

SENATE COMMERCE AND LABOR COMMITTEE

MINUTES OF MEETING

THURSDAY, MARCH 1, 1973

The meeting was called to order at 12:10 p.m.

Senator Drakulich in the Chair.

PRESENT: Senator Herr
Senator Swobe
Senator Hecht
Senator Pozzi
Senator Blakemore
Senator Lamb

Interested citizens which list is attached hereto and marked Exhibit A.

S. B. 270 - Makes certain provisions concerning wages, hours and working conditions of female employees in private employment applicable to all employees.

Senator Herr requested that the bill be held in abeyance, because of certain problems. Management and Labor are working on the bill.

Motion to hold bill made by Senator Hecht, seconded by Senator Swobe, carried.

S. B. 284 - Expands remedies for false, deceptive or misleading advertising.

Peter Holden appeared before the committee and spoke in favor the bill.

Senator Wilson, one of the sponsors of the bill, appeared with Mr. Holden and spoke in favor of the bill together with its amendments.

Mr. Holden presented the following amendments.

1. Section 5 - include the language knowingly and wilfully in the misdemeanor section. This would be on line 33.
2. Delete Section, Subsection a, Subsection 2 from the provisions of the bill. Lines 48 through 50.
3. Section 7 on page 3, delete the language, "Is guilty of a gross misdemeanor," and substitute, "is liable for a civil penalty not to exceed \$10,000." Delete all language beginning with "If," on line 5 and running through line 9.

Milo Terzich appeared and requested that the Insurance companies be exempted from the bill on the ground that they are covered under the United States Insurance Code, and also in Chapter 286a.010 and it is more specific and in more detail that bill 284. Also, any claims of false advertising would automatically be turned over to the Insurance Commissioner.

Pete Kelly, of the Nevada Retail Association. Agreed with amendments as suggested. Question on page 3, which reads, \$2500 for each violation. If a mistake was made and 100 sleeping bags, for example, were sold, would the seller be liable for 2500 times 100, the answer was it would probably be this way. He suggested the following amendment. "For the purposes of this section, these violations shall be construed to include a continuous or repetitive violation arising out of the same act.

Senator Swobe moved to Do Pass with the amendments as suggested today, Senator Lamb moved to amend the motion to have all amendments put in bill form in order that the Committee might see what it does.

Senator Lamb's amended motion was seconded by Senator Herr, carried.

Yeas, Senator Lamb, Senator Herr, Senator Hecht, Senator Blakemore, Senator Drakulich and Senator Pozzi.

No, Senator Swobe.

S. B. 174 - Permits open-market advertising and sale of prescription drugs.

George Bennett appeared with additional information on the bill. Oregon is the only state which has open advertising of prescription drugs. He stated no advertising has occurred in Oregon.

Senator Lamb stated that the Committee should look to who is being helped by the bill. If more people are being helped by the bill, then it is a good bill. The Druggists themselves, he feels, have caused the inception of this bill by the great differential in prices.

Mike Melner spoke in favor of the bill and would oppose any changes in the bill which is before the Committee. He feels that the bill, as it is, would be better for the consumer.

Leslie Gray, a Reno attorney, appeared and spoke in behalf of the the State Pharmaceutical Association. He stated that the proposed amendments which Senator Swobe had worked were acceptable to the Association.

Senator Blakemore stated that the amendments as proposed by Senator Swobe, which amendments are attached hereto and marked Exhibit B, are slanted in favor of the drug industry.

S. B. 279 - Increases the minimum wage of working persons.

Senator Neal appeared and spoke in behalf of the bill. The bill increases the minimum wage to \$2.50 per hour.

Senator Pozzi stated that this is beyond the Federal level.

Senator Hecht felt that the bill would put people out of work, rather than help.

S. B. 291 - Requires certain enterprises to invest portion of profit in socially beneficial projects.

Senator Neal spoke in behalf of the bill.

Senator Herr Stated that in her opinion the bill is unconstitutional to try and force someone to take a portion of their profits and put it in any project.

Francis R. Breen, a Reno attorney, spoke in behalf of the Banker's Association. Mr. Breen stated that the only way the states can even tax National bank property is because the Federal Government says they may. Bankers are not in favor of this bill. This is a matter which is not within the control of the State Legislature. He presented to the Committee a list of decisions dealing along this line. The document is attached hereto as Exhibit C. The bill, he said, is not only unconstitutional, it is in direct violation of a long line of Supreme Court Decisions starting back in 1896.

S.C.R. 6 - Directs legislative commission to study laws of Nevada to determine which, if any, deny equal rights to women.

Senator Neal spoke in favor of the measure.

Senator Echols offered the following amendment. On lines 16 and 17 add "Report the results of such study and the draft of the legislation to review any and all state laws denying equal rights to women, to the Nevada Legislature on the first day of the 58th session."

Senator Herr moved Do Pass without the proposed amendment, seconded by Senator Swobe, carried unanimously.

Kate Butler spoke briefly in favor of the measure.

S. B. 281 - Permits consumers to avoid purchases from door to door salesmen.

Peter Holden spoke in favor of the bill.

He recommended deleting language on page 4, Section 15, Subsection 2, lines 4 through 11 inclusive, because of a question of constitutionality.

Pete Kelly appeared to testify with respect to the bill. Mr. Kelly stated that his association support the bill with one suggestion. On page 3, notice of cancellation. They would suggest the words, "at reasonable times," be inserted after the word available. On line 26 include the words, "in the alternative" On line 29, strike the words, "if you do not agree to return the goods," and substitute, "if the seller does not provide instructions for the return of the goods."

S. B. 281, motion Senator Herr, Do Pass, seconded by Senator Pozzi, passed unanimously.

S. B. 291, motion Senator Pozzi, Do Kill, seconded by Senator Swobe, carried.

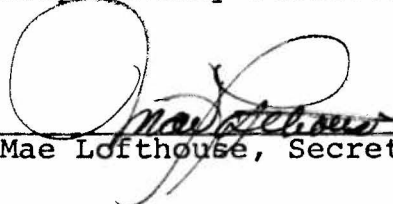
Yeas, Senator Herr, Senator Pozzi, Senator Hecht, Senator Blakemore, Senator Swobe, Senator Drakulich. Senator Lamb abstaining, due to the fact that he is an officer of a bank.

S. B. 279, motion Senator Pozzi, Do Kill, seconded Senator Blakemore, carried unanimously.

S. B. 174, motion Senator Blakemore, Do Pass as is, seconded by Senator Lamb, carried unanimously.

The meeting was adjourned at 1:25.

Respectfully submitted,


Mae Lofthouse, Secretary

APPROVED:

Senator Drakulich, Chairman

JAMES S. LORICAN

FARMERS INS.

MIKE MELNER

STATE COMMERCE DIRECTOR

P.B. HOLDEN

Washoe County D.A.

DON CRALLE

BBB OF NO. NEVADA

Miles Terry

American Life Ins. Assoc.

GEORGE T. BENIVIST

BD OF PHARMACY

Dick Rock

Older Drug

Frank L. Titus

Pharmacy Association

Willie B. Gray

Pharmacy Association

F. R. Brady

State Bankers Assoc.

Janet Turner

Medical Association
Nevada Franchised Auto Drivers
Nevada Motor Transport Ass.

Daryl E. Caputo

Paul H. Durckel

Personal

E. W. Hammer

Personal

Peggy Westall

Personal

ROWLAND OAKES

Associated General Contractors

Jeanette Phoenix

W.N.C.C.

Maileyn Phoenix

W.N.C.C.

Rose Brown

W.N.C.C.

Pam Wisner

W.N.C.C.

Cliff Payne

W.N.C.C.

Terry Stewart

W.N.C.C.

John W. Riggs

W.N.C.C.

Kate Butler

Nevada League of Women Voters

Dr. Carolyn Murray

Franciscan Center

S. Del Cato

Wallie Warner

G.B. McDONALD

W.N.C.C.

George Donkor

W.N.C.C.

Bob Dennis

W.N.C.C.



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
ROOM 341, LEGISLATIVE BUILDING
CARSON CITY 89701

ROBERT LIST
ATTORNEY GENERAL

March 1, 1973

TO: Mr. George Bennett
FROM: Robert A. Groves
RE: SB 174

It was reported to the Senate Committee on Commerce and Labor that the states of Florida, Maryland and Michigan had repealed their prohibition against advertising legend drugs. A check with the board secretaries in the various states disclosed the following information:

In Florida, the law at one time prohibited the "promotion" of prescription drugs. That portion of the law which related to drugs other than controlled substances was invalidated by court decision. The remaining portion, which prohibits the promotion of controlled substances, remains on the books and is being enforced.

In Michigan, the prohibition against advertising is in effect and is alive and well, as it has been for many years. It is currently being enforced.

In Maryland, there was a statute which prohibited the use of words such as "cut rate" or "bargain prices" in connection with advertisements of drugs. The law was declared unconstitutional by a lower court and the matter is being appealed. A stay of judgment pending appeal was denied, with the result that such advertising is now permitted. There has been no legislative repeal of any prohibition against advertising in Maryland.

Maryland has another law currently in effect which prohibits mentioning any prescription drug, controlled substance or dangerous drug, either by its trade name or generic name, in advertising. Several days ago, a bill was introduced in the legislature which would repeal that law except as it affects controlled substances and dangerous drugs. The status of this proposed legislation is unknown at this writing.

The State of Oregon has a significant history in this regard. In 1961, two chains began to advertise legend drugs. The board passed a regulation to prohibit the practice. An association of publishers challenged the regulation

61

Memo to Mr. George Bennett
March 1, 1973
Page Two

in court, and it was ultimately invalidated in 1965 by a split decision rendered in the Oregon Supreme Court. The court held that the board had authority to adopt such a regulation if it could be shown that it was in the public interest to do so. The court ruled, however, that since there was no showing of harm resulting from the limited advertising prior to adoption of the regulation, the regulation would not be permitted to stand. It is significant that since the court decision in Oregon virtually no advertising has occurred. The board drew attention to the F. D. A. regulations when advertising did occur, and it is apparent that the requirements of the F. D. A. regulations made advertising impractical. Many consumers inquired of the board why pharmacies do not advertise, and the explanation generally has been that it is meaningless to advertise an item such as prescription drugs which the customer cannot go into a store and buy because of the requirement of a prescription.

Recent efforts in the state of Minnesota to repeal prohibitions against advertising have been unsuccessful.



Washoe County

Courthouse
Reno, Nevada 89505

Robert E. Rose
District Attorney

February 27, 1973

The Senate Committee on Commerce and Labor
Nevada Legislative Building
Carson City, Nevada 89701

Re: S.B. 284 (Strengthening Nevada's False Advertising
Statute)

Members of the Committee:

I am submitting the following comments on behalf of the Washoe County District Attorney's Office in support of S.B. 284 with certain minor modifications set forth below. This letter is intended to summarize the main points to be made before your Committee in its first public hearing on this bill.

Basically, our Office feels there is a need for this bill because of the weakness of the language contained in NRS 207.170, which prohibits false, deceptive, and misleading advertising. This weakness becomes apparent for the following reasons:

1. As NRS 207.170 now reads, it is "unlawful" for any person to publish, disseminate or display any "false, deceptive or misleading advertising, with knowledge of the facts which will render the advertising false, deceptive or misleading. . . ." Obviously, in order to take any action under this statute as now worded, it is necessary to prove that "advertising", which can include an entire ad, is false, deceptive or misleading. In addition, it is also necessary to prove that the person responsible for such advertising had actual knowledge OF THE FACTS which rendered the advertising false, deceptive or misleading. Thus, under present law, it is possible for a disseminator of false or misleading advertising to include one or two deceptive or misleading statements in an ad, which may not make the entire ad false, and then when questioned as to the facts rendering said advertising false, said disseminator can plead ignorance of its falsity or misleading character, even though any reasonable person ought to have known such facts were false or misleading. Since a public prosecutor must prove that such a disseminator knowingly engaged in false or misleading

The Senate Committee on Commerce and Labor
February 27, 1973
Page Two

advertising beyond a reasonable doubt, in order to obtain a misdemeanor conviction, the wording of the present statute has rendered it virtually impossible to enforce.

2. Furthermore, the present statute requires that the false, deceptive or misleading advertising must be made for a business, trade or commercial purpose or "for the purpose of inducing, or which is likely to induce, directly or indirectly, the public to purchase, consume, lease, dispose of, utilize or sell any property or service, or to enter into any obligation or transaction relating thereto." This language has had the effect of requiring public prosecutors to produce a "victim" of false or misleading advertising who can establish through his testimony that he was ACTUALLY deceived or misled by such advertising. Short of this type of testimony, it is virtually impossible to establish beyond a reasonable doubt that false, deceptive or misleading advertising is "likely" to induce the public to enter into some type of commercial transaction. However, many cases have arisen in which false or deceptive advertising has clearly had a tendency to deceive or mislead the public even though no member of the public is willing to testify and admit that he was actually deceived or misled by such advertising or to come forward and volunteer evidence pertaining to his particular case. This does not mean that the advertising in question is not false, deceptive or misleading but only that the public prosecutor is unable to present a case to a court of law to make that determination.

3. The third weakness of the present language pertains to the remedy given the Attorney General or the district attorneys in this state to bring actions to restrain and prevent any person from violating any provision of NRS 207.170. Oftentimes, false or deceptive advertising does not follow a consistent pattern so that it would become an appropriate subject of an injunctive proceeding in a court of law. This means that when a public prosecutor engages in a great deal of legal work to seek injunctive relief to restrain and prevent any person from violating any provision of NRS 207.170, the person in question will either change the advertising or eliminate any false or deceptive aspects of said advertising. This renders any injunctive proceeding moot, and because there are no civil penalties available for punishing such a person in connection with an injunctive proceeding, the public prosecutor is virtually helpless to enforce the existing statute, short of obtaining a misdemeanor conviction. For the reasons stated above, criminal convictions under the current statute are extremely difficult if not impossible to obtain.

The Senate Committee on Commerce and Labor
February 27, 1973
Page Three

Because of the foregoing reasons, this Office has concluded there is a serious need to change the current provisions of NRS 207.170, so that it can be used as an effective remedy against false, deceptive, and misleading advertising.

Basically, this Office is in agreement with the language contained in S.B. 284. However, your Committee is invited to consider the following modifications, which we feel will strengthen this bill:

1. Since false, deceptive and misleading advertising is used in connection with trade practices generally, it is the feeling of this Office that the statute prohibiting false, deceptive or misleading statements used in advertising would more appropriately be found in Title 52, Chapter 598 of the Nevada Revised Statutes, which relates to trade regulations and practices generally. At the present time, NRS 207.170 is in a Chapter of the Nevada Revised Statutes pertaining to "miscellaneous crimes." This Office feels the subject matter of false advertising and the remedies available to abate same would more appropriately fall within the subject matter of Chapter 598. Since S.B. 284 provides for injunctive relief and civil penalties, it would appear especially appropriate to place it in Chapter 598 rather than a Chapter devoted to primarily if not exclusively miscellaneous crimes.

2. Section 3. of S.B. 284 should be clarified with respect to the exemption from the provisions of this statute given to any owner, operator, agent or employee of any advertising agency or other business engaged in preparing or disseminating advertising for public consumption on behalf of any other person or firm, provided such advertising is prepared in good faith without knowledge of its untrue or deceptive or misleading character. This suggestion was made at a public hearing in Reno, Nevada conducted by the Better Business Bureau of Northern Nevada, Inc. on behalf of its members. Apparently, when NRS 207.170 was first drafted, there were no public advertising agencies per se. However, in view of the growth of the times, it would appear to be a wise policy to specifically recognize this industry and its relation to a false advertising statute. Accordingly, Section 3. of S.B. 284 could be redrafted as follows, with the additions underlined and deletions appearing in brackets:

"Section 3. [Nothing in this section shall]
This section does not apply to any radio or
television broadcasting station which broad-
casts, or to any publisher, printer, distribu-
tor or owner of any newspaper, magazine, bill-
board or other advertising medium, or to any

owner, operator, agent or employee of any advertising agency or other business engaged in preparing or disseminating advertising for public consumption on behalf of any other person, firm, corporation, association or other business entity, who publishes, prints, [or], distributes, prepares or disseminates, such advertising in good faith without knowledge of its false, deceptive or misleading character."

3. In Section 4. of S.B. 284, line 30, reference is made to false, deceptive or misleading statements referred to in subsection 2 of this proposed statute. It appears this is a typographical error, and this Office would suggest that reference be made to "subsection 1" rather than "subsection 2" on lines 29 and 30 of Section 4. of proposed S.B. 284. Subsection 1 is the subsection that actually defines false or deceptive or misleading statements, and subsection 2 merely clarifies the initial definition by indicating such statements include any communication made in person or by telephone.

4. In Section (d) of proposed S.B. 284, lines 5-9 attempt to allocate any penalties collected in the enforcement of this act. This Office has recently been made aware of a provision in Article 11, Section 3. of the Nevada Constitution, which requires all fines collected under the "penal laws" of the State of Nevada must be pledged for educational purposes. Accordingly, any attempt to allocate this money to the general fund of any county or the State of Nevada may be unconstitutional, and the last two sentences of Section 6. (b) on lines 5-9 should be deleted.

5. The other language appearing in S.B. 284 is satisfactory to this Office.

The Consumer Fraud Unit of our Office has indicated that sixty complaints have been filed with this Unit since July 5, 1972, which could have been construed as a violation of the spirit and intent of NRS 207.170 were it not for the difficulties in enforcing this statute as indicated above. Accordingly, none of these cases were able to be prosecuted. Furthermore, it is impractical to initiate any actions under the existing language of NRS 207.170, unless there are numerous complaints on one firm pertaining to the same advertising. Often, numerous complaints will be filed against one firm, but they relate to different products and in different misleading advertising pitches or to different misleading statements. Accordingly, no action is taken because of the time and expense involved.

The Senate Committee on Commerce and Labor
February 27, 1973
Page Four

66

Finally, our Office is unaware of any convictions having been obtained under NRS 207.170 in Washoe County, since this statute was first enacted in 1917. In addition, no cases are reported in the annotations to the Nevada Revised Statutes having arisen under NRS 207.170.

For the above reasons, our Office urges the passage of S.B. 284.

Very truly yours,

ROBERT E. ROSE
District Attorney

By


LARRY D. STRIVE
Deputy District Attorney

LDS:ph

cc: Robert E. Rose
Chan Griswold
Peter Holden

This chapter, under which national banks are organized, constitutes a complete system for their government. *Downey v. City of Yonkers, C.C.A.N.Y.1939, 106 F.2d 69, affirmed 60 S.Ct. 799, 309 U.S. 500, 84 L.Ed. 964, rehearing denied 60 S.Ct. 1071, 310 U.S. 656, 84 L.Ed. 1420.*

There is no distinction between a national banking association and an association under state laws except where distinction is specifically made by Congress. *Anderson First Security Bank of Idaho Nat. Ass'n, D.C.Idaho 1944, 54 F.Supp. 937.*

While national bank association is recognized as corporation and citizen of state of its domicile, association is national agency subject only to control of Congress. *Schmitt v. Tobin, D.C.Nev. 1936, 15 F.Supp. 35.*

Interpretation of acts of Congress, defining authority of national banks, is peculiarly province of federal courts. *Coon v. Smith, D.C.Ill. 1933, 4 F.Supp. 960.*

National banks are instrumentalities of federal government, created for public purpose, and subject to paramount authority of United States. *Coon v. Smith, D.C.Ill.1933, 4 F.Supp. 960.* See, also, *State v. Clement Nat. Bank, 1911, 78 A. 944, 84 Vt. 167, Ann.Cas.1912D, 22, affirmed 34 S.Ct. 31, 231 U.S. 120, 58 L.Ed. 147.*

The decisions of the United States Supreme Court are ultimate and paramount authority as to the powers and liabilities of national banks. *Hansford v. National Bank of Tifton, 1912, 73 S.E. 405, 10 Ga.App. 270.* See, also, *Roberts v. National Bank of Tifton, 1912, 73 S.E. 407, 10 Ga.App. 272.*

Federal decisions are controlling in dealing with national bank. *Wray v. Citizens' Nat. Bank of Dublin, Tex.Com. App.1926, 288 S.W. 171.*

32. State laws and decisions generally

National banks are subject to state laws, unless those laws infringe the national banking laws or impose an undue burden on the performance of the banks' functions. *Anderson Nat. Bank v. Luckett, Ky.1944, 64 S.Ct. 599, 321 U.S. 233, 88 L.Ed. —.*

An attempt by a state to define powers and duties of national banks or control the conduct of their affairs is absolutely void wherever such attempted exercise of authority expressly conflicts with the laws of the United States and either frustrates the purpose of the national legislation or impairs the efficiency of these agencies of the federal government to discharge the duties for the performance of which they were created. *Davis v. Elmira Sav. Bank, N.Y.1896, 161*

U.S. 275, 16 S.Ct. 502, 40 L.Ed. 700, approved in 188 U.S. 220, 23 S.Ct. 288, 47 L.Ed. 452. See, also, *Lewis v. Fidelity & Deposit Co. of Maryland, Ga.1934, 54 S.Ct. 848, 292 U.S. 559, 78 L.Ed. 1425; First Nat. Bank in St. Louis v. State of Missouri ad inf. Barrett, 1924, 44 S.Ct. 213, 263 U.S. 640, 68 L.Ed. 486; Abilene Nat. Bank of Abilene v. Dolley, 1913, 53 S.Ct. 409, 228 U.S. 1, 57 L.Ed. 707; Waite v. Dowley, Vt.1876, 94 U.S. 527, 24 L.Ed. 181; American Surety Co. of New York v. Baldwin, C.C.A.Ind.1937, 90 F.2d 708; Fidelity Nat. Bank, etc., Co. v. Enright, D.C.Mo.1920, 264 F. 236; Larabee v. Dolley, C.C.Kan.1909, 175 F. 365, reversed on other grounds *Dolley v. Abilene Nat. Bank of Abilene, 179 F. 461, 102 C.C.A. 607, 32 L.R.A.,N.S., 1065, certiorari denied 31 S.Ct. 223, 218 U.S. 673, 54 L.Ed. 1205, affirmed 31 S.Ct. 189, 219 U.S. 121, 55 L.Ed. 123; Jenckes v. Deltrick, D.C.Mass. 1939, 27 F.Supp. 408; Uhl v. First Nat. Bank & Trust Co. of Kalamazoo, D.C. Mich.1938, 24 F.Supp. 275, affirmed 94 F.2d 1013, certiorari denied 58 S.Ct. 1058, 304 U.S. 584, 82 L.Ed. 1546; In re Cameron, 1926, 287 Pa. 560, 135 A. 295, affirmed 48 S.Ct. 212, 276 U.S. 592, 72 L.Ed. 721; State v. Clement Nat. Bank, 1911, 84 Vt. 167, 78 A. 944, Ann.Cas.1912D, 22, affirmed 34 S.Ct. 31, 231 U.S. 120, 58 L.Ed. 147; Farmers' Deposit Nat. Bank v. Western Pennsylvania Fuel Co., 1906, 215 Pa. 115, 64 A. 374, 114 Am.St.Rep. 949; Lauer v. Bayside Nat. Bank, 1935, 280 N.Y.S. 139; Commissioner of Banks v. Chase Securities Corporation, 1937, 10 N.E.2d 472, 298 Mass. 285, appeal dismissed 58 S.Ct. 470, 302 U.S. 660, 82 L.Ed. 510; North Shaker Boulevard Co. v. Harriman Nat. Bank of City of New York, 1926, 22 Ohio App. 487, 153 N.E. 909; Flood v. City Nat. Bank of Clinton, 1935, 263 N.W. 321, 229 Iowa 935, certiorari denied 58 S.Ct. 749, 298 U.S. 668, 80 L.Ed. 1390; Dovey v. State, 1928, 218 N.W. 390, 116 Neb. 533; State v. District Court, etc., 1926, 244 P. 489, 75 Mont. 567; Elizabethtown First Nat. Bank v. Com., 1911, 143 Ky. 816, 137 S.W. 518, 34 L.R.A.,N.S., 54, Ann.Cas. 1912D, 378; Green v. Bennett, Tex.Civ. App.1908, 110 S.W. 108; Thomas v. Farmers' Bank, 1877, 46 Md. 43.**

Congress may confer on national banks such powers and immunities as it sees fit, and the states can in no manner interfere therewith except as permitted by Congress. *Farmers' & Mechanics' Nat. Bank v. Dearing, N.Y.1875, 91 U.S. 29, 23 L.Ed. 196.*

The extent of powers of national bank must be determined by interpretation of this chapter in the light of the policy therein expressed, and views of state courts on powers of local corporations are irrelevant except as Congress expressly makes them applicable. *Downey v. City of Yonkers, C.C.A.N.Y.1939, 106*

F.2d 69, a 300, 84 L. S.Ct. 1071,

A national government state statute control nat Jamison, C

Rights, dies, of nat each other down to th and, after Rickey v. D.C.N.Y.193; 2d 1020.

State sta banks, are a transaction ness. Prud Bank of Se N.J.Eq. 365.

If state b: accorded pov business tha ercised in c purposes of legislation, such powers absence of le ing its exerc right of Cong ers upon nati tory, or impa cise them w l v. State, 1920,

The rule th control over manner affect gress may pe from such st impair its ut of the federal ent Nat. Bank Ann.Cas.1912D, 231 U.S. 120, 5

The powers, of national b: thory, except not lawfully contravention First Nat. Ba N.W. 335, 192 L.Ed. 1233.

Any effort o of national b but national b tivities to pow within the sam Inv. Co. v. Gr 43 Cal.App.2d 6

National bank in sense that internal operati officers in condu

~~ASSEMBLY~~ / SENATE AMENDMENT BLANK

Amendments to ~~ASSEMBLY~~ / Senate

Bill / ~~XXXXXXXXXXXXXXXXXXXX~~ No. 174 (BDR 54-917)

Proposed by Committee on Commerce and

Labor

Amendment N^o 196



Amend section 1, page 1, by deleting lines 19 through 21 and inserting:

"9. To prescribe the list of prescription drugs whose prices are required to be posted in each pharmacy for inspection by customers."

Amend sec. 2, page 1, by deleting line 22 and inserting:

"Sec. 2. NRS 639.262 is hereby amended to read as follows:

639.262 [1. No registered pharmacist or owner of any pharmacy licensed under the provisions of this chapter may offer for sale or sell prescription drugs or offer to render or render any service under the representation:

(a) That the price or fee which is to be, or is, charged for such commodity or service, or both, is at a discount; or

(b) That the price or fee that is to be, or is, charged for such commodity or service, or both, is at a percentage or otherwise less than the average fee or price then regularly charged under like conditions by the person so licensed or by other persons for such commodity or service or commodity and service.

2. The provisions of this section shall not be construed as modifying or establishing prices or fees which may be charged for commodities or services by any persons licensed under the provisions of this chapter.]

pharmacy which keeps available at all times for inspection by its customers the list of prescription drugs required by the board to be posted may:

1. Offer for sale and sell any drug appearing on such list, at a specified discount from the posted price, to any identified group among its customers.

2. Advertise the specified percentage of discount and the identity of the group, but not the posted or discounted price."

Amend the title of the bill to read:

"AN ACT relating to pharmacy; permitting the discount sale of prescription drugs under limited circumstances; and providing other matters properly relating thereto."