

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT S.B. 424

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 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:

- 1 **Section 1.** Chapter 444 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 8, inclusive, of this act.
3 **Sec. 2.** *As used in this section, NRS 444.630 to 444.645, inclusive,*
4 *and sections 3 to 8, inclusive, of this act, unless the context otherwise*
5 *requires, the words and terms defined in sections 3, 4 and 5 of this act*
6 *have 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.** *“Solid waste management authority” has the meaning*
11 *ascribed to it in NRS 444.495.*
12 **Sec. 6.** *1. The solid waste management authority in each county*
13 *whose population is 400,000 or more may establish a program for the*
14 *control of unlawful dumping and administer the program within its*
15 *jurisdiction unless superseded.*
16 **2.** *The program established pursuant to subsection 1 must:*



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- 1 (a) Include standards and procedures for the control of unlawful
2 dumping which are equivalent to or stricter than those established by
3 statute or state regulation; and
4 (b) Provide for adequate administration and enforcement.
- 5 3. In a county whose population is 400,000 or more, the solid waste
6 management authority may delegate to an independent hearing officer or
7 hearing board the authority to determine violations and levy
8 administrative penalties for violations of the provisions of NRS 444.440
9 to 444.620, inclusive, and 444.630 to 444.645, inclusive, and sections 2 to
10 8, inclusive, of this act, or any regulation adopted pursuant to those
11 sections.
- 12 Sec. 7. A solid waste management authority may authorize a
13 nonprofit organization to:
- 14 1. Organize the cleaning up of dump sites;
15 2. Provide educational materials and programs regarding unlawful
16 dumping; and
17 3. Operate and pay the costs of programs of community service
18 relating to the cleaning up of dump sites.
- 19 Sec. 8. 1. In carrying out the provisions of NRS 444.630 to
20 444.645, inclusive, and sections 2 to 8, inclusive, of this act, a district
21 health officer may by subpoena require the attendance and testimony of
22 witnesses and the production of reports, papers, documents and other
23 evidence which they deem necessary.
- 24 2. If any person to whom a subpoena has been directed pursuant to
25 subsection 1 refuses to attend, testify or produce any evidence specified in
26 the subpoena, the person who issued the subpoena may present a
27 petition, to a court of competent jurisdiction where the person to whom
28 the subpoena was directed is subject to service of process, setting forth
29 that:
- 30 (a) Notice has been given of the time and place at which the person
31 was required to attend, testify or produce evidence;
32 (b) A subpoena has been mailed to or personally served on the witness
33 or custodian of the evidence in sufficient time to enable him to comply
34 with its provisions; and
35 (c) The person has failed or refused to attend, answer questions or
36 produce evidence specified in the subpoena,
37 and asking that the court issue an order compelling the person to attend
38 and to testify or produce the evidence specified in the subpoena.
- 39 3. When a court receives a petition pursuant to subsection 2, it shall
40 order the person to whom the subpoena was directed to appear at a time
41 and place fixed by the court in its order, which must be not more than 10
42 days after the date of the order, and show cause why he should not be
43 held in contempt. A certified copy of the order must be mailed to or
44 personally served on the person to whom the subpoena was directed.
- 45 4. If it appears to the court that the subpoena was properly issued
46 and that the person's failure or refusal to appear, answer questions or
47 produce evidence was without sufficient reason, the court shall order the
48 person to appear at a time and place fixed by the court and to testify or



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1 *produce the specified evidence. If the person fails to comply with the*
2 *order of the court, he may be punished as for a contempt of court.*

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

4 444.610 1. Any person who violates any regulation adopted by the
5 state environmental commission or any ordinance or resolution adopted by
6 the governing body of a municipality or district board of health is guilty of
7 a misdemeanor.

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

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

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

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

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

19 444.630 1. ~~{As used in this section, "garbage" includes swill, refuse,~~
20 ~~cans, bottles, paper, vegetable matter, carcass of any dead animal, offal~~
21 ~~from any slaughter pen or butcher shop, trash or rubbish.~~

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

31 (a) *For a first offense within the immediately preceding 2 years, a*
32 *misdemeanor .* ~~{and, if the convicted person agrees, he shall be sentenced~~
33 ~~to}~~

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

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

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

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

47 (b) *If the person is a business entity:*

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



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1 (I) Clean up the dump site; and
2 (II) Perform 40 hours of community service cleaning up other
3 dump sites identified by the solid waste management authority.
4 (2) For a third or subsequent offense within the immediately
5 preceding 2 years, to:
6 (I) Clean up the dump site; and
7 (II) Perform 200 hours of community service cleaning up other
8 dump sites identified by the solid waste management authority.
9 3. If a person is sentenced to clean up a dump site pursuant to
10 subsection 2, the person shall:
11 (a) Within 3 calendar days after sentencing, commence cleaning up
12 the dump site; and
13 (b) Within 5 business days after cleaning up the dump site, provide to
14 the solid waste management authority proof of the lawful disposal of the
15 sewage, solid waste or other matter that the person was convicted of
16 disposing of unlawfully.
17 The solid waste management authority shall prescribe the forms of proof
18 which may be provided to satisfy the provisions of paragraph (b).
19 4. In addition to any other penalty prescribed by law, if a business
20 entity is convicted of violating subsection 1:
21 (a) Such violation constitutes reasonable grounds for the revocation
22 of any license to engage in business that has been issued to the business
23 entity by any governmental entity of this state; and
24 (b) The solid waste management authority may seek the revocation of
25 such a license by way of any applicable procedures established by the
26 governmental entity that issued the license.
27 5. Except as otherwise provided in NRS 444.585, ownership of
28 ~~garbage~~ solid waste does not transfer from the person who originally
29 possessed it until it is received for transport by a person authorized to
30 dispose of solid waste pursuant to this chapter or until it is disposed of at a
31 municipal disposal site. Identification of the owner of any ~~garbage~~ solid
32 waste which is disposed of in violation of subsection ~~12~~ 1 creates a
33 reasonable inference that the owner is the person who disposed of the
34 ~~garbage~~ solid waste. The fact that the disposal of the ~~garbage~~ solid
35 waste was not witnessed does not, in and of itself, preclude the
36 identification of its owner.
37 ~~14~~ 6. All:
38 (a) Health officers and their deputies;
39 (b) Game wardens;
40 (c) Police officers of cities and towns;
41 (d) Sheriffs and their deputies;
42 (e) Other peace officers of the State of Nevada; and
43 (f) Other persons who are specifically designated by the local
44 government to do so,
45 shall, within their respective jurisdictions, enforce the provisions of this
46 section.
47 ~~15~~ 7. A district health officer or his deputy or other person
48 specifically designated by the local government to do so may issue a



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



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

