

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

**Eighty-Second Session  
May 1, 2023**

The Committee on Natural Resources was called to order by Chair Lesley E. Cohen at 4:04 p.m. on Monday, May 1, 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, and to Room 130, Greenhaw Technical Arts Building, Great Basin College, 1500 College Parkway, Elko, 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](http://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:**

Christi Cabrera-Georgeson, Deputy Director, Nevada Conservation League  
Patrick Donnelly, Nevada State Director, Center for Biological Diversity  
Mathilda Guerrero, Digital Manager, Battle Born Progress  
Teresa Crawford, Member, Toiyabe Chapter, Sierra Club  
Tray Abney, representing Glen Raven, Inc.; American Bakers Association; and  
American Chemistry Council  
Bryan Wachter, Senior Vice President, Retail Association of Nevada  
Brendan Flanagan, Senior Director, State Affairs, Consumer Brands Association  
Lauren Aguilar, representing Juvenile Products Manufacturers Association, Inc.

**Chair Cohen:**

[Roll was called. Rules and protocol of the Committee were reviewed.] We have one bill hearing today, and we will have public comment. With that, I will open up the hearing on 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)**

**Senator Dina Neal, Senate District No. 4:**

You should have two amendments; one that lays out deletions from sections [[Exhibit C](#)], and the other amendment changes the *Nevada Revised Statutes* (NRS) Chapter 459 to NRS Chapter 597 [[Exhibit D](#)]. I want to quickly state, the second amendment was not presented on the Senate side, because former Senator Settelmeyer said he thought it was in the wrong chapter. I went to Legal Counsel, and they agreed that it belonged somewhere else.

Senate Bill 76 (1st Reprint), what does it do and how did I even encounter this bill? The focus on perfluoroalkyl and polyfluoroalkyl substances (PFAS) has been around for a long time. However, it has been in recent years that the federal government has started to take action. There have been several ways in which PFAS bans have been administered: some through state law, some through agency action, and others through some cleanup that has happened through the Environmental Protection Agency (EPA) or environmental organizations within states who established rules to target cleanups of PFAS.

One of the first states that I want to point out is Maine. In 2021, Maine passed a law banning PFAS in all new products, and it was a landmark moment. The measure will not take effect until 2030. It bans any intentionally added PFAS, allowing for exceptions in products that are essential for health, safety, and the functioning of society. The PFAS ban was sweeping in Maine. However, S.B. 76 (R1) takes the very narrow approach that was presented in Colorado, and further narrows the approach with some amendments that were taken on in the Senate hearings.

I want to start off with a couple of things because I never expected this bill to bring the level of opposition that I have received. It has been interesting seeing who cares about the language of this bill. I am sure you have all received emails about the labeling. I have even heard that I was violating free speech, that it was compelled speech. Of course, I disagreed with that. I looked and I said, Okay, let me take a step back.

How is it exactly that I am able to bring this bill? Number one, the states have powers to do economic regulation. Number two, that power is vested from police powers. It is one of the strongest powers that we have in the state, which is to do economic regulation of a business or an industry. Number three, when we talk about compelled speech, this is another place where the states have power because compelled speech is looked at in the court as having a lower level of scrutiny. There was a recent case in 2019, it was *American Beverage Association v. City and County of San Francisco* where there was a challenge saying that it was compelled speech. They argued that the state was somehow improperly restricting commercial speech. Then I said, Okay, what is the rule? Number one, the Ninth Circuit Court of Appeals cited and analyzed the *Central Hudson* case that said that the government may restrict or prohibit commercial speech. The restriction must advance the government interest asserted and it also must focus clearly on that government interest and must be closely aligned to that speech.

In the case of PFAS, we have a health and safety concern for our citizens. We have a chemical that, because of its chemical makeup, does not break down. It is called a "forever chemical" because it stays in the environment forever. It has an effect of staying: you can breathe it in, and it can be in your water. You can have contact with it—the studies are still ongoing—that will have a negative impact to not only your children, but to you as an adult, and it will stay in your environment.

The other thing that I looked at in trying to figure out if I am in violation of compelling speech was a second rule that said that the government may compel truthful disclosure in commercial speech as long as the compelled disclosure is reasonably related to a substantial government interest. In the case in the Ninth Circuit Court of Appeals, they cited *Zauderer* where the defendant claimed that there was an undue burden. The court said that you have to prove that the warning is not justified and that there is an undue burden. Then I said, Okay, let me go back and look at my language and see if I am somehow justified in asking for a warning on a chemical that is being produced in products that are causing harm, not just in the state of Nevada, but nationally.

It just so happens that when I presented this bill to the Senate, we did not even have the Swan Lake story. That was some sort of cosmic alignment that there would actually be a legitimate case in Nevada where PFAS has been found. The only thing that I had on the record was everything from other states. Hawaii found it in their water, and they took action. California took action to ban PFAS in cosmetics and textiles, while requiring companies to report data on other products. Washington allowed their State Department of Ecology to issue PFAS regulations within three years, making it effective in 2025. Michigan allowed their regulators to craft rules for the past several years to determine the levels of PFAS compounds found in drinking water, groundwater, and surface water.

I was not new to the party on PFAS. I just happened to be bringing a bill in Nevada where it raised all kinds of alarms, asking: What is she doing? Why is she doing this? I thought she was probusiness. I thought she was friendly to business. I do not think I am antibusiness. I think that I am trying to figure out how, if you go buy a set of cooking pots, that the slick coating on that set of pots is not going to kill my child. That set of pots that we want to cook Salisbury steak in is not going to suck up some chemical that is going to reside in my body, or my children's bodies, or my neighbor's body for 25 years.

I also want to make sure that the plastics that are covering our food are not going to find their way into our water, or into our trash, or whether that chemical is going to soak into chicken, ground beef, or anything else. I did not realize how serious it was until I started looking for pots. I was like, Wait a minute, what is going on? I am buying things that may kill me. I am using things that I have had in my possession that basically when it heats up, could potentially have this fluorocarbon filter into my food, and I am going to eat it. Then I said California did it, but I do not know if I care too much about what they are doing. But when Colorado did it, I thought, All right, now I have a law I can build upon. Sometimes California goes too far for me. I built this language off of what Colorado did. The National Conference of State Legislatures (NCSL) did a national story on PFAS. That was when I decided to bring this bill.

Now that you have a general sense of why I brought it, we can get into what the bill does. As I go through a high-level review, I will talk about the amendment [\[Exhibit C\]](#). If someone is in opposition to the existing amendments, I can tell you this: I looked at the Food and Drug Administration (FDA), and I looked at EPA, and I was trying to figure out what is currently in place around PFAS labeling. The EPA has been moving pretty quickly. They actually have ecolabels that they have created, which is where I got it.

If you look at the bill, sections 1 through 10 create definitions. Section 11 talks about "intentionally" adding PFAS. The term includes, without limitation, these substances that intentionally break down. Section 11, subsection 2, states, "The term does not include the use of recycled materials which may contain" PFAS. I accepted that because it made sense. How can you track what has already been recycled and then determine whether it has PFAS in it? That makes sense to me. Section 11.5 was an adjustment of the language for "juvenile product." When you read it, this was captured from the Colorado language which laid out

that they were trying to go after children's products. The opposition that I had on the Senate side was we had "children's products" and we needed to match "juvenile products," so I made it look the same. In section 11.5, subsection 2, the term has exclusions.

Section 12 defines "manufacturer." Section 13 defines "package." It then goes on to packaging components. Section 15 defines PFAS, which was defined and described prior to this bill by Assemblyman Watts. This is an adaptation of what he had. There were individuals who opposed that definition, but I did not change it. Section 16 defines "product." Section 17 through section 19 defines "textile," "textile furnishing," and "upholstered furniture." Section 20 states that sections 2 to 23 do not apply to the extent that those provisions are preempted or in conflict with federal law.

Section 21 is where the amendment steps in [[Exhibit C](#)]. There was a lot of opposition to the language of section 21, subsection 2. This is where the argument came that it was compelled speech and was going to cause confusion, that I was adding in language with not only bilingual requirements, but also forcing a label to exist that they are not sure how it would fit on their product. I went looking to see what EPA has done on this. What I found was that EPA had recommended standards and ecolabels. They started this process to have labels for PFAS on January 1, 2023. I decided I would adopt that because when I looked at all of the language on the EPA website, they said that a lot of businesses agreed or liked the ecolabel because they felt it was not discriminatory. They felt that having one symbol across all products was fair and that they were not going to have one person see their product versus another and say, Well, because this one has intentionally said that it did not have PFAS and maybe that is suspect. This kind of gave an equal playing field by adopting the ecolabel. Because they are already established, I put in the amendment that the manufacturer must adopt and apply the EPA standard specifications and recommendations. Is it continuing to go through the process? Yes, but they have a very long list of where the ecolabel should apply. By putting in the language, the assumption is that as EPA grows and gets more definitive, probably the ecolabel will too, and, therefore, the manufacturers should follow that policy.

In section 22, subsection 1(a)(1), I amended it saying the same thing about adopting the ecolabel. Section 22, subsection 1(a)(2), says the statement must accompany the product. There was a comment that you are asking me to do all these things, and I am not sure that I can do all of these things as a business. To me, you put the symbol on the product, it is an ecolabel, and you should have a statement that accompanies the product. How many times do you open a can of soup or something and there is a label that you can peel off and it will give you some instructions? If there is a product saying you have not intentionally added PFAS into your product, then we are at least having a conversation about what PFAS is. How is it not a part of this product? The Environmental Protection Agency has been doing this road map on how to educate the nation on PFAS.

The next amendment [[Exhibit C](#)] on section 22, subsection 1(b), I continued to make the conforming changes so that it is equal, whether you are a brick and mortar or online sales, the standards are the same with the ecolabel. In section 25, subsection 1, I changed the

effective date for sections 1 through 23 to be effective on July 1, 2024. In section 25, subsection 2, for the selling of the product itself in section 24, I made it October 1, 2024. There was a lot of opposition that I had on the effective date when it was heard in the Senate, and at the time, I needed more time to think and process the date. I did not want to put it to 2025. I have no interest in moving the date to 2025 and the next legislative session. Here is the reason why: because of what I experienced on this bill and trying to change policy that happened in 2021 and literally saying, I would like to change the definition in 2023. I want it to go into effect in 2024.

On number 8 of the conceptual amendment [[Exhibit C](#)], I put in "AMEND and ADD conforming language where appropriate related to products covered by Food and Drug Administration (FDA) and any EPA language that affects food packaging with PFAS." I found that there are already regulations adopted by the FDA on authorized uses of PFAS in food contact applications. My expectation and intent here is that as EPA continues to develop and really streamline what the standards are, FDA will follow. There should be some overlap. The next sentence says, "In addition where FDA and EPA has jurisdiction over products not excluded in this bill, the manufacturers language access policy must conform to 'Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency'." This is because I had opposition to the bilingual piece.

Then I went looking. Was there any point where EPA or FDA adopted a language policy? The answer was yes. Actually, there was a language access plan that was adopted on May 9, 2011, which included a series of agencies. It included the Department of Agriculture, EPA, FDA, the Federal Communications Commission, the National Council on Disability, the National Endowment for the Arts, Pension Benefit Guaranty Corporation, the Railroad Retirement Board, Social Security Administration, so on and so forth. Once I found that I said, I cannot be burdening you with the language access plan when the federal government has already established and required that an agency create a limited English proficiency plan knowing that there are citizens in the United States who have limited English proficiency. It is of our interest to make sure that they can understand the product which they are going to use. With that, I will close my remarks, and I am ready for questions.

**Assemblywoman La Rue Hatch:**

I think this is a really important issue, and I think protecting consumers is something that is our job here in this building. I appreciate that you are fighting that fight. My question is on the ecolabels. Given that it is a federal designation, is there any fear that it may be something that does not continue if there is a change of administration or a federal law that we now have this in statute that does not exist anymore? I do not know the history of ecolabels, and maybe that is not a concern.

**Senator Neal:**

I thought about that, too, since they started this conversation in January 2023. I also thought about making default language in my amendment saying that if ecolabels fail to exist, then the default would be what has been the standard, which is this: I did not intentionally add

PFAS to this product. I am always thinking about the catchall. That is what I would add into this bill. I did not bring it in here today, but I have been thinking about when I put the language in there, how I should say "if and when or failure to" and add the default. I recognize that would be a potential argument that someone would bring to the table and say, Well, you know, she is putting these burdens on us, and what if it does not happen and we are having to comply with something that may not be in existence in the future? After this hearing, I intend to provide additional changes to try to deal with that catchall. I have gone through enough in this building and on this bill that I am considering all of the ifs and the whens.

**Assemblyman Gurr:**

Are you going to address all the amendments that were on the bill? What about the Motorcycle Industry Council's amendment [[Exhibit E](#)]? Have you looked at that?

**Senator Neal:**

I have not seen that amendment. Can you tell me what it says?

**Assemblyman Gurr:**

They are trying to exclude youth off-highway vehicles from the PFAS ban in S.B. 76 (R1). Are you not seeing that? It is on my list of exhibits.

**Senator Neal:**

I can tell you of all the companies that have contacted me, and that is not one of them. I have been contacted by dairy, consumer labels, the toy industry, the American Chemistry Council, and the people who do biomedical biologics. I have not seen that one. I will definitely look at that and review it.

**Assemblyman Gurr:**

It has to do with their safety equipment more than anything else. I think it is for the juvenile off-road toys that they play with. It would be a good thing to see what they are saying, to see if it makes any sense at all.

**Senator Neal:**

I will look at it, but if it is a children's product where there is PFAS on it and it is a toy motorcycle, I have not read it. If there is potential where a kid can lick it, I am probably not going to accept it.

**Assemblyman Gurr:**

I think these are motorcycles for kids under 12 years old, not toys.

**Senator Neal:**

I will look at it. I appreciate your highlighting that for me.

**Chair Cohen:**

I want to go back to what you just said about a child licking it. Last week on the plane to Las Vegas, I sat next to a firefighter who was telling me about issues with PFAS that the firefighters are having, and they are definitely not licking their gear. They have a lawsuit going on. The issue with PFAS is not necessarily just consumption, right? It can also be having contact to the body,

**Senator Neal:**

Yes, you can experience it in multiple ways, but I am thinking about children. I have carpet and when you think about contact, breathing it in, laying on something that has PFAS, and the constant connection, it can enter the body in different ways. I was being facetious with children. I had little kids who had a little motorized something and I distinctly recall even the battery potentially going in their mouth. I was like, Wow, okay, slow it down, take the batteries out, take the car out of your mouth, and put that over here. Then you can continue to play differently.

**Chair Cohen:**

I just wanted to make sure we had a clear record.

**Assemblywoman Hansen:**

I am completely impressed by how much work you did in anticipating the possible interplays and the questions. As I looked at the bill and was starting to look up some of the questions, you already addressed them. There is a lot going on at the federal level, and I was thinking, How does this play at the state level? You addressed a lot of that. We can see that there is a lot of movement on the national level and a lot of states addressing this while waiting for the national agencies to take some action. That being said, in section 21, subsection 1, where it says that a manufacturer shall not sell or offer to sell, there is a list of carpets, rugs, fabric treatment, and so on. I am curious, it says the "manufacturer," but what about the person who is selling something at a flea market? We have people who sell new products at flea markets, but they are not the manufacturer. How will that work for people who might unintentionally be selling these products that might have PFAS in them at those kinds of venues?

**Senator Neal:**

In the prior version of the bill, I had affiliated or affiliated products. I know people talk about the chain of command, but—or ultimately—if it is being manufactured at a certain point after the effective date of this bill, the expectation is that it is labeled. It is also the expectation that whatever that product is that is being found at the flea market after July 1, 2024, there should be some kind of notice that is going out regarding that product. I never considered that someone would be buying carpet at a flea market; I have never seen that. I think in that case, I would have to probably deal with if it is recycled or reused. I only have recycled in here; I do not have reused. If it is a new product, the seller got it from somewhere, he got it from a manufacturer. The idea is that this is now being triggered after the effective date of July 1, 2024, from not selling, and then you go to October 1, 2024. I would be willing to look at a product that is reused or found at a thrift store, a flea market,



or something like that because you cannot know where it came from; you know where it came from but because it has passed hands 5 times, 10 times, or 15 times, you do not know where it came from. I would be willing to add that in; that makes sense. I am a thrift store person, so I potentially have old PFAS in my house.

**Assemblywoman Hansen:**

I do not expect a lot of micromanaging on this. As I think about this more, these sound like very dangerous chemicals. I would expect, if it is that big of a concern, which it appears to be, that we can hope for some sort of national ban. I do not know what that looks like, but that being said, an educational campaign, for sure, for grandfathering products that are going to be out there on the market, so at least the consumer can be educated. You are going to try to label things going forward. Then looking at what we do about these products that are in the past. This is a buyer beware sort of thing, not that I expect you to address every single jot and tittle in the bill. I am just curious as we look at this from the state level.

**Assemblyman Yurek:**

I apologize for walking in late on your presentation. I also apologize if you addressed this issue in your presentation. As I read through this, it sounds like there definitely is a dangerous product and from a consumer protection standpoint, it is a very important piece of legislation. I know that from my prior experience as a law enforcement officer, sometimes without any enforcement of these things, people do not always necessarily volunteer. I am curious, what is the enforcement mechanism? Did I miss that? Did you cover it in your presentation? In other words, who is in charge of enforcement? For example, section 23 talks about a civil penalty of \$1,000. Does this create a private cause of action or is there a separate enforcement within the Executive Branch that will be enforcing this?

**Senator Neal:**

Being that the chapter is going to change from NRS Chapter 459 to Chapter 597, it would ultimately become a private right of action.

**Chair Cohen:**

Looking at the ecolabels page on the EPA website, there are some products that do not have ecolabels yet. Are you saying that the companies are supposed to create their own version of ecolabels for something that does not exist yet? Or as they exist? We see that the EPA is going to be making them more and more; the company has to pick up on them and use them as they exist.

**Senator Neal:**

It would be as they exist. The website says EPA's recommendations and specifications. On the side, it says whether it is required or optional. I am expecting that as they continue to move through this process, which started in January 2023, more products will be added as the EPA finishes the process of building this framework. That is why I was saying that I need to add that "if and when" language to the bill. This was my amendment for the opposition that I had against the actual statement that was listed in the bill, in section 21, subsection 2, that no PFAS or substances were intentionally added. After getting a series of emails, I went

to this because there should be a label on the product. I have seen a "no PFAS" sticker at a dollar store. If I can see a "no PFAS" sticker at the Dollar Tree, then a larger company can do the same. When I saw that the EPA had the ecolabel and the narrative was that they saw it as fair, they saw it as not discriminatory, they saw it as not having confusion, I thought, Well, EPA is moving in this direction. It probably makes sense to add this on because it looks like a lot of businesses agreed with the policy about adding that label. That is why I decided to do it.

**Chair Cohen:**

With the Executive Order 13166, as far as I understand, that is an order for federal agencies to follow, but this bill would be for private companies to follow?

**Senator Neal:**

When I got the opposition just a few days ago saying I was compelling speech, I started to look at why would they say that having a language requirement is a burden, on top of some other things. When I found that executive order, I thought that if this has been around since 2011, and it covers all of these agencies that are regulators of companies, that somehow the footprint of a business crosses over the FDA, the footprint of a business crosses over the EPA, it crosses over these areas. Would that language access plan not then be passed down through the regulatory process? If the language access plan has been there at the federal level in order to make sure that what you are administering is in a language for someone else to understand, then why could that not apply here? In my mind, I was going after the argument that it has already been done. If the feds could do it in 2011 and say there is a language access policy that they were implementing through their agencies who regulate businesses, then why could it not be applied in the state of Nevada? I would rather we create our own language access plan, but those bills are moving through this session. I applied that because the way I have always understood it, when we look at federal agencies, they are the ones who are implementing regulatory policy that businesses follow. If that is the case, then that language access plan also filters through their regulations.

**Chair Cohen:**

I do not know if you are going to know the answer to this, but does that mean if I buy a cleaner at the store, and it has multiple languages on it, is that probably because the feds have required the producer to do that? Or is that because the business chose to do that?

**Senator Neal:**

I do not know the answer to that. This is what I know: I know that when you have a vacuum or when you have a hair dryer, the directions are in French, Spanish, Chinese, English, and some other language. That has been an adoption of policy for a long time. I have seen multiple products that, when you uncover the label—whether it is Theraflu or a vacuum—it is being printed in multiple languages. What I do know is that most regulatory agencies have adopted some policy which a business is conforming to. I only know that from this administrative law piece. If someone such as Legal Counsel has more breakdown on an administrative law, the way that I know it works is that an administrative agency proposes regulations, they go through the process of implementing a public comment period, and they

get businesses to weigh in. The public comment period closes, and then a regulatory process is finalized, and that is when the regulations are adopted and applied across the board to businesses.

**Assemblyman Watts:**

As you referenced, I have some familiarity with this issue. The first legislation in this state that addressed this was Assembly Bill 97 of the 81st Session. It actually did address certain childhood items, upholstery, and other things that had fire retardants in them that are toxic. I pulled up some of that legislation to compare it to the bill and some of the amendments you presented. It included language around manufacturers or wholesalers not knowingly manufacturing, selling, offering for sale, distributing for sale, or distributing for use. Those were some of the issues that were brought up by some of my colleagues. The focus on the manufacturer delivering those products to be sold new in the state, I think a lot of that language tries to aim at that. It is aimed at that manufacturer, at that initial new sale level as opposed to used or resale. Without getting into all the details of what was in there and what was covered in the bill, it included the provision that if somebody violated it, they are subject to a civil penalty of \$1,000, so there is a lot of alignment there.

This was in the 2021 Session, and those sections became effective on July 1, 2022. I believe that aligns with some of the proposals in your latest amendment. I just want to put that out there and say I appreciate your efforts on this. It is an important issue. I started to look at this with some of the issues that firefighters have seen because of their significant exposure through both their protective equipment, which we did not address, but also with the use in firefighting and in training and trying to limit the exposure to these chemicals that our first responders had.

I will note, and I know that the Division of Environmental Protection is here, that we also called for the formation of a working group to look at these issues and to try and keep up with all the issues that are going on in the federal government and figure out how we can also take action to try and address these things. There have been a lot of moving parts. Ultimately, I commend you because I know this stuff is in food packaging. All those waxy boxes, what makes them waxy in a lot of cases is PFAS. The coating on nonstick skillet is PFAS. I did not bring it up at that time because I was trying to open the door to even considering what to do about these. I appreciate all the work that you are doing to try and address this. I did forward you two comments that I received today as a member of the Natural Resources Committee, and it looks like they were not shared with you, as the bill sponsor. I hope anybody who has feedback on this bill not only shares it with members of the Committee, but shares it with you, the sponsor, as well.

**Senator Neal:**

Can you identify what the feedback is? I could be reading it while I listen to my opposition. I probably will hear it, but I am trying to figure out what I missed.

**Assemblyman Watts:**

I do not know if you missed it. I do not know if you received it. It seems like members of this Committee received it. We received a message from the Motorcycle Industry Council, the Recreational Off-Highway Vehicle Association, and the Specialty Vehicle Institute of America [[Exhibit E](#)]. They are asking to exclude youth off-highway vehicles or specific components of them from the provisions of this bill. They noted that because they did not want potential safety concerns from those items not being available to young people. Those are also exempted from certain lead requirements, which I personally found concerning; that is a different issue. They provide some background on that. There was also a message from the Association of Home Appliance Manufacturers asking to remove the "but is not limited to" language for the definition of cookware.

**Senator Neal:**

I did see that one; they did ask for that. When I looked at their definition, they removed the word "any" out of my bill. I have any pots, and any skillets, and they removed "any." I was wondering why do you want to remove "any"? Is there some new definition of pot or skillet that I am not aware of that would not delineate the word "any"? They said that there was California language, and I did correspond with this person back and forth, but I did not feel like I should accept that amendment because why would I strike out the word "any"? I do not want it to be limited. Now, all of a sudden, we are trying to define pots. I had a person say, I need you to define "use." I said no. We are going to go with the plain language, Webster's definition of "use" and I am going to leave it right there. We know the default is that if it is not found in some legal dictionary, then it would be the plain language of what it means. That is why I did not accept that amendment; I did not want to remove the word "any." I did the comparison and I selected for the purpose of the policy to keep the word "any" in my definition.

**Assemblywoman Bilbray-Axelrod:**

Thank you for your thoughtful attention to every aspect; I am always in awe. I would not accept any amendments because I think we should know what is in our products. I think that is what we, as consumers, are entitled to when we are purchasing something. I am shaking my head because I am thinking cigarette warnings; I remember the same argument that "we could never get that warning on that tiny little package." Now, the warning takes up a big portion of the package. I think your bill is great; it is showing that the product does not have PFAS. I do not understand why we are not showing products that do have PFAS in them, quite frankly. That is what I would want to see, rather than products that do not have it. I am kind of scratching my head. Why is there opposition to this at all? I do not know if there is a question there.

**Senator Neal:**

I have read whatever amendments or opposition that came in over the weekend. I have had about 36 minutes of free time today between Senate Finance, the floor, Senate Education, and then I am right here. I think business is always protective of business. I have moved policy that is probusiness. I just had a bill the other day on this side of the house. I think this is where we try to find the balancing act between your being a business and making a profit

at the expense of harming citizens. This bill on PFAS is a continuation of an issue on trying to find that balance: How do you make a product that is sellable for a purpose and try to eliminate the harm that would be caused long term? It is called a "forever chemical" because it is forever. I do not think people knew at the time, but the research has been uncovering itself since 2007, from my research. Assemblyman Watts may have gone deeper, but from what I saw, in 2007 it started to pop up from PFOS [perfluorooctane sulfonic acid], then PFAS, then PFOA [perfluorooctanoic acid], then people started to really understand and say, Wait a minute, this is not breaking down, it is not dissolving. Then the EPA slow rocked it this whole time.

Now that there has been increased impact on water—increased impact and more studies that can identify that it is having a negative response on human beings, not just animals—they presented a road map for the states. Once that road map for the states came out, I thought, there is enough movement on this to start having legislation. It was not until NCSL produced a story in the summer and I thought, All right, I will take this on. I have been thinking about it, but I wanted to see how far along we are.

I did not realize how much opposition I would get. I am okay with the opposition; drama comes with every bill that we move in this building. You have someone who hates the bill and is going to use all of his energy and effort to kill this bill. That is fine, and I have every right to use all of my energy and effort to try to pass this bill. Hopefully, the business industry that comes up will say, She did not accept my amendment. Was I being unreasonable when I did not accept your amendment? Or were you trying to gut or kill my bill? Ultimately, if the language you were going to put in there was going to dilute the definition, why would I accept that? If there was language that you were going to put in there that was going to really go after one of the central things that I wanted to deal with, which was pots, I am not doing that.

When the dairy industry came to me about the labeling and started talking to me about confusion, that made sense to me. I was okay and said, Let me look for a solution. Then I got other amendments saying, We would like to remove the stuffing that is inside of the fabric. Why would I do that? The stuffing can come out and still find its way into somebody's throat or somewhere that it should not be, such as the water. I thought, Now you want to tear apart the thing? Now you want to ask, Can you at least exempt the thing that is inside of the thing that I am trying to regulate? I am not accepting those amendments because ultimately PFAS is dangerous. We need to get control of it. This is not the first state to do it.

I asked the opponents, What did you oppose in Colorado? If you could share with me what you opposed in Colorado, that would be helpful because the version of their bill is a scaled-down version that I have right here. Apparently, it moved and that is right across the way. They do not necessarily have the same issue of drought and all these other things that we have. Why are you opposing it here when they passed something a lot more comprehensive across the way? Now you want to say that you want to limit it here. I already scaled it down, and I do not know what more I would do. I am going to consider

this motorcycle piece after I read it. Other than that, when you start dismantling the product and saying, Can you make this piece not be a part of the bill? Ultimately, we are saying that some form of foam, fabric, or thing can still have PFAS in it, just take it out. It is up to the wisdom of this Natural Resources Committee on the Assembly side to make your decision on what you are going to do on S.B. 76 (R1). I am bringing the bill to you. I have worked into the amendment what I felt was reasonable [[Exhibit C](#)], but it is the wisdom of this Committee to make a decision about what you want to do. I leave it up to you, for your will and the will of the Chair and the Vice Chair, to make decisions about S.B. 76 (R1). We have to deal with forever chemicals, and if we do not deal with it now, it is going to deal with us.

**Chair Cohen:**

Seeing no other questions, I am going to move on to support in Carson City.

**Christi Cabrera-Georgeson, Deputy Director, Nevada Conservation League:**

We are here in support of S.B. 76 (R1). All PFAS are toxic chemicals that can contaminate water, harm the environment, and are linked to numerous health impacts even in very low quantities. These chemicals do not break down in the natural environment and can find their way into our soil and drinking water. They can also accumulate and remain in the environment, wildlife, or our bodies for extended periods of time. Because of this, they are commonly referred to as "forever chemicals." This bill is a step in the right direction to keep Nevadans and our environment safe from these harmful chemicals. We would like to thank Senator Neal for bringing this forward, and we urge the Committee's support.

**Patrick Donnelly, Nevada State Director, Center for Biological Diversity:**

We support this bill. We appreciate all the work Senator Neal has done introducing it and shepherding it along. The amendments seem to make a lot of sense. Please support this measure.

**Chair Cohen:**

Seeing no one else in support in Carson City, Las Vegas, or Elko, is there anyone on the phone?

**Mathilda Guerrero, Digital Manager, Battle Born Progress:**

We are in support of Senate Bill 76 (1st Reprint). We thank Senator Neal for putting this critical measure forward. Forever chemicals have shown to persist in the environment for decades and have been linked to a wide range of health concerns. Scientific studies have shown that exposure to forever chemicals may result in decreased fertility, impaired immune functions, increased risk for certain cancers, and developmental effects in children. For example, a study published in the *Journal of the American Medical Association* found that individuals with higher levels of PFAS in their systems have had a 50 percent higher risk of miscarriage compared to those with lower levels. Another study published in *Environmental Health Perspectives* found that children with higher levels of PFAS in their system have had lower levels of antibodies indicating impaired immune functions. We urge your support on this bill.

**Teresa Crawford, Member, Toiyabe Chapter, Sierra Club:**

My remarks are also on behalf of Bari Levinson, cochair of the Legislative Committee. She is a retired physician, and I am a retired nurse. We are so grateful to Senator Neal for all of her great research on the harms of PFAS and measures to reduce it in our environment. Pregnant women and children are at higher risk of exposure to these chemicals—especially children for whom the amount of a burden per body weight is definitely harmful—and the chemicals are also known to harm wildlife. As Senator Neal mentioned, there is a lot of movement. Many fast-food corporations have switched to PFAS-free packaging, and the federal bipartisan amendment to ban these chemicals and food packaging passed the U.S. Senate committee last year. This is too great a risk to accept for human health and the health of wildlife in our environment here in Nevada. We say ditto to all the other excellent testimony. This legislative session is an excellent opportunity for Nevada to begin our PFAS-free journey. We urge all of you on Assembly Natural Resources to support S.B. 76 (R1).

**Chair Cohen:**

Is there anyone else on the phone in support? Hearing no one, I will move to those in opposition in Carson City.

**Tray Abney, representing Glen Raven, Inc.; American Bakers Association; and American Chemistry Council:**

We are in opposition to this current version of S.B. 76 (R1). I do want to put on the record that the American Chemistry Council reached out very early—prior to session, prior to this calendar year—to Senator Neal to talk about this bill and these issues. The language you see in the first reprint reflects some of those conversations: the manufactured-by date and the recycled content that Senator Neal mentioned. Our concern lies mainly with the new labeling requirement that has been talked about extensively here. That was not in the original bill. Although the private right of action gives us pause now that we learned about that just now.

We want to point out that 95 percent of products in the market do not have PFAS. This bill is asking companies that make products which have never had PFAS in them to start saying that these products do not have PFAS in them. We believe it is essentially a penalty for manufacturers that do not use the chemicals, that it is punitive, expensive, and burdensome to good actors. I should point out that no other state, not even Colorado, has this type of requirement. To Assemblywoman Bilbray-Axelrod's point, California does have something similar, but it is inverse. California has a law that warns you that you have something potentially harmful, not a label that says something is safe.

From the American Bakers Association's point of view, this could impact retail bakers who use boxes that do not have PFAS in them. Difficulty complying with one state law, when you are talking about supply chains and things that move across state lines, could actually limit the types of baked goods and products that are offered to Nevada consumers. The vast majority of packaging does not contain and has never contained PFAS.

We are not against the underlying principle of this bill and banning this chemical. We have put our suggested amendment online that strikes out the labeling requirement and cleans up that language [[Exhibit F](#)]. This is not just a bill that limits PFAS. This bill does vastly more than that. We saw the new amendments at about 9:30 this morning and appreciate Senator Neal for sending that to us. We have been digging into ecolabels today, and from what we have learned, private companies create ecolabels. According to my client, there are not sufficient test labs, and these ecolabel companies charge \$10,000 per year for you to have that label on your product. These are created by private companies, nongovernment organizations, and associations. There are hundreds of valid ecolabels and certifications in these markets and product categories. The EPA created this list as a simple education and never intended for it to be used to set policy and regulatory requirements. For all those reasons, Madam Chair, we oppose S.B. 76 (R1).

**Assemblywoman Anderson:**

I am confused as to why we also have the information sheet from the American Bakers Association with the economic impact [[Exhibit G](#)]. How exactly does that help us understand the information that you are bringing forward for the amendment? Could you explain that a little bit more.

**Tray Abney:**

That was provided to me by the American Bakers Association. They feel that this legislation is harmful to them and the business that they do in this state. They wanted to provide the Committee with background on the number of jobs they provide and the benefit that they bring to the state.

**Bryan Wachter, Senior Vice President, Retail Association of Nevada:**

We, too, are in current opposition to Senate Bill 76 (1st Reprint). It is our intention to hopefully be able to arrive at a piece of legislation that the Retail Association of Nevada does not have to oppose. I will not be redundant and echo the comments, although I agree with what Mr. Abney just testified to. To clarify, those ecolabels—we just learned of the amendment this afternoon—are more of a tool designed for the federal government and their federal procurement system. It allows and gives information to federal agencies that are presented with information from voluntary vendors as to whether they meet those federal purchasing standards.

We would again echo the comments of Mr. Abney in that we are not entirely sure that is appropriate for the intent of the bill. We also oppose the implementation dates. This bill currently contemplates that we have about 500 days from today to be in compliance. We are talking about global supply chains. I can tell you that our Association has been a little frustrated. Every time this bill is presented, it is in a different format, and it has different language: some of it has been added, some of it has been taken out. It is making it very difficult to be able to track down and to interpret the consequences of what we are going to have happen and how we are supposed to respond to the overall supply chain.



We would also be interested in changes or clarifying the definition of "ingredients." The federal government has a definition that the FDA uses. We feel there could be some additional clarification on the ingredients. We do thank Senator Neal for being a champion on issues like this. We hope that we are able to get to a place where we can comply with it. When you look around the country at different states that have enacted this, this would be the quickest implementation date. You heard earlier that Maine has an implementation date of 2030. California is 2025 or 2026. I cannot remember off the top of my head. Having an implementation date of 2024 would make it very quick. While we want to comply, we are not sure that we can comply under those time frames that are contemplated in the current bill. My last comment is that we have yet to have an opportunity to get all the interested stakeholders in a room to understand how all of these amendments play with each other and understanding the issue and trying to target the intent and getting to a piece of legislation that, to Senator Neal's point, does not need to be fixed or clarified coming into the 2025 Session. We believe there is still a lot of work left to be done. We hope to have the opportunity to be able to get that done and present to you a work session document that we can comply with and certainly fulfills the intent of the sponsor.

**Chair Cohen:**

Thank you. We know Senator Neal is always willing to meet with different groups and try to come to an agreement between everyone. Seeing no one else in Carson City, Las Vegas, or Elko, is there anyone on the phone in opposition?

**Brendan Flanagan, Senior Director, State Affairs, Consumer Brands Association:**

We are in opposition unless amended. Consumer Brands Association represents the world's leading consumer packaged goods companies from household and personal care items to food and beverage products. Our members are currently undertaking responsible efforts to eliminate PFAS from products and packaging, and we, too, are supportive of the underlying goal, eliminating intentionally added PFAS. However, we do have a couple of concerns which have already been mentioned.

First, we are concerned about the product label requirement under section 21, and the consumer confusion it would cause and the difficult compliance issues. Consumer trust is a top priority for our members. We believe such a statement would be confusing to consumers due to a lack of context and understanding. In addition, it would be very difficult to place such a statement directly on the label of many products, even more so for an item potentially as small as a yogurt cup, a granola bar, or a candy wrapper. Also, given that our members' products are of national distribution, we believe an individual state labeling approach causes additional confusion. We are not aware of any other state that has already restricted PFAS and has also included such a labeling requirement.

In addition, the effective date does not provide reasonable or adequate time for compliance. Product manufacturers need sufficient time to ensure compliance across their extensive regional, national, and international supply chain networks to complete elimination and secure alternatives. Relatedly, we would also request consideration for a reasonable

sell-through time period to allow for any products that were manufactured, distributed, or imported into the state prior to the effective date to remain in commerce for a period of time. Thank you for your time and consideration.

**Lauren Aguilar, representing Juvenile Products Manufacturers Association, Inc.:**

The Juvenile Product Manufacturers Association is also opposed to S.B. 76 (R1). I am not going to repeat all of the concerns because I think a lot of our concerns align with others who have testified today. The one concern I will mention I have not heard is that we have concerns with no threshold currently in the definition of "intentionally added." To align with other states, for example, California's Assembly Bill 652, there is a threshold of 100 parts per million for intentionally added. We have all been hearing today that PFAS is a forever chemical. Just within the manufacturing process, there could be PFAS on products without anyone actually intentionally adding it. We would really love to see a threshold added into that definition.

We also have concerns with the labeling requirement that was added to the bill; that has not been seen in any other state. We think that would have severe consequences for consumers to see things that do not have intentionally added PFAS for juvenile products. We do not add them into our products. It does not make sense to label something that does not have or did not have PFAS in it originally. We also want to echo the concerns of the supply chain with that labeling of products. Our manufacturers do not know where our products are going, specifically, when they are sold to retailers and others who then disperse them out. It really does not work for us in terms of putting this label on a product that would go just to Nevada. I also want to echo the sell-through statement; it would be great for us as well.

[[Exhibit H](#) in opposition to S.B. 76 (R1) was submitted but not discussed and is included as an exhibit of the hearing.]

**Chair Cohen:**

Hearing no more callers in opposition, I will go to neutral. Is there anyone in neutral in Carson City, Las Vegas, or Elko? Seeing no one, is there anyone on the phone? Hearing no one, I will invite Senator Neal back up for closing statements.

**Senator Neal:**

I take a couple of issues with a couple of things. Number one, they received the amendment [\[Exhibit C\]](#) this morning; an amendment was sent to me Sunday afternoon in my 24 hours that I was home. I got a text from Tray Abney around 2 p.m., saying that his client has an amendment. I said, Okay, I have an amendment as well. I will send it to you after 9 a.m. Why would I say that? Number one, because I have been home since 6 p.m. Saturday and then have one day at home with my family. I am going to be in the Senate Finance Committee at 8 a.m., so I sent the amendment when I had time to send the amendment. If somebody believes that my being probusiness is my taking my Sunday and going back and forth on an amendment that I did not know was coming, then you are incorrect. I am spending six days a week here in committee.

Two, is the Juvenile Products Manufacturers Association, Ms. Aguilar, and concerns over the labeling. I find it interesting only because you do not like the label. Nobody wants the label, yet the label is on the Colorado products. The EPA's website says the recommendations for ecolabels is to help purchasers identify and use private sector and federal environmental performance standards and ecolabels within the federal procurement system. They have been having conversations with businesses. You do not want the words there. You say the words are a problem? I did not create it; it came from another statute in another state. Now you do not want the sticker. Is it that you are just trying to throw dirt on the policy because you do not want the bill in its entirety, or you want to solve the problem? If you are saying you do not want the label, then how is it exactly that the person is supposed to know that you did not intentionally add the PFAS? At the same time, you want to have a conversation about the effective date and say the original effective date was January 1, 2024. I moved it to July 1, 2024. I moved the July 1, 2024, to October 1, 2024. That is not good enough either.

The conversation came up about Maine. Maine had a 2030 date because Maine included all new products. Everything. It was comprehensive. It did not scale it. It was also stated that other states have a longer effective date. Colorado's bill passed before this one. This has not passed, but we are talking about 12 months before. So that means that whatever Colorado was contemplating 12 months ago, which is almost identical to this language here, you are already doing that work or you should be doing that work to get yourself prepared. I am coming in behind a sister state and you are saying, But not right now, and I want a later date. Well, what is the later date? Is it 2026? Is it 2027? A portion of Colorado's is effective in 2025, and a portion in 2026. They started a year ago.

I also want to bring up the issue that the private right of action is now a concern. Well, I am not hiding the ball on anyone. The conversation popped up that NRS Chapter 459 may not be the right chapter. Former Senator Settlemeyer said, I do not think this should be here. I asked Legal if it should be in NRS Chapter 597 where we have other miscellaneous products that we regulate. The answer was yes. If there is no agency to be the enforcement arm, then you have to default to a private right of action because there is no agency that is then overseeing it. Now that is a problem.

Let me tell you something, one thing I do not do is hide the ball. It keeps changing, but it has only changed in the past 24 hours because I just worked on the amendment on Sunday after spending half of my day in Senate Finance and then on a plane and then going home. I worked on it on Sunday. The reason I did not send it out on Sunday is, Should I spend my last six hours going back and forth with you on an amendment I did not even know you were sending my way when I am at home? The answer is no, I do not work for the lobbyist. You do not get to take my time on the one day that I have at home and then come in this building and claim I am constantly changing the document. I have changed the document based on the suggested amendments to me. I have taken in the ones that were reasonable and made sense. Some of this is just straight dirt on the bill to kill it. Facts. I am not mad at the Retail Association of Nevada for being in that position; we will be friends in a couple of months.

I had the sale date provision, or had a piece in there that if it was manufactured or imported after a certain period, that is when there was going to be a new date that applied. I am looking through the bill. I was trying to make sure; it was actually in section 24 on page 7, lines 15 and 16, that any other textile or any other carpet or rug that was manufactured or imported before July 1 would have an extended date. Now that needs to be adjusted. Now I am hearing the sale date piece again, and I actually do not have a problem with that one. I have a problem with the characterization that, somehow, I keep in the shadows making changes to a bill and they do not have the benefit of seeing what it is about or what I am doing. I have not touched the bill since Sunday when I made those changes.

If the characterizations are that, you know, she keeps shifting and doing all of this stuff—first of all, I thought the ecolabels would simplify it. Put a label on the product. You do not want the words, but really what you are saying is, I do not want the label at all. That is actually not okay. There is no legislation that I could find that they would come in here and say, I accept it. I do not think they want Colorado's language. They certainly would not want Maine's. I did not even bring Maine's in here. I scaled Colorado's down. Now we are still saying it is not, it is this, it is that. I am saying, Fine, if you have a reasonable amendment for me, I will accept it. If your ultimate goal is to water the bill down so it is ineffective and you are just going to kill it, then you will be able to go back to the other clients and the industry and say, Look, she added this and that is the death needle.

You have all been in this building long enough where a member can give you an amendment that will kill your bill, which will create conflict, chaos, and confusion because you think they are helping you. What it is doing is sending a flare right into the air saying that now there are other issues with the bill. They did not have a say in the ecolabel, but I did not think there needed to be a say in the ecolabel because it was already out there. Honestly, I thought I could just have the label. I could just have the written language. It is not compelled speech; you would be hard-pressed to make that argument with me. You would be hard-pressed to win it in court. I would like to see you do it.

At the end of the day, I looked at the Motorcycle Industry Council's letter [[Exhibit E](#)]. They were talking about protective clothing and some other things. Some of what they have makes sense. Not all of it. The sale date makes sense to me. But some of the rest of this that just keeps changing, that is dirt. That is effective. Let me throw some dirt on the bill. I am the queen of throwing dirt on people's bill to kill it. That is what they are doing here.

Once again, I will continue to work on what I think is best and then I will take in some consideration. But what I noticed was that they are like, Oh, I just saw it at nine o'clock, and it is not what I wanted. It is probably not going to be what you want because, ultimately, your goal is that you do not really want S.B. 76 (R1) to pass out of this building. That may not be the end goal, but I leave it in the Assembly Natural Resources to make a decision about what happens.

I will work on the bill, and I will work on some pieces that make sense. But at the end of the day, forever chemicals need to be regulated in the state of Nevada. It is being regulated through agency process in other places. If you were to look right now and put in a state, you would find that there are several states that have moved either in policy or regulation. Why are you so against Nevada doing it? I am confused. Everybody knows that if you continue to keep throwing dirt on the bill, and you can continue to keep characterizing me as if I am not having an open mind to what you have to say, I am going to say that is not true. I am not going to accept anything that diminishes this bill. I am putting it out there. If you have something reasonable, I have accepted those reasonable amendments and they are in the reprint. Come to me with something reasonable. If you are coming to me with the dirt in order to cause conflict, I am smarter than that. I am going to research what you send me, and I am not going to accept it if it ultimately is the demise of this bill. If you have something that is wise and reasonable, I will listen to you as I always listen to you, but there needs to be a balance between business and forever chemicals killing people.

**Chair Cohen:**

With that, I will close the hearing on Senate Bill 76 (1st Reprint) and go into public comment. Is there anyone in Carson City, Las Vegas, or Elko wishing to provide for public comment? Seeing no one, is there anyone on the phone? [There was no one.] We will have a hearing on Wednesday. With that, we are adjourned [at 5:31 p.m.].

RESPECTFULLY SUBMITTED:

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Nancy Davis  
Committee Secretary

APPROVED BY:

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Assemblywoman Lesley E. Cohen, Chair

DATE: \_\_\_\_\_

## EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a proposed amendment to Senate Bill 76 (1st Reprint), submitted and presented by Senator Dina Neal, Senate District No. 4.

[Exhibit D](#) is a proposed amendment to Senate Bill 76 (1st Reprint), submitted and presented by Senator Dina Neal, Senate District No. 4.

[Exhibit E](#) is a letter dated May 1, 2023, submitted by Scott P. Schloegel, Senior Vice President, Government Relations, Motorcycle Industry Council, et al, in opposition to Senate Bill 76 (1st Reprint).

[Exhibit F](#) is a proposed amendment to Senate Bill 76, submitted by Tray Abney, representing Glen Raven, Inc.; American Bakers Association; and American Chemistry Council.

[Exhibit G](#) is an information sheet provided by American Bakers Association, and submitted by Tray Abney, representing American Bakers Association.

[Exhibit H](#) is a letter dated May 1, 2023, submitted by Lisa Trofe, Executive Director, Juvenile Products Manufacturers Association, Inc., in opposition to Senate Bill 76.