

SENATE BILL NO. 378—SENATOR PORTER

MARCH 11, 1999

Referred to Committee on Finance

SUMMARY—Makes various changes relating to agriculture. (BDR 49-1532)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Contains Appropriation not included in Executive Budget.

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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 agriculture; providing for the establishment of a program for the eradication and control of certain noxious pests; expanding the definition of chronic nuisance to include the presence of certain noxious pests on property; granting the administrator of the division of agriculture of the department of business and industry the powers of a peace officer in certain circumstances; requiring public schools to provide instruction to certain students regarding certain noxious pests; making an appropriation; 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 555 of NRS is hereby amended by adding thereto a
2 new section to read as follows:

3 *The division shall adopt regulations to establish a program to*
4 *eradicate and control ants of the genus and species Solenopsis invicta or*
5 *Solenopsis richteri, or a hybrid of either, or bees of the genus, species*
6 *and subspecies Apis mellifera scutellata, or a hybrid thereof.*

7 **Sec. 2.** NRS 244.3603 is hereby amended to read as follows:

8 244.3603 1. Each board of county commissioners may, by ordinance,
9 to protect the public health, safety and welfare of the residents of the
10 county, adopt procedures pursuant to which the district attorney may file an
11 action in a court of competent jurisdiction to:

12 (a) Seek the abatement of a chronic nuisance that is located or occurring
13 within the unincorporated area of the county;

14 (b) If applicable, seek the closure of the property where the chronic
15 nuisance is located or occurring; and

1 (c) If applicable, seek penalties against the owner of the property within
2 the unincorporated area of the county and any other appropriate relief.

3 2. An ordinance adopted pursuant to subsection 1 must:

4 (a) Contain procedures pursuant to which the owner of the property is:

5 (1) Sent a notice, by certified mail, return receipt requested, by the
6 sheriff or other person authorized to issue a citation of the existence on his
7 property of two or more nuisance activities and the date by which he must
8 abate the condition to prevent the matter from being submitted to the
9 district attorney for legal action; and

10 (2) Afforded an opportunity for a hearing before a court of competent
11 jurisdiction.

12 (b) Provide that the date specified in the notice by which the owner must
13 abate the condition is tolled for the period during which the owner requests
14 a hearing and receives a decision.

15 (c) Provide the manner in which the county will recover money
16 expended for labor and materials used to abate the condition on the
17 property if the owner fails to abate the condition.

18 3. If the court finds that a chronic nuisance exists and emergency
19 action is necessary to avoid immediate threat to the public welfare or
20 safety, the court shall order the county to secure and close the property for
21 a period not to exceed 1 year or until the nuisance is abated, whichever
22 occurs first, and may:

23 (a) Impose a civil penalty of not more than \$500 per day for each day
24 that the condition was not abated after the date specified in the notice by
25 which the owner was required to abate the condition;

26 (b) Order the owner to pay the county for the cost incurred by the county
27 in abating the condition; and

28 (c) Order any other appropriate relief.

29 4. In addition to any other reasonable means authorized by the court
30 for the recovery of money expended by the county to abate the chronic
31 nuisance, the board may provide that the expense is a lien upon the
32 property upon which such a chronic nuisance is located or occurring. The
33 lien must be perfected by:

34 (a) Mailing by certified mail a notice of the lien, separately prepared for
35 each lot affected, addressed to the last known owner of the property at his
36 last known address, as determined by the real property assessment roll in
37 the county in which the property is located; and

38 (b) Filing with the county recorder of the county in which the property is
39 located, a statement of the amount due and unpaid and describing the
40 property subject to the lien.

41 5. As used in this section:

42 (a) A "chronic nuisance" exists:

1 (1) When three or more nuisance activities exist or have occurred
2 during any 30-day period on the property;

3 (2) When a person associated with the property has engaged in three
4 or more nuisance activities during any 30-day period on the property or
5 within 100 feet of the property;

6 (3) When the property has been the subject of a search warrant based
7 on probable cause of continuous or repeated violations of chapter 459 of
8 NRS; ~~for~~

9 (4) When a building or place is used for the purpose of unlawfully
10 selling, serving, storing, keeping, manufacturing, using or giving away a
11 controlled substance, immediate precursor as defined in NRS 453.086 or
12 controlled substance analog as defined in NRS 453.043 ~~for~~; or

13 *(5) When ants of the genus and species Solenopsis invicta or*
14 *Solenopsis richteri, or a hybrid of either, or bees of the genus, species or*
15 *subspecies Apis mellifera scutellata, or a hybrid thereof, have established*
16 *a nest or colony upon the property or are otherwise present upon the*
17 *property and are posing a threat to the public welfare or safety.*

18 (b) "Nuisance activity" means:

19 (1) Criminal activity;

20 (2) The presence of debris, litter, garbage, rubble, abandoned or junk
21 vehicles or junk appliances;

22 (3) Excessive noise and violations of curfew; or

23 (4) Any other activity, behavior or conduct defined by the board to
24 constitute a public nuisance.

25 (c) "Person associated with the property" means a person who, on the
26 occasion of a nuisance activity, has:

27 (1) Entered, patronized or visited;

28 (2) Attempted to enter, patronize or visit; or

29 (3) Waited to enter, patronize or visit,
30 a property or a person present on the property.

31 **Sec. 3.** NRS 268.4124 is hereby amended to read as follows:

32 268.4124 1. Each city council may, by ordinance, to protect the
33 public health, safety and welfare of the residents of the city, adopt
34 procedures pursuant to which the city attorney may file an action in a court
35 of competent jurisdiction to:

36 (a) Seek the abatement of a chronic nuisance that is located or occurring
37 within the city;

38 (b) If applicable, seek the closure of the property where the chronic
39 nuisance is located or occurring; and

40 (c) If applicable, seek penalties against the owner of the property within
41 the city and any other appropriate relief.

42 2. An ordinance adopted pursuant to subsection 1 must:

43 (a) Contain procedures pursuant to which the owner of the property is:

1 (1) Sent notice, by certified mail, return receipt requested, by the city
2 police or other person authorized to issue a citation of the existence on his
3 property of two or more nuisance activities and the date by which he must
4 abate the condition to prevent the matter from being submitted to the city
5 attorney for legal action; and

6 (2) Afforded an opportunity for a hearing before a court of competent
7 jurisdiction.

8 (b) Provide that the date specified in the notice by which the owner must
9 abate the condition is tolled for the period during which the owner requests
10 a hearing and receives a decision.

11 (c) Provide the manner in which the city will recover money expended
12 for labor and materials used to abate the condition on the property if the
13 owner fails to abate the condition.

14 3. If the court finds that a chronic nuisance exists and emergency
15 action is necessary to avoid immediate threat to the public welfare or
16 safety, the court shall order the city to secure and close the property for a
17 period not to exceed 1 year or until the nuisance is abated, whichever
18 occurs first, and may:

19 (a) Impose a civil penalty of not more than \$500 per day for each day
20 that the condition was not abated after the date specified in the notice by
21 which the owner was required to abate the condition;

22 (b) Order the owner to pay the city for the cost incurred by the city in
23 abating the condition;

24 (c) If applicable, order the owner to pay reasonable expenses for the
25 relocation of any tenants who are affected by the chronic nuisance; and

26 (d) Order any other appropriate relief.

27 4. In addition to any other reasonable means authorized by the court
28 for the recovery of money expended by the city to abate the chronic
29 nuisance, the council may provide that the expense is a lien upon the
30 property upon which such a chronic nuisance is located or occurring. The
31 lien must be perfected by:

32 (a) Mailing by certified mail a notice of the lien, separately prepared for
33 each lot affected, addressed to the last known owner of the property at his
34 last known address, as determined by the real property assessment roll in
35 the county in which the property is located; and

36 (b) Filing with the county recorder of the county in which the property is
37 located, a statement of the amount due and unpaid and describing the
38 property subject to the lien.

39 5. As used in this section:

40 (a) A "chronic nuisance" exists:

1 (1) When three or more nuisance activities exist or have occurred
2 during any 30-day period on the property;

3 (2) When a person associated with the property has engaged in three
4 or more nuisance activities during any 30-day period on the property or
5 within 100 feet of the property;

6 (3) When the property has been the subject of a search warrant based
7 on probable cause of continuous or repeated violations of chapter 459 of
8 NRS; ~~for~~

9 (4) When a building or place is used for the purpose of unlawfully
10 selling, serving, storing, keeping, manufacturing, using or giving away a
11 controlled substance, immediate precursor as defined in NRS 453.086 or
12 controlled substance analog as defined in NRS 453.043 ~~for~~ ; or

13 *(5) When ants of the genus and species Solenopsis invicta or*
14 *Solenopsis richteri, or a hybrid of either, or bees of the genus, species*
15 *Apis mellifera scutellata, or a hybrid thereof, have*
16 *established a nest or colony upon the property or are otherwise present*
17 *upon the property and are posing a threat to the public welfare or safety.*

18 (b) "Nuisance activity" means:

19 (1) Criminal activity;

20 (2) The presence of debris, litter, garbage, rubble, abandoned or junk
21 vehicles or junk appliances;

22 (3) Excessive noise and violations of curfew; or

23 (4) Any other activity, behavior or conduct defined by the board to
24 constitute a public nuisance.

25 (c) "Person associated with the property" means a person who, on the
26 occasion of a nuisance activity, has:

27 (1) Entered, patronized or visited;

28 (2) Attempted to enter, patronize or visit; or

29 (3) Waited to enter, patronize or visit,
30 a property or a person present on the property.

31 **Sec. 4.** NRS 289.290 is hereby amended to read as follows:

32 289.290 1. ~~for~~ *The administrator of the division of agriculture of*
33 *the department of business and industry and a* person designated by the
34 administrator ~~of the division of agriculture of the department of business~~
35 ~~and industry~~ as a field agent or an inspector pursuant to subsection 2 of
36 NRS 561.225 ~~has~~ *have* the powers of *a* peace ~~officers~~ *officer* to make
37 investigations and arrests and to execute warrants of search and seizure,
38 and may temporarily stop the movement of livestock and carcasses for
39 purposes of inspection.

40 2. An inspector of the state board of sheep commissioners and his
41 deputies have the powers of a peace officer.

1 3. An officer appointed by the Nevada junior livestock show board
2 pursuant to NRS 563.120 has the powers of a peace officer for the
3 preservation of order and peace on the grounds and in the buildings and the
4 approaches thereto of the livestock shows and exhibitions that the board
5 conducts.

6 4. In carrying out the provisions of chapter 565 of NRS, *the*
7 *administrator of the division of agriculture of the department of business*
8 *and industry and* an inspector of the division of agriculture ~~has~~ *have* the
9 powers of a peace officer to make investigations and arrests and to execute
10 warrants of search and seizure. This subsection does not authorize *the*
11 *administrator or* any inspector to retire under the public employees'
12 retirement system before having attained the minimum service age of 60
13 years.

14 **Sec. 5.** Chapter 389 of NRS is hereby amended by adding thereto a
15 new section to read as follows:

16 *1. The state board shall establish a program of instruction for the*
17 *identification of and the appropriate response to contact with noxious*
18 *pests for all pupils in kindergarten and grades 1 to 6, inclusive.*

19 *2. The program must include, without limitation, the identification of*
20 *and the appropriate response to contact with ants of the genus and*
21 *species Solenopsis invicta or Solenopsis richteri, or a hybrid of either,*
22 *and bees of the genus, species and subspecies Apis mellifera scutellata,*
23 *or a hybrid thereof.*

24 **Sec. 6.** There is hereby appropriated from the state general fund to the
25 division of agriculture of the department of business and industry the sum
26 of \$10,000 to establish and maintain the program created pursuant to
27 section 1 of this act.

28 **Sec. 7.** Any remaining balance of the appropriation made by section 6
29 of this act must not be committed for expenditure after July 1, 2001, and
30 reverts to the state general fund as soon as all payments of money
31 committed have been made.

32 **Sec. 8.** This act becomes effective upon passage and approval.