**Chair Settlemeyer:**

Mr. Landry, please find out what other states do regarding makeup artists and clarify the estimated number used for figuring the fiscal impact. It does not seem there will be that many based on my information.

**Assemblywoman Seaman:**

In the amendment to A.B. 409 requiring the makeup artist to register, the Board wanted the sanitation test administered. Most states do not require a license for makeup artistry. Our compromise to the Board was for just those artists working in a cosmetology salon to register with the Board and take the sanitation test.

**Chair Settlemeyer:**

Mr. Landry, do we charge a fee to the eyebrow threaders? Are we doing a disservice to other licensees who pay? Who else is not required to pay?

**Mr. Landry:**

Eyebrow threaders are not allowed to work in salons, only in threading establishments, and we do not test them. In A.B. 246, we are asking to be allowed to do inspections and impart a fee.

**ASSEMBLY BILL 246 (1st Reprint):** Revises provisions governing cosmetology.  
(BDR 54-267)

**Chair Settlemeyer:**

Under current law, are eyebrow threaders required to register without a fee? There must be a cost that is being shouldered by other licensees.

**Mr. Landry:**

There is no fee for eyebrow threaders and the time spent with each registrar is 1 or 2 minutes.

**Senator Atkinson:**

Because the threaders do not take an exam, there is no manpower being used. How many Board members are there?

**Mr. Landry:**

There are seven Board members.

**Senator Atkinson:**

Are you proposing to institute an exam for the eyebrow threaders?

**Mr. Landry:**

We are not proposing to institute an exam for threaders, but to apply all the sanitation standards in NRS 644 to the threading establishment, including inspections and training for these conditions. There would be a fee associated with this.

**Senator Spearman:**

Are there two fiscal notes because no fee is being charged for the makeup artist registration?

**Mr. Landry:**

This first fiscal note was removed from the bill because it was originally made for additional inspection time, time to provide questioning, check with the office and to find out if an individual is legally registered and available to be there. The second note is for the construction and administration of the sanitation exam.

**Assemblywoman Seaman:**

We are open to an amendment to eliminate a cost and remove the sanitation testing. For a makeup artist to be hired, that person needs to show the quality of his or her work practice.

**Senator Atkinson:**

Why are you opposed to the applicants paying for a testing or registration fee?

**Assemblywoman Seaman:**

We agreed to the State Board's amendment and they proposed the testing. We just wanted the registration so the Board would have the ability to inspect for sanitation. Makeup artists have attended school and the Board wanted the registration and testing. We agreed to this to move the bill forward.

**Chair Settlemeyer:**

I can see removing the testing requirement and keeping inspections for sanitation. Speak with the Board about removing the testing and keeping the inspections.

**Assemblywoman Seaman:**

Our intention was to mimic the policy for eyebrow threaders and this led to testing and inspections for makeup artists.

Remainder of page intentionally left blank; signature page to follow.



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May 6, 2015  
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**Chair Settlemeyer:**

I will close the hearing on A.B. 409. As there is no further business to discuss, the meeting is adjourned at 10:21 a.m.

RESPECTFULLY SUBMITTED:

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Renee Fletcher,  
Committee Secretary

APPROVED BY:

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Senator James A. Settlemeyer, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	5		Attendance Roster
A.B. 4	C	3	Assemblyman Pat Hickey	Written Testimony
A.B. 4	D	1	Randi Thompson / Nevada Wine Coalition	Map
A.B. 85	E	7	Charlene Frost / Nevada PEP	Competency and Medicare Bulletins
A.B. 409	F	1	Kyle Waugh / L Makeup Institute	Written Testimony
A.B. 409	G	1	Lisette Waugh / L Makeup Institute	Written Testimony