

ASSEMBLY BILL NO. 147—ASSEMBLYMEN OHRENSCHALL, PIERCE, KIRKPATRICK, DONDERO LOOP, KIRNER; AIZLEY, ELLIOT ANDERSON, BENITEZ-THOMPSON, BOBZIEN, BUSTAMANTE ADAMS, CARLTON, CARRILLO, COHEN, DALY, DIAZ, FIORE, FRIERSON, HAMBRICK, HEALEY, HICKEY, HORNE, MARTIN, MUNFORD, NEAL, SPIEGEL AND SWANK

FEBRUARY 18, 2013

JOINT SPONSORS: SENATORS SEGERBLOM, DENIS, MANENDO, JONES, SPEARMAN; FORD, KIHUEN AND WOODHOUSE

Referred to Committee on Health and Human Services

SUMMARY—Requires the notification of patients regarding breast density and supplementary mammographic screening tests. (BDR 40-172)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to mammography; requiring a notice regarding breast density to be included in a report provided to a patient; authorizing an administrative fine for failure to provide such notice; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Under federal law, a facility that performs a mammogram must provide directly  
2 to each patient a summary report describing the results of the mammogram written  
3 in terms that are easily understood by a lay person. (42 U.S.C. § 263b) Existing  
4 state law imposes certain requirements on the operation of a machine used to  
5 perform mammography and further provides for the imposition of an administrative  
6 fine for operation in violation of those requirements. (NRS 457.182-457.187) This  
7 bill requires the owner, lessee or other person responsible for the radiation machine  
8 for mammography that was used to perform a mammogram to ensure that the  
9 summary report required by federal law includes a statement of the density of the  
10 patient’s breasts and a notice encouraging the patient to discuss the notice with his  
11 or her physician or other provider of health care. In addition, this bill authorizes the



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12 Health Division of the Department of Health and Human Services to impose an  
13 administrative fine for failure to provide such notice. (NRS 457.187)

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1 WHEREAS, Forty percent of women have dense breast tissue;  
2 and

3 WHEREAS, Breast density is one of the strongest predictors of  
4 the failure of mammography to detect cancer; and

5 WHEREAS, Breast density is a greater risk factor for breast  
6 cancer than having two first-degree relatives with breast cancer; and

7 WHEREAS, The vast majority of women are unaware of the  
8 density of their breasts; and

9 WHEREAS, Less than 1 in 10 women with dense breast tissue  
10 learn about their dense breast tissue from their doctors; and

11 WHEREAS, Several states, including Connecticut, Texas,  
12 Virginia, New York and California, have enacted legislation relating  
13 to notification of breast density; now, therefore,

14

15 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
16 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

17

18 **Section 1.** Chapter 457 of NRS is hereby amended by adding  
19 thereto a new section to read as follows:

20 *1. If a patient undergoes mammography, the owner, lessee or*  
21 *other person responsible for the radiation machine for*  
22 *mammography that was used to perform the mammography must*  
23 *ensure that each report provided to the patient pursuant to 42*  
24 *U.S.C. § 263b(f)(1)(G)(ii)(IV) includes, without limitation, a*  
25 *statement of the category of the patient's breast density which is*  
26 *determined based on the Breast Imaging Reporting and Database*  
27 *System or subsequent guidelines established by the American*  
28 *College of Radiology, or its successor organization, and the*  
29 *following notice:*

30

31 *The information about the results of your mammography*  
32 *report in relation to the density of your breast tissue is*  
33 *provided to you to raise your awareness. Dense breast tissue*  
34 *is common and not abnormal. As breast density increases,*  
35 *the ability of a mammogram to identify cancer or suspicious*  
36 *abnormalities decreases, which may increase the risk of*  
37 *breast cancer not being detected until a later stage. Density*  
38 *may change over time and generally diminishes with age,*  
39 *but varies by person. Many factors affect a person's risk of*  
40 *developing breast cancer, including family history, personal*  
41 *medical history, smoking and, according to some studies,*



1        *increased breast density. Use this letter when you speak with*  
2        *your physician or other provider of health care about your*  
3        *own individual risk factors for breast cancer. At that time,*  
4        *ask your physician or other provider of health care if*  
5        *further testing might be useful.*

6  
7        **2. Nothing in this section shall be construed to:**

8        **(a) Create a duty of care or other legal obligation beyond the**  
9        **duty to provide the notice as set forth in this section.**

10       **(b) Require a notice to be provided to a patient that is**  
11       **inconsistent with the notice required by the provisions of 42 U.S.C.**  
12       **§ 263b or any regulations promulgated pursuant thereto.**

13       **Sec. 2.** NRS 457.182 is hereby amended to read as follows:

14       457.182 As used in NRS 457.182 to 457.187, inclusive, **and**  
15       **section 1 of this act**, unless the context otherwise requires:

16       1. “Mammography” means radiography of the breast to enable  
17       a physician to determine the presence, size, location and extent of  
18       cancerous or potentially cancerous tissue in the breast.

19       2. “Radiation” means radiant energy which exceeds normal  
20       background levels and which is used in radiography.

21       3. “Radiography” means the making of a film or other record  
22       of an internal structure of the body by passing X rays or gamma rays  
23       through the body to act on film or other receptor of images.

24       **Sec. 3.** NRS 457.187 is hereby amended to read as follows:

25       457.187 1. The Health Division may impose an  
26       administrative fine, not to exceed \$5,000, against the owner, lessee  
27       or other person responsible for a radiation machine for  
28       mammography for a violation of the provisions of NRS 457.182 to  
29       457.186, inclusive, **and section 1 of this act**, or for a violation of a  
30       regulation adopted pursuant thereto.

31       2. Any money collected as a result of an administrative fine  
32       imposed pursuant to subsection 1 must be deposited in the State  
33       General Fund.

