

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Eighty-Second Session
May 8, 2023**

The Committee on Commerce and Labor was called to order by Chair Elaine Marzola at 1:35 p.m. on Monday, May 8, 2023, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/82nd2023.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Elaine Marzola, Chair
Assemblywoman Sandra Jauregui, Vice Chair
Assemblywoman Shea Backus
Assemblyman Max Carter
Assemblywoman Bea Duran
Assemblywoman Melissa Hardy
Assemblywoman Heidi Kasama
Assemblywoman Daniele Monroe-Moreno
Assemblyman P.K. O'Neill
Assemblywoman Selena Torres
Assemblyman Steve Yeager
Assemblyman Toby Yurek

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Marilyn Dondero Loop, Senate District No. 8
Senator Roberta Lange, Senate District No. 7
Senator Heidi Seevers Gansert, Senate District No. 15
Senator Pat Spearman, Senate District No. 1

STAFF MEMBERS PRESENT:

Marjorie Paslov-Thomas, Committee Policy Analyst

Minutes ID: 1071



Sam Quast, Committee Counsel
Joe Steigmeyer, Committee Counsel
Cyndi Latour, Committee Manager
Elizabeth Lepe, Committee Secretary
Garrett Kingen, Committee Assistant

OTHERS PRESENT:

Mike Schneider, Private Citizen, Las Vegas, Nevada
Mike Schoenbaechler, Owner/Winemaker, Vegas Valley Winery; and Grape Expectations
Patty Peters, Co-founder/Co-owner, Vegas Valley Winery; and Grape Expectations
Tim Burke, Co-owner/Winemaker, Artesian Cellars Winery
Emily Osterberg, representing Henderson Chamber of Commerce
Ashley Jeppson, Administrator, Plant Industry Division, State Department of Agriculture
Alfredo Alonso, representing Southern Glazer's Wine and Spirits
Steven McDonald, Executive Director, State Board of Cosmetology
Jimmy Lau, representing Nevada Association for Career Colleges
Sasha Sutcliffe-Stephenson, representing MGM Resorts International
Countess Courtney, Private Citizen, Las Vegas, Nevada
Susanne Schmaling, President, Esthetics Council
Paul Klein, representing Nevada Dental Association
Mark Funke, representing Nevada Dental Association
Justin Worthington, Legislative Liaison, Division of Insurance, Department of Business and Industry

Chair Marzola:

[Roll was taken and Committee rules and protocol were explained.] Today, we are going to hear four bills: Senate Bill 249 (1st Reprint), Senate Bill 259 (1st Reprint), Senate Bill 393 (1st Reprint), and Senate Bill 436 (2nd Reprint). I will not be taking those in order. We will open the hearing on Senate Bill 259 (1st Reprint).

Senate Bill 259 (1st Reprint): Revises provisions relating to alcoholic beverages. (BDR 52-676)

Senator Marilyn Dondero Loop, Senate District No. 8:

I am pleased to present Senate Bill 259 (1st Reprint), which builds upon our previous effort concerning wine and wineries in this state. Over the last decade, we have made changes to Nevada law that made the prospects of opening and operating a winery in Nevada more attractive. For example, in 2015, the Legislature made many changes to Nevada's winery laws by creating new opportunities for wineries to operate in the state. While there were no changes to the licensing or permitting requirements of a winery, it did change the scope of a winery's permitted operation. The measure expanded where wineries could operate in the

state by permitting wineries in Clark and Washoe Counties. It expressly permitted wineries to produce, bottle, blend, and age wine; and added restrictions concerning the wine and other alcoholic beverages a winery can sell at retail. As a result of this measure, we have grown from four successful commercial wineries to ten successful wine producers in this state.

I will go through the sections of the bill before I introduce my copresenters, and they will be here to give you additional information. Section 1 deletes provisions limiting the amount of wine that a winery licensed on or before September 30, 2015, may sell at a location other than on the premises of a winery to not more than 50 percent of the total volume of wine sold by the winery. This section further authorizes a winery licensed on or after October 1, 2015, to sell or serve its wine at one location other than on the premises of the winery if the winery uses more than 25 percent of fruit grown or honey produced within the state of Nevada. If a winery uses less than 25 percent of fruit grown or honey produced within the state, the bill increases from 1,000 to 2,000 the number of cases sold or served at the winery or one other location, and additionally authorizes such a winery to sell or serve not more than 150 barrels of cider produced by the winery per calendar year. In addition, section 1 revises existing provisions authorizing the State Board of Agriculture to adopt certain regulations ensuring that winery is in compliance with federal law, requires the Board to adopt such regulations, and creates a certification for wine produced, blended, or aged from fruit grown or honey produced in this state.

In 2013, the Governor's Office of Economic Development first identified the expansion of vineyards as one of the state's agriculture opportunities, finding that wine grapes have low water requirements, and vineyards offer tourism opportunities such as touring and wine tastings. Now, according to the 2022 economic impact analysis by the National Association of American Wineries in Washington, D.C., Nevada's wine industry generates close to \$3.5 billion in total economic activity, which results in 15,000 direct jobs for a total of 24,000 jobs created and supported by the industry. Even with these advancements, vintners continue to face challenges. For instance, the restrictions on tasting and retail selling of products can hamper businesses wanting to expand throughout Nevada. In addition, there is a lack of parity between wineries licensed before and after October 1, 2015. Nevada's climate is conducive to growing a wide array of varietals, but getting to the point of having an established and sustainable vineyard is cost prohibitive because of these restrictions. For this reason, I am happy to introduce to you S.B. 259 (R1).

Section 2 of the bill has provisions that govern the process as to when a board of county commissioners or the governing board of a city may recommend the suspension or revocation of the license of a brewpub, instructional winemaking facility, craft distillery, or a state distillery to the Department of Taxation. Such a decision or the decisions to dismiss the complaint must be rendered within 60 days after the citation is served upon the licensee. With me today are Patty Peters and Mike Schoenbaechler. I also have former Senator Mike Schneider, who introduced the original bill. With that, Chair, I would like to stop here and allow them to tell a bit of the story and then we will be ready for questions.

Mike Schneider, Private Citizen, Las Vegas, Nevada:

Years ago, I met Patty Peters and we developed a bill to allow winemaking schools here in Nevada because it was illegal, which is hard to believe. She started the winemaking school, Grape Expectations. It has been successful and they make their own wine and have a wine tasting room attached to the winery so you can go down and see a regular wine tasting room. However, the winery is in an industrial area, so people do not see it and do not go there unless they know about it. What they want to do is—and this is really good economic development—they want to open a second facility in a high-traffic area like Water Street in Henderson or the arts district in Las Vegas; somewhere like that where they would get a lot of exposure and can sell more wine and obviously make more profit. I think this is a great opportunity for them and a great opportunity for the state. I have worked with them on this bill and really support it and, as I said, it is economic development and this is what we need: more businesses to start small and then expand like Grape Expectations is doing.

Mike Schoenbaechler, Owner/Winemaker, Vegas Valley Winery; and Grape Expectations:

As former Senator Schneider and Senator Dondero Loop were saying, we are a small business in Henderson. We are a small winery with a small production, and we are looking to expand. We do not currently have a vineyard, so we are looking to increase the amount of wine we can sell prior to using Nevada fruit. Currently, the case limit is 1,000 cases we can sell at retail or distribute prior to using Nevada fruit. We would like to see that raise to 2,000 cases. It will give us a more stable, sustainable base to allow us to start using Nevada fruit as well in the future. Also, wineries take a lot of room. We are currently located in an industrial facility which is cost effective. We would like to keep our production there, but we would also like to have a secondary location where we could have it in higher traffic areas in Las Vegas or Henderson—anywhere around town that would allow us to continue to produce and give tastings in our facility, but also have a secondary location where we could have our main tasting room or a secondary tasting room.

The third part of it is the cider production. I believe we actually started to produce the very first 100 percent Nevada cider. We get apples and juice from Gilcrease Orchard in Las Vegas, and we ferment it and turn it into hard apple cider. It was never really addressed in the law as far as how it is accounted for. It has a low alcohol content in comparison to wine. Usually, it is served in kegs through a tap system similar to beer. We propose to allow 150 barrels of cider to be produced and distributed in addition to the wine that we produce. All of these steps will allow us to grow, create more jobs, be able to sustain our business, and see the wine industry grow in Nevada.

Patty Peters, Co-founder/Co-owner, Vegas Valley Winery; and Grape Expectations:

I am co-owner of Grape Expectations and Vegas Valley Winery. Grape Expectations is an instructional winemaking facility. Thanks to former Senator Mike Schneider and a lot of people who went to bat for us in 2005 when the law was changed to allow for that. We have been a great winemaking facility since then, and the only one that I know of that does what we do. We have a lot of people from northern Nevada who come and make wine with us as well as people from southern Nevada and outside of the state. We were allowed to have

wineries in Clark County and Washoe County starting in 2015. We jumped on that and carved out a bit. We put in Vegas Valley Winery and opened our doors in December 2017. We have been there for five years, and it has been a great sister location for us.

However, it is in a warehouse in our manufacturing area, so we do not get that walkthrough traffic. That is why we are looking for another location and a bit of a bump in what we can do so we can get more of our wines out there. Mike is the winemaker and he does a great job. If you want some great wines, stop by and see us. The ciders are incredible. Thank you for letting us come down and talk to you about this. If you have any further questions, we are here for you.

Chair Marzola:

Committee members, are there any questions?

Assemblywoman Monroe-Moreno:

Thank you for bringing this bill. You mentioned where you get your apples from, and thank you for doing that because it is near my district. Where do you currently get the other fruit that is used for the wines?

Mike Schoenbaechler:

Currently, we source grapes out of California. For the majority of the wine we produce, we get them from four different regions of California: Lodi, Amador, Suisun Valley, and Paso Robles. We have currently released a Nevada wine as well in which the grapes are sourced from any Nevada vineyard we can get them from. We sourced them out of Amargosa Valley, Pahrump, backyards in Las Vegas, front yards in Las Vegas, the co-op in North Las Vegas, the co-ops with, I believe the University of Nevada, Reno—they were doing a study with University of California, Davis and we made some wine out of their grapes as well. Right now, it is wherever we can get them in Nevada. I am hoping this will allow us to increase production to where we can start to use more Nevada fruit. It will be more appealing for people to open wineries because it will allow them to get a substantial revenue flow to be able to plant vineyards. We are in the Las Vegas Valley, so it is not a feasible situation for us. We need to look outside of that to source fruit. We have been having conversations with the people who grow fruit and we are starting to get some traction there as well.

Assemblywoman Monroe-Moreno:

I know you mentioned a few locations where you would like that second location to be, but ideally where would you like to be? And by sourcing your fruit here in Nevada, would that save you money with your not having to go out of state?

Mike Schoenbaechler:

We have not determined an exact location. We know that when we look at it, it will be based on the amount of exposure and foot traffic. That will be the main focus so that we can have exposure: people can see where we are and not have to drive through a commercial complex to try to find us. I am not sure that it will ever completely alleviate buying fruit out of

California, but as more people are planting and more wineries open, the demand will increase, which will increase the growers to grow. It is two different industries; making wine and growing grapes are definitely two different industries. However, we work closely together, and I really like to see more people planting grapes who live in areas where that is sustainable.

Assemblywoman Backus:

I am a big fan of Grape Expectations and have yet to make my own barrel, but one day I hope to do that. I am curious, because this is obviously to increase the amount of cases that you are able to sell per year. I take it that is inclusive of the barrels that people are actually making themselves and usually taking home without the intent to resell those?

Mike Schoenbaechler:

They actually are separate. Any wine produced at Grape Expectations, which is an instructional winemaking facility, does not count towards—it is not considered a commercial winery. That is a separate set of regulations we follow for that, so it does not count towards any of the commercial wine produced.

Mike Schneider:

With Grape Expectations, people like us—we would go together and buy a barrel of wine and tell them what type of wine we want to make. Then, they order the grapes and they come in and the people crush the grapes and age them into barrels. When you bottle the wine, you take it with you and it is not to be sold. You can give it to friends. The rules of Nevada are that you do not sell that wine, so you take it, consume it yourself at your house, give it to friends at parties and such so that it does not count at all towards what they want to do with their wine tasting operation. That is totally separate.

Assemblywoman Kasama:

Do you do the labels too? Are there custom labels for the wine that you get?

Senator Dondero Loop:

That is the fun part. When you do this project—and I call it a project because usually a group of people go together and do this and it can be a team activity; it can be a neighborhood activity; it can be an activity for any occasion—people actually develop their own labels. When you go down there, you will see them on the walls because it is a big deal. It is a contest. You might also win the contest for the best label.

Chair Marzola:

Committee members, are there any additional questions? [There were none.] I have not had the pleasure to go to Grape Expectations, but I have heard amazing things. How many jobs has Grape Expectations created, and how many jobs has Vegas Valley Winery created?

Mike Schoenbaechler:

Grape Expectations currently has four full-time employees. Winemaking is very seasonal. At times, I would say that would swell to six, seven, or eight people during production season. Vegas Valley Winery currently employs about eight to ten people.

Senator Dondero Loop:

I quoted 15,000 direct jobs, because that is throughout the state.

Chair Marzola:

Thank you for that clarification. In the new location you want to open, will it be about eight to ten new jobs as well?

Mike Schoenbaechler:

I would say so. It would probably be slightly more because we plan on being a bit busier, so maybe up to double that.

Chair Marzola:

Committee members, are there any additional questions? [There were none.] We will move to testimony in support. Is there anyone wishing to testify in support of S.B. 259 (R1)?

Tim Burke, Co-owner/Winemaker, Artesian Cellars Winery:

We are here in support of S.B. 259 (R1) for all of the Nevada wineries and especially for our friends, Mike and Patty. I want to talk a bit about one section of the bill that has not been discussed yet. That is with regards to a special designation of wines that are produced by Nevada grapes. Wine regions are known for wines produced in their regions. When you go to Napa, for example, you are going to want wines made from Napa grapes. This is true of all regional wine-producing areas. We need to produce wine made from Nevada grapes to promote our Nevada industry and give it an identity. There are vineyards throughout the state, but as Mike and Patty both said, more are needed. It takes approximately four years from the time a grapevine is put in the ground before it produces fruit. It could take another one to three years before you have a commercially available product from those vines. All together, we are looking at five to seven years. It is a lengthy process. It is also very expensive to do this.

The University of Nevada has done a study that says vineyards are a very good agricultural crop for Nevada and use less water than most traditional Nevada crops. We have harvested 25 tons of Nevada grapes over the last two years. That translates into about 1,500 cases of wine made from Nevada grapes. We hope to increase that harvest in 2023, and we have invested quite a bit of money in additional equipment that will give us the capacity to do so. As I said earlier, it is not easy to harvest Nevada grapes. Mike touched on it earlier. First off, finding the grapes is quite the challenge and it often requires lengthy drives. We have driven seven hours from southern Nevada to northern Nevada to pick up grapes, turned around, and driven back and arrived at our winery at three o'clock in the morning. We get Riesling grapes out of Dyer, which is near Tonopah. Dyer produces terrific Riesling wine grapes. We have to leave the winery at four or five o'clock in the morning, drive 3.5 hours,

handpick the grapes, harvest all day, turn around and drive back at night, and then get up the next morning, get to the winery, and start the process of turning those grapes into wine.

We already have a label that we designate for our Nevada wines. It is called Battle Born Wines, and the federal Alcohol and Tobacco Tax and Trade Bureau (TTB) has a lot of requirements with regards to what you can put on a wine label and which areas you can state you have gotten your grapes from. We have to file a report through the TTB and through the Nevada State Department of Taxation that specifies how much wine we have produced and where we got the grapes through a bill of lading.

Chair Marzola:

Mr. Burke, can you wrap up your testimony, please?

Tim Burke:

Absolutely. So that would be a very simple process for the Department of Agriculture to simply add this designation to our Nevada wines. I appreciate your time and look forward to your support.

Emily Osterberg, representing Henderson Chamber of Commerce:

I am representing the Henderson Chamber of Commerce and our over 1,800 members, most of which are small businesses. Senate Bill 259 (1st Reprint) will allow wineries, most of which are small businesses, to expand their business in a responsible manner while easing regulations that can stifle their growth [[Exhibit C](#)]. For this reason, we are in support of S.B. 259 (R1).

Chair Marzola:

Is there anyone else wishing to testify in support of S.B. 259 (R1)? [There was no one.] We will move to testimony in opposition to S.B. 259 (R1). Is there anyone wishing to testify in opposition to S.B. 259 (R1)? [There was no one.] We will move to neutral testimony. Is there anyone wishing to testify in neutral to S.B. 259 (R1)?

Ashley Jeppson, Administrator, Plant Industry Division, State Department of Agriculture:

I am the administrator for the State Department of Agriculture's plant health and compliance division. We certainly support all efforts to expand agriculture, to support businesses, and to help them get established or expand. I want to speak to one thing, and you see the fiscal note is attached to the bill. The original language did require the Department to review wine labels. That has since reverted back to the original language in statute, so that cost for us to do that would no longer stand. However, the certification piece, though it would mostly be record review—that is what we have based our assessment off of. For the time to do it, it would require time to review the documentation for those wines where the source materials are coming from, receive the applications, and issue that certificate. So the amount would certainly be reduced in the fiscal note that is attached, but it would still stand just because it would be a cost for us to do that.

Alfredo Alonso, representing Southern Glazer's Wine and Spirits:

I thank Senator Dondero Loop and former Senator Mike Schneider, as well as Patty and Mike for contacting us and having the discussion early on so that we could work out the kinks on this bill. For those of you who do not know the history on wine in the state, former Speaker Joe Dini had created a designation for wineries to exist all throughout the state, but the only place they could actually have a tasting room were in the rurals. The whole point was this would encourage more growing of grapes and obviously try to get more wineries in the rurals, and therefore more tourism. That worked to some extent. In 2015, this Legislature decided to expand that to allow for tasting rooms in the larger counties. When they did that, the problem was many of these wineries were importing grapes from California, not growing them. The theory was they could do so in the state of Nevada and perhaps have a thriving winery industry. That is where we are today. Where was the balance? Where could you ultimately find a balance between—and states have done this. Arizona was notorious for a while. They import grapes into Arizona and these were not real wineries. They were, in many cases, simply using concentrate and other types of wine. The point is, I think we have found a balance here. I think this is a good balance. I thank the Committee, and if you have any questions, I would be glad to answer.

Chair Marzola:

Thank you for your testimony. I do not believe the Committee has any questions, but thank you. Is there anyone else wishing to testify in neutral? [There was no one.] Senator Dondero Loop, would you like to give any closing remarks? [There were no closing remarks.] With that, I will close the hearing on Senate Bill 259 (1st Reprint) and open the hearing on Senate Bill 249 (1st Reprint).

Senate Bill 249 (1st Reprint): Revises provisions relating to cosmetology. (BDR 54-829)

Senator Roberta Lange, Senate District No. 7:

Last session we had a bill where we made major changes in creating a new license for cosmetology. In the interim, we realized there was still more work to be done on the bill. We worked over the interim to put it together, make some conforming changes, and make it better for aestheticians. What we would like to do today is go over those changes with you. I have with me the executive director of the State Board of Cosmetology, and he will take it from here. We also have a friendly amendment [\[Exhibit D\]](#). I think we spoke about it earlier, and we will accept that amendment and be happy to speak to that when the time is right.

Chair Marzola:

Thank you for that. Committee members, you have the friendly amendment on your desks.

Steven McDonald, Executive Director, State Board of Cosmetology:

I have my staff down south, the Chief Compliance Officer, Ms. Janie Huggins, as well as the Regulatory Compliance Specialist, Lauren Gossage. Senator Lange, thank you for sponsoring this bill. This is a housekeeping bill to clean up what happened in 2021. It is putting services that were created under the advanced aesthetician license back into the basic

aesthetician license so they can provide those services and therefore, of course, be able to make more money and expand their business. These services were what they were doing before, and it was just an unintended consequence of those services being pulled out and those services being put in. The other major highlight of the bill is the exempting of registered nurses. In consultation with the State Board of Nursing, they are supportive of this bill. We have requested that they be exempted from getting the advanced aesthetician license. However, they cannot supervise advanced aestheticians and that is the clarity that we had with the State Board of Nursing. Other than that, it is a bunch of housekeeping matters.

Jimmy Lau, representing Nevada Association for Career Colleges:

As Senator Lange mentioned, our amendment is in section 51, subsection 2, paragraph (g) of the bill, and it does two things. It clarifies that the statutory maximums for weekly and daily instruction for cosmetology schools applies to regularly scheduled hours. Second, it adds a third category of hours restrictions to allow for ten make-up hours of instruction. That is in case the student misses a day, then they have the ability to make it up. I am happy to answer any questions on that.

Senator Lange:

Chair, we stand ready for questions.

Chair Marzola:

Committee members, are there any questions?

Assemblywoman Torres:

Thank you for taking the opportunity to meet with me last week. I know when I had met with you last week, I had expressed some concerns regarding the State Board of Cosmetology's issuance regarding renewal notices. I know that I got some information regarding what the current policy is, but I would like to see language in here requiring that renewal notices are posted. For those of you who do not know, on January 25—and I actually checked social media so I could find it, because that is how I found out about it—the State Board of Cosmetology decided they were going to stop providing courtesy license renewal reminders to members. After reaching out to the Latin Chamber of Commerce and a couple others, that was addressed. On February 17, the State Board of Cosmetology decided they were going to once again issue those renewal reminders, and I do not want to see that happen again. If they have done it once, that gives me concern that they might do that again. I am hoping there would be an appetite to accept language that would just require the renewal notices be provided to give people that grace. When my teaching license is about to expire, I expect I am going to get some type of notice that says, You have 90 days, you have 180 days, whatever it is. I want to make sure we continue to do that, and I know that is the current policy, but I suppose I am asking whether or not that would be something the Board would entertain.

Steven McDonald:

You are actually correct. We definitely believe in providing notice to our licensees. We do 90 days ahead of time, and then we do it monthly. We actually want to enhance that by regulation as well, but we have no disagreement if that is the pleasure of this Committee to put that in.

Chair Marzola:

Committee members, are there any additional questions? [There were none.] The bill was originally introduced in 2021 to where we made individuals have to go back to school, take additional classes, spend money, correct? And now come back two years later and say, we should not have done that, but now they have essentially incurred more student loans. Can you tell me the thought process of why the change?

Steven McDonald:

I was not here at that time, but I can tell you that I believe the Board was not necessarily closely involved in the drafting and the research of the bill. We had a workshop that was done in July of last year, I believe, with the cosmetologists and cosmetology-related industry. The aestheticians showed up in force and we listened to them, and because they were providing these services before, it just was an unintended consequence of what came out in 2021. The services they were providing—the microdermabrasion, the hydrotherapy they were doing before—were unintentionally put into the advanced aesthetician license, the brand-new license, which basically barred them from doing that. So the Board heard them and the Board voted unanimously to move those things back. We had Senator Lange graciously sponsor the bill for us to move those services back into the aesthetician license. That is the process. Unfortunately, the law was on the books the way it was, but we are finding that the market now—we have over 1,300 advanced aestheticians because of the grandfather clause the Legislature put in as well, and in a lot of the market they are looking for advanced aestheticians now.

Chair Marzola:

Thank you for that explanation. Committee members, are there any additional questions? [There were none.] We will move to testimony in support of S.B. 249 (R1). Is there anyone wishing to testify in support?

Sasha Sutcliffe-Stephenson, representing MGM Resorts International:

We are fully in support of the changes and corrections made to this bill and want to thank the sponsor for working with us.

Countess Courtney, Private Citizen, Las Vegas, Nevada:

I am an advanced aesthetician and also a licensed instructor. I have been teaching medical aesthetics/advanced services to undergrads for about eight years. I am heavily involved in teaching laser courses for the advanced aestheticians. I have been through this entire journey. One of the reasons the change for this housekeeping bill is coming now is, I would have to echo Mr. McDonald in the fact it was very apparent that the Board was not equipped to even comprehend how to deal with these changes, let alone make decisions on them. In a

nutshell, it is a very heavy-duty cleanup bill that you are seeing before you today. I want to go on the record and publicly praise Steven, Janie, and Lauren; all of the Board staff is incredible. Now, however, I would really like to see some changes with the way the Board is elected so that we do not have a big mess on our hands like this ever again. These three individuals have done a very solid job at putting things back together, and it is really disheartening to admit that the Board members may have had a part in creating the mess because they were not educated on the subject of lasers in the beginning. I am in extreme support of this bill, and I am really excited to see where this goes.

Susanne Schmaling, President, Esthetics Council:

I am the president of the Esthetics Council, which is an advocacy and education association in the aesthetics field. I am also a licensed master aesthetician with over 30 years of experience, as well as a Nevada corporation co-founder that will be hiring aestheticians starting in 2024. Senate Bill 249 (1st Reprint) is crucial to correct the consequences of the current advanced aesthetic statute and will help establish consistent guidelines for licensing and certification of aestheticians. This will ultimately ensure public safety and provide a more level playing field for skincare businesses, including spas, by allowing the State Board of Cosmetology to have the authority to work with industry professionals to determine which modalities are allowed at each level of licensure. We can ensure that only those who are properly trained and qualified are able to perform these services. Furthermore, this bill will allow for greater flexibility for businesses to offer a wider range of services, thereby increasing revenue streams and promoting job growth. This is particularly important in the wake of COVID-19, which has had a devastating impact on my industry as well as the economy as a whole. If the Committee is open to minor changes in terminology to clarify some parts of the scope, I have submitted documentation to support this [\[Exhibit E\]](#). If not, I urge the Committee to pass S.B. 249 (R1) to ensure our aestheticians are properly licensed and certified and the industry as a whole can thrive. This bill will promote public safety, business growth, and consumer confidence.

Chair Marzola:

Is there anyone else wishing to testify in support? [There was no one.] We will move to testimony in opposition to S.B. 249 (R1). Is there anyone wishing to testify in opposition? [There was no one.] We will move to neutral testimony. Is there anyone wishing to testify in neutral? [There was no one.] Senator Lange, would you like to give any closing remarks? [There were no closing remarks.] We will now close the hearing on S.B. 249 (R1). I will open the hearing on Senate Bill 393 (1st Reprint).

**Senate Bill 393 (1st Reprint): Revises provisions related to dental insurance.
(BDR 57-101)**

Senator Heidi Seevers Gansert, Senate District No. 15:

I am here today to present Senate Bill 393 (1st Reprint). With me, I have Paul Klein, who is a representative of the Nevada Dental Association. We worked really hard on this bill with dental insurance plans and with the insurance commissioner, and we essentially came up with a bill that is really about transparency. The current dental loss ratio in the state of Nevada is

75 percent. That means 75 percent needs to be spent on care, and up to 25 percent can be spent for administration. What we realized is there was not any transparency around that. The dental health plans provide information to the state in different types of formats, but that has never really been measured. Are they really spending 75 percent of the money that they receive on care? Again, this bill is about transparency and empowering the insurance commissioner to examine the records of insurers and other entities selling dental care coverage contracts. By doing so, it ensures these parties are operating within defined regulatory boundaries and are not taking advantage of consumers through excessive rates.

The bill itself prohibits the sale of dental coverage contracts at a rate which is excessive. Starting in June 2026, the loss to premium ratio under 75 percent is considered excessive. The insurance commissioner will be able to look at their filings and determine if they are spending at least 75 percent. These provisions do not apply to small employers, which are employers who employ less than 50 employees. That is pretty standard in all of our statutes—that 50 is small. Insurers must report annual losses and premiums collected. The commissioner will calculate average ratios and identify excessive rates. The commissioner may examine insurers' records to ensure compliance and that violations are found. The insurer must adjust rates accordingly and potentially compensate affected insureds. Insurers must keep related records for at least five years. Lastly, the commissioner is required to disapprove a rate filing that includes a proposed rate that is excessive. This bill stands from a desire to create more equitable dental care coverage, to improve access to dental care for all residents, and ultimately contribute to better oral health and oral well-being for the people of the state of Nevada. This concludes my remarks. I believe Paul Klein has a PowerPoint presentation for you [[Exhibit F](#)].

Paul Klein, representing Nevada Dental Association:

This is a patients before profits bill [[Exhibit F](#)]. As the senator said, Nevadans who are paying premiums to insurance providers, currently the law says that 80 percent of those premiums have to go towards care for health; 75 percent of those premiums have to go towards care for dental, but there are no reporting requirements for dental. This bill changes that. As a data point, in California they did an audit of what their dental insurance plans were spending on care. This audit showed some of those insurance plans were spending as little as 4 percent of premiums on dental care. The Legislature in California quickly passed a transparency law to ensure providers were in compliance. We believe Nevadans deserve transparency on how their dental premiums are spent.

Here is what the bill does in brief: Current law says that insurance plans must spend at least 75 percent of the premiums on patient care. The remaining 25 percent can go to administrative costs, marketing budgets, executive salaries, and bonuses. As Senator SeEVERS Gansert said, small employers are exempt. Section 3 requires insurers to report their spending on care versus administrative costs. The Division of Insurance may examine further accounts to make sure they are in compliance. Section 3.5 says the Division of Insurance will average three years of reports to identify compliance. This has to be done on June 1 starting in 2026. The Division of Insurance will publish on its website for the public the plans that are offering coverage and to make sure they are in compliance. They are

showing their three-year average on care. This is all transparency and accountability. If the insurer is found to be out of compliance, the Division of Insurance can require them to make good—a rebate or a credit to their plan. They have to come up with a plan to compensate consumers. This bill ensures Nevadans get the care they deserve for the insurance premiums they pay, putting patients before profits.

Chair Marzola:

Committee members, are there any questions?

Assemblywoman Jauregui:

Thank you for bringing this bill forward. You mentioned in California that after the audit was done, they noticed just 4 percent of the premiums were being spent on health care or dental services, and then they passed a transparency bill. Do you know what the result of that was in California? Did that result in lower premiums?

Paul Klein:

That bill passed in 2021, so they are just now looking at those reports. Once they found that—they have not passed a statute that says, X percent of premiums has to be spent on care. They are just in that transparency phase.

Assemblywoman Jauregui:

Do you know if dental insurance premiums are filed annually with the commissioner of the Division?

Paul Klein:

They will be; that is what this bill ensures.

Assemblywoman Jauregui:

Right now, can dental insurance providers charge whatever premiums they like? Do they not have to file their premiums annually?

Paul Klein:

Yes, it is totally arbitrary. They are supposed to be within the law, but there is no reporting, no accountability to make sure they are in compliance.

Senator Seevers Gansert:

I think how it works is when they first create a plan, they have to file their rates, and then they are never checked on again. They never provide the annual report. When they first do it, to have a plan in the state of Nevada, they have to go through the insurance commissioner.

Chair Marzola:

Committee members, are there any additional questions? [There were none.] Has there ever been an audit here in Nevada or not because it is not mandatory?

Senator Seevers Gansert:

I am not sure if there has been an audit, and so this bill—I guess it looks like an audit, but it is a reporting requirement, and then they will look at the three-year average and will post on the website what that looks like. It is not like a one-time audit; it is an ongoing three-year average for any plans that are allowed in the state. To my knowledge, there have not been any audits. I do not think they ever looked at the numbers. It took us a while to come up with this language because we felt like we needed the transparency and we were originally looking at changing the data loss ratio, but we did not do that. We needed to see where we were first.

Chair Marzola:

Committee members, last chance for questions. [There were none.] We will move to support testimony. Is there anyone wishing to testify in support to S.B. 393 (R1)?

Mark Funke, representing Nevada Dental Association:

I am a practicing dentist here in Carson City, Nevada. Senate Bill 393 (1st Reprint) is incredibly important. Data loss ratios are a guarantee to the patient that premiums for the dental coverage are actually spent on patient care. This bill will hold the insurance companies accountable and provide transparency by disclosing financial information to confirm the appropriate percentage of premiums are being used on patient care. It is important to note that of the people with dental benefits, only 50 to 70 percent of them seek dental care. Therefore, if only 50 percent of our premiums are being utilized, where does all that extra money go? That is a lot of money insurance companies get without having to provide care. In addition, according to the National Association of Dental Plans, only 6 percent of the people with benefits reach their yearly maximum insurance benefits. Senate Bill 393 (1st Reprint) will provide a check and balance to guarantee that patient premiums are being spent on patient care. I am in favor of S.B. 393 (R1).

Chair Marzola:

Is there anyone else wishing to testify in support? [There was no one.] [[Exhibit G](#) and [Exhibit H](#) were submitted but not discussed and will become part of the record.] We will move to testimony in opposition to S.B. 393 (R1). Is there anyone wishing to testify in opposition? [There was no one.] We will move to neutral testimony. Is there anyone wishing to testify in neutral? [There was no one.] Is there anyone in Las Vegas wishing to testify in neutral to S.B. 393 (R1)? Senator Seevers Gansert, would you like to give any closing remarks?

Senator Seevers Gansert:

I appreciate your consideration of Senate Bill 393 (1st Reprint). I think it will help with transparency and make sure planned dollars gets to go to the patients.

Chair Marzola:

I will now close the hearing on S.B. 393 (R1) and take a one-minute recess. [The Committee recessed at 2:31 p.m. and reconvened at 2:37 p.m.] I will now open the hearing on Senate Bill 436 (2nd Reprint).

**Senate Bill 436 (2nd Reprint): Revises provisions relating to service contracts.
(BDR 57-873)**

Senator Pat Spearman, Senate District No. 1:

The bill before you today is one regarding service contracts. I think the most egregious example of why we need this legislation happened in Henderson. Last year, there was an 82-year-old woman whose air conditioning went out and she called for service on the 11th of the month. It kept getting pushed back, and when they finally went and found her, she was dead. On that day, her house was around 120 degrees. I have also had several of my constituents call me about service contracts and the timeliness of people providing the services they are paying for. In some instances, they will send someone out for service and they will say it is not covered under the warranty, where clearly it should be. In one instance, they said one of the constituents had to get three separate estimates. Every time you call somebody out, that can be about \$75. I can barely afford that, but people who are living paycheck to paycheck really cannot afford it. What this bill does is give the Division of Insurance the authority to make sure of the number of contracts that are sold and to make sure they are providing information in terms of the timeliness and the positive adjudication of these warranties. This is one of the ways I believe we can serve consumers that have the product. There was also a case with one contract provider that was inactive from May 2022 to October 2022. They were still selling product and they were not licensed in the state of Nevada. That is what the bill does in a nutshell. I will stand for questions if anyone has any.

Chair Marzola:

Committee members, are there any questions?

Assemblywoman Duran:

This is something we probably do need, especially now in southern Nevada as the weather continues to grow a bit warmer. Just as you had stated before, the number—is there going to be a limit of the number of service calls you have, or are they going to get a refund for each service call they get? How does that intend to play out in this bill?

Senator Spearman:

The particulars of how the contracts are enforced is really up to the Division of Insurance, but in conversations with them, this bill would give them the authority to take a look at what is happening, and if there needs to be changes or adjustments, then they can do that. I will turn it over to Mr. Worthington in case I did not get that right.

Justin Worthington, Legislative Liaison, Division of Insurance, Department of Business and Industry:

To be clear, I am here just to testify in neutral or answer any questions you might have.

Chair Marzola:

Are you able to answer Assemblywoman Duran's question?

Justin Worthington:

Sure. Basically, as of now, this bill is a reporting bill that will enable the Division to efficiently gather broader and deeper information regarding the service contract industry in Nevada. It will also provide insight into particular pressure points of the industry. I think that is one of the main positives about this bill. I think I will stop there for now.

Senator Spearman:

Did that answer your question?

Assemblywoman Duran:

Yes, I appreciate that, but I am thinking it sounds like the policy needs to be a bit better and concise about what is going on with that, and in a timely manner. I guess the timeline should be streamlined a bit better.

Senator Spearman:

One of the things we discussed when I met with the Division of Insurance is what do we need to do from a legislative standpoint that will bring them in line with the reporting they have to do that will let the Division know that, here are some things that we need to pay more attention to, and here are some things that may be broken, but they will be able to fix them or correct them within the confines of existing legislation. If we need to do some tweaking we can always come back next time. But this right here is—I will just say this is a starting point, because right now, nobody has any idea what they do and how they do it. We are talking about more than a billion dollar-a-year industry. Homeowners are kind of getting the shaft, pun intended.

Assemblyman O'Neill:

I truly appreciate this bill. If I understand correctly, the Insurance Commission does not know now how many complaints they get about these types of contracts and what they do with them, what the resolution is, and that we are going to have to have another bill to tell you what you should already be doing. Please tell me I am wrong with that.

Senator Spearman:

It is both right and wrong. Right now, the Commission has a tally of how many complaints are levied against a home warranty company. What they do not have is the ability to break it down and see where the pressure points are. Right now, I think there are something like 584 complaints. What this bill will do is further define what those issues are.

Assemblyman O'Neill:

I appreciate that part particularly. And what was the resolution for that 584 a year? I may be going a little beyond the bill, but I am curious what the Commission says and what the resolutions were.

Justin Worthington:

The information the Division has at the moment is the number of service-contract-provided complaints from January 1, 2022, through November 18, 2022. And only in that time period,

there was a count of 287 complaints related to claim handling alone. I cannot speak to the resolutions at this time.

Senator Spearman:

One of the things we discovered when we were working on this bill is that there currently is no way to close the loop on that. For many people—like the five constituents who contacted me—they simply give up and they say, I cannot do it; let me see if I can find somebody that can fix it or replace it. On one occasion, there was someone who was battling cancer and doing chemotherapy, and the hot water heater went out. The company, which was not even licensed in Nevada from May to September or October of last year, was the company that person was dealing with. The constituent went into their savings and replaced it and then another appliance went out. They got the same runaround: call and get somebody, get somebody else. She said, Senator, I am in between chemo treatments; I do not have that kind of time. What this bill will do is alert them that you cannot just come here and put your shingle up in Nevada and think nobody is paying attention, because we are.

Assemblyman O'Neill:

Will this bill include those complaints and resolutions? I want to know what happens to those people who complain. What happens with their complaint?

Senator Spearman:

What this bill will do—once they get the reporting, it will also alert the Division as to where the pressure points are. There are two or three major companies that have the majority of the complaints. With this reporting, the Division can then look in depth and ask, What happened to this? Why did it happen like that? They can also put in one of their bulletins to say, this is how we are doing business in Nevada. Upon passage and approval, moving forward, this is how we are going to do business in Nevada. When you identify that and you start—all you have to do I think is bring two or three people to understand what you are trying to do and the word usually circulates throughout the industry.

One of our Committee members testified during the hearing that their spouse does Heating Ventilation, and Air Conditioning, and there are people who call and ask for service, and although the spouse would be able to go and see it, usually the warranty companies do not even call. So, letting us know, How many contracts are you selling? How many homes are you selling? How many people do you have who can actually provide service? Sometimes people sell contracts like this that looks like it may be 500—that is just a random number—theoretically it is 500, but maybe realistically, they can only service about 100 homes. So, this will also tell the Division of Insurance whether or not they have the bandwidth to do what they say they are going to do.

Chair Marzola:

Committee members, are there any additional questions? [There were none.] Out of the 287 complaints for claim handling, is there a breakdown of what the issues were?

Justin Worthington:

We do not have that detailed breakdown. We only have the overall claim-handling numbers. We do have some more basic breakdowns though. We have also captured marketing and sales, policyholder service, and unlicensed service contract providers. However, within that claim-handling category, we do not have a breakdown.

Chair Marzola:

I just want to confirm that this bill will make it mandatory that we do have a breakdown.

Senator Spearman:

Yes. Also, if I may, Madam Chair—the stats that we have here—the home warranty premium cost ranges from \$300 to \$600 a year. Out of 5.64 million homes that were sold in 2020, 1.4 million had warranty coverage, and the warranty industry is about \$3.7 billion a year.

Chair Marzola:

Thank you, Senator, for that information.

Assemblywoman Monroe-Moreno:

Forgive me for being late to ask the question, but as I look at the bill, we have the number of providers doing business in the state and the number of providers by the type of service contract they are providing. But in the report back, could you add stronger language—like what types of reports those were, how many reports have been resolved, what the complaints were—so we know exactly if they have been resolved or if they are just out there. Can we put some stronger language on those reports? In that way, we actually know what work they are doing, what they are not doing, what they should be doing, what they are charging people for doing. Then, when those complaints are resolved, how many are resolved?

Senator Spearman:

Yes, we can. I think what you are asking us to do instead of just gathering aggregate is to disaggregate so that we have a bit more information, and know where the bad actors are and what they are getting away with.

Assemblywoman Monroe-Moreno:

Yes, a little more detail would be great.

Chair Marzola:

Committee members, are there any last questions? [There were none.] We will move to testimony in support of S.B. 436 (R2). Is there anyone wishing to testify in support? [There was no one.] We will move to testimony in opposition to S.B. 436 (R2). Is there anyone wishing to testify in opposition? [There was no one.] Is there anyone wishing to testify in neutral to S.B. 436 (R2)?

Justin Worthington:

I know this is a bit of an odd setup today, but I wanted to come back to maybe clear some things up about the bill—at least my understanding of the bill. This bill will allow the Division to gather more information more efficiently. The Division does have information about the industry, but we also think this is something that can help shed light on certain issues. We are not blind to these issues, and we are working internally to address these adequately and appropriately, but we do think this is a way to gather even more information to do what is necessary.

Chair Marzola:

Is there anyone else wishing to testify in neutral? [There was no one.] Senator Spearman, would you like to give any closing remarks?

Senator Spearman:

I want to thank the Committee for hearing the bill. Between our two committees, I think we are tightening up a whole lot of things for homeowners that we did not know about. Thank you for listening and thank you for your assistance.

Chair Marzola:

I will now close the hearing on Senate Bill 436 (2nd Reprint). I will now open up for public comment. [There was no public comment.] This concludes our meeting for today. Our next meeting will be Wednesday, May 10. [The meeting is adjourned at 2:56 p.m.]

RESPECTFULLY SUBMITTED:

Elizabeth Lepe
Committee Secretary

APPROVED BY:

Assemblywoman Elaine Marzola, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a letter dated May 7, 2023, submitted by Emily Osterberg, Director of Government Affairs, Henderson Chamber of Commerce, signed by Emily Osterberg, Director of Government Affairs, Henderson Chamber of Commerce; and Aviva Gordon, Chair, Legislative Committee, Henderson Chamber of Commerce, in support of Senate Bill 259 (1st Reprint).

[Exhibit D](#) is a proposed conceptual amendment titled, "Conceptual Amendment to SB249," submitted by Jimmy Lau, representing Nevada Association for Career Colleges.

[Exhibit E](#) is written testimony submitted by Susanne Schmaling, President, Esthetics Council, regarding Senate Bill 249 (1st Reprint).

[Exhibit F](#) is a copy of a PowerPoint presentation titled, "Patients Before Profits: SB393," presented by Paul Klein, representing Nevada Dental Association.

[Exhibit G](#) is a letter dated May 8, 2023, submitted by Matt Steele, Director of Government Relations, Association of Dental Support Organizations, in support of Senate Bill 393 (1st Reprint).

[Exhibit H](#) is a letter dated May 5, 2023, submitted by George R. Shepley, DDS, President, American Dental Association, in support of Senate Bill 393 (1st Reprint).