

ASSEMBLY BILL NO. 376—ASSEMBLYMEN ANDERSON, BACHE, ARBERRY,
BROWN, BUCKLEY, CARPENTER, CLABORN, COLLINS, DE BRAGA,
GIUNCHIGLIANI, KOIVISTO, LESLIE, OCEGUERA, PARNELL AND
SMITH

MARCH 15, 2001

JOINT SPONSORS: SENATORS CARE AND WIENER

Referred to Committee on Transportation

SUMMARY—Transfers certain responsibilities for railroad safety from public utilities
commission of Nevada to Nevada highway patrol division of department of
motor vehicles and public safety. (BDR 43-1268)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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 railroad safety; transferring certain responsibilities for railroad safety
from the public utilities commission of Nevada to the Nevada highway patrol
division of the department of motor vehicles and public safety; requiring the
Nevada highway patrol to adopt certain regulations concerning railroad safety;
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 481 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 to 5, inclusive, of this act.
- 3 **Sec. 2.** *The Nevada highway patrol has regulatory jurisdiction over*
- 4 *the safety practices for railroad equipment, facilities, rolling stock and*
- 5 *operations in this state to the extent set forth in sections 2 to 5, inclusive,*
- 6 *of this act.*
- 7 **Sec. 3.** *The Nevada highway patrol shall:*
- 8 *1. Enter into an agreement with the Secretary of Transportation*
- 9 *pursuant to 49 U.S.C. § 20105 that authorizes the Nevada highway patrol*
- 10 *to participate in the enforcement of federal safety regulations and orders*
- 11 *applicable to railroad equipment, facilities, rolling stock and operations*
- 12 *in this state.*



1 2. *Accept and expend any federal money made available pursuant to*
2 *49 U.S.C. § 20105 for carrying out a safety program relating to railroads.*

3 3. *Adopt regulations concerning the safety of railroads in this state*
4 *that incorporate the provisions of the statutes and regulations of other*
5 *states and the Federal Government relating to railroad safety which the*
6 *Nevada highway patrol determines are appropriate for this state.*

7 Sec. 4. 1. *Every railroad operating in this state shall, whenever an*
8 *accident causing death occurs in the conduct of its operation, give*
9 *prompt notice thereof to the Nevada highway patrol, in such manner and*
10 *within such time as the Nevada highway patrol may prescribe. If in its*
11 *judgment the public interest requires it, the Nevada highway patrol may*
12 *cause an investigation to be made forthwith of any accident, at such*
13 *place and in such manner as the Nevada highway patrol deems best.*

14 2. *Every railroad operating in this state shall report to the Nevada*
15 *highway patrol, at the time, in the manner and on such forms as the*
16 *Nevada highway patrol prescribes by regulation, all accidents happening*
17 *in this state and occurring in, on or about any premises, instrumentality*
18 *or facility used by the railroad in conducting its business.*

19 3. *The Nevada highway patrol shall adopt all reasonable regulations*
20 *necessary for the administration and enforcement of this section. The*
21 *regulations must require that all accidents required to be reported*
22 *pursuant to this section be reported to the Nevada highway patrol at least*
23 *once every calendar month by such officer or officers of the railroad as*
24 *the Nevada highway patrol directs, in addition to the immediate notice*
25 *required by subsection 1.*

26 4. *The Nevada highway patrol shall adopt and utilize all accident*
27 *report forms, which forms must be so designed as to provide a concise*
28 *and accurate report of the accident and which report must show the true*
29 *cause of the accident. The accident report forms must be as near in*
30 *design as practicable to the railroad accident report forms provided and*
31 *used by the Surface Transportation Board.*

32 5. *If any accident is reported to the Nevada highway patrol by a*
33 *railroad as being caused by or through the negligence of an employee of*
34 *the railroad and thereafter the employee is absolved from such*
35 *negligence by the railroad and found not to be responsible for the*
36 *accident, that fact must be reported by the railroad to the Nevada*
37 *highway patrol.*

38 6. *All accident reports required by this section must be filed in the*
39 *office of the Nevada highway patrol and there preserved.*
40 *Notwithstanding any other provision of law to the contrary:*

41 (a) *No such accident report or a report of the Nevada highway patrol*
42 *made pursuant to an accident investigation made by it may be open to*
43 *public inspection or disclosed to any person, except upon order of the*
44 *Nevada highway patrol; and*

45 (b) *No report described in paragraph (a), or any portion of such a*
46 *report, may be admitted as evidence or used for any purpose in any suit*
47 *or action for damages growing out of any matter mentioned in the report.*



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1 **Sec. 5. *The Nevada highway patrol shall:***

2 ***1. Perform such duties and functions as are necessary:***

3 ***(a) To ensure the safety of railroad equipment, facilities, rolling stock***
4 ***and operations in this state.***

5 ***(b) For this state to participate in any federal safety program relating***
6 ***to railroads.***

7 ***2. Adopt such regulations as it determines are necessary in carrying***
8 ***out the provisions of this section.***

9 **Sec. 6.** NRS 481.140 is hereby amended to read as follows:

10 481.140 The Nevada highway patrol is composed of the following
11 personnel appointed by the director:

12 1. One chief; and

13 2. Such number of inspectors, *railroad safety inspectors*, supervisors,
14 troopers and commercial officers as the director determines necessary to
15 perform the duties set forth in NRS 481.180, within the limits of legislative
16 appropriations *and other money available* therefor.

17 **Sec. 7.** NRS 481.160 is hereby amended to read as follows:

18 481.160 The appointed personnel ~~shall~~ *must*:

19 1. Be persons qualified at the time of their appointment with the
20 knowledge of all traffic laws of this state, the provisions of chapters 482,
21 483 and 706 of NRS, *the provisions of sections 2 to 5, inclusive, of this*
22 *act and the regulations adopted pursuant thereto*, and all laws relating to
23 the imposition and collection of gasoline taxes and special fuel taxes.

24 2. Be versed in all laws relating to the powers of police officers as to
25 traffic law violations and other offenses committed over and along the
26 highways of this state.

27 **Sec. 8.** NRS 481.180 is hereby amended to read as follows:

28 481.180 The duties of the personnel of the Nevada highway patrol are:

29 1. To police the public highways of this state, to enforce and to aid in
30 enforcing thereon all the traffic laws of the State of Nevada and to enforce
31 all other laws of this state when:

32 (a) In the apprehension or pursuit of an offender or suspected offender;

33 (b) Making arrests for crimes committed in their presence or upon or
34 adjacent to the highways of this state; or

35 (c) Making arrests pursuant to a warrant in the officer's possession or
36 communicated to him.

37 2. To investigate accidents on all primary and secondary highways
38 within the State of Nevada resulting in personal injury, property damage or
39 death, and to gather evidence to prosecute any person guilty of any
40 violation of the law contributing to the happening of such an accident.

41 3. To enforce the provisions of chapters 365, 366, 408, 482, 483, 484,
42 485, 486, 487 and 706 of NRS.

43 4. To maintain the central repository for Nevada records of criminal
44 history and to carry out the provisions of chapter 179A of NRS.

45 5. To enforce the provisions of laws and regulations relating to motor
46 carriers, the safety of their vehicles and equipment, and their transportation
47 of hazardous materials and other cargo.

48 6. To maintain the repository for information concerning hazardous
49 materials in Nevada and to carry out its duties pursuant to chapter 459 of



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1 NRS concerning the transportation of hazardous materials ~~H~~, *including,*
2 *without limitation, inspecting and otherwise ensuring the safety of any*
3 *shipment of hazardous materials transported by rail car through or*
4 *within this state.*

5 7. *To carry out the provisions of sections 2 to 5, inclusive, of this act,*
6 *including, without limitation, the enforcement of all safety regulations*
7 *applicable to railroads.*

8 8. To perform such other duties in connection with those specified in
9 this section as may be imposed by the director.

10 **Sec. 9.** NRS 459.512 is hereby amended to read as follows:

11 459.512 1. The owner or operator of a facility for the management of
12 hazardous waste shall, in addition to any other applicable fees, pay to the
13 department to offset partially the cost incurred by the state fire marshal for
14 training emergency personnel who respond to the scene of accidents
15 involving hazardous materials a fee of \$4.50 per ton of the volume
16 received for the disposal of hazardous waste by the facility.

17 2. The owner or operator of a facility for the management of hazardous
18 waste shall, in addition to any other applicable fees, pay to the department
19 to offset partially the cost incurred by the ~~public utilities commission of~~
20 Nevada *highway patrol* for inspecting and otherwise ensuring the safety of
21 any shipment of hazardous materials transported by rail car through or
22 within this state a fee of \$1.50 per ton of the volume received for the
23 disposal of hazardous waste by the facility.

24 3. The operator of such a facility shall pay the fees provided in this
25 section, based upon the volume of hazardous waste received by the facility
26 during each quarter of the calendar year, within 30 days after the end of
27 each quarter. The department may assess and collect a penalty of 2 percent
28 of the unpaid balance for each month, or portion thereof, that the fee
29 remains due.

30 **Sec. 10.** NRS 459.535 is hereby amended to read as follows:

31 459.535 1. Except as otherwise provided in *subsection 2 and* NRS
32 459.537, ~~and subsection 2 of this section,~~ the money in the account for
33 the management of hazardous waste may be expended only to pay the costs
34 of:

35 (a) The continuing observation or other management of hazardous
36 waste;

37 (b) Establishing and maintaining a program of certification of
38 consultants involved in the clean up of leaks of hazardous waste, hazardous
39 material or a regulated substance from underground storage tanks or the
40 clean up of spills of or accidents involving hazardous waste, hazardous
41 material or a regulated substance;

42 (c) Training persons to respond to accidents or other emergencies
43 related to hazardous materials, including any basic training by the state fire
44 marshal which is necessary to prepare personnel for advanced training
45 related to hazardous materials;

46 (d) Establishing and maintaining a program by the ~~public utilities~~
47 ~~commission of~~ Nevada *highway patrol* to inspect and otherwise ensure the
48 safety of any shipment of hazardous materials transported by rail car
49 through or within the state; and



1 (e) Financial incentives and grants made in furtherance of the program
2 developed pursuant to paragraph (c) of subsection 2 of NRS 459.485 for
3 the minimization, recycling and reuse of hazardous waste.

4 2. Money in the account for the management of hazardous waste may
5 be expended to provide matching money required as a condition of any
6 federal grant for the purposes of NRS 459.800 to 459.856, inclusive.

7 **Sec. 11.** NRS 704.190 is hereby amended to read as follows:

8 704.190 *Except in cases where a report of the accident is required by*
9 *section 4 of this act:*

10 1. Every public utility operating in this state shall, whenever an
11 accident *causing death* occurs in the conduct of its operation , ~~causing~~
12 ~~death,~~ give prompt notice thereof to the commission, in such manner and
13 within such time as the commission may prescribe. If in its judgment the
14 public interest requires it, the commission may cause an investigation to be
15 made forthwith of any accident, at such place and in such manner as the
16 commission deems best.

17 2. Every such public utility shall report to the commission, at the time,
18 in the manner and on such forms as the commission by its printed rules and
19 regulations prescribes, all accidents happening in this state and occurring
20 in, on or about the premises, plant, instrumentality or facility used by any
21 such utility in the conduct of its business.

22 3. The commission shall adopt all reasonable rules and regulations
23 necessary for the administration and enforcement of this section. The rules
24 and regulations must in any event require that all accidents required to be
25 reported pursuant to this section be reported to the commission at least
26 once every calendar month by such officer or officers of the utility as the
27 commission directs.

28 4. The commission shall adopt and utilize all accident report forms,
29 which forms must be so designed as to provide a concise and accurate
30 report of the accident and which report must in any event show the true
31 cause of the accident. ~~The accident report forms adopted for the reporting~~
32 ~~of railroad accidents must be the same in design as near as may be as the~~
33 ~~railroad accident report forms provided and used by the Surface~~
34 ~~Transportation Board.~~

35 5. If any accident reported to the commission is reported by the utility
36 as being caused by or through the negligence of an employee and thereafter
37 the employee is absolved from such negligence by the utility and found not
38 to be responsible for the accident, that fact must be reported by the utility
39 to the commission.

40 6. All accident reports required pursuant to this section must be filed in
41 the office of the commission and there preserved. Notwithstanding any
42 other provisions of law, neither any accident report made as required by
43 this chapter, nor any report of the commission made pursuant to any
44 accident investigation made by it, may be open to public inspection or
45 disclosed to any person, except upon order of the commission, nor may
46 either or any of the reports, or any portion thereof, be admitted as evidence
47 or used for any purpose in any suit or action for damages growing out of
48 any matter mentioned in the accident report or report of any such
49 investigation.



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1 **Sec. 12.** NRS 704.309 is hereby amended to read as follows:
2 704.309 1. The commission shall levy and collect an annual
3 assessment from each railroad subject to the jurisdiction of the commission
4 that transports cargo into, out of or through this state to support the
5 activities of the ~~commission~~ *Nevada highway patrol* relating to railroad
6 safety.

7 2. The annual assessment levied on railroads:
8 (a) Must be equal to the costs incurred by the ~~commission~~ *Nevada*
9 *highway patrol* that are not offset by the fees paid pursuant to NRS
10 459.512.

11 (b) Must be not more than 1 cent per ton of cargo transported by the
12 railroads into, out of or through this state during the immediately preceding
13 calendar year.

14 3. On or before August 1 of each year, the commission shall:

15 (a) ~~Calculate~~ *After consulting with the chief of the Nevada highway*
16 *patrol, calculate* the amount of the assessment to be levied pursuant to this
17 section for the previous fiscal year; and

18 (b) Mail to each railroad subject to the provisions of this section to the
19 current address of the railroad on file with the commission a notice
20 indicating the amount of the assessment. The failure of the commission to
21 so notify a railroad does not invalidate the assessment.

22 4. An assessment levied pursuant to this section is due on or before
23 October 1 of each year. Each railroad that is subject to the provisions of
24 this section which fails to pay the assessment on or before November 1,
25 shall pay, in addition to the assessment, a penalty of 1 percent of the total
26 unpaid balance for each month or portion thereof that the assessment is
27 delinquent or \$10, whichever is greater, except that no penalty may exceed
28 \$1,000 for each delinquent payment.

29 5. If a railroad sells or transfers its certificate of public convenience
30 and necessity or sells or transfers substantially all of its assets, the
31 commission shall calculate, levy and collect the accrued assessment for the
32 current year not later than 30 days after the sale or transfer, unless the
33 purchaser or transferee has assumed liability for the assessment. For the
34 purposes of this subsection, the jurisdiction of the commission over the sale
35 or transfer of a railroad continues until the assessment of the railroad has
36 been paid.

37 6. The commission ~~may~~ *shall* bring an appropriate action in its own
38 name for the collection of any assessment and penalty that is not paid
39 pursuant to this section.

40 7. *The commission shall, as soon as practicable after receiving any*
41 *money pursuant to this section, deposit that money with the state*
42 *treasurer for credit to an account for the Nevada highway patrol for use*
43 *in carrying out its duties pursuant to sections 2 to 5, inclusive, of this act.*

44 **Sec. 13.** NRS 703.1545 and 704.307 are hereby repealed.

45 **Sec. 14.** This act becomes effective upon passage and approval for the
46 purposes of adopting regulations and authorizing any preliminary activities
47 necessary to ensure that the provisions of this act are carried out in an
48 orderly fashion and on July 1, 2001, for all other purposes.



TEXT OF REPEALED SECTIONS

703.1545 Commission authorized to participate in federal program of safety relating to railroads. The commission shall:

1. Enter into an agreement with the Secretary of Transportation pursuant to 49 U.S.C. § 20105 that authorizes the commission to participate in the enforcement of federal safety regulations and orders applicable to railroad equipment, facilities, rolling stock and operations in this state.

2. Accept and expend any federal money made available pursuant to 49 U.S.C. § 20105 for carrying out a safety program relating to railroads.

3. Adopt regulations concerning the safety of railroads in this state that incorporate the provisions of the statutes and regulations of other states and the Federal Government relating to railroad safety which the commission determines are appropriate for this state.

704.307 Railroads: Duty of commission to ensure safety; regulations. The commission shall:

1. Perform such duties and functions as are necessary:

(a) To ensure the safety of railroad equipment, facilities, rolling stock and operations in this state.

(b) For this state to participate in any federal safety program relating to railroads.

2. Adopt such regulations as it determines are necessary in carrying out the provisions of this section.

