

CHAPTER.....

AN ACT relating to sanitation; providing that a solid waste management authority 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 the solid waste management authorities of certain larger counties to establish a program for the control of unlawful dumping; authorizing such a solid waste management authority to delegate certain matters of enforcement to an independent hearing officer or hearing board; authorizing a district health officer 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:

Section 1. Chapter 444 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *As used in this section, NRS 444.630 to 444.645, inclusive, and sections 3 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Dump site” means a location at which solid waste is disposed of unlawfully.*

Sec. 4. *“Solid waste” has the meaning ascribed to it in NRS 444.490.*

Sec. 5. *“Solid waste management authority” has the meaning ascribed to it in NRS 444.495.*

Sec. 6. 1. *The solid waste management authority in each county whose population is 400,000 or more may establish a program for the control of unlawful dumping and administer the program within its jurisdiction unless superseded.*

2. *The program established pursuant to subsection 1 must:*

(a) *Include standards and procedures for the control of unlawful dumping which are equivalent to or stricter than those established by statute or state regulation; and*

(b) *Provide for adequate administration and enforcement.*

3. *In a county whose population is 400,000 or more, the solid waste management authority may delegate to an independent hearing officer or hearing board the authority to determine violations and levy administrative penalties for violations of the provisions of NRS 444.440 to 444.620, inclusive, and 444.630 to 444.645, inclusive, and sections 2 to 8, inclusive, of this act, or any regulation adopted pursuant to those sections.*

Sec. 7. *A solid waste management authority may authorize a nonprofit organization to:*

1. *Organize the cleaning up of dump sites;*

2. *Provide educational materials and programs regarding unlawful dumping; and*

3. *Operate and pay the costs of programs of community service relating to the cleaning up of dump sites.*

Sec. 8. *1. In carrying out the provisions of NRS 444.630 to 444.645, inclusive, and sections 2 to 8, inclusive, of this act, a district health officer may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents and other evidence which they deem necessary.*

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

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

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

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

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

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

Sec. 9. NRS 444.610 is hereby amended to read as follows:

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

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

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

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

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

Sec. 10. NRS 444.630 is hereby amended to read as follows:

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

~~— 2. Every~~ *A* person who ~~[willfully]~~ places, deposits or dumps, or who causes to be placed, deposited or dumped, or who causes or allows to overflow, any sewage, sludge, cesspool or septic tank effluent, or accumulation of human excreta, or any ~~[garbage,]~~ *solid waste*, in or upon any street, alley, public highway or road in common use, or upon any public park or other public property other than property designated or set aside for such a purpose by the governing body having charge thereof, or upon any private property, ~~[into or upon which the public is admitted by easement, license or otherwise,]~~ is guilty of :

(a) For a first offense within the immediately preceding 2 years, a misdemeanor . [and, if the convicted person agrees, he shall be sentenced to]

(b) For a second offense within the immediately preceding 2 years, a gross misdemeanor and shall be punished by imprisonment in the county jail for not fewer than 14 days but not more than 1 year.

(c) For a third or subsequent offense within the immediately preceding 2 years, a gross misdemeanor and shall be punished by imprisonment in the county jail for 1 year.

2. In addition to any criminal penalty imposed pursuant to subsection 1, any civil penalty imposed pursuant to NRS 444.635 and any administrative penalty imposed pursuant to section 6 of this act, a court shall sentence a person convicted of violating subsection 1:

(a) If the person is a natural person, to clean up the dump site and perform 10 hours of work for the benefit of the community under the conditions prescribed in NRS 176.087.

(b) If the person is a business entity:

(1) For a first or second offense within the immediately preceding 2 years, to:

(I) Clean up the dump site; and

(II) Perform 40 hours of community service cleaning up other dump sites identified by the solid waste management authority.

(2) For a third or subsequent offense within the immediately preceding 2 years, to:

(I) Clean up the dump site; and

(II) Perform 200 hours of community service cleaning up other dump sites identified by the solid waste management authority.

3. If a person is sentenced to clean up a dump site pursuant to subsection 2, the person shall:

(a) Within 3 calendar days after sentencing, commence cleaning up the dump site; and

(b) Within 5 business days after cleaning up the dump site, provide to the solid waste management authority proof of the lawful disposal of the sewage, solid waste or other matter that the person was convicted of disposing of unlawfully.

The solid waste management authority shall prescribe the forms of proof which may be provided to satisfy the provisions of paragraph (b).

4. In addition to any other penalty prescribed by law, if a business entity is convicted of violating subsection 1:

(a) Such violation constitutes reasonable grounds for the revocation of any license to engage in business that has been issued to the business entity by any governmental entity of this state; and

(b) The solid waste management authority may seek the revocation of such a license by way of any applicable procedures established by the governmental entity that issued the license.

5. Except as otherwise provided in NRS 444.585, ownership of ~~garbage~~ *solid waste* does not transfer from the person who originally possessed it until it is received for transport by a person authorized to dispose of solid waste pursuant to this chapter or until it is disposed of at a municipal disposal site. Identification of the owner of any ~~garbage~~ *solid waste* which is disposed of in violation of subsection ~~2~~ *1* creates a reasonable inference that the owner is the person who disposed of the ~~garbage~~ *solid waste*. The fact that the disposal of the ~~garbage~~ *solid waste* was not witnessed does not, in and of itself, preclude the identification of its owner.

~~4~~ *6.* All:

- (a) Health officers and their deputies;
- (b) Game wardens;
- (c) Police officers of cities and towns;
- (d) Sheriffs and their deputies;
- (e) Other peace officers of the State of Nevada; and
- (f) Other persons who are specifically designated by the local government to do so,

shall, within their respective jurisdictions, enforce the provisions of this section.

~~5~~ *7.* A district health officer or his deputy or other person specifically designated by the local government to do so may issue a citation for any violation of this section which occurs within his jurisdiction.

~~6~~ *8.* To effectuate the purposes of this section, the persons charged with enforcing this section may request information from any:

- (a) Agency of the state or its political subdivisions.
- (b) Employer, public or private.
- (c) Employee organization or trust of any kind.
- (d) Financial institution or other entity which is in the business of providing credit reports.
- (e) Public utility.

Each of these persons and entities, their officers and employees, shall cooperate by providing any information in their possession which may aid in the location and identification of a person believed to be in violation of subsection ~~2~~ *1*. A disclosure made in good faith pursuant to this subsection does not give rise to any action for damages for the disclosure.

Sec. 11. NRS 444.635 is hereby amended to read as follows:

444.635 1. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, a person convicted of violating NRS 444.555 and, in addition to the penalty imposed ~~in~~ *pursuant to* NRS 444.583 or 444.630,

any person convicted of violating NRS 444.583 or 444.630 is liable for a civil penalty ~~to~~ upon each such conviction.

2. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, a court before whom a defendant is convicted of a violation of *the provisions of* NRS 444.555, 444.583 or 444.630, shall order the defendant ~~to pay a civil penalty which is at least \$250 but not more than \$2,000.~~ :

(a) For a first offense, to pay a civil penalty which is at least \$500 but not more than \$5,000.

(b) For a second offense, to pay a civil penalty which is at least \$1,000 but not more than \$5,500.

(c) For a third offense, to pay a civil penalty which is at least \$1,500 but not more than \$6,000.

(d) For any subsequent offense, to pay a civil penalty which is at least \$500 more than the most recent previous civil penalty that the defendant was ordered to pay pursuant to this paragraph.

3. If so provided by the court, ~~the~~ a penalty *imposed pursuant to this section* may be paid in installments.

~~3. The health authority or division of environmental protection of the state department of conservation and natural resources~~

4. *The solid waste management authority* may attempt to collect all such penalties and installments which are in default in any manner provided by law for the enforcement of a judgment.

~~4.~~ 5. Each court which receives money ~~under~~ *pursuant to* the provisions of this section shall forthwith remit the money to the division of environmental protection *of the state department of conservation and natural resources* or, if the health authority initiated the action, the district health department which shall deposit the money with the state treasurer for credit in a separate account in the state general fund or with the county treasurer for deposit in an account for the district health department, as the case may be. Money so deposited must be ~~used~~ :

(a) Used only to pay rewards :

(1) Rewards pursuant to NRS 444.640 ~~for for~~ ;

(2) For education regarding the unlawful disposal of solid waste;

(3) For the cleaning up of dump sites; and

(4) For the management of solid waste ; and ~~paid~~

(b) Paid as other claims against the state or local governments are paid.

Sec. 12. NRS 444.640 is hereby amended to read as follows:

444.640 1. The ~~division of environmental protection of the state department of conservation and natural resources or the district health department~~ *solid waste management authority* shall offer a reward ~~in an amount equal to 50 percent of the civil penalty imposed pursuant to NRS 444.635.~~ *of \$100* for information leading to the arrest and conviction of any person violating NRS 444.555 or 444.630. The reward must be paid upon his conviction and the payment in full of the penalty. The reward must be distributed equally among the persons who supplied the information which led to the arrest and conviction.

2. The state environmental commission or district board of health may adopt regulations necessary to carry out the provisions of this section.

Sec. 13. The amendatory provisions of this act do not apply to offenses committed before October 1, 2001.