

SENATE BILL NO. 424—SENATOR TITUS

MARCH 19, 2001

Referred to Committee on Human Resources and Facilities

SUMMARY—Revises provisions concerning unlawful disposal of certain types of waste.
(BDR 40-61)

FISCAL NOTE: Effect on Local Government: Yes.
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 sanitation; providing that a county may authorize a nonprofit organization to engage in certain activities pertaining to the cleaning up of dump sites and the education of persons regarding unlawful dumping; authorizing certain governmental entities to exercise subpoena powers with respect to the unlawful disposal of sewage and solid waste; providing certain civil and other 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 444 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 6, inclusive, of this act.
3 **Sec. 2.** *As used in this section, NRS 444.630 to 444.645, inclusive,*
4 *and sections 3 to 6, inclusive, of this act, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 and 4 of this act have*
6 *the meanings ascribed to them in those sections.*
7 **Sec. 3.** *“Dump site” means a location at which solid waste is*
8 *disposed of unlawfully.*
9 **Sec. 4.** *“Solid waste” has the meaning ascribed to it in NRS 444.490.*
10 **Sec. 5.** *A county may authorize a nonprofit organization to:*
11 1. *Organize the cleaning up of dump sites;*
12 2. *Provide educational materials and programs regarding unlawful*
13 *dumping;*
14 3. *Operate and pay the costs of programs of community service*
15 *relating to the cleaning up of dump sites; and*
16 4. *Monitor violations of NRS 444.630 to 444.645, inclusive.*
17 **Sec. 6.** 1. *In carrying out the provisions of NRS 444.630 to*
18 *444.645, inclusive:*
19 (a) *The state environmental commission; and*
20 (b) *A district board of health created pursuant to NRS 439.370,*



1 *may by subpoena require the attendance and testimony of witnesses and*
2 *the production of reports, papers, documents and other evidence which*
3 *they deem necessary.*

4 2. *If any person to whom a subpoena has been directed pursuant to*
5 *subsection 1 refuses to attend, testify or produce any evidence specified in*
6 *the subpoena, the person who issued the subpoena may present a*
7 *petition, to a court of competent jurisdiction where the person to whom*
8 *the subpoena was directed is subject to service of process, setting forth*
9 *that:*

10 (a) *Notice has been given of the time and place at which the person*
11 *was required to attend, testify or produce evidence;*

12 (b) *A subpoena has been mailed to or personally served on the witness*
13 *or custodian of the evidence in sufficient time to enable him to comply*
14 *with its provisions; and*

15 (c) *The person has failed or refused to attend, answer questions or*
16 *produce evidence specified in the subpoena,*
17 *and asking that the court issue an order compelling the person to attend*
18 *and to testify or produce the evidence specified in the subpoena.*

19 3. *When a court receives a petition pursuant to subsection 2, it shall*
20 *order the person to whom the subpoena was directed to appear at a time*
21 *and place fixed by the court in its order, which must be not more than 10*
22 *days after the date of the order, and show cause why he should not be*
23 *held in contempt. A certified copy of the order must be mailed to or*
24 *personally served on the person to whom the subpoena was directed.*

25 4. *If it appears to the court that the subpoena was properly issued*
26 *and that the person's failure or refusal to appear, answer questions or*
27 *produce evidence was without sufficient reason, the court shall order the*
28 *person to appear at a time and place fixed by the court and to testify or*
29 *produce the specified evidence. If the person fails to comply with the*
30 *order of the court, he may be punished as for a contempt of court.*

31 **Sec. 7** NRS 444.610 is hereby amended to read as follows:

32 444.610 1. Any person who violates any regulation adopted by the
33 state environmental commission or any ordinance or resolution adopted by
34 the governing body of a municipality or district board of health is guilty of
35 a misdemeanor.

36 2. Each day or part of a day during which such violation is continued
37 or repeated constitutes a separate offense.

38 3. *Except as otherwise provided in NRS 445C.010 to 445C.120,*
39 *inclusive:*

40 (a) *A person convicted of violating subsection 1 is, in addition to any*
41 *criminal penalty imposed, liable for a civil penalty upon each such*
42 *conviction; and*

43 (b) *A court, before whom a defendant is convicted of a violation of*
44 *subsection 1, shall for each violation order the defendant to pay a civil*
45 *penalty which is at least \$500 but not more than \$5,000.*

46 **Sec. 8.** NRS 444.630 is hereby amended to read as follows:

47 444.630 1. ~~As used in this section, "garbage" includes swill, refuse,~~
48 ~~cans, bottles, paper, vegetable matter, carcass of any dead animal, offal~~
49 ~~from any slaughter pen or butcher shop, trash or rubbish.~~



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- 1 ~~2. Every~~ *A* person who willfully places, deposits or dumps, or who
2 causes to be placed, deposited or dumped, or who causes or allows to
3 overflow, any sewage, sludge, cesspool or septic tank effluent, or
4 accumulation of human excreta, or any ~~garbage,~~ *solid waste*, in or upon
5 any street, alley, public highway or road in common use, or upon any
6 public park or other public property other than property designated or set
7 aside for such a purpose by the governing body having charge thereof, or
8 upon any private property, ~~into or upon which the public is admitted by~~
9 ~~easement, license or otherwise,~~ is guilty of :
- 10 *(a) For the first offense, a misdemeanor .* ~~and, if the convicted person~~
11 ~~agrees, he shall be sentenced to~~
- 12 *(b) For any subsequent offense, a gross misdemeanor.*
- 13 *2. In addition to any other fine or penalty imposed, a court shall*
14 *sentence a person convicted of violating subsection 1:*
- 15 *(a) If the person is a natural person, to clean up the dump site and*
16 *perform 10 hours of work for the benefit of the community under the*
17 *conditions prescribed in NRS 176.087.*
- 18 ~~3-~~ *(b) If the person is a business entity:*
- 19 *(1) For a first offense within 1 year, to clean up the dump site.*
- 20 *(2) For a second offense within 1 year, to clean up the dump site*
21 *and shall order the person to suspend all business operations for 15 days.*
- 22 *(3) For a third offense within 1 year, to clean up the dump site, and*
23 *shall issue an order revoking the business license, if any, of the business*
24 *entity and prohibiting the person, for 1 year, from engaging in any*
25 *similar type of business in the county in which the offense occurred.*
- 26 *3. If a person is sentenced to clean up a dump site pursuant to*
27 *subsection 2, the person shall, within 10 business days after cleaning up*
28 *the dump site, provide to the solid waste management authority proof of*
29 *the lawful disposal of the sewage, solid waste or other matter that the*
30 *person was convicted of disposing of unlawfully. The solid waste*
31 *management authority shall prescribe the forms of proof which may be*
32 *provided to satisfy the provisions of this subsection.*
- 33 *4. Except as otherwise provided in NRS 444.585, ownership of*
34 ~~garbage~~ *solid waste* does not transfer from the person who originally
35 possessed it until it is received for transport by a person authorized to
36 dispose of solid waste pursuant to this chapter or until it is disposed of at a
37 municipal disposal site. Identification of the owner of any ~~garbage~~ *solid*
38 *waste* which is disposed of in violation of subsection ~~2~~ *1* creates a
39 reasonable inference that the owner is the person who disposed of the
40 ~~garbage,~~ *solid waste*. The fact that the disposal of the ~~garbage~~ *solid*
41 *waste* was not witnessed does not, in and of itself, preclude the
42 identification of its owner.
- 43 ~~4-~~ *5. All:*
- 44 *(a) Health officers and their deputies;*
- 45 *(b) Game wardens;*
- 46 *(c) Police officers of cities and towns;*
- 47 *(d) Sheriffs and their deputies;*
- 48 *(e) Other peace officers of the State of Nevada; and*



1 (f) Other persons who are specifically designated by the local
2 government to do so,
3 shall, within their respective jurisdictions, enforce the provisions of this
4 section.
5 ~~15-1~~ 6. A district health officer or his deputy or other person
6 specifically designated by the local government to do so may issue a
7 citation for any violation of this section which occurs within his
8 jurisdiction.
9 ~~16-1~~ 7. To effectuate the purposes of this section, the persons charged
10 with enforcing this section may request information from any:
11 (a) Agency of the state or its political subdivisions.
12 (b) Employer, public or private.
13 (c) Employee organization or trust of any kind.
14 (d) Financial institution or other entity which is in the business of
15 providing credit reports.
16 (e) Public utility.
17 Each of these persons and entities, their officers and employees, shall
18 cooperate by providing any information in their possession which may aid
19 in the location and identification of a person believed to be in violation of
20 subsection ~~12-1~~ 1. A disclosure made in good faith pursuant to this
21 subsection does not give rise to any action for damages for the disclosure.
22 **8. As used in this section, "solid waste management authority" has**
23 **the meaning ascribed to it in NRS 444.495.**
24 **Sec. 9.** NRS 444.635 is hereby amended to read as follows:
25 444.635 1. Except as otherwise provided in NRS 445C.010 to
26 445C.120, inclusive, a person convicted of violating NRS 444.555 and, in
27 addition to the penalty imposed ~~11-1~~ pursuant to NRS 444.583 or 444.630,
28 any person convicted of violating NRS 444.583 or 444.630 is liable for a
29 civil penalty ~~1-1~~ upon each such conviction.
30 2. Except as otherwise provided in NRS 445C.010 to 445C.120,
31 inclusive, a court before whom a defendant is convicted of a violation of :
32 **(a) The provisions of NRS 444.555 ~~1, 444.583 or 444.630,~~ or 444.583**
33 **shall order the defendant to pay a civil penalty which is at least \$250 but**
34 **not more than \$2,000.**
35 **(b) The provisions of NRS 444.630, shall order the defendant:**
36 **(1) For a first offense, to pay a civil penalty which is at least \$500**
37 **but not more than \$5,000.**
38 **(2) For a second offense, to pay a civil penalty which is at least**
39 **\$1,000 but not more than \$5,500.**
40 **(3) For a third offense, to pay a civil penalty which is at least \$1,500**
41 **but not more than \$6,000.**
42 **(4) For any subsequent offense, to pay a civil penalty which is at**
43 **least \$500 more than the most recent previous civil penalty that the**
44 **defendant was ordered to pay pursuant to this paragraph.**
45 3. If so provided by the court, ~~the~~ a penalty imposed pursuant to this
46 section may be paid in installments.
47 ~~13-1~~ 4. The health authority or division of environmental protection of
48 the state department of conservation and natural resources may attempt to



1 collect all such penalties and installments which are in default in any
2 manner provided by law for the enforcement of a judgment.
3 ~~4-1~~ 5. Each court which receives money ~~under~~ *pursuant to* the
4 provisions of this section shall forthwith remit the money to the division of
5 environmental protection or, if the health authority initiated the action, the
6 district health department which shall deposit the money with the state
7 treasurer for credit in a separate account in the state general fund or with
8 the county treasurer for deposit in an account for the district health
9 department, as the case may be. Money so deposited must be ~~used~~ :
10 (a) *Used* only to pay ~~rewards~~ :
11 (1) *Rewards* pursuant to NRS 444.640 ~~for for~~ ;
12 (2) *For education regarding the unlawful disposal of solid waste;*
13 (3) *For the cleaning up of dump sites; and*
14 (4) *For* the management of solid waste ; and ~~paid~~
15 (b) *Paid* as other claims against the state or local governments are paid.
16 **Sec. 10.** NRS 444.640 is hereby amended to read as follows:
17 444.640 1. The division of environmental protection of the state
18 department of conservation and natural resources or the district health
19 department shall offer a reward ~~in an amount equal to 50 percent of the~~
20 ~~civil penalty imposed pursuant to NRS 444.635,~~ *of \$100* for information
21 leading to the arrest and conviction of any person violating NRS 444.555
22 or 444.630. The reward must be paid upon his conviction and the payment
23 in full of the penalty. The reward must be distributed equally among the
24 persons who supplied the information which led to the arrest and
25 conviction.
26 2. The state environmental commission or district board of health may
27 adopt regulations necessary to carry out the provisions of this section.
28 **Sec. 11.** The amendatory provisions of this act do not apply to
29 offenses committed before October 1, 2001.

