

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Eighty-Second Session
March 23, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 9:01 a.m. on Thursday, March 23, 2023, in Room 3138 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 Brittney Miller, Chair
Assemblywoman Elaine Marzola, Vice Chair
Assemblywoman Lesley E. Cohen
Assemblywoman Venicia Considine
Assemblywoman Danielle Gallant
Assemblyman Ken Gray
Assemblywoman Alexis Hansen
Assemblywoman Melissa Hardy
Assemblywoman Selena La Rue Hatch
Assemblywoman Erica Mosca
Assemblywoman Sabra Newby
Assemblywoman Shondra Summers-Armstrong
Assemblyman Toby Yurek

COMMITTEE MEMBERS ABSENT:

Assemblywoman Shannon Bilbray-Axelrod (excused)
Assemblyman David Orentlicher (excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Brian Hibbetts, Assembly District No. 13



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel
Devon Kajatt, Committee Manager
Garrett Tamagni, Committee Secretary
Ashley Torres, Committee Assistant

OTHERS PRESENT:

Tom Clark, representing Intellicheck
Bryan Lewis, CEO, Intellicheck
John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association
Kenneth Peddicord, Director of Cannabis Business, IDScan.net
Will Adler, representing Sierra Cannabis Coalition
Brett Scolari, representing CPCM Holdings, LLC; Cura Cannabis Solutions; and Clark Natural Medicinal Solutions, LLC
Arthur (A.J.) Delap, representing Nevada Cannabis Association
Chris Anderson, representing Planet 13 Holdings; and Jardin Premium Cannabis Dispensary

Chair Miller:

[Roll was called. Committee protocol was explained.] We have one bill scheduled today presented by Assemblyman Hibbetts. He will be joined in his presentation by Mr. Tom Clark and Mr. Bryan Lewis. I will open the hearing on Assembly Bill 342. Gentlemen, please proceed when you are ready.

Assembly Bill 342: Requires an adult-use cannabis retail store and cannabis consumption lounge to take certain actions to verify the age of a consumer before selling cannabis or a cannabis product. (BDR 56-1024)

Assemblyman Brian Hibbetts, Assembly District No. 13:

I appreciate the opportunity to come before you and present Assembly Bill 342. This bill requires adult-use cannabis retail stores or cannabis consumption lounges to verify the age of each consumer through an independent, third-party age verification service. This bill also requires the Cannabis Compliance Board to adopt regulations setting forth the same standards of age verification into *Nevada Administrative Code*. Before going any further with your permission, I will turn over my presentation to my copresenter, Tom Clark.

Tom Clark, representing Intellicheck:

I will turn it over to Mr. Bryan Lewis.

Bryan Lewis, CEO, Intellicheck:

I have to say this is pretty cool as I have never done this before. I think a little background would be helpful. We are a small, little company that nobody has ever heard of, but we work with a lot of the banking giants in the world. What we do mostly is work with banks and lenders, also the military, law enforcement, and a lot of age-restricted companies that are selling everything from cannabis, tobacco, and alcohol. Our primary revenue stream is not doing this. We look at this almost as a public service. We do not make a lot of money on it, but we know that kids getting things they should not is a problem. Our primary revenue stream is stopping identity theft.

Chair Miller:

Okay, Mr. Lewis. Right now, what we need to hear is a presentation on the bill, whether that will be from Assemblyman Hibbetts or Mr. Clark. This is the bill hearing, so we need to hear a presentation on the policy that is stated in the bill. I would like to proceed with that, please.

Tom Clark:

My apologies, Madam Chair. I wanted to give some context as to Intellicheck and the new kinds of technology that are out there. Section 1 of the bill lays out that when an adult-use cannabis retail store and cannabis consumption lounge sell cannabis or a cannabis product to a consumer, they shall, one, require the consumer to present a government-issued identification (ID) and two, perform an age verification through an independent, third-party age verification service that compares information available from public records to the personal information obtained from the government-issued ID. That is a big part of what Intellicheck and many others do. This is not intended at all to be a piece of legislation that only benefits one particular company. There is a large industry that does this.

In section 1, subsection 2, we ask the Cannabis Compliance Board (CCB) to promulgate the regulations that will identify what technology is out there, set the standard for those types of technology, and the like. In essence, that is what this piece of legislation does. I will bring forward too, that there are existing regulations for this type of activity. I was given by the industry the documents that demonstrate what they have to do currently, and the letter that was given to me is dated from March of 2018, which lays out the type of scanner that should be used in this particular rule. It does name a couple of the companies that offer these kinds of services, but it is five years old, and it does not address really what the issue is in relation to fake IDs.

This is a public service piece of legislation that is intended to stop underage minors who have acquired fake IDs and can show those fake IDs, and there are different types of technology that can verify exactly. That is what Mr. Lewis is here to do, describe that particular problem to back up the benefits of the bill. The CCB has Regulation 7.015, Duties of cannabis establishment agent before sale to consumer, which simply says that they verify the age of the consumer by checking a government-issued identification containing a photograph and

using an identification scanner. It does not get into the detail of the kind of scanner that you should use. Madam Chair, if you do not mind, I would like to have Mr. Lewis discuss what the problem is here.

Chair Miller:

I actually want to find out what the problem is here as well. First, the intent of the bill, I believe you are saying right now there is not a requirement in *Nevada Revised Statutes* (NRS) to check the ages of people before they buy cannabis or cannabis products. Let us start there. I see there is an amendment [[Exhibit C](#)]. Can you explain who set up the requirement to check? Because we know people are being checked for ages before they buy cannabis and cannabis products? Where is that stated right now?

Assemblyman Hibbetts:

Currently in NRS, there is no requirement for anyone to check identification. It is, however, in Cannabis Compliance Board regulations. The problem there is regulations can change at any moment because the Board controls what those regulations are. Assembly Bill 360 of the 81st Session required in NRS ID checks and scanning to purchase tobacco, which was passed and became law effective January 1, 2023. There is no such law for marijuana. It is harder to buy a cigarette than a joint.

Chair Miller:

Then what you are attempting to do with this legislation is to put it in NRS so that it does become law as opposed to policy?

Assemblyman Hibbetts:

That is correct, ma'am. Our intent is to make sure that it is in the state statute that it must happen, therefore it cannot be changed as a regulation.

Chair Miller:

Absolutely. I appreciate that because I know the concern would be that a board could just, at any time—I would love to trust that it would never happen—but there is that window open where a Board could literally just take a vote and change a regulation or change a policy. I appreciate that policy initiative. This is pretty standard, although it looks like section 1, subsection 1, paragraph (b) has been cut out of the amendment as well as section 1, subsection 2, about the Board establishing regulations. I am assuming this is a friendly amendment, Assemblyman Hibbetts? Did this come from you?

Assemblyman Hibbetts:

No, it did not. This came from the industry.

Chair Miller:

It says, "Nevada Cannabis Association." Did you see the amendment this morning?

Assemblyman Hibbetts:

I did. I have discussed the issue with them, and they indicated they were not happy with the legislation as written. I explained that they were free to submit an amendment, and I would be happy to work with them on it so that we can come to a middle ground somewhere, which we fully intend to do. I am not prepared to consider this a friendly amendment at this point, because I do not believe that it goes far enough. I think it is too loose, as compared to the original intent of the bill.

Chair Miller:

This is not a friendly amendment, but you are agreeing to continue to work with the industry and the Association.

Assemblyman Hibbetts:

Absolutely. As we all know in politics, everything is a negotiation.

Chair Miller:

Members, with the amendment [[Exhibit C](#)], you will see that it removes section 1, subsection 1, paragraph (b) about the third-party verification and what remains is, "Before a cannabis establishment agent sells cannabis or cannabis products to a consumer, the cannabis establishment agent shall: (a) Verify the age of the consumer by checking a government-issued identification card containing a photograph of the consumer using an identification scanner approved by the appropriate Board Agent to determine the validity of any government-issued identification card." How do you feel that does not go far enough?

This is actually pretty typical in what happens in the state government where there are obviously multiple vendors and such and, of course, we do not legislate for one vendor. At that point, it is the ability for our state to determine which vendor they would go with. You know, the Secretary of State comes to mind because they work with multiple different vendors, and they will basically have an approved list. Once we have these vendors approved—they may come up with multiple vendors that they approve to check IDs—are you saying it is still not getting at the same goal, because I started to hear that there was a problem with fake IDs and yet there is nothing in this. I am not sure what the problem with fake IDs is. Do we have some data on the fake IDs and what is going on?

Assemblyman Hibbetts:

With your permission, Chair, I would like to turn it over to the CEO of Intellicheck to address that particular issue.

Chair Miller:

But I would like to hear from Nevadans. I want to focus on the policy, not the business part of it. Mr. Clark, do you have the data on the fake IDs? If we do have a problem with fake IDs, and I am not saying that we do not, because fake IDs are a thing—youth underage, trying to purchase things that they should not is a thing. It was a thing before cannabis, it was a thing all the way back to prohibition, it has always been a thing. It is a kid thing. But my question is, if the amendment says, Yeah, sure, we will go ahead and make sure there is

a government-issued mechanism to prove these government-issued IDs, then why would that not be far enough for you? Is that not getting to the point of the legislation; they would find an independent, third-party verification service.

Assemblyman Hibbetts:

There is nowhere in the amendment where it says "third-party" or "verification." It only says an identification scanner approved by the Board. It does not actually say that, and I could use my flatbed scanner from 1994 and comply with this law or this amendment.

Chair Miller:

Okay. You would just like to tighten that part up or be more specific about the type of technology used.

Assemblyman Hibbetts:

That is correct. Basically, all we are doing here—if we were to adopt this particular amendment—would be adopting the same looseness that we have in the current regulation. It is actually even a little looser than the current regulation.

Chair Miller:

Okay, so being more specific about the type of technology. Mr. Clark, can you demonstrate the need for us, please?

Tom Clark:

I want to trend this. The fake IDs are a problem. We recognize that. The technology that proves that that identification is fake is what we are addressing here today. With your permission, Madam Chair, I would like Mr. Lewis to talk about what he has seen, the statistics they know, and bringing it forward. Yes, he is the CEO of a company that provides the service, but as he mentioned, it is a problem that we hope to address both statutorily and through the regulation.

Chair Miller:

Do we have data on what is happening in Nevada specifically?

Bryan Lewis:

I have what we did nationwide. I can easily boil that down and get what actually happened in Nevada to you, but we see it everywhere. It is not just one state; it is everywhere.

Chair Miller:

Again, fake IDs are a thing, it just is. But we are interested in hearing what is happening in Nevada because we are writing policy right now for Nevada. We would like to hear the need and what is going on here in Nevada. Do we have law enforcement in here? Do we have someone from the Cannabis Compliance Board who would like to approach, because what I would like to hear is how often are fake IDs being used in attempts to purchase cannabis and how often are they caught?

Tom Clark:

Unfortunately, we do not have those statistics, and I think that leads to the problem because the way that the current regulations sit, there is no tracking of how many identifications were presented, how many were deemed to be fake within the cannabis industry. I am sure that law enforcement has those kinds of stats on tobacco and alcohol and other age-appropriate things. But there really is not a way to collect that data currently. I would argue that there will be an opportunity for us to prove, when we tighten up these regulations and they are using scanners that actually identify fake IDs, that we will have that statistic measure that we can bring back to you to prove that it is working.

Chair Miller:

Do we have any businesses here in Nevada that have been reprimanded for attempting either intentionally or nonintentionally to sell to a minor? Would not that be something we would have on record?

Tom Clark:

We would have those types of statistics for those types of age-appropriate places like tobacco and alcohol; law enforcement would have those numbers. Mr. Lewis can demonstrate that the scanners that are being used predominantly do not meet the standard that catches the fake IDs that we see in the marketplace.

Chair Miller:

But I guess what I am trying to get to, are we seeing fake IDs in the marketplace? Do we have businesses here in Nevada that have been sanctioned for that very thing? I am sure if I asked in other regards about selling underage alcohol, selling underage tobacco, underage gambling, that there would be some data to support that. It is not about people attempting, it is about whether the business participates. Do we have businesses that have attempted or accidentally sold to underage?

Assemblyman Hibbetts:

Madam Chair, in speaking with the industry, there have been instances where people have used fake IDs and it has not been caught, whether inadvertently because of human error—which is always going to be an issue—or because of their scanning technology.

Chair Miller:

Do we know how many?

Assemblyman Hibbetts:

I do not have the statistics. I believe the Cannabis Compliance Board may have that, but I cannot guarantee you that. I can tell you that from everything that I have been told, the retailers are very good at self-regulating because they do not want to be in trouble because, it is my understanding, it is something like a \$20,000 fine from the Board. They do not want to get in trouble. They want to use the best technology possible, but there is absolutely nothing mandating that they even try it, other than a regulation.

Chair Miller:

Well, I do agree with you. I do believe that our businesses want to do everything they can, and they do not want to get in trouble, and they do not want to have their businesses shut down. They are following everything. I will allow, within specific parameters, but what we want to hear is strictly about data about fake IDs. This is not a presentation for a specific vendor. We do not legislate vendors, so please keep it strictly to the data.

Bryan Lewis:

I want to make sure it is clear that I am not here to legislate for Intellicheck. I am here because there is a problem, and all these fakes are easy to get. Every kid I know knows how to get them. My daughter even told me that after she got her bid in her sorority, the first thing they did was put her up against a blue screen everybody in the sorority class sent off to China, they get volume discounts, and it only cost her \$40 to get two fake IDs. The one thing that all these fake IDs do—and happy to show you afterwards real and fake and how you cannot tell them apart—every single fake scans. Just saying "scanning" does not mean you are validating it. There is a standard out there called the American Association of Motor Vehicle Administrators. They publish a standard that no state uses. However, the bad guys do. A simple demonstration of it is the one that was built for tobacco. This is from the U.S. Food and Drug Administration (FDA). That is why just saying scanning does not work. This is a free app, so I could download this. I am going to scan this ID, it is going to come back and say, No problem, she is 23 years old.

Chair Miller:

Okay. I have a question. Can we get to the data about fake IDs? That is what we are looking for.

Bryan Lewis:

For cannabis nationwide, 0.8 percent of the time it is a fake ID; for alcohol it is 2.6 percent; and for age-restricted delivery products it is 3 percent. When our law enforcement partners check IDs, almost 4 percent of the time it is fake, which is interesting since they scanned last year about 400,000 IDs. They are seeing a much higher percentage because they get everybody.

Chair Miller:

Can you repeat those numbers? You said nationwide for cannabis was what?

Bryan Lewis:

It was 0.8 percent of the time.

Chair Miller:

Less than 1 percent of the time.

Bryan Lewis:

Yes, on about four million transactions nationwide.

Chair Miller:

Okay. And what was it for alcohol again?

Bryan Lewis:

It was 2.6 percent—age-restricted delivery of alcohol and cannabis is 3 percent.

Chair Miller:

Is that when someone is purchasing alcohol and cannabis together at the same time?

Bryan Lewis:

Some states allow delivery of alcohol and/or cannabis and the delivery companies there are specific to cannabis.

Chair Miller:

Did you give us a third one for tobacco?

Bryan Lewis:

The third number was when law enforcement is checking things. In Washington State, when they are going out and doing enforcement on alcohol, tobacco, and cannabis, that is 3.8 percent of the time.

Chair Miller:

Okay. That was the third number. Less than 1 percent of the time there is something wrong with the ID for cannabis, and alcohol is three times more. Okay, proceed.

Bryan Lewis:

In a way the numbers speak for themselves. I can get you the data. Every kid knows how to get them. Most of the time your firewalls will not let you get to the websites, but there are multiple ones. There are websites that rate the quality of the fakes. What I point out, again, is every single one of them will advertise the fact that they have all the holograms, they have the microprinting that certain states have, and that plastic defends different than others. Almost all of this comes from China, where I think we buy the plastic anyway. You will see all the time the U.S. Department of Homeland Security catching 16,000 to 30,000 at a time coming in a shipment. It is not a small problem; and again, they are cheap, available, and scannable.

Tom Clark:

I think you bring up a very important point and that is, do we collect information on how often these are used throughout the state. We do not. I do not believe that there is a reporting mechanism from the dispensary or from the alcohol or from even tobacco to their regulating board that says, We scanned this many IDs and this many of them were fake. Our intent is not to overburden the industry even more. What we are basically saying is that the best way for you to identify that it is fake is to use these types of technologies across the board, that they prove out 95 percent of the time; they identify fake IDs. That is the

important data, and I think that it is a data point that needs to be collected so that we can have this conversation for real as to how these underage folks are able to acquire and get into cannabis.

I will add that there are a half dozen or so bills this legislative session that are going to expand the market for cannabis, whether it be lounges, vendors, those kinds of things. It was my personal intent to ensure that each of those elements has a place where they are accurately scanning the identification so that our children are not able to scam the system and get through to purchase the product.

Chair Miller:

Thank you for bringing up that point. Assemblyman, let us make a note, and would you be willing to put that as an amendment as well, to require the collection of how often this happens in the state?

Assemblyman Hibbetts:

You were referring to the statistical data of how many times somebody's ID is scanned and it is not valid, it is fake, it is expired, that type of thing?

Chair Miller:

Not even scanned, but just caught, somebody attempting to use a fake ID.

Assemblyman Hibbetts:

I would absolutely like to make an amendment for that.

Chair Miller:

I would like to see how much is in Nevada because when we are talking about cannabis overall, it is less than 1 percent of the time. I think that is also a demonstration of how well the cannabis industry is actually doing in terms of doing everything properly in security and really making sure that they are checking IDs. Are there any questions from the Committee?

Assemblywoman Considine:

I was here last session on the bill that my colleague is talking about, the tobacco bill, and the age verification, and that bill passed. One of the things I have heard since it passed from many people in my district is actually frustration and anger that they have to hand over their IDs even if they are 40, 50, or 60 years old, and a lot of those arguments are followed by, What are they doing with my data? Now, they are asking for all of this data. I reached out to the Legislative Counsel Bureau to find out the answer to that because I need to respond to folks who have these complaints.

It is my understanding that there is no requirement to get data, and most of the scanners used for people buying tobacco just verify the ID. It does not gather data, but the language in here makes me a little hesitant because it literally reads to me that this is not just ensuring that the ID is okay. It is data mining. It is going through the Internet and finding personal information about that person to show that they are over 21. Then what happens to that data?

It seems to me, especially when we are not talking about alcohol or tobacco, but cannabis, which is a fairly new legal thing for a lot of people, there is another layer of privacy. What happens to that data? Where does it go? Who is using it? That is my one question.

But then if I can piggyback on that, I understand the whole fake ID thing. I think everyone who has grown up in this country from the beginning of IDs has probably done it, but this is whack-a-mole. You can do everything that you want to try to catch that fake ID, but then if somebody just says, Okay, I am going to have my picture, but I am going to use somebody's name who is a real person who is over 21, they are going to find all this information that this person is over 21 anyway, so they are going to find a way to get around this. How does that solve that problem?

Bryan Lewis:

There are multiple ways to see if somebody is real. There are three main ways people are looking to see if a license is a valid license. There is templating, which is taking a picture of the front and comparing it to what that should look like. There is understanding what is in the barcode and each state's unique features. There are a lot of hidden security features in these barcodes. The third way is knowledge-based vetting. That is the one that goes out and tries to get data about you and see if it matches. Is there a Bryan Lewis at 12 South Eastover, all that information.

Scanning does not do that. The point of scanning is to see if the format of that barcode matches that state's format for that date of issuance. It does not require personally identifiable information (PII). All it requires is saying that that thing is laid out with all the hidden stuff that most people do not know. I can tell you from experience, the bad guys do not know it. That PII is not stored. All that is in there is, what is the information displayed that can be on the device—this is what most of the people in my industry are doing—it would be name, state, and age so that if I want to now do an inspection to make sure that somebody did not put somebody else's barcode on the back, and make sure it matches the front. I would say overall the industry is very, very clear that PII is not something that we want to store. This is purely for the purpose of validating that this piece of plastic is real and that you can trust what age is printed on it. I hope that answered your question.

Assemblywoman Considine:

Yes, I think I got confused because I thought you were saying that that is what scanners do now.

Bryan Lewis:

Most people using scanning technology—myself, IDscan.net, and other companies—do not go out and look for any other data. I will say that for the purposes of credit and lending, which has far greater needs on it for federal anti-money laundering, Know Your Client rules, you have to go validate other points so that you are making sure that you are not loaning money to a cartel. For the purposes of age validation, which in the industry, most people call ID validation (IDV), there is no data, it is not stored.

Assemblywoman Considine:

This technology that you are talking about, you are saying that it does not go out on the Internet, so how does it verify?

Bryan Lewis:

What it is going to do is, it is going to scan the barcode, pull the format of the barcode out; so yes, that PII is used just to say, Does it meet the state format? After that, it is immediately deleted from systems. Now, I can also tell you that for gaming here in Nevada, that data is stored when somebody walks into a casino, because the Nevada Gaming Commission wants to be able to walk in and say, Was Bryan Lewis in here recently? They do store the data to do that. That can be made part of any legislation that says nobody can store the data from this. I can tell you from experience that we have clients that do like to store the data for a period of time because sometimes it helps the police in their investigations if something has happened in the bar or things like that. The police often request, Was Bryan Lewis in here on the 30th?

Assemblywoman Considine:

Then what you are saying is, some of these clients can save that data if they want to. And then my second question, since I am running out of time, if I can just get an ID and use my neighbor's name because they are over 21, does that not go right past everything you are saying that this would catch?

Bryan Lewis:

No, because the way that you get the ID, you pick your age and address, and you send a photo off—generally most of these are located in China and India—and they create an ID that has everything in it except for the fact that this barcode is incorrect. It does not, for example, in this one, does not follow all the hidden secrets that South Carolina has in the license, because for the most part, again, they are using that standard published by the group that all departments of motor vehicles (DMV) in North America belong to, but no province in Canada or state in the United States or Mexico uses.

Chair Miller:

What about if I just use my older sister's ID? We look alike. It is a legitimate ID.

Bryan Lewis:

That is a real ID, so it is not going to catch unless the person is looking at the photo.

Chair Miller:

Yeah, I just wanted to know. People look an awful lot alike sometimes in pictures.

Assemblywoman La Rue Hatch:

I do echo my colleague's concerns about the data because I think as it reads, "compares information available from public records," that tells me that they are going out on the Internet and looking for other public records. If that is not the intent, I would suggest maybe an amendment to clean that up. I understand that this is in regulation, and you want to get it

in NRS. I think that that makes sense, and I think that the proposed amendment does that. My question is why do we need to legislate this third party for cannabis when we are not legislating a third party for alcohol, which we see as happening three times more than cannabis?

Tom Clark:

That is a really good question and I think that as these fake IDs get better and better and the technology to identify them hopefully keeps up, other industries, other products, will be held to the same standard.

Assemblyman Hibbetts:

I was simply going to say pretty much the same thing. I would be happy to cosponsor a bill with you if you would like to make that happen.

Assemblywoman Hardy:

I just want to make sure that the overall intent, what you are trying to do here, is similar to the tobacco law that I worked on and that was passed in 2021. You are trying to have a way to verify IDs to help prevent underaged children get cannabis similar to what we did with tobacco. My understanding is that we are not trying to say it has to be this vendor or whatever. The overall intent of the bill is to help prevent underage people getting cannabis, is that correct?

Assemblyman Hibbetts:

That is exactly it. The legislation that you and Assemblyman Hafen put through last session to ensure that anyone buying tobacco had to have their ID scanned as long as they were 40 years old or under, when I realized that we do not have that in NRS for marijuana, I thought, well, why is it harder to get a cigarette than it is marijuana? That does not make any sense. It is not that I want it to be hard for people to get marijuana—I am totally fine with it being legal—but let us make it just as regulated as tobacco is. There is no reason to not have ID checks in statute.

Tom Clark:

Speaking of the data that is collected, as Mr. Lewis said, that is not kept; however, and I was looking through my documents—and somebody from the industry I am sure will be able to correct me if I am wrong—they have to collect a certain amount of information because there are limits on the amount of cannabis that can be purchased by individuals in our state. They will record the name, address, information from the consumer, and how much they have purchased each given day so that they are complying and not overselling to that individual when they come in and purchase. The scanning and the age validation that we are discussing, that does not collect the data; does not keep the data. However, when you go into the retail establishment, they are required to collect certain levels of data to be in compliance with the law.

Assemblywoman Hansen:

I was here in 2021 with A.B. 360 of the 81st Session, and in the Assembly, everybody but two voted yes for the tobacco ID. We want equity. I mean, we talk so much about equity, and I think the intent of this bill—we treat the tobacco ID to protect minors from dangerous substances as we would protect minors from alcohol and cannabis. The scanning that we are doing now with that prior legislation of A.B. 360 of the 81st Session, was data a concern? I do not recall that conversation to the degree I am hearing it today. Is there different scanning technology that the tobacco scanning does not do that this would do? It sounds like we are getting more into an issue of concerns about data. I do want to see there be—we treat these substances the same in regard to minors; if you could help me with that.

Assemblyman Hibbetts:

I was not here in 2021, however, I have read the law and if I remember correctly, the law simply says that in order to purchase tobacco, if you are under 40 the ID has to be scanned by—and I do not remember if it specifically says "third-party" or if it just says something to that effect. I was not present for the debate on that particular bill, but there is nothing in the law from what I remember that says specifically that the data must or cannot be stored.

Assemblywoman Hansen:

I have no knowledge or understanding of how this scanning technology works, and I think that is why it is important to hear from you in that regard.

Chair Miller:

And remember, we are focused on the policy of checking the ID.

Assemblywoman Hansen:

Absolutely. I am just trying to understand, as part of the policy of scanning an ID, which is mentioned in A.B. 360 of the 81st Session, how is that scanning different than the scanning that we are addressing in this bill?

Bryan Lewis:

The intent was perfect, because people think because it sounds right, that if it scans, it means it is real. The problem is, as I showed with that FDA app, when I sat with the FDA, I brought 250 fake IDs. It did not catch a single one. I can go to the app store and search "PDF417 barcode scanner." I will find multiple free apps I can download and again, they do not catch any of these fakes. I think the disconnect is not knowing that just by saying scanning does not mean it is real. I have seen very large companies that do not want to scan because they think it will cost them business. I think that is the real difference and why I think something has to have a level of efficacy. Let the law enforcement in each state determine what that efficacy is and say, Go ahead. Then again, that is not why I am here. I am here to educate on the fact that people conflate scanning with validating, and they are totally different things.

Assemblywoman Cohen:

We keep talking about the legislation from previous sessions, and I want to make sure that we are addressing it the right way, or if we are going to address it and we are going to use it as an example, that we are addressing it the right way. As I recall, the impetus of that bill was a concern with federal funding implications. Are there any federal funding implications if we do not pass this legislation?

Assemblyman Hibbetts:

Not that I am aware of. If there is, nobody brought it to my attention, and I highly doubt that the federal government is funding anything to do with marijuana.

Assemblywoman Cohen:

With the language that was used in that bill having to do with reviewing the age verification, that is not acceptable to you. Is that what you are saying? That was not enough for you, or I guess, we keep referring to that legislation, but then we say that that is not valid enough. I am confused about why that legislation's language is not working for you?

Assemblyman Hibbetts:

I am assuming you are referring to A.B. 360 of the 81st Session; that particular law has no bearing whatsoever on marijuana sales. It does not touch it. Therefore, it is completely inapplicable to what we are trying to do here, which is essentially the same thing that was done for cigarettes and other tobacco products for marijuana.

Assemblywoman Cohen:

But that did not require, essentially, receiving the same amount of data from a person to check their IDs. That is my point.

Chair Miller:

Because I think the question came up earlier from Assemblywoman La Rue Hatch, as to do we use the same process or technology to verify IDs for alcohol or tobacco sales? The response I believe was, no. Is that what you are getting at, Assemblywoman?

Assemblywoman Cohen:

Yes.

Tom Clark:

This is a more stringent request. We are asking that not just scanning be in the statute, but also that age validation and allowing the CCB to determine what levels those are. We ask that they be above that 95 percent accuracy level, which would be verified by law enforcement. Yes, this argument could have been brought forward in 2021. I do not understand why it was not, but marijuana is still against the law by the federal government standard, and it is an intoxicant other than tobacco is. You want to make sure that teenagers are not getting their hands on these products.

Assemblyman Gray:

I think it is a great companion bill to Assembly Bill 360 of the 81st Session and adds another level of protection for our youth and keeps people away from this that should not be. If I were in the industry, I would be for it, especially as we get to the next level of technology, which I am assuming, sir, your company is not the only one in that market space. I wish we would have been allowed to hear your whole presentation.

Chair Miller:

Except, Assemblyman Gray, this is not about vendors. Please keep it to the policy.

Assemblyman Gray:

It is about the technology that is used. Eventually, if we do pass this, the state will have to choose it and have some knowledge of it, and eventually it will go to an open bidding process. I do appreciate the information about that because we do know it is a problem. As far as the data mining goes, correct me if I am wrong, it is a really easy question. You guys are not really collecting information. You have got a customer that presents information to you, and you are comparing that to open-source, available information on the Internet and retaining none of it except what is required by the law to track that purchase. Is that correct?

Bryan Lewis:

There are some vendors in the space. That is how they do it. That is not how we do it. It is not how a lot of them do it. Again, what they are going to do is check for all the security features that are in a driver's license. For example, New York State has a digital signature that you need to know how to decode. New York State does not tell that to very many people. It is that type of thing. There are subdirectories, there are all sorts of things you need to unlock. When we and many other companies in my space are validating that ID, the only thing we are going to the cloud for is to run it against our rules engine and then return a response: it is fake, it is good; here is their age; or it is good and it is expired. That is what we return.

Tom Clark:

The idea behind this is not a single source from a state perspective. The state would not go forward with a request for proposal and say, anybody who meets this new standard, do apply, and if we select you, then every cannabis retailer will have to use that. The intent here is that the CCB will generate that validation, what those specs are for those companies, so that every dispensary can go shopping and they will find companies, many of them like Intellicheck, that will meet that standard and then can go into contract with those particular companies.

Assemblywoman Summers-Armstrong:

I would like to state something before I ask my question which is, I am a little bit concerned that we are pinpointing cannabis. You mentioned that cannabis is an intoxicant. And I think we need to be really clear that nicotine is also addictive, as is alcohol, an intoxicant and addictive. It would have looked, I think, more equal, if you had included all of those things

in something like this. This looks intentionally targeted at cannabis. I am a little concerned, but do you know whether or not the regulatory board can change a regulation without going to the Legislative Commission? Are you absolutely positive that they can change that regulation without going before a proper board, or is that a guess?

Tom Clark:

I would ask that somebody from the CCB actually clarify that. I was at the hearing they had on their money committee and a similar question came up. They can pass regulations, and they are posted with the Legislative Commission. The Legislative Commission, if it so chooses, can pull those regulations back to have a full hearing. Otherwise, they move forward without scrutiny from the Legislative Commission. To your previous point, I recognize that we could have brought forward a piece of legislation that age verification for every single industry—gaming, tobacco, and the like—and we decided to take one small bite at the apple. I think that the Chair's suggestion of collecting information to recognize how bad the problem is, is a good suggestion. Cannabis is the new industry, and it is looking to expand, and we felt that this was the best, most appropriate place to bring forward this particular piece of legislation.

Assemblywoman Newby:

In the bill of course it says, and in your advocating, that the information on the ID be compared to publicly available information. I am assuming that that publicly available information would need to come over the Internet. That gives me concern, particularly in the rural areas or even in the legislative building, say when the Internet goes out. Is that the case? And what impact would that have on a business if they could not do that check?

Tom Clark:

Thank you very much for that question. I think it is also a really good clarification. We want to work with the industry. I think that I just struck out the "compares information available from public records" from the statute simply because there are other ways that can be deemed necessary and appropriate through the regulatory process of the CCB to ensure guarantees, that this information is not, as Mr. Lewis said, it just bings, done, and it is gone. That is all we are trying to accomplish here. We do not want it to be a system where it has to communicate online or otherwise. There are a lot of rural places in our state, and we take that into consideration as well. It has to be that kind of thing. The other thing that the existing regulation does not take into consideration is that these newer technologies are available on your phone. If you are going to go out to a remote location, you can still use and scan the technology and it would still be appropriate. I think that that is going to play well if these other pieces of legislation move forward that create vendor stations and vending machines and the like.

Assemblywoman Marzola:

I think I am a little confused. Help me out here, and it may just be me, is the industry using scanners now?

Tom Clark:

They are under the regulation that was adopted in 2018. The type of scanner, those rules are the ones that they follow today.

Assemblywoman Marzola:

Have you been in conversations with the industry to where they are telling you there has been an issue, whether it is teenagers being caught with fake IDs or citations being given by the police, anything like that?

Tom Clark:

That conversation was very brief. That is when they brought forward the rules that they work by now, which are the letter from the Department of Taxation and the existing regulation. There has been no conversation as to how big the problem is simply because we are not collecting the data to know how many IDs are presented and how many are fake and how many are real. I think there was a second part of your question, but it jumped out of my head.

Assemblywoman Marzola:

I understand the intent of protecting our children. I get that one hundred percent, but I am trying to figure out how do we know there is a problem if there is no data and there has been no extensive conversation with the industry that does this day in and day out. That is what I am trying to figure out.

Tom Clark:

I think that that conversation will take place after this hearing with the industry to find where that is. I agree. They do not want to be bad actors. Nobody does when it comes to this. But if the law and regulation simply state this is what you need to do, as a business owner, that is what you are going to do. What we are suggesting is that the scanning technology that is used be the gold standard when it comes to cannabis and cannabis compliance because, ultimately, we hope that they would not use a scanner that they downloaded for free, that is not validating the information. If the law simply states that they have met that standard, there is not really necessarily a reason to go above and beyond that.

Are we looking at, yes, there could be bad actors, and we passed a lot of legislation that is focused on the bad actors. Having worked with the industry as long as it has been alive, I recognize that they really do want to do the right thing. Sometimes, as we have heard many times in testimony this legislative session, this industry is getting hammered by regulatory environments. We do not want to make it more difficult or increase fines and the like. We simply want to make sure—as you said, it is a public safety issue—that kids are not getting access to cannabis.

Assemblywoman Newby:

Do we know what type of scanners the industry is using?

Tom Clark:

I do not specifically know. It is something that is location by location, as long as they meet the standard that was set forward in 2018, the type of scanning device, that is what I am aware of. I am sure that there will be plenty of people coming forward from the industry that can correct me on that particular front and provide you with some facts on that.

Chair Miller:

Is there anyone in Carson City who would like to testify in support of Assembly Bill 342?

John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association:

We do support this bill. Along the same lines as Assemblywoman Hardy indicated, it does equalize the procedures and statute between cigarettes and marijuana. Following up on Assemblywoman Summers-Armstrong's comment, we do feel that alcohol, tobacco, and marijuana should be treated similarly. Because of Chair Miller and Assemblywoman Marzola's questions about stats, I did have an opportunity to reach out to Brigid Duffy while the hearing was going on. She is chief of our Juvenile Division in the Clark County District Attorney's Office. She did want me to point out that when we see citations for possession of false identification, those are generally handled informally by The Harbor in Clark County for the first offense; for the second offense, they would then go to the Department of Juvenile Justice Services and be handled informally by intake; and then the third or subsequent citation would be handled through the court process. She also did a quick look at stats, and she could not find any citation specifically for minor in possession of a false identification within the last year. I will point out that oftentimes we will see them come through as obstructing or other charges, so that does not mean we have not seen any of these specific facts, but they just have not come in under the false ID citation. I hope that answers your question.

[[Exhibit D](#) in support of Assembly Bill 342 was submitted but not discussed and is included as an exhibit of the hearing.]

Chair Miller:

Thank you so much. Is there anyone else here in Carson City who would like to testify in support of A.B. 342? [There was no one.] We will move to Las Vegas. Is there anyone there in Las Vegas?

Kenneth Peddicord, Director of Cannabis Business, IDScan.net:

I am here to note our opposition to Assembly Bill 342.

Chair Miller:

Sir, we have not opened opposition testimony yet. We are still in support. We will get back to you in a moment for opposition testimony. Is there anyone else in Las Vegas in support of A.B. 342? [There was no one.] Is there anyone on the phones in support of A.B. 342?

[There was no one.] Is there anyone who would like to testify in opposition of A.B. 342 in Carson City?

Will Adler, representing Sierra Cannabis Coalition:

Sierra Cannabis Coalition is in general opposition to this bill due to its duplicity of current regulations and laws that we already follow around ID verification, scanning those IDs, and some of the processes we go through. The cannabis industry is very meticulous when it comes to ID scanning as it is today. They actually have a three-step verification of IDs already, where you have to be scanned to get into the building and then verified upon reaching your register that you are the person who was scanned into the door and that your ID is you again at the register. Then when you receive your products, they have to actually verify again on the way out, and they give you the receipt and take the cash for the product. We have a lot of personal interactions, especially when it is in the building.

When we have an ID scanned in a drive-thru scenario or a curbside delivery, it is done on an electric verification already and sort of a meticulous process as well to make sure they do the front and back of the card to ensure that it is a real card and a Nevada card or even a passport of all kinds. We have to do the gambit because Nevada accepts medical marijuana cards from every single state and actual IDs. We have the most meticulous scanning process today because very few other states take anyone else's medical marijuana cards at all, laying the ground rules for where we are at as an industry.

It was also stated that as an industry, we retain some information of customers when we verify them or scan them in because we are only allowed to sell one ounce of marijuana to a participant in the sale process at a time, a little bit more for a medical patient. That is not true actually, because we were actually told we were not allowed to retain any of their information because of the medical marijuana processes for the crossover there between medical and retail. They said that we could only sell up to the max at one purchase at a time. It was openly asked in the workshops and hearings if it is on us to prevent somebody from taking that and putting it in their car and then getting back in line; and they said no, upon your best efforts, do try to deter that. If folks do want to come in and purchase again their full purchase limit, it is not on you to actually stop them in any one given day.

We do see people who do stock up kind of, who live out in the rurals or some other places. It is not really on us to prevent that, but it is sort of known and a part of the industry today. We do not retain that information because previous medical marijuana, other ties to personal information, were not acceptable in the past. Thank you very much for hearing this and it just feels a little duplicative of what we already do in the industry today.

Brett Scolari, representing CPCM Holdings, LLC; Cura Cannabis Solutions; and Clark Natural Medicinal Solutions, LLC:

We are in opposition. I have met with Mr. Clark and Assemblyman Hibbetts. I do not want to belabor the points that have been made in the line of questioning. We also have questions. I have been in this industry eight years and I can tell you that age verification is probably the single most important thing that the industry does. As Mr. Adler mentioned, these are highly

trained security people that check these people at the door and then they are verified again in the point-of-sale system. Identifications are scanned by technology. I am not sure there is a comparison of technologies and what this bill is actually trying to get at, but IDs are scanned, and fake IDs are caught. I can tell you that the human error piece is always going to be there no matter the technology we use and there have been human errors and the licensees have had to self-report those areas to the Cannabis Compliance Board and they face those consequences. This is really top of mind, and we have concerns that we are number one, being targeted on this bill, and also backed into using one sort of platform.

I think the licensees would like some flexibility. There are point-of-sale systems that have this technology, and there are different types of scanners, but you get to the same result, and I can tell you, I am just not aware that underage problems are happening in the industry because there are so many safeguards. A customer cannot bring in their child when they purchase. You cannot even have a child with you even though you are purchasing. I just wanted to give you that background.

We are one hundred percent willing to work with the sponsor. We would support the amendment that the Nevada Cannabis Association set forth along those lines. I think we just want to be really careful we do not get boxed into a corner on this and we have some consequences and added costs that are passed to the consumers.

Arthur (A.J.) Delap, representing Nevada Cannabis Association:

With your permission, Madam Chair, I would like to address the amendment [[Exhibit C](#)] that was brought on behalf of the Nevada Cannabis Association. To be clear, the Nevada Cannabis Association certainly supports identification verification. We are in full support of that, and we appreciate the conversations we have had with Assemblyman Hibbetts and the cosponsors. We are looking forward to working with them on that. However, based on our amendment and the rules of the Committee, we are going to come in opposed.

What the amendment does is, it codifies in NRS the code that already exists within the CCB's regulation. We understand the need for codifying the identification verification in NRS. The concern that we have is that it goes farther than that. The original bill goes much farther than that, and it starts to constrict the ability of the Cannabis Compliance Board to provide the regulations that it sees fit for the citizens of Nevada to authorize or to verify identifications. You are basically, in some degree, tying the hands of the Cannabis Compliance Board by the furtherance of the language that is in the bill in its current form. We believe that that authority should remain in the Cannabis Compliance Board's purview, and they can make the decisions on what they feel is best for the citizens of Nevada for their verification system.

The tightness of this language in the original bill form, in some degree, leads itself to one particular portion of the industry that can only provide such things as 95 percent accuracy. That is a tricky number. How do you verify that? Where does that come from? Now that it is in NRS, that is a difficult thing to overcome because it takes two years to change NRS, if that, and then the arbitrary number of 95 percent. We are going to get into discussions on how we even prove that. It is our position that yes, the identification verification certainly

should be brought into NRS, but beyond that, the control needs to be left to the Cannabis Compliance Board. That is the position we are taking. We appreciate your time.

Chris Anderson, representing Planet 13 Holdings; and Jardin Premium Cannabis Dispensary:

We oppose this bill because it is a solution in search of a problem. There really is not a documented problem with age verification in the cannabis industry today, but I did want to come up and point out a couple of facts that did not seem to be demonstrated in earlier testimony. There are a couple of statutory references to age verification currently in NRS 678B.210 and NRS 678C.420. Additionally, I want to let this body know that cannabis licenses are subject to violations including a \$25,000 fine and/or a 20-day revocation of our dispensary license for the first violation of selling cannabis products to a minor. That is without regard for our best efforts to prevent sales to minors. We are being held thoroughly liable today. We do not think that we need any more regulations on this issue.

Chair Miller:

Is there anyone else here in Carson City who would like to testify in opposition of A.B. 342? Not seeing anyone, is there anyone in Las Vegas?

Kenneth Peddicord, Director of Cannabis Business, IDScan.net:

I am here on site to note our opposition to Assembly Bill 342. We are the long-term age verification provider for more than 75 percent of Nevada's dispensaries. According to our most recent data review performed this week across our client base of Nevada dispensaries, roughly 2 percent of IDs presented at Nevada dispensaries are flagged as potentially fraudulent. I want to emphasize that they are "flagged." The state of Nevada already requires digital ID scanning and has already set a standard that protects minors, catching 95 to 98 percent of fake IDs using high-resolution multi-wavelength document authentication. The current requirements include not only scanning of the 2D barcode, which can catch roughly 50 percent of the fakes, but also of ultraviolet and infrared light hologram examination and watermark examination. Assembly Bill 342 is searching for a problem that does not exist.

In addition, the method of age verification checks against a third-party database proposed in A.B. 342 is an inferior method of age verification compared to document authentication. Current public record databases of issued IDs such as DMV databases through the American Association of Motor Vehicles do not include all states. Large states such as California and New York do not participate in open database sharing. Any company that purports to have access to a 50-state database of current valid IDs is being misleading.

Secondly, there are no commercially available databases of internationally issued IDs. Given Nevada's popularity as a destination for international tourism, dispensaries must be able to verify age using international passports.

Thirdly, checks against a third-party database are at a heavy cost per scan. Nevada dispensaries are collectively scanning hundreds of thousands of IDs on a weekly basis.

Per-scan fees will be an undue financial burden on these small businesses without actually improving the safety of minors.

And finally, third-party checks require an Internet connection and will not work offline. Ninety-five to ninety-eight percent of fake IDs can already be detected under the current CCB guidelines. Switching to a model that requires querying a third-party database introduces many gaps and challenges in coverage both with United States IDs and, in particular, with international documents as well as PII and privacy risks. Assembly Bill 342 is not in the best interest of the state. It does nothing to improve dispensary security or the safety of minors. It is simply a lobbyist push to create a more favorable regulatory environment for their client. Thank you, Madam Chair.

Chair Miller:

Is there anyone else in Las Vegas who would like to oppose A.B. 342? [There was no one.]
Is there anyone on the phone who would like to oppose A.B. 342? [There was no one.]
Is there anyone in Carson City, Las Vegas, or on the phone who would like to testify in the neutral position? [There was no one.] With that, I will close testimony. I would invite the presenter back to the table for any concluding remarks.

Assemblyman Hibbetts:

Thank you, Madam Chair and Committee members, for hearing the bill. I look forward to working with the stakeholders to fine tune it to make it a little bit better and hopefully we can get it in front of you again for a work session. Thank you very much.

Chair Miller:

With that, I will close the hearing on A.B. 342. Our last item today is public comment. I will open it for public comment. [Public comment was heard.] We have completed all of our business for the day. I will see you back tomorrow at 8 a.m. This meeting is adjourned [at 10:20 a.m.].

RESPECTFULLY SUBMITTED:

RESPECTFULLY SUBMITTED:

Garrett Tamagni
Recording Secretary

Traci Dory
Transcribing Secretary

APPROVED BY:

Assemblywoman Brittney Miller, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a proposed amendment to Assembly Bill 342, submitted by Nevada Cannabis Association.

[Exhibit D](#) is a copy of a PowerPoint titled, "Intellicheck, Nevada Legislature, Assembly Judiciary Committee," dated March 23, 2023, presented by Tom Clark, representing Intellicheck; and submitted by Bryan Lewis, CEO, Intellicheck, in support of Assembly Bill 342.