

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Eighty-first Session
March 25, 2021**

The Senate Committee on Natural Resources was called to order by Chair Fabian Donate at 3:35 p.m. on Thursday, March 25, 2021, Online. [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 Fabian Donate, Chair
Senator Melanie Scheible, Vice Chair
Senator Chris Brooks
Senator Pete Goicoechea
Senator Ira Hansen

GUEST LEGISLATORS PRESENT:

Senator Ben Kieckhefer, Senatorial District No. 16
Senator James A. Settelmeyer, Senatorial District No. 17

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Policy Analyst
Allan Amburn, Counsel
Christine Miner, Committee Secretary

OTHERS PRESENT:

Michael Hillerby, State Board of Pharmacy
Brett Kandt, State Board of Pharmacy
Trevor Newhouse
Alisa Nave-Worth, Nevada Veterinary Medical Association
Jennee Rhodes
Neena Laxalt, Nevada State Board of Veterinary Medical Examiners
Jennifer Pedigo, Executive Director, Nevada State Board of Veterinary Medical Examiners
Zachary Rhodes
Anita Chang-Vigo

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Faith Johnson
Georgia Vigo
Abigail Field
Nicole Linney

CHAIR DONATE:

I am requesting Committee introduction of a bill draft request (BDR). I will entertain a motion to introduce BDR 50-824.

BILL DRAFT REQUEST 50-824: Revises provisions relating to food policy. (Later introduced as [Senate Bill 370](#).)

SENATOR GOICOECHEA MOVED TO INTRODUCE BDR 50-824.

SENATOR BROOKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR DONATE:

We will open the hearing on Senate Bill (S.B.) 112.

SENATE BILL 112: Exempts certain products for the treatment of domestic animals from regulation under state law. (BDR 54-821)

SENATOR IRA HANSEN (Senatorial District No. 14):

My name is on the bill, but it is on behalf of Senator Settelmeyer. Senate Bill 112 reduces some unnecessary regulations.

SENATOR JAMES A. SETTELMEYER (Senatorial District No. 17):

The issue goes back to my early teens. My dad and I saw an aborted calf fetus on our ranch. It confused me at the time. My dad said it was caused by epizootic bovine abortion, also known as foothill abortion. There was no vaccine. The deer tick causes the condition by transferring from the deer to the cow, causing a pregnant cow to abort in the beginning of its third trimester.

There is no cure. The University of Nevada, Reno (UNR), originally discovered the cause being the deer tick. Recently, UNR, in conjunction with the University

of California (UC), Davis, School of Veterinary Medicine, has discovered a vaccine. My veterinarian informed me the manufacturer would not sell it in Nevada due to statute.

The federal law preempts any state law regulating viruses-serums-toxins for use in the treatment of domestic animals. It is the manufacturer's assertion that the federal Virus-Serum-Toxin Act states only the federal government can regulate distribution, not the State.

This substance is legal to use in Nevada, but because the manufacturer is not licensed by the State Board of Pharmacy in Nevada and because of the preemption at the federal level, it would not distribute the drug in Nevada. Nevada veterinarians are driving to other states to get the medicine to administer in Nevada. This raises costs for a substance that must be kept in liquid nitrogen for transporting.

In discussions with the manufacturer and the State Board of Pharmacy, the Proposed Amendment 3142 ([Exhibit B](#)) to S.B. 112 was created. It seeks to clearly delineate only certain veterinary biologic products regulated by the federal government be regulated by Nevada. We will be working with Proposed Amendment 3142 for today's discussion.

MICHAEL HILLERBY (State Board of Pharmacy):

The State Board of Pharmacy has been working with the manufacturer looking for a way to acknowledge the federal law and still be consistent with Nevada law and the duties of the State Board of Pharmacy.

Page 2 of Proposed Amendment 3142, [Exhibit B](#), explains the U.S. Veterinary Biological Product License process and allows for qualified manufacturers to sell the virus-serum-toxin medication in Nevada for use on livestock.

Nevada has long had a practice of allowing ranchers and dealers in livestock to get larger quantities of drugs for uses on ranches with livestock as per *Nevada Revised Statutes* (NRS) 454.301, dating back to the 1970s. The ranchers and dealers of livestock could vaccinate their animals and possess and administer drugs on their properties. Senate Bill 112 and Proposed Amendment 3142, [Exhibit B](#), attempt to accurately capture the provisions of the federal law and provide a limited exemption in Nevada law for use of the vaccine for livestock.

Section 1.5, subsection 2, paragraph (b) of Proposed Amendment 3142, [Exhibit B](#), references specific livestock which includes cows, sheep, goats and pigs per NRS 571.022.

SENATOR SETTELMAYER:

As I look at Proposed Amendment 3142, [Exhibit B](#), it appears subsection 5 of NRS 571.022 has been left out of the meaning of "livestock" from section 1.5, subsection 2, paragraph (b) of Proposed Amendment 3142. The intent is to include sheep or animals of the ovine species.

MR. HILLERBY:

I will check to be sure the right reference is in Proposed Amendment 3142.

SENATOR GOICOECHEA:

Once the manufacturer brings the product into Nevada, will distribution be allowed through a wholesaler?

SENATOR SETTELMAYER:

The intent is to allow distribution through a wholesaler. The vaccine must be transported in liquid nitrogen.

SENATOR GOICOECHEA:

Would the State Board of Pharmacy have any interaction, or would there be any additional licensing requirements by the State for a wholesale company distributing the drug?

BRETT KANDT (State Board of Pharmacy):

The State Board of Pharmacy licenses and regulates wholesalers in Nevada. When a manufacturer utilizes a wholesaler to ship its products into Nevada, it would be customary and expected for the wholesaler to be licensed and regulated by the State Board.

SENATOR GOICOECHEA:

To be clear, could the Nevada wholesaler get licensed through the State Board of Pharmacy and receive the product?

MR. KANDT:

Yes, a licensed wholesaler in Nevada could work with a manufacturer to distribute the product for sale in Nevada.

TREVOR NEWHOUSE:

I am counsel for the manufacturer Senator Settelmeyer referred to about the bovine abortion vaccine. In a proposed amendment submitted by the manufacturer, the definition was proposed to be "domestic animals" as opposed to "livestock."

The definition is referenced in Title 9 CFR section 101.2, the federal statute that defines the other material terms in S.B. 112. It is appropriate because there is no reason to limit categories of animals to receive vaccines which are exempted by this bill. The United States Department of Agriculture has authority over all animal vaccines, not just cattle or pigs. To illuminate certain categories of animals, which is what is being proposed under the NRS definition of livestock, seems unreasonable. It could create more problems. We propose the definition of domestic animals be inserted which is broad under Title 9 CFR section 101.2. It states "All animals, other than man, including poultry." It seems reasonable for what the bill is trying to accomplish.

SENATOR SETTELMAYER:

The language in Proposed Amendment 3142, [Exhibit B](#), is a compromise proposed by the manufacturer and the State Board of Pharmacy, accommodating the Board to secure its comfort level and assure this is about livestock. The reference to livestock is consistent with Nevada statutes as opposed to domesticated animals. Smaller animals are not large livestock, and this could have opened up potential cautions the Board of Pharmacy was not comfortable with.

CHAIR DONATE:

Do we need to explicitly provide that the State Board of Pharmacy will regulate wholesalers for the products in Proposed Amendment 3142, [Exhibit B](#)?

SENATOR SETTELMAYER:

The State Board of Pharmacy regulates the wholesalers and most are licensed with the Board. Is that correct?

MR. KANDT:

That is correct, wholesalers are licensed and regulated by the State Board of Pharmacy per NRS 639.233.

SENATOR BROOKS:

Does Proposed Amendment 3142 negate or incorporate other proposed amendments previously submitted? One was unlabeled and the other was from Senator Hansen.

SENATOR SETTELMAYER:

I was keeping the Committee informed as proposed amendments came forward. I worked with the State Board of Pharmacy on Proposed Amendment 3142, [Exhibit B](#). It is the best and most logical course of action. The bill allows a live foothill abortion vaccine developed by researchers at the UC Davis School of Veterinary Medicine and the UNR to be sold in Nevada rather than veterinarians having to travel out of state to acquire the vaccine.

SENATOR BROOKS:

Were the earlier submitted amendments friendly? Does your Proposed Amendment 3142 capture the content of the other proposed amendments, and can I disregard those?

SENATOR SETTELMAYER:

Yes, Proposed Amendment 3142 is the best acknowledgment of the intent.

ALISA NAVE-WORTH (Nevada Veterinary Medical Association):

Nevada Veterinary Medical Association supports Proposed Amendment 3142 of [S.B. 112](#).

JENNEE RHODES:

I support [S.B. 112](#) with Proposed Amendment 3142. I raise cattle and have been affected by the tick disease. I lost four calves last year on my small ranch.

SENATOR SETTELMAYER:

The Cattlemen's Association let me know it is in support of [S.B. 112](#) and Proposed Amendment 3142, [Exhibit B](#). I worked with Randy Wallstrum, DVM, and J.J. Goicoechea, DVM, on the bill.

CHAIR DONATE:

We will close the hearing on [S.B. 112](#) and open the hearing on [S.B. 336](#).

[SENATE BILL 336](#): Revises provisions governing veterinary medicine. (BDR 54-534)

SENATOR BEN KIECKHEFER (Senatorial District No. 16):

I will present S.B. 336 which was brought forward by the Nevada State Board of Veterinary Medical Examiners to update statutes to assist in its authority as the regulatory body over the veterinary profession.

NEENA LAXALT (Nevada State Board of Veterinary Medical Examiners):

I will read the summary of changes to NRS 638 proposed by S.B. 336 ([Exhibit C](#)) submitted by Jennifer Pedigo of the Nevada State Board of Veterinary Medical Examiners (NBVME).

There will be a testifier from the Nevada Veterinary Medical Association (NVMA) in opposition to two sections of S.B. 336, and NBVME is working on these issues. There are no changes to any scope of practice in S.B. 336. Some in opposition may have misread sections 2 and 3 about definitions of "animal chiropractic" and "animal physical therapy" which were inserted to bring them in alignment in this Legislation. The definitions were taken word for word from the *Nevada Administrative Code* (NAC) and have been in the regulatory act for more than 15 years. There are no changes in scopes of practice.

JENNIFER PEDIGO (Executive Director, Nevada State Board of Veterinary Medical Examiners):

I will review the proposed changes to NRS in S.B. 336. Sections 2 and 3 bring the definitions of "animal chiropractic" and "animal physical therapy" from regulations to streamline the definitions and to clarify these two licenses are under the same requirements and subject to the same treatment.

Sections 4 and 5 define the terms "registered" and "registrant." Section 6 lists applicants including facility registrations of veterinarians registered with the Drug Enforcement Administration of the United States Department of Justice (DEA) and the State Board of Pharmacy for controlled substances and euthanasia technicians who also handle controlled substances and agencies which employ euthanasia technicians. They are overseen by the Board of Pharmacy and applicable to the DEA.

Section 7 defines "veterinary technician in training" which is in regulation and has been in registration status for years. Section 8 explains the ability for the NBVME to refuse the issuance of a registration for acts that would constitute disciplinary action. This is a conforming change as is section 9.

Section 10, subsection 1 allows licensed veterinary technicians to administer vaccinations for zoonotic diseases under direct veterinary supervision.

Section 10, subsection 3 eliminates an exemption for diplomates, who are specialists, to work for 30 or fewer days without a license in a 12-month period. Discussions with NVMA are in play to assess how to best apply this provision without restricting the number of specialists coming to Nevada.

Section 11 removes a requirement regarding the posting of notice of a hearing or action item in a newspaper for four consecutive weeks if an individual is unable to be reached by either a processor or certified mail.

Section 12 makes conforming changes to registration language. Section 13 adds a parallel requirement for the oath of office of the member serving on the Board who is licensed as a veterinary technician.

Sections 14, 15 and 16 make conforming changes for licensees and registrants.

Section 17 adds "registrant" to those who may have a complaint filed against them just like any licensee.

Section 18 clarifies the unlawful practice of registrants, just like the practices of licensees in the veterinary field issued by the Board.

Section 19 allows the Board to review any agency that evaluates veterinarians who apply to work in Nevada but have not graduated from an American Veterinary Medical Association accredited college. This section is part of discussions with NVMA.

Section 20 updates application requirements to include registrants and licensees. Section 21 requires euthanasia technicians who surrender their licenses to notify the State Board of Pharmacy within 15 days because they have a controlled substance registration, but it is contingent on their employ with an animal control agency or by a society for the prevention of cruelty to animals.

Section 22 changes the deadline for renewal of a license from November 15 to May 15 of every odd-numbered year. This administrative change will help

efficiency and licensees from a deadline occurring at the busiest time of the year.

Section 23 clarifies license and registration distinction, and in section 24, licensees and registrants must notify the Board of any finding of malpractice, not just an allegation.

Section 25 makes a similar change to allow licensed technicians to administer zoonotic vaccines. Sections 26 and 27 contain registrant and licensee updates.

Section 28 requires a referring veterinarian to disclose any fiduciary interests in a facility to which he or she may refer a client and make notice that treatment is not contingent on the owner utilizing that service.

Sections 29 through 33 make registrant and licensee distinctions. Section 34 adds ability for the Board to consider complaints within a committee. The impetus is a due process issue to ensure a licensee who is the subject of a complaint and disciplinary action before a committee could appeal to the entire Board for a full hearing.

Sections 35 through 41 are registrant and licensee distinctions. Section 42 clarifies unlicensed penalties for euthanasia technicians and licensed veterinary technicians and registrants.

SENATOR HANSEN:

There are many concerns about licensing requirements in the bill to begin licensing people already licensed under the provisions of NAC. Typically, NAC is based on NRS. Those practicing chiropractic work on horses are going to have to be licensed. This is a red flag for chiropractic work. Are we solving a problem associated with horse chiropractic and animal physical therapy practitioners? Are there issues with their practices or reasons to license and aggressively prosecute them if not licensed properly?

SENATOR KIECKHEFER:

The definitions for animal chiropractic and animal physical therapy are in NAC as is the requirement for practicing in one of these areas—they must register with the NBVME. This bill does not change any registration requirements.

SENATOR HANSEN:

Usually there is an NRS before an NAC. If the requirements are not in NRS, are animals being harmed to cause these requirements to be put in NRS? Do we have to license and regulate everything people do? Licensing raises costs for horse owners.

SENATOR KIECKHEFER:

I agree and am looking for ways to require less regulations in industry. We often empower regulatory boards to promulgate regulations that are broad to oversee industries they regulate. It seems in this case the regulations already exist.

ALLAN AMBURN (Counsel):

Regarding S.B. 336 where the regulatory authority is for establishing specific entities "animal chiropractic" and "animal physical therapy," NRS 638.070 subsection 2 authorizes the Board to adopt a variety of regulations. Specifically, it authorizes the Board to adopt regulations concerning alternate veterinary medicine which includes acupuncture, chiropractic procedures, dentistry and medical surgery, and other types of practices. That regulatory authority is what the Board used to establish governance of these types of areas of practice in regulations.

SENATOR GOICOECHEA:

Is there anything in the bill that requires an animal chiropractor or an animal physical therapist to work under a supervising veterinarian?

MS. PEDIGO:

Those specific registrants are not required to work under a veterinarian, but in collaboration with a veterinarian; in a referral situation, they are required to share medical records with the referring veterinarian. It is not an oversight practice, but a collaborative practice.

SENATOR GOICOECHEA:

There are many concerns. To clarify, section 10 allows gratuitous work without charge, and if an animal owner or employee of an animal owner practices these activities, it allows this work to be done as an owner or employee. Many think the bill will ban people from doing their own work or helping someone else.

CHAIR DONATE:

Will you be addressing concerns brought forward in section 10 by removal of a diplomate license and section 19 about the accreditation from a foreign entity?

SENATOR KIECKHEFER:

Discussions with NVMA and the proposals it is bringing forward are friendly, and the Board will review these soon.

MS. PEDIGO:

The Board is open to this and will meet soon to discuss the changes.

ZACHARY RHODES:

I am a horse owner and a Certified Equine Dentist and oppose S.B. 336. I was born and raised in Nevada, have been around horses all my life and in the horse healthcare industry for 17 years.

To claim these changes in statute are not changing the veterinary practices is not true. [Exhibit C](#) claims specialists who work in Nevada are licensed in the State and are subject to the rules and regulations herein. This is going to further exacerbate the shortage of large animal veterinarians. Individuals going to equine dentistry school and massage therapy school are learning the use of pulsed electromagnetic field (PEMF) machines and other modalities providing valuable services to horse owners. Enacting more restrictions, regulations and outlawing these people from working will further limit access to care while driving up costs and bringing down quality of care. This is a huge injustice to horse owners in Nevada.

Nevada requires 75 of 102 low-income occupations to be licensed. Massage therapists have won lawsuits in Arizona and Tennessee over veterinary boards trying to outlaw their practices. Statute does not require licensed veterinarians to know massage therapy; how is this protecting the public?

ANITA CHANG-VIGO:

I am the owner of Zen Equine Bodywork and oppose S.B. 336. My concern is section 3 of the bill revising regulations to animal physical therapy and rehabilitation of injured animals. It requires a person who uses the stated techniques governed and registered to provide those services.

I have taken certification courses providing services that are noninvasive. Testimony stated this bill will have no impact on those providing physical therapy massage services. I want the mention of animal physical therapy and massage therapy be removed from the bill prior to moving it forward.

MS. NAVE-WORTH:

The NVMA opposes S.B. 336 as written. The NVMA is actively engaged with Senator Kieckhefer and the NBVME to resolve some concerns.

Section 10 of S.B. 336 is of concern to the NVMA. Veterinary specialists who achieve diplomate status have undergone rigorous training and examinations by the various national specialty organizations that govern the profession. These examinations are far more rigorous than the examination for general veterinary licensure in Nevada. With the diplomate license, veterinarians operating under that license can only perform what their specialty allows. The reason for the law is to increase access to nationally certified specialists. Section 10 will have the unintended consequence of decreasing access to specialty veterinary care in Nevada. The NVMA respectfully requests section 10 of the legislation be removed.

Section 19 of the legislation is of concern. Veterinarians are trained worldwide. Some foreign veterinary schools are accredited by the American Veterinary Medical Association (AVMA) and some are not. Not all education is equal or has the same standards nationally to protect consumers. Nationally, to address these disparities in education, the AVMA established the AVMA Council on Education and the Educational Commission for Foreign Veterinary Graduates. Veterinarians who graduate from nonaccredited schools must undergo examinations by the Council and be issued a certificate of accreditation to meet national standards.

Nevada incorporated those standards into State law to ensure that foreign graduates coming to Nevada to practice veterinary medicine meet the highest standards of veterinary care in the Nation. As drafted, section 19 would expose Nevada consumers to lesser standards of care, and the NVMA requests the removal of section 19.

MS. RHODES:

Senate Bill 336 seems motivated by a group of professionals trying to establish a monopoly against well-trained individuals who care about horses' well-being

and provide care. The many opposed to this legislation because of misunderstandings is not true. As a horse owner and trainer, I would be adversely affected by S.B. 336, and I understand exactly what is going on.

FAITH JOHNSON:

I will read from my written testimony in opposition to S.B. 336 ([Exhibit D](#)).

GEORGIA VIGO:

I am a 15-year-old who owns a horse. Horses are expensive, and my horse is an athlete and needs extensive care. I oppose S.B. 336. Trained professionals who have been working in holistic therapy and massage therapy have been trained and certified and have gone through required courses.

Veterinarians are stretched thin, appointments must be booked two weeks in advance for a lame issue, and S.B. 336 could add to the issue.

Costs to consumers and for barn calls will increase. I work two part-time jobs to afford horseback riding lessons, and I am also stretched thin. It affects businesses of people professionally trained and practicing for many years.

ABIGAIL FIELD:

I am a horse owner and an equine massage therapist. I oppose S.B. 336. This bill takes away owners' rights to choose provider care for their horses. Access to good care in rural areas is slim for many horse owners, and this bill will continue this limitation. Lowering care lowers quality of care. This bill will affect every certified equine massage therapist. Many Nevadans have put much training and time into becoming skilled massage therapists. Unlike a veterinarian, our sole schooling is based around massage therapy and how it improves the way horses move and work. Many hours are put into learning to perform safe, beneficial massage, and we strive to give each client the best care. Many equine trainers rely on therapeutic modalities to help improve a horse's body and mind. Many horse owners do not have the time or knowledge to perform these modalities on their own; the bill limits options for horse owners.

NICOLE LINNEY:

I oppose S.B. 336. My family does rodeo competitions, and our horses are equine athletes. We use the alternative modalities of massage therapy, chiropractic and PEMF to keep our athletes in top physical condition. Nevada

veterinarians are spread thin, and I keep an open relationship with three local veterinarians to ensure timely appointments. Allowing only veterinarians to perform the alternate modalities will make care more challenging, and animals will suffer.

The practitioners of alternate modalities I have used are highly qualified and professional specialists in their fields. They perform well for my horses. Having only a veterinarian doing the care will be counterproductive to the welfare of animals. Many veterinarians recommend some of the alternative therapies between visits.

SENATOR GOICOECHEA:

We have established that a supervising veterinarian is not required for the chiropractor or animal physical therapist. How does the bill impact them? Is it just a registration process, and are the fees exorbitant?

SENATOR KIECKHEFER:

In looking at NAC 638.780, it states:

A physical therapist who has been issued a certificate of registration pursuant to NAC 638.760 may practice animal physical therapy only: (a) Under the direction of a veterinarian licensed in this State who has established a valid veterinarian-client-patient relationship concerning the animal receiving the animal physical therapy before the animal physical therapy is performed; and (b) If the physical therapist assumes individual liability for the quality of the animal physical therapy performed.

If the insinuation is that a physical therapist is going to have to work in consultation with a veterinarian, they already do in accordance with this code. People who are not practicing this way should be, according to NAC 638.780. This is true for chiropractors in NAC 638. I am missing what those in opposition of the bill are referring to. No direct point has been made as to which provision in the bill is changing. I see nothing in the bill that changes the current relationship between these professions and their clients and patient animals. The need to work in consultation with a veterinarian has not changed. I am unsure what has produced the concerns.

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SENATOR GOICOECHEA:

I thought we established on the record it did not require a supervising veterinarian.

SENATOR KIECKHEFER:

There is a difference between supervising and what NAC states "under the direction of." The bill does not change the standards in NAC. I am open to those with concerns to make suggestive changes to the bill.

CHAIR DONATE:

We will close the hearing on S.B. 336.

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CHAIR DONATE:

With no further business, we will adjourn at 6:24 p.m.

RESPECTFULLY SUBMITTED:

Christine Miner,
Committee Secretary

APPROVED BY:

Senator Fabian Donate, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 112	B	1	Senator James A. Settelmeyer	Proposed Amendment 3142
S.B. 112	B	2	Michael Hillerby / State Board of Pharmacy	Proposed Amendment 3142
S.B. 336	C	1	Neena Laxalt / Nevada State Board of Veterinary Medical Examiners	Summary by Jennifer Pedigo / Nevada State Board of Veterinary Medical Examiners
S.B. 336	D	1	Faith Johnson	Written Testimony in Opposition