

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

**Eighty-first Session
May 21, 2021**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 9:34 a.m. on Friday, May 21, 2021, Online and in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pat Spearman, Chair
Senator Dina Neal, Vice Chair
Senator Melanie Scheible
Senator Roberta Lange
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Keith F. Pickard

STAFF MEMBERS PRESENT:

Cesar Melgarejo, Policy Analyst
Wil Keane, Counsel
Kim Cadra-Nixon, Committee Secretary

OTHERS PRESENT:

Mark Krueger, Chief Deputy Attorney General, Office of the Attorney General

CHAIR SPEARMAN:

I will open the work session with Assembly Bill (A.B.) 61.

ASSEMBLY BILL 61 (2nd Reprint): Revises provisions relating to trade practices.
(BDR 52-424)

CESAR MELGAREJO (Policy Analyst):

I have a work session document ([Exhibit B](#)) which explains A.B. 61. This bill makes various changes relating to deceptive trade practices. There is a proposed amendment for this bill and it was heard on May 20.

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SENATOR HARDY:

How do we enforce this measure? How do we hire enough people to enforce this bill? How will inventory replacement costs be handled?

This measure may stifle free-will giving. This measure may also risk the literal loss of store-front businesses. There may be loss of life because people have to work and are subject to infections.

During a state of emergency, this bill would be in effect for 75 days and will cause a static system, which will shift the local economy. I will vote no on this bill for these reasons.

CHAIR SPEARMAN:

Was this a question or a comment?

SENATOR HARDY:

Considering the comments I made, how can we accomplish the intent of this bill?

MARK KRUEGER (Chief Deputy Attorney General, Office of the Attorney General):
From a consumer protection standpoint, we did a great job handling price gouging complaints during the initial phase of the pandemic. We are ready, willing and able to do our best in any other emergencies.

SENATOR SETTELMAYER:

How many prosecutions of price gouging occurred during the first phase of the pandemic? With the passage of A.B. 61, how many prosecutions do you anticipate?

MR. KRUEGER:

During the first phase of the pandemic, we could not prosecute cases because we did not have a price gouging prohibition in statute. If we had this prohibition in statute, we could have prosecuted complaints that were clearly cases of price gouging. After investigating, we found some of the complaints of price gouging were normal supply chain increases.

It is difficult to look back at situations because we did not have a law in place that would have allowed us to prosecute. We are confident we can protect consumers if you pass this bill.

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SENATOR PICKARD:

I share some of the concerns expressed today. I also submitted a suggestion for an amendment to clear up the issue of replenishment costs for retailers. This suggestion was not adopted. I will vote no on this measure with the right to change my vote on the Floor.

CHAIR SPEARMAN:

I looked at this bill through the lens of Committee members who had concerns. Mr. Keane, you had a statement in the hearing yesterday that clarified some of the concerns. I would like everyone to hear this statement again. If I understood, it will punctuate my understanding; if I did not understand, it will clarify my understanding.

WIL KEANE (Counsel):

With regard to price gouging, the overall theory is defined in section 3, subsection 2 of the bill. The description of conduct that is not supposed to occur is open-ended. The courts will look at this section and over time will create a pool of cases for attorneys to look at and advise their clients of what is and what is not a price gouging problem.

In the meantime, section 3, subsection 3 of the bill provides safe harbors for merchants. This subsection demonstrates who will not be able to be prosecuted.

SENATOR LANGE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 61.

SENATOR SCHEIBLE SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS HARDY, PICKARD AND
SETTELMAYER VOTED NO.)

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CHAIR SPEARMAN:
We will adjourn at 9:45 a.m.

RESPECTFULLY SUBMITTED:

Kim Cadra-Nixon,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
A.B. 61	B	1	Cesar Melgarejo	Work Session Document