
ASSEMBLY BILL NO. 536—COMMITTEE ON NATURAL RESOURCES, AGRICULTURE
AND MINING

(ON BEHALF OF COMMISSION ON WORKPLACE SAFETY)

MARCH 15, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Requires certain permits to be obtained by facility or place of employment where highly hazardous substances or explosives are located. (BDR 40-781)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to public safety; requiring a permit to construct a facility where highly hazardous substances are located; requiring a permit to construct, alter the construction of or modify certain procedures at a place of employment where explosives are located; providing penalties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 459 of NRS is hereby amended by adding thereto
2 a new section to read as follows:
3 ***1. No person may commence construction of a new regulated facility***
4 ***unless he first obtains a permit from the division for that construction.***
5 ***2. An application for such a permit must be submitted on a form***
6 ***prescribed by the division.***
7 ***3. The division may require the applicant to comply with***
8 ***requirements that it establishes by regulation before issuing a permit for***
9 ***construction.***
10 ***4. The division may charge and collect a fee for the issuance of such***
11 ***a permit. All fees collected pursuant to this section and any interest***
12 ***earned thereon must be deposited with the state treasurer for credit to the***

1 *fund for precaution against chemical accidents created pursuant to NRS*
2 *459.3824.*

3 *5. The division shall adopt such regulations as are necessary to carry*
4 *out the provisions of this section.*

5 **Sec. 2.** NRS 459.3802 is hereby amended to read as follows:

6 459.3802 As used in NRS 459.380 to 459.3874, inclusive, *and section*
7 *1 of this act*, unless the context otherwise requires, the words and terms
8 defined in NRS 459.3804 to 459.3812, inclusive, have the meanings
9 ascribed to them in those sections.

10 **Sec. 3.** NRS 459.3872 is hereby amended to read as follows:

11 459.3872 1. If any person violates any of the provisions of NRS
12 459.380 to 459.386, inclusive, or 459.387, *or section 1 of this act*, or any
13 regulation or order adopted or issued pursuant thereto, the division may
14 institute a civil action in a court of competent jurisdiction for injunctive or
15 any other appropriate relief to prohibit and prevent the violation and the
16 court may proceed in the action in a summary manner.

17 2. Except as otherwise provided in NRS 445C.010 to 445C.120,
18 inclusive, a person who violates a provision of NRS 459.380 to 459.386,
19 inclusive, or 459.387, *or section 1 of this act*, or any regulation or order
20 adopted pursuant thereto is liable to a civil administrative penalty as set
21 forth in NRS 459.3874. If the violation is of a continuing nature, each day
22 during which it continues constitutes an additional, separate and distinct
23 offense. No civil administrative penalty may be levied until after
24 notification to the violator by certified mail or personal service. The notice
25 must include a reference to the section of the statute, regulation, order or
26 condition of a permit violated, a concise statement of the facts alleged to
27 constitute the violation, a statement of the amount of the civil penalties to
28 be imposed, and a statement of the violator's right to a hearing. The
29 violator has 20 days after receipt of the notice within which to deliver to
30 the division a written request for a hearing. After the hearing if requested,
31 and upon a finding that a violation has occurred, the administrator of the
32 division may issue a final order after assessing the amount of the fine
33 specified in the notice. If no hearing is requested, the notice becomes a
34 final order upon the expiration of the 20-day period. Payment of the
35 penalty is due when a final order is issued or when the notice becomes a
36 final order. The authority to levy a civil administrative penalty is in
37 addition to all other provisions for enforcement of NRS 459.380 to
38 459.387, inclusive, and the payment of a civil administrative penalty does
39 not affect the availability of any other provision for enforcement in
40 connection with the violation for which the penalty is levied.

41 **Sec. 4.** NRS 459.3874 is hereby amended to read as follows:

42 459.3874 1. The civil administrative penalties are:

<u>Category of Offense</u>	<u>Penalty in U.S. Dollars</u>
A. Failure to register a new or existing regulated facility:	\$25,000 plus \$2,000 per day from the due date
B. Failure to pay annual fee:	75 percent of the fee
C. Failure to submit a safety report:	\$10,000 plus \$1,000 per day from the due date
D. Failure to conduct an assessment of risk through analysis of hazards pursuant to the conditions set forth in NRS 459.3844:	\$25,000
E. Failure to put into effect plan:	\$50,000
F. Failure to comply with plan to reduce accidents and schedule of compliance:	up to \$5,000
G. Failure to comply with approved plan to reduce accidents, each requirement:	up to \$10,000
H. Failure to provide information requested by the division:	\$25,000
I. Failure to grant access to employees or agents of division for inspections:	\$25,000
J. Failure to provide information or grant access to employees or agents of division during an emergency:	\$50,000
K. Falsification of information submitted to division:	up to \$10,000 per incident
<i>L. Failure to obtain a permit for the construction of a new regulated facility: \$25,000</i>	
2. The division may compromise and settle any claim for any penalty under <i>as set forth in</i> this section in such amount in the discretion of the division as may appear appropriate and equitable under all of the circumstances, including the posting of a performance bond by the violator. If a violator is subject to the imposition of more than one civil administrative penalty for the same violation, the division shall compromise and settle the claim for the penalty under <i>as set forth in</i> this section in such amount as to avoid the duplication of penalties.	
3. No penalty may be imposed pursuant to this section for the failure to perform a required act within the time required if the delay was caused	

1 by a natural disaster or other circumstances which are beyond the control
2 of the violator.

3 4. Any person who violates any of the provisions of NRS 459.380 to
4 459.386, inclusive, or 459.387, *or section 1 of this act*, or any regulation
5 or order adopted or issued pursuant thereto, or an administrative order
6 issued pursuant to subsection 2 of NRS 459.3872 or a court order issued
7 pursuant to subsection 1 of NRS 459.3872, or who fails to pay a civil
8 administrative penalty in full is subject, upon order of the court, to a civil
9 penalty not to exceed \$10,000 per day of the violation, and each day's
10 continuance of the violation constitutes a separate and distinct violation.
11 Any penalty imposed pursuant to this subsection may be recovered with
12 costs in a summary proceeding by the attorney general.

13 **Sec. 5.** Chapter 618 of NRS is hereby amended by adding thereto the
14 provisions set forth as sections 6 and 7 of this act.

15 **Sec. 6. 1.** *Except as otherwise provided in this section, no person*
16 *may commence construction of, substantially alter the construction of, or*
17 *modify any procedures used to protect the lives, safety and health of*
18 *employees at a place of employment where explosives are produced, used,*
19 *stored or handled unless he first obtains a permit from the division*
20 *therefor.*

21 *2. An application for such a permit must be submitted on a form*
22 *prescribed by the division.*

23 *3. The division may require the applicant to comply with*
24 *requirements that it establishes by regulation before issuing such a*
25 *permit.*

26 *4. The division may charge and collect a fee for the issuance of such*
27 *a permit.*

28 *5. The division shall adopt such regulations as are necessary to carry*
29 *out the provisions of this section.*

30 *6. The provisions of this section do not apply to a person who is*
31 *required to obtain a permit from the division of environmental protection*
32 *of the state department of conservation and natural resources pursuant*
33 *to section 1 of this act.*

34 *7. As used in this section, "explosive" means gunpowders, powders*
35 *used for blasting, all forms of high explosives, blasting materials, fuses*
36 *other than electric circuit breakers, detonators and other detonating*
37 *agents, smokeless powders, other explosive or incendiary devices and any*
38 *chemical compound, mechanical mixture or device that contains any*
39 *oxidizing and combustible units, or other ingredients, in such*
40 *proportions, quantities or packing that ignition by fire, friction,*
41 *concussion, percussion, or detonation of the compound, mixture or*
42 *device or any part thereof may cause an explosion.*

1 **Sec. 7.** *If any person violates the provisions of section 6 of this act,*
2 *the division may:*

3 1. *Maintain an action in a court of competent jurisdiction for*
4 *injunctive or any other appropriate relief to prohibit and prevent the*
5 *violation. The court may proceed in the action in a summary manner.*

6 2. *Unless a greater penalty is provided in this chapter, require the*
7 *violation to pay an administrative fine of not more than \$25,000.*

8 **Sec. 8.** The amendatory provisions of this act do not apply to offenses
9 that were committed before January 1, 2000.

10 **Sec. 9.** This act becomes effective:

11 1. Upon passage and approval for the purposes of adopting regulations
12 and performing any other preparatory administrative tasks that are
13 necessary to carry out the provisions of this act; and

14 2. On January 1, 2000, for all other purposes.

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