

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

**Eighty-Second Session
May 19, 2023**

The Committee on Natural Resources was called to order by Chair Lesley E. Cohen at 3:57 p.m. on Friday, May 19, 2023, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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 Lesley E. Cohen, Chair
Assemblywoman Natha C. Anderson, Vice Chair
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Tracy Brown-May
Assemblywoman Venicia Considine
Assemblyman Rich DeLong
Assemblywoman Bea Duran
Assemblyman Bert Gurr
Assemblywoman Alexis Hansen
Assemblywoman Selena La Rue Hatch
Assemblyman Howard Watts
Assemblyman Toby Yurek

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Dina Neal, Senate District No. 4



STAFF MEMBERS PRESENT:

Becky Peratt, Committee Policy Analyst
Erin Sturdivant, Committee Counsel
Connie Barlow, Committee Manager
Nancy Davis, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

None

Chair Cohen:

[Roll was called. Rules and protocol of the Committee were reviewed.] We have three bills on a work session and then we will take public comment. We are going to go out of order, beginning with Senate Bill 258 (1st Reprint).

Senate Bill 258 (1st Reprint): Revises provisions relating to water. (BDR 48-889)

Becky Peratt, Committee Policy Analyst:

Senate Bill 258 (1st Reprint) provides that the State Engineer may grant a temporary change of the place of diversion, manner of use, or place of use of water already appropriated for a period of more than one year, but not to exceed three years, if the temporary change is for a renewable energy generation project [[Exhibit C](#)]. There are no amendments to this measure.

Chair Cohen:

Are there any questions? Seeing none, I will take a motion to do pass.

ASSEMBLYWOMAN ANDERSON MADE A MOTION TO DO PASS
SENATE BILL 258 (1ST REPRINT).

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

Are there any comments on the motion? Seeing none, we will vote.

THE MOTION PASSED UNANIMOUSLY.

I will give the floor statement to Assemblywoman Hansen.

**Senate Bill 269 (1st Reprint): Revises provisions related to animal cruelty.
(BDR 50-246)**

Becky Peratt, Committee Policy Analyst:

Senate Bill 269 (1st Reprint) prohibits a person from restraining a dog outdoors during any time in which a heat advisory, excessive heat warning, wind chill warning, or winter storm warning has been issued for the area by the National Weather Service [[Exhibit D](#)].

The bill also eliminates certain exceptions from restraint and outdoor enclosure requirements for dogs being used or trained to hunt, and for dogs temporarily being cared for as part of a rescue operation or in conjunction with a bona fide nonprofit organization formed for animal welfare purposes.

Finally, the bill adds exceptions to the restraint and outdoor enclosure requirements for a dog being processed into a shelter or under the direct custody of a person engaged in a temporary task or activity with the dog for not more than one hour, provided a heat advisory, excessive heat warning, wind chill warning, or winter storm warning has not been issued for the area.

Senator Ohrenschall proposed an amendment, which is attached for the Committee's review [pages 2 through 6, [Exhibit D](#)]. To summarize, the amendment:

- Removes the prohibition against restraining a dog outdoors during certain weather warnings issued by the National Weather Service;
- Decreases the time period that a dog can be restrained outdoors from 14 hours to 10 hours during a 24-hour period; and
- Reinstates, revises, and adds certain exceptions to the restraint and outdoor enclosure requirements.

Chair Cohen:

Are there any questions? Seeing none, I will take a motion to amend and do pass.

ASSEMBLYMAN WATTS MADE A MOTION TO AMEND AND DO
PASS SENATE BILL 269 (1ST REPRINT).

ASSEMBLYWOMAN BROWN-MAY SECONDED THE MOTION.

Are there any comments on the motion?

Assemblywoman Bilbray-Axelrod:

I know that the Committee was concerned with some unintended consequences, such as walking your dog being considered tethering. I appreciate the work on this. I want to get one thing on the record. I am a huge animal lover. I love my dog; I cannot imagine ever

having to deal with any of these things, but when it comes to the weather warnings, I feel like that is a county issue. I know Clark County has very stringent things. That is why I was kind of iffy on the bill, but with the amendment, I am very happy to support it.

Assemblyman Yurek:

I also want to acknowledge the great intention of this bill and Senator Ohrenschall's willingness to work and amend various provisions of this bill to accomplish a piece of legislation, which I think it is much more palatable. However, I still remain concerned with the issue that I brought forward at the hearing: In this state, and particularly down south where there are 10- and 12-hour shifts, I think the reduction of the 14 hours to the 10 hours still creates problems for too many people. It is based on that provision of this bill that I will have to vote no today.

Assemblywoman Duran:

I appreciate the amendment as well, but I will still have to do research. I am going to vote it out of Committee today, but I reserve my right to change.

Chair Cohen:

As a reminder, Committee, all members have the ability to change their vote. We would just ask if you are going to change your vote that you give us the courtesy of informing the bill sponsor and the Chair. Seeing no other comments, we will vote.

THE MOTION PASSED. (ASSEMBLYMEN GURR, HANSEN, AND YUREK VOTED NO.)

I will give the floor assignment to Assemblywoman Bilbray Axelrod. With that, we will go on to Senate Bill 76 (1st Reprint).

Senate Bill 76 (1st Reprint): Establishes provisions governing certain products that contain intentionally added perfluoroalkyl and polyfluoroalkyl substances. (BDR 40-291)

Becky Peratt, Committee Policy Analyst:

Senate Bill 76 (1st Reprint), amongst other things, prohibits the sale and distribution of certain products containing intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS) and requires a manufacturer of cookware containing intentionally added PFAS to include certain information on the product label and any product listing for online sales [\[Exhibit E\]](#).

There is one amendment attached to the work session document [pages 2 through 5, [Exhibit E](#)] which, among other things, removes the requirement for manufacturers of certain products to include a label specifying the product does not contain intentionally added PFAS; revises the labeling requirements for manufacturers of cookware that contains intentionally added PFAS; provides that a violation of the requirements of this bill is a misdemeanor; and revises the effective date.

Chair Cohen:

I am going to make a comment before we go to questions. Senator Neal, I appreciate the work you have done on this bill. I think you did try to work with the stakeholders and the opposition, to the point past where you probably— I think a lot of members were willing to get the bill out of the Committee a long time ago, before many of the changes that you were willing to make to try to accommodate the opposition. With that, we do have questions from the Committee.

Assemblyman DeLong:

Thank you, Senator Neal, for coming, I appreciate your being here. In the amendment, you added number seven [page 5], which adds section 5.5 about penalties, which was not in there before. I am wondering why that was added.

Senator Dina Neal, Senate District No. 4:

Currently *Nevada Revised Statutes* (NRS) 202.220, has a miscellaneous provision in law for crimes against public health and safety. There is misdemeanor language for circulating prohibited materials. When we were looking, we thought this cannot fall under the Office of the Attorney General. We do not have a specific agency that handles PFAS. The idea was to take the language that was in statute under the crimes against public health and safety, which clearly there is a misdemeanor for circulating a publication which has prohibited material, which could be associated with a health issue. It seemed that if it was the standard, then why not have a misdemeanor for PFAS as well, where we have a dangerous chemical actually applied to a product. In this case, a misdemeanor is a very low-level offense, but it came from existing law in our miscellaneous statutes under crimes against public health and safety.

Assemblywoman La Rue Hatch:

I do not know if my question is for Senator Neal or for Legal Counsel, but we learned in the Assembly Committee on Education last week that if a penalty is not specified, the default is a gross misdemeanor. This is actually lower than it would be without a penalty at all. Is that correct?

Senator Neal:

That is correct. A misdemeanor is lower than a gross misdemeanor.

Assemblywoman Hansen:

If we could clarify that a little more. The question was, it is a misdemeanor here, but if it is not stated, the default is gross misdemeanor, or did I hear it wrong?

Erin Sturdivant, Committee Counsel:

Nevada Revised Statutes 193.151 provides that where no penalty is specifically stated, but the performance of an act is prohibited by statute, the act is a misdemeanor.

Senator Neal:

I understand what you are thinking, but if you go to existing law, which actually has miscellaneous crimes concerning public health, starting at NRS 202.170, these particular

provisions in statute—I will call "willfully poisoning"—have been in since 1967, 1971, 1979, 1995, and 1997. There was an added piece on the sale, distribution, purchase, and possession of powdered alcohol, which was added in 2015. As we go for the provision that I mentioned around the circulation of prohibited material, that has been law since 1967. Other than that, the latest update to this particular chapter under miscellaneous public health concerns was in 2015. It seemed to make sense, if it is already in statute and it is already in law. One of the most recent updates in 2015 was when we had a completely, entirely Republican-run Legislature. That was the latest update to this particular statutory provision. A misdemeanor is the lowest piece. What I had in there before that folks had a problem with was a private right of action. The Attorney General does not have enough personnel in order to investigate this. The option was either to have nothing and wait until some future moment when we actually establish an agency—which will cost money—or to try to figure out how to give an enforcement provision when I am giving a notice provision.

Assemblywoman Hansen:

Thank you for addressing the private right of action. That was bothersome in the original form. This question may be for Legal, although I know you have a great legal background. When we heard the bill on neonicotinoids, was there a component in there that if you knowingly or willingly were still producing or selling? Was there a provision in there that was some sort of misdemeanor?

Chair Cohen:

As I recall when that bill went over to the Senate, it had been civil. The bill sponsor is my roommate, and I hear a lot about that and the other bill that she brought having to do with feminine hygiene products. Now I think I am getting them confused. I will defer to Ms. Peratt.

Becky Peratt:

I am requesting one moment to refresh my memory on Assembly Bill 162.

Chair Cohen:

In the meantime, Assemblyman DeLong, you had a question?

Assemblyman DeLong:

Going back to the misdemeanor issue making it criminal, is there a reason you did not consider civil fines versus criminal?

Senator Neal:

That came down to who is the enforcement agency. I spent a lot of time talking to the Attorney General, and I can pull up that conversation. We went round and round about my different options, trying to figure out how to deal with the language. During this conversation, I looked for an option to try to figure out if I could place language in NRS Chapter 41, which would allow a victim to engage their own attorneys and bring a cause of action with experts to investigate. Nobody liked that option. That was a private right of action.

The next option was the language could remain in NRS Chapter 459, which is hazardous waste. The enforcement language would have to be removed because I had changed the chapter. I took it out of NRS Chapter 459, and I put it in the other miscellaneous provisions where we have other things. Then we talked about where was the enforcement provisions for the PFAS in the firefighting foam bill. That is in NRS 459.670, where there was a working group; we are past a working group. Then there was a conversation about whether I could place language in a new chapter under Title 40, under Public Health and Safety, without enforcement authority until such time as the Legislature wants to add enforcement authority. Why would I do that? That does not make sense.

Then I thought, Could I look at enforcement language, or a modified version of it, where I would go into NRS Chapter 202, under Crimes Against Public Health and Safety? That is where I landed, but I had the option to also look at NRS Chapter 207, under Miscellaneous Crimes. Because PFAS has been pretty much designated as a health concern, I felt the better place was NRS Chapter 202, and because there was already misdemeanor language in there, I did not feel that I was going out of bounds by creating some new criminal penalty that did not already exist within NRS Chapter 202, Crimes Against Public Health and Safety.

Chair Cohen:

I will ask Legal to address the other question.

Erin Sturdivant:

Assembly Bill 162 made it a misdemeanor to violate the provisions of the bill with respect to applying a pesticide of that type in violation of the requirements of the bill. But it does not include the "knowingly and willfully" language.

Assemblywoman Hansen:

Essentially, we did the same thing with the neonicotinoids, it has this kind of a provision that might be in a different place, but am I understanding that right? It is a misdemeanor to apply those chemicals, and we are kind of saying the same thing here.

Erin Sturdivant:

Yes, it would be a misdemeanor to apply those pesticides in violation of the requirements. Under this bill, it would also be a misdemeanor to sell or distribute items containing these chemicals in violation of the provisions of the bill.

Chair Cohen:

Seeing no other questions, I will take a motion to amend and do pass.

ASSEMBLYMAN WATTS MADE A MOTION TO AMEND AND DO
PASS SENATE BILL 76 (1ST REPRINT).

ASSEMBLYWOMAN BROWN-MAY SECONDED THE MOTION.

Is there any discussion on the motion? Seeing none, we will vote.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Anderson. With that, I will bring the work session to a close. I will open up for public comment. Is there anyone in Carson City or Las Vegas wishing to provide public comment? Seeing no one, is there anyone on the phone? Hearing no one, we will be in recess [at 4:17 p.m.]. [The meeting was adjourned on the floor of the Assembly at 7:36 p.m.]

RESPECTFULLY SUBMITTED:

Nancy Davis
Committee Secretary

APPROVED BY:

Assemblywoman Lesley E. Cohen, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document for Senate Bill 258 (1st Reprint), submitted and presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for Senate Bill 269 (1st Reprint), submitted and presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for Senate Bill 76 (1st Reprint), submitted and presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.