

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

**Eightieth Session  
May 10, 2019**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 1:39 p.m. on Friday, May 10, 2019, 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 Pat Spearman, Chair  
Senator Marilyn Dondero Loop, Vice Chair  
Senator Nicole J. Cannizzaro  
Senator Chris Brooks  
Senator Joseph P. Hardy  
Senator James A. Settelmeyer  
Senator Heidi Seevers Gansert

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Dina Neal, Assembly District No. 7

**STAFF MEMBERS PRESENT:**

Cesar Melgarejo, Committee Policy Analyst  
Bryan Fernley, Committee Counsel  
Lynn Hendricks, Committee Secretary

**OTHERS PRESENT:**

Christine Kramar, Nevada National Organization for the Reform of Marijuana  
Laws  
Greg Fleming  
Ann Silver, CEO, Reno + Sparks Chamber of Commerce  
David Dazlich, Las Vegas Metro Chamber of Commerce  
Andy Peterson, Retail Association of Nevada

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Paul J. Enos, Nevada Trucking Association  
Andy MacKay, Executive Director, Nevada Franchised Auto Dealers Association  
Ray Bacon, Nevada Manufacturers Association

CHAIR SPEARMAN:

I will open the work session on Assembly Bill (A.B.) 175.

**ASSEMBLY BILL 175 (1st Reprint)**: Revises provisions governing environmental health specialists. (BDR 54-669)

CESAR MELGAREJO (Committee Policy Analyst):

I have a work session document (Exhibit C) summarizing the bill. No amendments were submitted.

SENATOR HARDY:

I will vote yes, but I have reservations. I will reserve my right to vote no on the Senate Floor.

SENATOR SETTELMAYER:

I am not sure what the bill does. I will vote no today, but I might flip the other way on the Floor. I am not sure.

SENATOR DONDERO LOOP MOVED TO DO PASS A.B. 175.

SENATOR BROOKS SECONDED THE MOTION.

SENATOR SEEVERS GANSERT:

I will vote no today, but I may switch to yes on the Senate Floor. A lot of the bill was unclear, and I could not find the definition of what these individuals do.

THE MOTION PASSED. (SENATORS GANSERT AND SETTELMAYER VOTED NO.)

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CHAIR SPEARMAN:

I will open the work session on A.B. 204.

**ASSEMBLY BILL 204 (1st Reprint)**: Revises provisions relating to health care. (BDR 54-932)

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MR. MELGAREJO:

I have a work session document ([Exhibit D](#)) summarizing the bill. No amendments were submitted.

SENATOR SEEVERS GANSERT MOVED TO DO PASS A.B. 204.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the work session on A.B. 239.

**ASSEMBLY BILL 239 (1st Reprint)**: Revises provisions relating to controlled substances. (BDR 54-703)

MR. MELGAREJO:

I have a work session document ([Exhibit E](#)) summarizing the bill and the proposed amendment that was submitted.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED A.B. 239.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the work session on A.B. 334.

**ASSEMBLY BILL 334**: Makes various changes relating to the Board of Medical Examiners. (BDR 54-943)

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MR. MELGAREJO:

I have a work session document ([Exhibit F](#)) summarizing the bill. No amendments were submitted.

SENATOR DONDERO LOOP MOVED TO DO PASS A.B. 334.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the work session on A.B. 361.

**ASSEMBLY BILL 361**: Revises provisions relating to the practice of medicine.  
(BDR 54-839)

MR. MELGAREJO:

I have a work session document ([Exhibit G](#)) summarizing the bill and the proposed amendment that was submitted.

SENATOR HARDY:

I need to make a disclosure. In the interest of full transparency, I would like to disclose to my colleagues that I am a licensed physician. I work for Touro University Nevada as the Associate Dean of Clinical Education. I have discussed my professional position as regards A.B. 361 with Legislative Counsel. We have determined that I will not be affected differently than any other member of my profession. Therefore, pursuant to Senate Standing Rule 23, I will be fully participating in the discussion and I will vote.

SENATOR DONDERO LOOP MOVED TO AMEND AND DO PASS AS AMENDED A.B. 361.

SENATOR HARDY SECONDED THE MOTION.

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THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:  
I will open the work session on A.B. 398.

**ASSEMBLY BILL 398 (1st Reprint)**: Revises provisions relating to commercial mortgage lending. (BDR 54-1068)

MR. MELGAREJO:  
I have a work session document (Exhibit H) summarizing the bill. No amendments were submitted.

SENATOR HARDY MOVED TO DO PASS A.B. 398.

SENATOR BROOKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:  
I will open the work session on Senate Bill (S.B.) 502.

**SENATE BILL 502**: Revises certain licensing fees for social workers. (BDR 54-1162)

MR. MELGAREJO:  
I have a work session document (Exhibit I) summarizing the bill and the proposed amendment that was submitted.

SENATOR DONDERO LOOP MOVED TO AMEND AND DO PASS AS AMENDED S.B. 502.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the hearing on A.B. 132.

**ASSEMBLY BILL 132 (1st Reprint)**: Revises provisions governing employment practices. (BDR 53-29)

ASSEMBLYWOMAN DINA NEAL (Assembly District No. 7):

I would like to give you some background on how I got involved with the rights of people engaged in the legal conduct of smoking marijuana. When voters passed the ballot question that allowed the legal use of recreational marijuana, I found in my district that we needed to deal with the prospect of employment for people who use recreational marijuana. I wanted to put in place some legislation that begins to deal with the lawful conduct of smoking marijuana, and I am starting by tackling what happens when users apply for a job.

This has been a difficult question that challenges the morality and prejudices we all have. I had my own prejudices; I voted against the ballot question regarding recreational marijuana. But I brought this bill because I wanted to begin the process of creating policy around this issue.

At this point, employers are handling this issue in different ways. Some use a prescreening test, and some do not. Some only deal with workers who are caught smoking on the job. This bill deals only with what happens when a recreational user who smokes only on the weekend is looking for employment. It does not deal with what happens in the workplace. If you get caught smoking on the job, you are going to be fired. If you violate any of the workplace safety rules, you will be fired. This bill does not deal with any of that.

I have a proposed amendment ([Exhibit J](#)) that is a reflection of this. In section 3.5, subsection 2, I struck out the presumption language because it was leading us into the workplace.

Here is what the bill does. Section 2, subsection 1 of A.B. 132 states that it is unlawful for an employer to fail or refuse to hire a prospective employee because that prospective employee submitted to a screening test, and the

results of that screening test indicate the presence of marijuana. That is the heart of the bill.

Several exceptions to that provision were added by the Assembly and are listed in section 2, subsection 2. The bill does not apply to people applying for jobs as firefighters, emergency medical technicians, operators of motor vehicles or any job that the employer determines could adversely affect the safety of others. That last exception is the catchall piece that picks up all the other types of job classifications where the employer feels marijuana use could be a safety issue.

Section 2, subsection 3 of the bill states that employers are allowed to require prospective employees to abstain from marijuana use while carrying out their duties unless those employees hold valid medical marijuana cards. That reflects existing statute regarding medical marijuana. If you are a medical marijuana user, there are some exceptions, but employers have the right to ask you to abstain.

Section 2, subsection 4 of the bill says that if an employer requires an employee to submit to a screening test within the first 30 days of employment, the employee has the right to submit an additional screening test, at his or her own expense, to rebut the results of the original test. This provision was added by the Chair of the Assembly Committee on Commerce and Labor, who felt having a rebuttable presumption in the bill would be helpful. Marijuana stays in the system and can cause a positive test result for as long as a month, and we do not yet have the perfect test that will tell us whether the person used marijuana in the last 48 hours. Having a positive test result is not necessarily an indication that the person is high.

Section 2, subsection 5 of A.B. 132 states that the provisions of the bill do not apply in cases where they are in conflict with the provisions of an employment contract or a collective bargaining agreement. They also do not apply to positions funded by federal law or grants. It came up in the Assembly that federal money might be put at risk by the presence of a person engaged in an activity that is lawful conduct in Nevada. This was the compromise to avoid that situation.

The collective bargaining provision was inserted because we had a lot of conversation around construction. The way the bill was originally written, it looked like it would not apply to collective bargaining agreements. This

compromise is intended to apply to current collective bargaining agreements, and future collective bargaining agreements can be modified to include it.

SENATOR BROOKS:

Section 2, subsection 5, paragraph (a) states the provisions of the bill do not apply if they conflict with an existing employment contract or collective bargaining agreement. Does this refer to an existing employment contract only? I am picturing an employer who says, "I would like to hire you, and here is the employment contract you must sign." If that contract includes a provision that employees cannot test positive for the use of marijuana, does that circumvent this whole process?

ASSEMBLYWOMAN NEAL:

This provision is meant to apply to existing employment contracts, and it is based on existing statute. *Nevada Revised Statutes* (NRS) 613.333 provides that employers may not prohibit the lawful use of any product outside of the premises of the employer during the employee's nonworking hours, provided it does not adversely affect the employee's ability to perform his or her job or the safety of other employees.

SENATOR BROOKS:

There is nothing in this provision that would prohibit employers from testing for drugs after hire, is that right?

ASSEMBLYWOMAN NEAL:

No. I cannot tie the hands of employers to say they cannot test after hire. That would be both restrictive and burdensome, and I do not know where I would find the legal foundation to do that. I have not seen the statutory provision to allow that for alcohol, so I did not see where I would find leeway for marijuana.

SENATOR HARDY:

To reiterate, further testing would be allowed by the employer at any random time. Is that right?

ASSEMBLYWOMAN NEAL:

Yes. That is current statute.



SENATOR HARDY:

Section 2, subsection 3 uses so many negatives that it is confusing—"It is not unlawful" and "employee who does not hold." I am not sure what you are saying here.

I am also concerned about what constitutes nonworking hours. A person could smoke marijuana or eat a marijuana brownie while not at work, say at lunch or driving to work, and be in a position to put themselves or others at risk at work. We would then get into difficulties deciding whether an accident was covered by workers' compensation or not. Has that been a part of the discussion?

ASSEMBLYWOMAN NEAL:

No, though it has come up as one of the fears. But if employees choose to eat marijuana brownies while on work breaks, they are at risk of losing their jobs. I am not dealing with that situation at all. I am dealing only with prospective employment, the person who is seeking employment while engaging in lawful conduct prior to being hired, and the idea that their application to Big Lots will be denied because they have engaged in the lawful conduct of smoking marijuana.

Making recreational marijuana legal in Nevada has elements to it that have created a social and legal quagmire. With the passing of that law, a person can smoke marijuana legally and still need to go to work. If you get high and drive, or get high while you are in the scope of your work, that now opens us into a whole other legal category that this bill does not speak to or address. That would be a workers' compensation conversation, and I tried not to get into that business at all. I only wanted to deal with prospective hiring.

SENATOR SETTELMAYER:

I appreciate what you are trying to do. I have a Libertarian streak, so I think people should be able to do what they want to do at home as long as it does not affect their work.

Section 2, subsection 2, paragraph (d) is worded so broadly that almost anybody can use it to be exempted. I will give you an example. My wife worked at a Starbucks plant, and there were people running around with forklifts. Their policy was that when you are hired, you are expected to show up for work 24 hours after your drug test, and if you do not you are not hired. That is their

policy. They test you, and 24 hours later you are at work. If you do not like that, you are not working for them. How would this bill affect that policy?

ASSEMBLYWOMAN NEAL:

The problem of forklifts came up earlier, and that was one of the reasons I added this provision. We do not want employers to abuse this provision and try to apply it to someone who is not in a position to affect the safety of others, like a secretary or a cashier. I know the wording is broad; I struggled with that language. Eventually I gave in on this, with the hope that the existing statutory provision in NRS 613.333 would offer some kind of protection. This statute was created to cover tobacco use, and now we have managed to move from tobacco to marijuana.

SENATOR SETTELMAYER:

With regard to the safety of others, as an employer, I want to make sure you are not jeopardizing someone else's safety. At the same time, I also do not want you to jeopardize yourself. I want to make sure an employer still has a right to say, "I do not want to have to pull you out from underneath the forklift because of your actions on the job." Do you see what I am saying?

ASSEMBLYWOMAN NEAL:

I do; I understand exactly what you are saying. This is the fine line of the regulation of conduct that we are treading. If an employer has those fears, they could say, "Because I know you smoke marijuana, I do not think this is the job for you." The prospective employee could then say, "I'm glad you told me that, because there could be a potential safety risk for me. This isn't a job I should probably apply for." But the person might instead choose to say, "I understand what you're saying, but I have the skill set to do this job. I am a recreational user on the weekends, and I am promising you that I'm going to refrain during the week." It is now up to that employer to say, "All right, I'll take you on." The way this bill is written, the responsibility falls on the employee, and it is their fault if they lose their job because they continue to smoke marijuana.

That is the quagmire. We made something legal that we cannot wrap our minds around and do not want to have in our workplaces. But the truth is it is now lawful conduct. So what do we do?

SENATOR SETTELMAYER:

I appreciate that. We have the same issue when it comes to alcohol and opioids. I can see what you are saying, and I am going to have to wrap my head around the balancing act on that.

I have one more concern to throw out there. I used to represent Carson City, and the third largest employer in Carson City used to pay people to go to Western Nevada Community College to get a certificate to work for them. Eventually they had to quit that practice because 75 percent of their students failed the drug test. What they do now is you take the test first, then they will pay for your schooling if you pass. They will then hire those who finish the training. How does this bill affect that? If you fail the drug test, they will not pay for your training or employ you.

ASSEMBLYWOMAN NEAL:

The situation is the same. The individual understands that in order to get the benefit and be a part of the program, they are going to have to pass a drug test. If you want to be trained and get the job, you are going to have to make a choice. This is a life choice: "I am going to have to give up smoking in order to get this training and get into this program." Just as with someone who likes to drink, you have to weigh your options. You have to make a decision: "I really want to get trained because the financial benefits to my life are far greater than me continuing the lawful conduct of recreational use of marijuana." I am leaving that decision to that individual; I am not regulating that conduct at all. I am just trying to make sure we do not unfairly discriminate against individuals of all races who are now engaging in this practice.

My fear was and is that we will have a group of people who are unemployable, and that serves no social interest. It is not a good practice or policy to say, "Because you smoke marijuana, I'm not interested in hiring you." What does that do to that population? We do not know how many people are legally buying recreational marijuana in Nevada; we only collect the amount of money they spend. What if there were 250,000 people who smoke recreational marijuana in Nevada, and we say to them, "You're unemployable for that reason"? What do we do then?

There is a fairness issue here even if our consciences feel using marijuana is just wrong. I grew up with the belief that if you smoked weed, you had no value to me. You were not my friend; you were not in my circle; I did not understand

why you even needed to exist. The cultural stigma we created around those individuals was that the whole purpose of smoking marijuana was to lounge, to chill all day and be absolutely useless. That was what I grew up with, that these individuals served no purpose. I had to come to terms with the fact. There is a marijuana dispensary in my district, and on Friday evenings it is like a nightclub. I see the people lined up to get in, and I think, "Yes, but they still have to go to work." I do not want to have to deal with the call that starts, "I was fired because marijuana—" I do not need to hear anymore. There is a whole other social dynamic and a responsibility to that conversation. I am just trying to navigate pre-hiring.

SENATOR SETTELMAYER:

I appreciate that, and I can agree with a lot of what you said. I know in Washoe County, there were huge issues with some of the companies and businesses that used to test. They ran out of employees, and many of them quit testing because they just cannot find anyone to work who can pass a drug test.

SENATOR SEEVERS GANSERT:

Do we have a statute like this for alcohol? I do not think we have anything that precludes someone from not hiring an individual if they have a level of alcohol in their system.

ASSEMBLYWOMAN NEAL:

I have not seen anything like that. Alcohol has been around so long that the only thing we look at is drinking on the job or being drunk on the job. If you are found to be drunk on the job, you are fired, but I have never seen a prospective hiring piece for alcohol because we do not treat it the same way. Alcohol does not have the same social stigma as marijuana does, though it might have during Prohibition. We would not say to someone, "Let me find out if you drank this weekend." For one thing, there is no way to prove it. We do not have a test that will prove someone had tequila on Saturday and then showed up for work on Monday.

SENATOR SEEVERS GANSERT:

I am thinking we probably do not have like statutes for alcohol, so this is a carve-out specifically for marijuana.

The way I read this bill, it precludes an employer from requiring a drug test before hiring unless the job meets one of the requirements in section 2,

subsection 2. I could be wrong. Maybe the Legal Division needs to weigh in on that.

ASSEMBLYWOMAN NEAL:

That is correct. If it is a prospective employee who has not yet been hired, the employer is prevented from using the test results to not hire them.

CHAIR SPEARMAN:

Mr. Fernley, did you have an opinion?

BRYAN FERNLEY (Committee Counsel):

No.

SENATOR BROOKS:

I believe the commercial driver's license provisions have a standard regarding the mere presence of alcohol, not just an impairment level of alcohol, that would cause you to lose your commercial driver's license.

I keep going back to section 2, subsection 5, paragraph (a) of the bill, which has to do with existing employment contracts. It appears to me that an employer could add a provision to an existing contract that would allow them to bypass this bill. I might be misinterpreting that.

That started me thinking about apprenticeship programs, which are not necessarily covered under a collective bargaining agreement. When you become a member of an apprenticeship program, you sign a contract almost like an employment contract. I know drug testing can be a huge hurdle to getting qualified applicants into apprenticeship programs. Has that come up? Would you see an apprenticeship agreement as being covered by this provision?

ASSEMBLYWOMAN NEAL:

That has come up, along with other issues that have arisen because recreational marijuana use is happening at a higher level and no longer has to be hidden. We have candidates seeking apprenticeships who have smoked. That was reality five years ago and today. Those apprenticeship programs have restrictions in place now. They currently tell you, "You want to get on this apprenticeship gig? First of all, you're not going to drink. You can have a beer on the weekend, but you're not going to come in here drunk or high." Once someone is officially on the job receiving a check, there are limitations, and I agree with those

limitations. I know some people say, "How is this freedom?" I have already come to terms with there being limitations on freedom.

I am trying to navigate a reality where we do not completely lock out an entire group of individuals who are engaging in this lawful conduct. That is the purpose of this bill. Is it perfect? No. Do I have a series of exceptions? Yes. Do I also believe there is a limitation on freedom within the workplace? Absolutely, every day of the week. I am not infringing upon that.

The provision about existing work contracts was part of the compromise for an industry that is dealing with this constantly. It is also my hope that this industry will do a reality check and decide that if it was going on five years ago and you need quality people now, maybe we ought to take a chance on what now has become adopted social conduct even though we frown upon it.

SENATOR BROOKS:

I agree with you 100 percent. This is an employment issue as well as an impaired driving issue. This is an important first step, but until we have meaningful impairment standards we can all agree on, we are going to be struggling with this in employment law and in impaired driving.

SENATOR HARDY:

I am still struggling with the language in section 2, subsection 3. I would like to give you two statements to see which one is closer to your intent. The first is: "It is lawful for an employer in this State to require an employee to abstain from using marijuana while carrying out the duties of his or her employment as a condition of employment." Is that what you were saying?

ASSEMBLYWOMAN NEAL:

Correct. If you do not have a medical marijuana card, an employer can restrict you from using marijuana while carrying out your duties. The only exception is for those who have a medical marijuana card. When we passed the medical marijuana law, we had to deal with the fact that we needed to treat medical marijuana like a prescription, which you would have the right to take on the job. This section basically says that if you do not have a medical marijuana card, your marijuana use can be limited.

SENATOR HARDY:

This provision could also be stated, "It is lawful for an employer in this State to require an employee to abstain from using recreational marijuana while carrying out the duties of his or her employment as a condition of employment." Is that right?

ASSEMBLYWOMAN NEAL:

Yes.

SENATOR HARDY:

This same paragraph also refers to "prospective employee" and people who are "carrying out the duties of his or her employment." So another rewording might run, "It is unlawful to require a prospective employee to abstain from marijuana." Is that accurate?

ASSEMBLYWOMAN NEAL:

No.

SENATOR HARDY:

Do you see my problem with the language?

ASSEMBLYWOMAN NEAL:

I see your problem with the construction. I will tighten it up.

SENATOR HARDY:

Another rewording might say, "It is unlawful for an employer in this State to require a prospective employee to abstain from using medical marijuana while carrying out the duties of his or her employment as a condition of employment." Is that right?

ASSEMBLYWOMAN NEAL:

No, that is not the intent. The goal was for this to say that if you are a prospective employee who does not have a medical marijuana card, you can be limited in your use of marijuana in the workplace. That is what it is supposed to say.

CHAIR SPEARMAN:

There are some companies who will not hire you if you smoke tobacco because of the healthcare dollars they feel may be involved. This bill does not address

that. It looks like someone could say, "We don't want marijuana smokers because that'll make our health insurance premiums go up."

ASSEMBLYWOMAN NEAL:

I had this conversation several times in the Assembly. My proposed amendment for that was to say that if it will affect your federal grant or money or your safety, we will make an exception for that. I did not get into the cost of health insurance going up; marijuana has been legal since 2017, so how is your health insurance going up just now? I challenged anyone to show me an instance of insurance rates going up because a marijuana user had been hired, and no one came forward. There was a fear, but there was no actual proof to back it up.

If A.B. 132 does not pass, NRS 613.333 will still be valid, and eventually somebody is going to challenge it. They are going to say, "The voters said this is now lawful conduct, and now I am without a job and am being consistently discriminated against." We are currently in the weird position of saying that one group of individuals is not worthy because they smoke marijuana, but at the same time somebody could be drunk as a skunk last week and still have a job. What is the difference? The ballot question said it must be treated the same as alcohol.

The problem is the idealistic voters who believed the morality of our State would change because the ballot question happened. That did not occur. There was no social movement that equaled the ballot question. It passed, and now we have to deal with it. I was one of those people who said, "Oh my God, now we are going to have to deal with all the social consequences of this. Now I have to figure out how to navigate this behavior." I was not interested in it until I saw the \$42 million we raked in as taxes on marijuana, and then I decided there was no way I am going to allow some people to profit from marijuana to this degree and then have other people who cannot find jobs. Those two situations cannot coexist. We cannot say to one group, "It's okay for you to sell it," then tell the other group, "If you use it, I don't want you to work for me." That is not acceptable.

CHRISTINE KRAMAR (Nevada National Organization for the Reform of Marijuana Laws):

We are in support of A.B. 132. I have a letter of support ([Exhibit K](#)) from Madisen Saglibene, the executive director of Nevada National Organization for



the Reform of Marijuana Laws. We represent the bold, unapologetic consumers of cannabis in Nevada, both residents and tourists.

This bill is a matter of social justice for those of us at different weight categories. An individual may metabolize marijuana sooner or later based upon their weight. Marijuana is self-administered pain management, much like alcohol. Tying everything to whether or not you are a medical or non-medical user discriminates against those who do not have health care. Until we have Medicare for all, we should not be discriminating against individuals who cannot go to a physician and receive a prescription. If you are effectively using marijuana, you will be at a leveling point; you are not high. As a former manager of a 300,000-square-foot warehouse with 250 employees, my nightmare employees were those on alcohol. We should not discriminate against our consumers who use cannabis over alcohol.

SENATOR BROOKS:

What is the error rate for urine tests for the presence of marijuana? I believe false positives are fairly common.

MS. KRAMAR:

It is a primarily high error rate. We also have employers in this State who go to Dollar Tree to buy their screening tests. They are not lab-controlled; there are no consistencies. The same person can pee twice on that stick detecting for the presence of tetrahydrocannabinol and have two wildly different results.

SENATOR BROOKS:

Can I assume "presence" in this case would be indicated by the presence of just one nanogram?

MS. KRAMAR:

I am not a physician and cannot testify to the amount. However, having been a human resources manager, I know that there are many companies, especially temporary employment agencies and day labor agencies, that are using these Dollar Tree tests.

SENATOR BROOKS:

I do not know the statistics, but they have pretty wild swings and have a high percentage of false positives.

GREG FLEMING:

I am an Army veteran who served in Iraq in 2006. I served four years on active duty service. I support A.B. 132 because I suffer from post-traumatic stress disorder and other ailments. I have a medical marijuana card, and marijuana has saved my life. It has gotten me off all the pills, like OxyContin and Prozac, that turned me into a zombie and unable to function normally. Pot allows me to have a normal life—no anxiety, no depression, no nightmares—and I am allowed to just be myself without shutting down.

However, marijuana has also kept me out of work. I have been out of work since September 2018. I have a bachelor's degree in political science, and I believe this bill will help me get a job.

ANN SILVER (CEO, Reno + Sparks Chamber of Commerce):  
We are opposed to this bill.

Assembly Bill 132 recognizes the legality of using marijuana for medical and recreational purposes, but it should not invalidate the right-to-work principle of Nevada: that employers may choose from a field of qualified candidates when selecting their employees and choose not to hire if there are legitimate disqualifying conditions. The State of Nevada legalized marijuana but has not yet evaluated its impact on society when consumed by those driving to work, performing work and working with others, or its impact on productivity. To suggest there are only designated occupations that should be permitted to refuse employment based on a positive test for marijuana excludes the many jobs that require preparing food, caring for elders, caring for children, serving alcohol and food, using tools or driving one's own car to and from a company assignment.

An employer may not discriminate in making employment decisions when it comes to Title VII protections, and there is no justification for discrimination based on race, age, sex, national origin, veteran status, sexual orientation or other legally protected classes. But to mandate that an employer overlook marijuana use opens the door to companies with hundreds of marijuana users, some or all of whom have compromised their ability to perform their work. How is that fair to all the other employees who do not consume the drug and whose performance may be held to a higher standard?

I urge the Committee to ask our Department of Public Safety and other law enforcement and medical professionals to boldly engage in a study and recommend marijuana testing standards for use by all employers so as not to create a situation we may not be able to rectify in days to come.

We oppose the passage of A.B. 132 on the basis that we are not yet ready to permit marijuana use in almost all employment environments in Nevada.

DAVID DAZLICH (Las Vegas Metro Chamber of Commerce):

We would like to thank Assemblywoman Neal for the large amount of work that she has put into this bill. It has been a long road to get here. We are here testifying in the neutral position, having moved from our previous position of opposition. Assemblywoman Neal has been very accommodating and open. She has heard the concerns of the business community, and we especially appreciate the provisions in [Exhibit J](#) relating to workplace safety.

ANDY PETERSON (Retail Association of Nevada):

We are neutral on this bill and echo Mr. Dazlich's remarks.

PAUL J. ENOS (Nevada Trucking Association):

We are neutral on A.B. 132. I want to express our thanks to Assemblywoman Neal for working with us. We opposed this bill in the Assembly, but we believe the amendments make it workable for us. This is a difficult issue because we do not have a good test to tell whether someone is impaired with marijuana as we do with alcohol.

In the trucking industry, we have a zero tolerance policy. You are considered unable to drive if you test at 0.02 blood alcohol content, where the legal standard for intoxication is 0.04 blood alcohol content. We set the standard that low because this is the lowest level that can be detected in the blood with the tests we have. We need a better test for marijuana impairment. We have supported Assembly Concurrent Resolution 7 to do this.

**ASSEMBLY CONCURRENT RESOLUTION 7**: Directs the Legislative Commission to appoint a committee to conduct an interim study of issues relating to driving under the influence of marijuana. (BDR R-758)

Because we have been dealing with these issues in Nevada recently, I have been appointed as the co-chair of a workgroup on controlled substances and

driver health through the American Trucking Association. We will focus on setting a standard for impairment to make sure drivers and everyone else is safe on the road. That is essential.

If we told truck drivers they could no longer drink a beer during off-work hours, our driver pool would shrink to nothing. We are going down the road on this one way or another.

I appreciate having these conversations, and I appreciate the sponsor working with us. I also appreciate the carve-outs for employer discretion regarding testing. We are neutral on this bill today because trucking is not covered under federal law. We look forward to trying to fix this issue in the future.

ANDY MACKAY (Executive Director, Nevada Franchised Auto Dealers Association):

We are neutral on this bill. I would be remiss if I did not thank the bill's sponsor for her open door and willingness to discuss this. We were opposed to A.B. 132 in the Assembly, but the amendments have addressed the majority of our concerns, specifically section 2, subsection 2, paragraph (d). At our dealerships, our service technicians use a lot of dangerous equipment, such as tire balancing equipment.

RAY BACON (Nevada Manufacturers Association):

We are neutral on A.B. 132. The sponsor did a wonderful job dealing with an ugly issue.

I want to touch on the quagmire of the future. When someone does come up with a reliable test for marijuana impairment, who will certify it? The federal government will not touch it, and Nevada has nobody who is technically qualified to approve it, nor does any other state. It could be ten years before we get to a test for impairment. This is not going to be an easy thing. Assemblywoman Neal has taken the first step, and it is the right step, but we have a lot more to work on in the future.

ASSEMBLYWOMAN NEAL:

When I drafted the bill, I thought I was being progressive, and it is; this is probably one of the most progressive pieces I have this Session. I wanted this bill to open up the dialogue on this tough issue because we need a solution. We are selling this product at an accelerated rate; the market is expanding, and we

need to make sure people who are engaging in this lawful conduct have a pathway to employment and are not barred from working.

Once this issue is resolved, what happens next? Hopefully, there will be a push for employees to be responsible and consider what kind of conduct they plan on engaging in after they get hired. That is the same kind of conduct we expect now. We hope people will grow and change. Legal recreational marijuana is a new social element we have to deal with, and we have to decide on our policy statement about it.

CHAIR SPEARMAN:

With regard to Mr. Fleming's testimony, I have heard the same from many veterans, some of whom were on 15 different pills and were trying to go to work, and they were more impaired then than they are now with medical cannabis. That is what got me to thinking. What else do we need to be doing, now that this is lawful conduct?

I will close the hearing on A.B. 132.

I need to make a comment about something that happened in the Committee meeting on May 8. There was a member of the public in Las Vegas who held up a sign with a disparaging comment on it. I understand people have the right to do that, but I really do not like the discourtesy. I hope people will be considerate. You cannot paint with a broad brush across a whole group of people, ethnically, culturally or any other way. If you come with disparaging signs, you can hold them up, but I do not like it.

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CHAIR SPEARMAN:

Is there any public comment? Hearing none, I will adjourn this meeting at 2:53 p.m.

RESPECTFULLY SUBMITTED:

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Lynn Hendricks,  
Committee Secretary

APPROVED BY:

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Senator Pat Spearman, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	2		Agenda
	B	3		Attendance Roster
A.B. 175	C	1	Cesar Melgarejo	Work session document
A.B. 204	D	1	Cesar Melgarejo	Work session document
A.B. 239	E	2	Cesar Melgarejo	Work session document
A.B. 334	F	1	Cesar Melgarejo	Work session document
A.B. 361	G	5	Cesar Melgarejo	Work session document
A.B. 398	H	1	Cesar Melgarejo	Work session document
S.B. 502	I	4	Cesar Melgarejo	Work session document
A.B. 132	J	4	Assemblywoman Dina Neal	Proposed amendment
A.B. 132	K	1	Christine Kramar / Nevada National Organization for the Reform of Marijuana Laws	Letter of support from Madisen Saglibene