MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Seventy-Eighth Session
May 4, 2015

The Senate Committee on Judiciary was called to order by Chair Greg Brower at 2:12 p.m. on Monday, May 4, 2015, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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 Greg Brower, Chair
Senator Becky Harris, Vice Chair
Senator Scott Hammond
Senator Aaron D. Ford

COMMITTEE MEMBERS ABSENT:

Senator Michael Roberson (Excused)
Senator Ruben J. Kihuen (Excused)
Senator Tick Segerblom (Excused)

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nick Anthony, Counsel
Cassandra Grieve, Committee Secretary

OTHERS PRESENT:

Brett Kandt, Special Assistant Attorney General, Office of the Attorney General
Cheryl Wilson, Nevada District Attorneys Association
Kristen Erikson, Nevada District Attorneys Association
Sean B. Sullivan, Office of the Public Defender, Washoe County
Steve Yeager, Office of the Public Defender, Clark County
Bruce Nelson, Office of the District Attorney, Clark County
Chuck Callaway, Las Vegas Metropolitan Police Department

David Pfiffner, Captain, Boating Law Administrator, Department of Wildlife
Tom Conner, Chief Administrative Law Judge, Department of Motor Vehicles
Natasha Koch, Captain, Executive Officer, Nevada Highway Patrol, Department of Public Safety
Eric Spratley, Sheriff's Office, Washoe County
Bob Roshak, Nevada Sheriffs' and Chiefs' Association
Laurel Stadler, Northern Nevada DUI Task Force
Jennifer Solas, President, Wellness Education Cannabis Advocates of Nevada
Perry Hitechew, Secretary, Wellness Education Cannabis Advocates of Nevada; Republicans Against Marijuana Prohibition
Vicki Higgins
Cindy Brown
Daniel Lowber
MonaLisa Samuelson
Rick Pool
Delphine Callahan
Carina Robinson
Jeamie Herer
Timothy Addo
PJ Belanger
Trinidad Roman

Chair Brower:
I will open the meeting on Assembly Bill (A.B.) 67.

ASSEMBLY BILL 67 (1st Reprint): Makes various changes relating to driving, operating or being in actual physical control of a vehicle or vessel while under the influence of alcohol or a controlled substance or engaging in other prohibited conduct. (BDR 4-151)

Brett Kandt (Special Assistant Attorney General, Office of the Attorney General):
I submit a letter from Attorney General Adam Paul Laxalt (Exhibit C).

Assembly Bill 67 seeks to amend Nevada's DUI statutes to comply with recent court rulings. In 2013, in the case of *Missouri v. McNeely*, 133 S.Ct. 1552 (2013), the U.S. Supreme Court ruled that the dissipation of alcohol in the bloodstream is not by itself an exigent circumstance that justifies drawing a person's blood without a warrant or consent. In light of that decision, the

Nevada Supreme Court ruled in the case of *Byars v. State*, 130 Nev. Adv. Op. 85, 336 P.3d 939 (2014), that Nevada's implied consent laws were to be called into question. The fact that a person drives on the State's roadways does not mean he or she voluntarily consents to an evidentiary blood test absent consent or a warrant for the officer to take the blood. These two court cases indicate law enforcement needs to have a warrant.

Nevada law enforcement officers have adjusted their procedures accordingly to follow the dictate that if a person is suspected of driving under the influence but will not consent to a test, a warrant must be obtained before testing the driver. Nevada's implied consent laws do not reflect this new ruling. The purpose of A.B. 67 is to revise Nevada law to account for these new court rulings.

In a third case, *City of Reno v. Howard*, 130 Nev. Adv. Op. 12, 318 P.3d 1063 (2014), the Nevada Supreme Court ruled that subsection 6 of *Nevada Revised Statute* (NRS) 50.315, which pertains to the admissibility of certain affidavits and declarations regarding the testing of blood, breath or urine of a DUI defendant into evidence at trial, has a substantial and bona fide dispute requirement. The Nevada Supreme Court ruled that the substantial and bona fide dispute requirement impermissibly burdens the right of a defendant to confront his or her witnesses in violation of the Sixth Amendment of the U.S. Constitution. Section 1 of A.B. 67 cures that constitutional deficiency, too.

Chair Brower:
Please give the Committee a section-by-section walk-through of the bill.

Cheryl Wilson (Nevada District Attorneys Association):
I am a Chief Deputy District Attorney for Washoe County. I have been an employee of the District Attorney's (DA) Office of Washoe County for 21 years. I oversee the misdemeanor prosecution unit. About 75 percent of the unit's caseload constitutes misdemeanor DUIs. While working at the DA's Office, I have prosecuted both misdemeanor and felony DUIs. During a period of time when the DA's Office had a felony DUI team, I was one of two attorneys who staffed that team.

I testify today on behalf of the Nevada District Attorneys Association in support of A.B. 67. As indicated by Mr. Kandt, three court cases decided in the last 2 years have had a significant impact on Nevada's DUI statutes. With respect to *Missouri v. McNeely*, through *Byars vs. State* the Nevada Supreme Court

adopted the U.S. Supreme Court analysis finding that Nevada statute is unconstitutional. Those unconstitutional statutes are in NRS 484C.

Section 1 of A.B. 67 applies to statutes in NRS 50 that are adversely impacted by the Nevada Supreme Court's decision on *City of Reno v. Howard*. For a long time, NRS 50.315, 50.325 and 50.320 held that an evidentiary breath test and other specific requirements must be met if a person is prosecuted for a DUI.

First, the requirements state that the breath test equipment must be shown to be maintained, calibrated and functioning properly on any given day.

Second, forensic analysts of alcohol must provide expert testimony. The technology has changed over the years, and these machines are typically not only maintained, but a premixed solution is made to show that the machine tested in the appropriate range.

For example, a premixed solution is measured at 0.10 percent. The machine tests that premixed solution for accuracy and then blows clean air through the machine before it is used to take an evidentiary test from the suspect. Law enforcement is moving away from that procedure and using premixed gas canisters that are authenticated as testing within limits. This valid scientific tool shows the machine is operating properly for a given evidentiary test.

Statute allows—particularly for misdemeanors—declarations to be used as expert testimony instead of having experts sit in court for every misdemeanor DUI case and felony DUI case. The State can provide notice that it intends to use expert declarations and submit those declarations as evidence.

There needs to be a substantial and bona fide dispute before the defense can have live expert testimony to challenge the validity of the machine or its results. The Nevada Supreme Court found this procedure unconstitutional and in violation of the right for defendants to confront and cross-examine all witnesses against them.

Two further sections in NRS 50 have the same issue with regard to blood tests, whether the charge be an alcohol DUI or a drug DUI. An expert in this type of case would be a phlebotomist declaring that he or she is properly licensed in Nevada, and that the blood was drawn from the suspect in a medically

acceptable manner. This one example of declarations was previously acceptable unless the defense established a substantial and bona fide dispute.

The next previously acceptable declaration was a DUI blood test from a toxicologist stating he or she tested the blood sample and saw indications of alcohol or drugs in the suspect's blood and the quantity therein.

The Nevada Supreme Court held those types of declarations in violation of the confrontation clause.

Chair Brower:
Is section 1 of A.B. 67 intended to resolve all those issues?

Ms. Wilson:
Yes. Assembly Bill 67 takes Nevada's unconstitutional law and transforms it to meet constitutional dictates.

The State can still say it intends to use these types of declarations as evidence to prove DUI cases. In response, the defense does not have to make any sort of showing. The defense can simply object and state it wants the declaration. In that instance, the State needs to bring in experts.

In Washoe County, three experts manage the breath machine as well as service the northern half of Nevada. Their expert testimony is needed in many places at many times. Even though DUIs are misdemeanor offenses, many issues are involved with the constitutionality of stops, the sufficiency of evidence during the investigation, the science in the testing process and so on. By allowing for the notice and demand statutes, A.B. 67 allows the State to bring those declarations instead of live expert testimony, unless that testimony is actually the piece of the DUI case that the defense wants to challenge at trial.

Chair Brower:
Does section 1 of A.B. 67 strengthen the defense's ability to make objections?

Ms. Wilson:
Yes. With respect to Nevada's implied consent law, many statutes in NRS 484C have been impacted by *Missouri v. McNeely* as well as *Byars v. State*. We have to make a number of adjustments to: one, make Nevada's implied consent law constitutional again; and two, provide a constitutional remedy for suspects who

withdraw their implied consent to submit to evidentiary testing upon the request of law enforcement officers who have reasonable grounds to believe that the suspects are driving impaired.

When *Missouri v. McNeely* was decided, prosecutors across the State spent 2 days evaluating Nevada's implied consent laws. Prosecutors identified the areas that appeared to be unconstitutional, removed the pertinent provisions and collaborated in order to submit to law enforcement a *Missouri v. McNeely*-compliant implied consent admonishment.

In 1995, the Legislature took away a person's opportunity to refuse evidentiary testing. Before 1995, if a person was suspected of a DUI and refused to submit to evidentiary testing, there was not a statutory mechanism to take a blood test over the suspect's objection without a warrant. Instead, a suspect loses his or her driver's license through an administrative revocation process. The driver's license is revoked for 1 to 3 years, depending on whether the charge is a misdemeanor DUI or a felony DUI, or if the suspect refused consent in the past.

In constructing A.B. 67, we returned to the pre-1995 laws that imposed administrative sanctions for a refusal or withdrawal of consent to cooperate with the evidentiary tests needed in a DUI case. All 50 states have some version of an implied consent law. Many states do exactly what the Nevada District Attorneys Association does in A.B. 67—impose an immediate administrative revocation for refusing to cooperate and withdrawing that consent.

Many states criminalize the refusal to take a test when an officer has grounds to ask. In some states, this refusal results in misdemeanor charges. The Nevada District Attorneys Association reaches a fair middle ground with a swift and effective sanction for a suspect who chooses to withdraw consent while protecting the constitutional rights that concerned *Missouri v. McNeely*.

Chair Brower:
Is that in section 14?

Ms. Wilson:
Yes. With respect to evidentiary testing, while an administrative sanction applies for a suspect who does not want to cooperate with the process, law enforcement still has the ability to, in the appropriate case, pursue remedies to

obtain judicial approval to a nonconsensual task that appears to be merited on a case-by-case basis.

Assembly Bill 67 achieves constitutional compliance. From a prosecutor's perspective, an important item about this bill is in April 2013, prosecutors statewide collaborated and drafted a uniform revised implied consent for Nevada in order to comply with *Missouri v. McNeely*. As that revision is tested throughout the State, though, it has been challenged in court and created a lot of pretrial litigation and inconsistent results.

Washoe County courts, Washoe County Sheriff's Office, the Police Department of the City of Reno and the Police Department of the City of Sparks use the uniform revised admonishment. The Nevada Highway Patrol (NHP), however, is a statewide agency; in order to have its cases successfully prosecuted, it must use different dictates from other prosecutors' offices in the State.

I often meet with NHP officers who have been in other jurisdictions and carry an implied consent admonishment card that Washoe County judges say has no merit in Washoe County. As a result, inconsistent results are one of the most devastating impacts of law enforcement attempting to bring Nevada into compliance with *Missouri v. McNeely* and *Byars v. State*. There are inconsistent directives to officers and inconsistent court results. Assembly Bill 67 provides an administrative remedy with its administrative sanction and puts uniformity back in the State in terms of how implied consent is handled for DUI suspects.

Mr. Kandt:
There are also corresponding changes made to NRS 488, the laws that govern boating while intoxicated.

Section 9.5 was added on the Assembly Floor. Some proponents want a specific set of circumstances that statutorily do not constitute actual physical control of a vehicle for which someone could be prosecuted.

Chair Brower:
Section 9.5 essentially precludes someone from being charged with a DUI if he or she is in a vehicle with the engine running, and he or she is sleeping and the vehicle is lawfully parked. How does that deviate from statute?

Mr. Kandt:
Well-established caselaw sets forth the number of factors that can be relevant to whether an individual is in actual physical control of a vehicle. The letter from the Attorney General, Exhibit C, provides citations of that caselaw. The major case is *Rogers v. State*, 105 Nev. 230, 773 P.2d 1226 (1989).

A number of other factors set forth in *Rogers v. State* and its progeny need to be considered. We are discussing those factors with the proponents of section 9.5. For example, is the individual in the driver's seat? Does evidence indicate that the person could not have driven to the eventual location while sober? Is it indicative that the individual must have driven the vehicle to that location intoxicated? Do circumstances indicate the individual may have driven that vehicle to that location while sober?

We ask that you give us the opportunity to discuss the proposed definitions with the proponents of section 9.5 to find language that comports with well-established caselaw.

Chair Brower:
From the Attorney General's and the DUI trial lawyers' perspectives, does section 9.5 make sense?

Mr. Kandt:
Section 9.5 could be improved.

Ms. Wilson:
Section 9.5 is stated in the negative. I prefer to work with laws that state the crime in the positive.

Chair Brower:
Ms. Wilson, before we move further with this bill, please provide the Committee with your preferred best definition of physical control for our consideration.

Kristen Erickson (Nevada District Attorneys Association):
We support A.B. 67. It is fair and updates the law to comply with the Supreme Court's ruling.

Sean B. Sullivan (Office of the Public Defender, Washoe County):
We support A.B. 67. We will also continue to work with Mr. Kandt on any amendments concerning the physical control language.

Steve Yeager (Office of the Public Defender, Clark County):
We support A.B. 67. I propose an improvement to the bill. Section 12, subsection 2 holds that when a police officer asks a suspect to submit to a test, the police officer needs to tell the suspect that if the test is refused, the suspect's driver's license will be revoked.

We want to incentivize folks to comply with the test. That notification language should be included in section 11, which also talks about testing. It is important when officers inform folks on the scene that if they do not comply, their driver's licenses will be revoked. I suggested that on the Assembly side, but it was overlooked. This additional language makes the bill better.

Bruce Nelson (Office of the District Attorney, Clark County):
I am on the vehicular crimes team. I oppose section 9.5. If a police officer sees a lawfully parked car in a bar parking lot with the driver behind the wheel, the car pointing directly at the bar's front window, the engine running and the car in gear but the driver's foot on the brake, the driver cannot be arrested for being in physical control.

Language needs to be added to the bill so that: one, if the driver wants to sleep the intoxication off, the driver must get in a different seat other than the driver's seat; and two, the engine must be off.

With regard to the driver's license revocation, if a suspect refuses to take a test, the penalty for refusal needs to be much greater than acceptance of the test because we want people to accept the test so that innocent people are cleared and guilty people are convicted.

In *South Dakota v. Neville*, 459 U.S. 553, 103 S.Ct. 916 (1983), the U.S. Supreme Court held that it is lawful to introduce a person's refusal against him or her in court and to administratively punish a suspect for refusing to take a test. *Missouri v. McNeely* changed that situation a little bit, but that core value remains. Assembly Bill 67 puts Nevada in line with the majority of the Country. Forty-nine states either impose a criminal penalty or impose an administrative sanction for refusal; Nevada is the only state that does nothing.

Senator Ford:
The U.S. Supreme Court said it is unconstitutional to make someone submit to a sobriety test without permission. Assembly Bill 67 declares that if a test is refused, the State will take away a suspect's driver's license. Is that part constitutional? Can law enforcement coerce folks into voluntarily giving up their constitutional right to not submit to a test?

Mr. Nelson:
Everyone who drives on the highway consents to a test, and that is the essence of implied consent law. The *Missouri v. McNeely* decision held that when stopped by the police and asked to take a test, you can withdraw your consent. If you choose to withdraw your consent, there needs to be an administrative sanction for doing so.

If you want to fly in a plane, you must submit to a search from the Transportation Security Administration. If you do not submit to a search, you do not fly in a plane. If you drive, you must take a test. If you refuse the test, there is a punishment for the refusal.

Mr. Yeager:
I agree. Caselaw is clear that an individual cannot be forced, absent a warrant, to consent to a blood draw, but law enforcement can suspend that individual's driver's license because that is seen as a civil or administrative penalty.

I think many people do not know this fact to be true. Because of this, when an officer asks to do the test, folks should be told they will lose their driver's licenses because they may decide to do the test rather than risk 1-year or 3-year suspensions.

Chuck Callaway (Las Vegas Metropolitan Police Department):
We support A.B. 67.

David Pfiffner (Captain, Boating Law Administrator, Department of Wildlife):
My section of the Department of Wildlife monitors driving vessels on the water, while under the influence, addressed in sections 20 through 25. We support A.B. 67.

Tom Conner (Chief Administrative Law Judge, Department of Motor Vehicles):
The Department of Motor Vehicles supports A.B. 67, with one exception. Section 9.5 needs to be amended to comply with the *Rogers v. State* decision. We believe it does not.

Natasha Koch (Captain, Executive Officer, Nevada Highway Patrol, Department of Public Safety):
We support A.B. 67.

Eric Spratley (Sheriff's Office, Washoe County):
We support A.B. 67. We also question the validity of section 9.5.

Bob Roshak (Nevada Sheriffs' and Chiefs' Association):
We support A.B. 67.

Laurel Stadler (Northern Nevada DUI Task Force):
I signed in as being opposed to A.B. 67, but that was specifically because of section 9.5. I support the bill for its original intent to bring Nevada law into constitutional compliance. I found it disconcerting when section 9.5 magically appeared from nowhere.

Section 9.5 is an incentive for drunk drivers to drive somewhere, park legally—whatever that means, because it is not defined—and wake up—still drunk or not—in control of their cars.

Another change that appeared from nowhere is in section 14 where subsection 2 discusses a person who has a valid prescription or valid registry identification card, which indicates medical marijuana. The original intent of medical marijuana legislation in 2001 was to put medical marijuana users within DUI legislation. The change in A.B. 67 seems to put medical marijuana users apart from DUI offenders.

I hope the Committee reviews the original intent of the medical marijuana legislation because its proponents noted at the time that medical marijuana would be for people who suffered from terminal and chronic illnesses that were extremely debilitating. I am reading from the minutes of that hearing.

Chair Brower:
Do the minutes suggest that those who suffer from such conditions should not be driving?

Ms. Stadler:
Possibly. We have heard that marijuana dissipates from a person's system at different times and rates. Medical marijuana was intended to be a last-resort medication, where users with extreme conditions are debilitated and on their deathbeds. One would think users would not be driving in those cases.

It does not matter how the marijuana gets in your system—whether it is medically, recreationally or illegally. Marijuana impairs everyone. People need to be under the same DUI statutes consistently.

Chair Brower:
The magic to which you referred earlier is called an Assembly Floor session, where floor amendments are added to bills. The Committee will take your view into consideration. Much concern for section 9.5 has been registered.

Jennifer Solas (President, Wellness Education Cannabis Advocates of Nevada):
I support A.B. 67; however, I would like the allowable amount of nanograms per milliliter for medical marijuana patients addressed. The National Highway Traffic Safety Administration stated in a report that it is difficult to establish a relationship between persons, THC, blood or plasma concentration and the performance or impairing effects of such. People on medical marijuana who have been using it for a number of months are used to the effects of cannabis and will have over 2 nanograms per milliliter in their blood.

Perry Hitechew (Secretary, Wellness Education Cannabis Advocates of Nevada; Republicans Against Marijuana Prohibition):
The 2 nanogram level is so low that someone with a valid medical marijuana card—who may not be dying from cancer but seeking protection under the law for post-traumatic stress disorder, severe anxiety or pain due to a car accident or any other qualifying condition under S.B. No. 374 of the 77th Session which passed into law—may be in breach of the DUI statutes.

Before a patient drives, he or she can medicate for days or even weeks and could be well over the legal per se limits. We want to bring the per se limits in line with what is more appropriate for people to live their lives normally. To

suggest that every single Nevadan who has a medical marijuana card should be disallowed to drive is ridiculous.

Chair Brower:
Do you have specific language to propose?

Mr. Hitechew:
The limit should be raised to a minimum of 10 nanograms. This would bring Nevada law in line with Colorado law. I could submit a list of each state's per se limits.

Chair Brower:
If you have a proposed amendment to A.B. 67, please submit it in writing.

Vicki Higgins:
I oppose A.B. 67 and have submitted my testimony (Exhibit D). Nanogram levels should not even be a consideration in the law. We request that intoxication tests be the norm. I have submitted examples of baseline tests, Exhibit D, which display that all medical marijuana patients have nanograms in their systems and that nanogram levels are not indicators of impairment.

Medical marijuana patients function because they use marijuana. If I took morphine, I would not be able to be here today. I used my medical marijuana lotion this morning and that does not make me intoxicated. My nanogram levels are probably higher than anyone in this room. Medical marijuana allows me to function, to get through my day and to manage to have a real life and not be lying in bed. I object to being tested.

Cindy Brown:
This law puts every single medical marijuana patient at risk of being convicted of a DUI based on erroneous blood and urine tests for marijuana. There is no such blood test at this time to indicate intoxication. Marijuana can stay in the body for months. Prior testing results are inconsistent.

I have an issue with section 5, subsection 1. The law says we can have a gun for personal protection, but people who are collectors want to have their guns. That right should not be taken away from them. We are guaranteed our right to have guns under the U.S. Constitution and the Nevada Constitution.

This bill also takes away people's right to drive by seizing their driver's licenses before being convicted. We had another discussion on a different bill about seizure. The Committee might see that the same way we do. You should never have your license taken until conviction.

We should never have to submit to a blood test to give the police the evidence they need to prosecute us. It is off-the-wall thinking that we should have to give the police all the evidence needed to prosecute us. That is not right.

Regarding section 12, subsection 3 discusses unconscious or dead persons. With a dead person, it is obvious that you want to know if the driver of the vehicle was drunk. If a person is unconscious, he or she cannot give permission to take his or her blood or urine.

Daniel Lowber:
I have a company called Custom Flavor Solutions that makes flavoring for medical marijuana products.

Section 14, subsection 2 says any detectable amount in your system gets you flagged for a DUI unless you are on the registry under NRS 453A.140, which is the medical marijuana card. Is it correct that you are subject to the 2 nanogram per milliliter limit if you have a medical marijuana card? Is it correct that if you do not have a medical marijuana card, then anything flags you?

What is the procedure to change the nanogram limits in the future?

Chair Brower:
The Committee is not here to answer witness's questions; we are here to listen to testimony. The law makes a clear distinction between medical marijuana users using legally under Nevada's statutes and users who do not have a medical marijuana card.

Mr. Lowber:
Is it correct that if you have the card, you are subject to the 2 nanogram per milliliter limit and if you do not have the card, it is any detectable amount?

Chair Brower:
Correct.

Mr. Lowber:
How does one go about changing a law?

Chair Brower:
Contact your Assembly member or Senator and express your concerns. He or she may introduce an amendment to this bill in this Session or introduce a new bill in the next Session.

MonaLisa Samuelson:
I am a medical marijuana patient and an unpaid community advocate. When you ingest marijuana medically for pain and other chronic conditions, you ingest it at lower levels than if you smoke it. Your body has lower levels for longer periods of time as opposed to high levels when you smoke it.

Medical marijuana has all sorts of different measurements. Someone tested at 600 nanograms first thing in the morning even though 12 hours had passed since marijuana had last been used.

My problem is with the term "controlled substances." Assembly Bill 67 states that you will be charged if caught with anything in your system that is a controlled substance—which could be antihistamines. Many things are controlled substances.

We do not need to put our community in such a vulnerable state. We do not need to incriminate someone who is not intoxicated. We are not here to be incriminated for not being intoxicated. We are medical patients. This needs to be thought out properly for the good of the whole community, not just us.

Rick Pool:
I oppose A.B. 67. It is ridiculous that while I am sitting in my car waiting for my wife to shop and it is 110 degrees outside that I have to turn the car engine off and pull the key. You would not want a dog left in a car, yet it is okay for a medical patient to be left in a car without air conditioning. That is equally inhumane. In 2001, there was no allowance for removing the concealed weapons or the commercial driver license ... .

Delphine Callahan:
I oppose A.B. 67, mostly for the reference to controlled substances. The focus should be on intoxication and not on any type of medical issue. I have an

anxiety condition and take prescribed medication. If I took that medicine the night before or in the morning, is it considered intoxication or is it because I cannot drive?

It is not proper to apply alcohol limits to medical patients. If I took a prescribed drug at night, I could still drive in the morning, but I do not know on what factors police will base an intoxication charge.

It is scary because whatever the medication, there should be rules. I find it offensive for anyone to say medical marijuana patients should not be able to drive—and that includes all medical patients. We are talking about medicine.

Carina Robinson:
I am offended that the State of Nevada thinks that a medical cannabis patient cannot drive a vehicle. If any coercion is asked of me—if I am pulled over to relinquish my privileged Nevada driver's license, I will be extremely upset. This is unfair to everybody who seeks relief from a schedule I medication that is no different than the federal laws already in place.

We do our best to abide by laws that you have extended to us as drivers and as cannabis patients for the healing of worlds and our lives. I implore you to rethink A.B. 67.

Jeamie Herer:
I oppose A.B. 67. In 1988, the U.S. Drug Enforcement Administration's own administrative law judge, Francis L. Young, said that marijuana in its natural form is the safest therapeutically active substance known to man. There should not be any laws against cannabis.

If police see somebody driving badly, a regular field sobriety test should be done.

I interviewed Dr. James Ketchum, a doctor in California, who participated in a traffic study in the early 1990s. Dr. Ketchum told me that groups of people were tested where one group was sober, one was intoxicated, one was on cannabis and one was on cannabis and alcohol combined. The results showed the group who was sober and the group who was on cannabis had negligible intoxication. The intoxicated group tested the poorest. The group on cannabis

and alcohol did better than the intoxicated group, with the cannabis actually helping the intoxicated group out a little bit.

Timothy Addo:
I am medical cannabis patient. I have concerns about A.B. 67. This bill makes criminals out of medical patients. As medical patients, we know how to control our lives. It is wrong to have our government, that we trust, cripple us by making us stay at home and not allowing us to be productive citizens.

PJ Belanger:
I oppose A.B. 67. I am a certified wellness educator and a certified health educator. I am also a medical marijuana patient with tumors on my thyroid. My decision to use unconventional medicine should not also restrict me from driving.

Trinidad Roman:
I am a medical marijuana patient and a patient advocate. I use medical marijuana for my vertigo. Doctors always want to prescribe a drug that makes me sleepy and unable to drive. Instead of taking that drug, I take edible marijuana, which can last in my system for almost 30 days. I am having a vertigo episode right now because I wanted to come here and testify, and I did not take my medicine. I oppose A.B. 67.

Mr. Kandt:
The central purpose of A.B. 67 is to ensure Nevada's DUI laws pass constitutional muster. There is a compelling reason for ensuring that Nevada's roadways are safe. Nationwide, someone is killed by an impaired driver every 53 minutes. Every 2 minutes, somebody is seriously injured. These laws serve an important purpose.

We have learned that an impaired driver operating a vehicle is a lethal weapon. It does not matter if that driver is impaired by alcohol or a controlled substance for which he or she has a prescription or by marijuana obtained for medical purposes. An impaired driver operating a vehicle is a lethal weapon.

Chair Brower:
Can you comment about the nanogram levels issue that we heard the most opposition about?

Mr. Kandt:
The Attorney General brought this bill to address the constitutional issues created through recent U.S. Supreme Court rulings. If the Legislature wants to examine the issue of the per se levels, that is a separate policy issue. It is a policy issue within the Committee's prerogative to address but outside the scope of the bill that we present for your consideration.

Ms. Wilson:
From the courtroom perspective, I agree with Mr. Kandt that we need expert testimony if the Legislature wishes to reexamine the per se levels established about a decade ago.

Chair Brower:
Are the per se levels discussed in A.B. 67?

Ms. Wilson:
Per se levels are not discussed in the bill. The per se levels were established by the Legislature about 10 years ago. We do not have the testimony to make meaningful decisions on whether those per se levels ought to be adjusted.

Senator Ford:
Are the levels in A.B. 67 already in statute?

Mr. Kandt:
Yes.

Senator Ford:
Were objections to the current per se levels raised in the Assembly?

Mr. Kandt:
No.

Senator Ford:
Is this is the first you have heard these objections?

Mr. Kandt:
Yes.

Senator Ford:
Is that the reason why you did not come prepared to address the proposed amendments, for example, raising the per se limits to 10 nanograms?

Mr. Kandt:
Yes.

Chair Brower:
I will close the hearing on A.B. 67 and adjourn the meeting at 3:10 p.m.

RESPECTFULLY SUBMITTED:

_____
Cassandra Grieve,
Committee Secretary

APPROVED BY:

_____
Senator Greg Brower, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	**Exhibit / # of pages**		**Witness / Entity**	**Description**
	A	1		Agenda
	B	4		Attendance Roster
A.B. 67	C	2	Adam Paul Laxalt / Attorney General	Letter in Support
A.B. 67	D	12	Vicki Higgins	Letter in Opposition