

ASSEMBLY JUDICIARY COMMITTEE
58th NEVADA ASSEMBLY SESSION

MINUTES

March 6, 1975

This meeting of the Assembly Judiciary Committee was called to order by Chairman Barengo on Thursday, March 6, 1975 at the hour of 8:46 a.m.

MEMBERS PRESENT: Messrs. BARENGO, BANNER,
HEANEY, HICKEY, LOWMAN,
POLISH, SENA, Mrs. HAYES
and Mrs. WAGNER.

MEMBERS ABSENT: NONE.

Guests present at this meeting of the Committee were: John R. Kimball, representing the 16 City Advisory Committee for the Aging; Nick Lusich, representing the Reno Chamber of Commerce; Daryl E. Capurro, representing the Nevada Motor Transport Association and Nevada Franchised Auto Dealers Association; Pete Kelley, representing the Nevada Retail Association; Bob O'Connell, representing the Nevada Retail Association; Nat Standing, from the J. C. Penney Co.; Rusty Nash, Esq., Deputy Washoe County District Attorney; Joe Lawler, representing the State of Nevada's Consumer Affairs Division; and Robert L. Weise, State Assemblyman. The Guest Register from this meeting is attached hereto.

Speaking regarding A.B.328 was Assemblyman Weise, the main sponsor of the bill. This bill would terminate alimony payments to an individual who has been cohabiting with a member of the opposite sex, but who doesn't want to engage in marriage for fear of losing the alimony payments. Mr. Weise discussed possible amendments to this bill, and he presented the Chairman with a copy of those said amendments. Mr. Weise said that the bill specifically omits the homosexual relationship because of the difficulty to define the situation in a bill. Mr. Weise stated that California has this type of statute, and because of the divorce situation here in Nevada, we probably need this kind of statute even more.

Next to testify was Joe Lawlor, State of Nevada Consumer Affairs, who spoke in favor of A.B.319. The Consumer Affairs Division is in support of this bill.

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In opposition to the bill was Nick Lusich, President of the Reno Chamber of Commerce, who stated in regard to A.B.319 that if there was any consumer fraud, this certainly was no way to stop it. He said that if the Consumer Affairs Division needs more money to enforce and prosecute offenders, he was certainly in favor of this, but he was definitely in opposition to passage of this bill. He advised the Committee to consider what this type of legislation costs and who pays for it. He pointed out how difficult it is for the businessman to obtain insurance coverage after having been taken to court for alleged consumer fraud. He said that the State of Nevada deserves legislation which would penalize only the offender. Mr. Lusich was then questioned by the Committee.

Next to testify was Pete Kelley, Nevada Retail Association, who referred to S.B.79 and pointed out that included in this Senate Bill was good protection against consumer fraud. Mr. Kelley stated that he thinks there is no real reason for A.B.319, as all of the matters referred to in that bill are contained in the Deceptive Trade Practices Act.

Mr. Banner was excused from this meeting to chair a meeting of the Assembly Labor Committee.

Next to testify was Daryl Capurro, representing the Nevada Motor Transport Association, and more particularly with reference to A.B.319 the Nevada Franchised Auto Dealers. He supported Mr. Lusich's testimony, and stated that they wish to get rid of the fellow who is going to intentionally misrepresent his product, services or business. The group which Mr. Capurro represents is in opposition to A.B.319, and stated that there were several areas in which they found objection. He said that auto dealers were finding themselves in court more often than they were running their business. Whether or not consumer fraud is proved by the court, the fact that the man has gone to court to defend himself is a consideration of the insurance companies when he needs insurance for protection. Mr. Capurro also stated that they find it hard to justify the practice of awarding more damages than were actually sustained. Further discussion and questioning by this Committee continued.

Next to testify was Rusty Nash, Esq., Deputy Washoe County District Attorney. He stated that he was an advisor to the Consumer Protection Unit. He said he noticed both in last session and this session of the Legislature that whenever a bill was introduced which was a consumer bill, businessmen seemed to oppose it. He said that A.B.319 gives as much protection to the businessman as it can to the consumer. Current law already provides a cause of action

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for consumer frauds. Common law fraud is a rather complex action to bring. Mr. Nash said that the type of legislation which this Committee was then considering gives relief directly to the person who deserves relief--the person who has been taken advantage of. He said A.B.319 refers to the person who wilfully and intentionally tries to defraud the public--not the normal businessman. With this legislation anyone can bring this kind of action on his own behalf in Small Claims Court and not have to go through an attorney. He believes that legislation such as this is essential and crucial. The Committee then began its questioning of Mr. Nash.

Mr. Barengo passed out copies of a proposed amendment to A.B.296 submitted by Mr. Heaney, a copy of which is attached.

There was a motion and a second, and Mr. Barengo then adjourned this meeting at 9:52 a.m.



Nevada Legislature

FIFTY-EIGHTH SESSION

March 5, 1975

TO: Members, Assembly Judiciary Committee
FROM: Robert E. Heaney, Assemblyman
RE: A. B. 296 - Proposed committee amendments

SECTION 1. NRS 205.010 is hereby amended to read as follows:

Any person who willfully and maliciously sets fire to or burns or causes to be burned, or who aids, counsels or procures the burning of any dwelling house, mobile home, or any structure which in its normal course of use may be occupied by one or more persons, whether occupied [unoccupied] or vacant, [or any kitchen] including a shop, barn, stable, or other outbuilding that is parcel thereof, or belonging to or adjoining thereto, whether the property of himself or of another, [commits] shall be guilty of arson in the first degree and, upon conviction thereof, shall be sentenced to imprisonment for not less than 1 year nor more than 15 years.

SECTION 2. NRS 205.020 is hereby amended to read as follows:

Any person who willfully and maliciously sets fire to or burns or causes to be burned, or who aids, counsels or procures the burning of any personal property of whatsoever class or character (such property being of the value of \$25 or more and the property of another person) [commits] shall be guilty of arson in the third degree and, upon conviction thereof, shall be sentenced to imprisonment for not less than 1 year nor more than 6 years.

P. S. If the above amendments do not satisfy the committee, I shall personally commit an act of arson either upon myself, or upon the suggested amendments, whichever, in the opinion of the committee will be most beneficial (no doubt both).