

**THE EIGHTY-SECOND DAY**

---

CARSON CITY (Friday), April 29, 2005

Senate called to order at 11:03 a.m.

President pro Tempore Amodei presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Alan Dorway.

Gracious God, Your touch makes this world holy. Open our eyes to see Your hand at work in the splendor of creation and in the beauty of human life. Help us to cherish the gifts that surround us, to share Your blessings with our sisters and brothers and to experience the joy of life in Your presence. Draw us into the great mystery of Your love. This day we seek to find peace in our souls no matter what turmoil rages around us. Touch our hearts today as we serve and bless all who work in this place.

AMEN.

Pledge of allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President pro Tempore and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

*Mr. President pro Tempore:*

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 203, 276, 502, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

*Mr. President pro Tempore:*

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 16, 28, 49, 164, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WARREN B. HARDY II, *Chair*

*Mr. President pro Tempore:*

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 21, 157, 166, 190, 256, 469, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARK E. AMODEI, *Chair*

*Mr. President pro Tempore:*

Your Committee on Transportation and Homeland Security, to which was referred Assembly Bill No. 368, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DENNIS NOLAN, *Chair*

## MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 28, 2005

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 108.

DIANE KEETCH

*Assistant Chief Clerk of the Assembly*

## MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 5.

Senator Washington moved the adoption of the resolution.

Remarks by Senator Washington.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

Senator Raggio moved that Senate Bill No. 293 be taken from the Secretary's desk and placed on the bottom of the General File.

Remarks by Senator Raggio.

Motion carried.

## INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 108.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Motion carried.

## SECOND READING AND AMENDMENT

Assembly Bill No. 58.

Bill read second time and ordered to third reading.

Assembly Bill No. 76.

Bill read second time and ordered to third reading.

Assembly Bill No. 106.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 615.

Amend sec. 2, page 2, line 2, after "act" by inserting: "for the preparation of new offices for occupancy".

Senator Raggio moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 182.

Bill read second time and ordered to third reading.

Assembly Bill No. 206.

Bill read second time and ordered to third reading.

Assembly Bill No. 465.

Bill read second time.

The following amendment was proposed by Senator Horsford:

Amendment No. 672.

Amend section 1, page 1, by deleting line 6 and inserting:

*"(a) Is being used in violation of the provisions of NRS 453.011 to 453.552, inclusive, if the person in any manner knowingly engages in or conspires with, aids or abets another person to engage in such activity;*

*(b) Is being sold, exchanged, bartered, supplied,"*

Amend section 1, page 1, line 11, by deleting "(b)" and inserting "(c)".

Amend section 1, page 1, line 12, after "of" by inserting: *"the provisions of"*.

Amend section 1, page 2, between lines 5 and 6, by inserting:

*"(1) If the violation does not proximately cause substantial bodily harm or death to the child, is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

*(2) If the violation proximately causes substantial bodily harm to the child other than death, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 6 years and a maximum term of not more than 20 years, and shall be further punished by a fine of not more than \$20,000.*

*(3) If the violation proximately causes the death of the child, is guilty of murder, which is a category A felony, and shall be punished as provided in NRS 200.030.*

*(b) A person who violates the provisions of paragraph (b) of subsection 1:"*

Amend section 1, page 2, lines 10 and 16, by deleting "years" and inserting "years,".

Amend section 1, page 2, line 21, by deleting "(b)" and inserting "(c)".

Amend section 1, page 2, line 27, by deleting "years" and inserting "years,".

Amend section 1, page 2, line 42, by deleting "The" and inserting: *"Except as otherwise provided in NRS 453.3363, the"*.

Amend the bill as a whole by renumbering sections 3 and 4 as sections 4 and 5 and adding a new section designated sec. 3, following sec. 2, to read as follows:

"Sec. 3. NRS 453.3363 is hereby amended to read as follows:

453.3363 1. If a person who has not previously been convicted of any offense pursuant to NRS 453.011 to 453.552, inclusive, or pursuant to any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic substances tenders a plea of guilty, nolo contendere or similar plea to a charge pursuant to subsection 2 or 3 of NRS 453.336, NRS 453.411 or 454.351 ~~or~~ *or subparagraph (1) of paragraph (a) of subsection 2 of section 1 of this act*, or is found guilty of one of those charges, the court, without entering a judgment of conviction and with the consent of the accused, may suspend further proceedings and place him on probation upon terms and conditions

that must include attendance and successful completion of an educational program or, in the case of a person dependent upon drugs, of a program of treatment and rehabilitation pursuant to NRS 453.580.

2. Upon violation of a term or condition, the court may enter a judgment of conviction and proceed as provided in the section pursuant to which the accused was charged. Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, upon violation of a term or condition, the court may order the person to the custody of the Department of Corrections.

3. Upon fulfillment of the terms and conditions, the court shall discharge the accused and dismiss the proceedings against him. A nonpublic record of the dismissal must be transmitted to and retained by the Division of Parole and Probation of the Department of Public Safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section.

4. Except as otherwise provided in subsection 5, discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the arrest, indictment or information. He may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of him for any purpose. Discharge and dismissal under this section may occur only once with respect to any person.

5. A professional licensing board may consider a proceeding under this section in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to him."

Senator Horsford moved the adoption of the amendment.

Remarks by Senators Horsford and Cegavske.

Senator Horsford requested that his remarks be entered in the Journal.

Thank you, Mr. President pro Tempore. The intent of the amendment before this body is to clarify the intent of Assembly Bill No. 465.

In testimony before the Senate Committee on Judiciary, the intent of the bill, as shared by the Attorney General's Office and the District Attorney's Association, was to create and increase the penalty for the manufacturing of controlled substances in the presence of a child, particularly because of the increase of meth labs and what occurred with a child-care center in Las Vegas. Currently, there is no distinction in the law that would allow increased penalties for manufacturing or the selling of controlled substances in the presence of a child. This bill achieves that goal by imposing a category B felony to any person convicted of selling or manufacturing controlled substances in the presence of child and imposes a maximum sentence of 15 years if no harm is done to the child and up to 20 years if there is harm to a child. If a person who sells or manufactures drugs in the presence of a child, causes death to that child,

then Assembly Bill No. 465 would impose a category A felony, and the person would be punished pursuant to NRS 200.030. I fully support the intent in the provisions of the bill that get drug dealers and drug sellers out of our communities and away from our children.

The reason for the amendment today is to delineate between the person who uses drugs in the presence of a child and may have a drug addiction to that of a person who is selling or manufacturing drugs.

The amendment proposes that a person who uses drugs in the presence of a child but does not cause harm to that child is guilty of a category C felony and may serve a maximum sentence of five years and a category B felony if they cause harm. The amendment creates a new section that is consistent with existing law which permits the person to be referred to drug court and required to participate in and successfully complete an educational program or in the case of a drug addicted person a program of treatment and rehabilitation. If the person successfully completes the terms and conditions set by drug court, then, the court will discharge the accused and dismiss the proceedings.

The provisions in this amendment are important to pass in this bill for several reasons.

First, locking up a person, a parent who may have a drug addiction and who has used a controlled substance in the presence of a child, does nothing to change the negative behavior of the person and may well break-up the family and continue the cycle of dependency on drugs.

Second, the cost of putting drug addicts in prison rather than giving them the treatment they need to break the cycle of dependency is a bad investment of taxpayer dollars. The Bureau of Justice Statistics and the National Center on Addiction and Substance Abuse estimate that of the \$38 billion spent on corrections in 2004, more than \$30 billion was spent incarcerating individuals who had a history of drug and/or alcohol abuse, were convicted of drug and/or alcohol violations, were using drugs and/or alcohol at the time of their crimes, or had committed their crimes to get money to buy drugs. Why would we spend \$25,000 a year to incarcerate someone in prison who has a drug problem and not invest a fraction of the costs to provide these individuals with the treatment they need to stop using drugs and become more productive citizens who are able to care for their children?

Third, I know first-hand the importance of giving loved ones with drug addictions the help they need and the benefits that provides a family versus continuing to impose laws that imprison addicts. I grew up in a family that struggled with drug addiction. I would never say it is right to allow a drug addict to expose their children to drug use, but for many families throughout Nevada, this is a reality they face everyday. While it is not right for people to use drugs, it is also not right for us to pass legislation that may tear families apart and does not give people the care and treatment they need to change their negative behaviors and practices.

The amendment, as proposed, was negotiated and agreed upon by the Attorney General's Office and the District Attorney's Association. I urge this body to adopt this amendment to ensure the laws we pass are fair and balanced and that they take into account the alternatives to incarceration programs that are working through Drug Court in Nevada and other programs that we have supported and have been proven to work in other states throughout this Country.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 91.

Bill read third time.

Roll call on Assembly Bill No. 91:

YEAS—21.

NAYS—None.

Assembly Bill No. 91 having received a two-thirds majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 295.

Bill read third time.

Remarks by Senator Care.

Roll call on Assembly Bill No. 295:

YEAS—21.

NAYS—None.

Assembly Bill No. 295 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 293.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 622.

Amend the bill as a whole by deleting section 1 and renumbering sections 2 and 3 as sections 1 and 2.

Amend sec. 2, page 2, lines 17 and 18, by deleting: "*which must not be less than \$20*,".

Amend sec. 2, page 2, by deleting lines 20 through 37 and inserting: "collects, deposit in a separate account the amount established for that purpose by regulation of the Director. The money deposited in the account must be used ~~for~~ :

(a) *For the disposal of pesticides* ~~and to~~ ;

(b) *To monitor pesticides* ~~and~~ ;

(c) *To protect groundwater and surface water from contamination by pesticides* ~~;~~ ; *and*

(d) *For the eradication and control of noxious weeds.*

3. A registrant who offers a pesticide for sale before registering".

Amend sec. 2, page 2, between lines 39 and 40, by inserting:

"4. *As used in this section, "noxious weed" has the meaning ascribed to it in NRS 555.005.*"

Amend the title of the bill to read as follows:

"AN ACT relating to noxious weeds; authorizing a portion of the money collected for the registration of certain brands of pesticides to be used for the eradication and control of noxious weeds; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Authorizes money collected for registration of certain brands of pesticides to be used for eradication and control of noxious weeds. (BDR 51-431)".

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

UNFINISHED BUSINESS  
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President pro Tempore and Secretary signed Senate Bill No. 496; Senate Concurrent Resolutions Nos. 23, 24; Assembly Concurrent Resolution No. 23.

## GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Amodei, the privilege of the floor of the Senate Chamber for this day was extended to Bruce Scott.

On request of Senator Mathews, the privilege of the floor of the Senate Chamber for this day was extended to the following students, chaperones and teachers from the Traner Middle School: Camille Betton, Theresa Lucas, Nicole Monnier, Janessa Stancil, Abi Rodriguez, Steven Schribner, Leslee Smith, Clariza Tango, William Torres, Jose Trujillo, Desmond Washington, Sarah Daniels, Miriam Cobian, Taiya Gebensleben, Maritza Haller, Irvin Zuniga, Alfonso Miranda, Pedro Moreno, Vanessa Olivares, Victor Olivera, Mayra Ramierez, Paulino Rodriguez, Carla Thrower, Daniel Ward, Joseph White, Briselda Arroyo, Viry Mendoza, Diego Jacinto-Aguilar, Taylor Reed, Frank Martinez, Estefani Villasaldo, Lucero Martinez, Fernando Roman, Rex Smith, Vanessa Aguirre, Daphane Bender, Juan Betancourt, Dalila Carbajal, Jared Champagne, Juan Cruz, Jerod Donoho, Jennifer Enriquez, Andrea Gilliam, Victor Lara, Elia Lopez, Omar Rodriguez, Jose Mora, Geraldine Parada, Daniel Gutierrez, Jose Rivera, Maria Silva, Cristina Trujillo, Latisha Perez, Luz Ayala, Laura Hernandez, A.J. Colis, Araseli Esparza, Jesus Guerrero, Miguel Haro, Mason Johnson, Guadalupe Lopez, Jesus Medina, Oscar Pena-Cortez, Lupe Tuihalangie, Llanely Rios, Trinh Vong, Dolores Estrada, Ariel Maya-Mosco, Hugo Maza, Chris Rivas, Leonardo Saldade, Guillermo Soto, Maribel Godina, Tracy Guerrero, Eduardo Hernandez, Procter Lotulelei, Jose Martin, Roger Puente, Faviola Rodriguez, Vilma Salazar, Victor Diaz, Jessica Gomez, Sindi Alarcon, Brian Calamateos, Salvador DeLaLuz, Francisco Lopez, Marisol Romro, Kenny Roscom, Claudia Saldana, Jose Valdez, Sandra Campos, Hector Casillas, Veronica Gomez, Jaime Pineda, Hector Sandoval, Alma Contrera, Alician Reyes, Lileana Lopez, John Manu, Yadira Palacios, Johanna Segura, Ashley Nauta, Kiryssa Bernabei, Shaylee Converse, Armando Garcia-Orea, Oscar Carrillo, Gerardo Garcia, Miriam Ramos, Jose Barajas, Iliana Martinez, Alex Najera, Mayra Navarro-Rios, Alyssa Nerey, Jessica Mora, Luis Gil-Prado, Gustavo Gonzalez, Jorge Gonzalez, Leticia Leon, Mayra Lira, Jonathan Martinez, Angel Berumen, Adeline Navarro, Aldo Perez, Jean Bocalig, Victor Gomez, Gorge Gonzalez, Vidal Smith, Jesse Jaramillo, Orlando Kaufusi, Juan Najera, Marcos Gutierrez, Siaki Pahulu; chaperones: Rogillo Colis, Eliseo Lopez, Rosalinda Rivas, Maria Rodriguez, Carlos Betton, Eleuteria Villasaldo; teachers: Nancy Burbank, Michelle Eastman, Ellen Badger, Vic VanHorn, Marianne Franz, Sue Ssmout, Judi Epstein and Marcie DeLorme.

Senator Raggio moved that the Senate adjourn until Monday, May 2, 2005,  
at 11 a.m.

Motion carried.

Senate adjourned at 11:36 a.m.

Approved:

MARK E. AMODEI  
*President pro Tempore of the Senate*

Attest: CLAIRE J. CLIFT  
*Secretary of the Senate*