

Senate Bill No. 533—Committee on Natural Resources

CHAPTER.....

AN ACT relating to the control of air pollution; authorizing the control officer of a local air pollution control board to request the initiation of certain proceedings regarding the enforcement of certain laws pertaining to the control of air pollution; 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. NRS 445B.460 is hereby amended to read as follows:

445B.460 1. If , in the judgment of the director, any person is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of NRS 445B.100 to 445B.640, inclusive, or any rule, regulation, order or operating permit issued ~~under~~ *pursuant to* NRS 445B.100 to 445B.640, inclusive, the director may request *that* the attorney general ~~to~~ apply to the district court for an order enjoining ~~such~~ *the* act or practice, or for an order directing compliance with any provision of NRS 445B.100 to 445B.640, inclusive, or any rule, regulation, order or operating permit issued ~~under~~ *pursuant to* NRS 445B.100 to 445B.640, inclusive.

2. *If, in the judgment of the control officer of a local air pollution control board, any person is engaged in or is about to engage in such an act or practice, the control officer may request that the district attorney of the county in which the act or practice is being engaged in or is about to be engaged in apply to the district court for such an order.*

3. Upon a showing by the director *or the control officer* that ~~such~~ *a* person has engaged in or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order or other appropriate order may be granted by the court.

Sec. 2. NRS 445B.470 is hereby amended to read as follows:

445B.470 1. A person shall not knowingly:

- (a) Violate any applicable provision, the terms or conditions of any permit or any provision for the filing of information;
- (b) Fail to pay any fee;
- (c) Falsify any material statement, representation or certification in any notice or report; or
- (d) Render inaccurate any monitoring device or method, required pursuant to the provisions of NRS 445B.100 to 445B.450, inclusive, or 445B.470 to 445B.640, inclusive, or any regulation adopted pursuant to those provisions.

2. Any person who violates any provision of subsection 1 shall be punished by a fine of not more than \$10,000 for each day of the violation.

3. The burden of proof and degree of knowledge required to establish a violation of subsection 1 are the same as those required by 42 U.S.C. § 7413(c), as that section ~~exists~~ *existed* on October 1, 1993.

4. If, in the judgment of the director of the department or his designee, any person is engaged in any act or practice which constitutes a criminal offense ~~under~~ *pursuant to* NRS 445B.100 to 445B.640, inclusive, the director of the department or his designee may request *that* the attorney general or the district attorney of the county in which the criminal offense

is alleged to have occurred ~~to~~ institute by indictment or information a criminal prosecution of the person.

5. If, in the judgment of the control officer of a local air pollution control board, any person is engaged in such an act or practice, the control officer may request that the district attorney of the county in which the criminal offense is alleged to have occurred institute by indictment or information a criminal prosecution of the person.

Sec. 3. NRS 445B.500 is hereby amended to read as follows:

445B.500 1. Except as otherwise provided in this section and in NRS 445B.310:

(a) The district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more shall establish a program for the control of air pollution and administer the program within its jurisdiction unless superseded.

(b) The program must:

(1) Include standards for the control of emissions, emergency procedures and variance procedures established by ordinance or local regulation which are equivalent to or stricter than those established by statute or state regulation; and

(2) Provide for adequate administration, enforcement, financing and staff.

(c) The district board of health, county board of health or board of county commissioners is designated as the air pollution control agency of the county for the purposes of NRS 445B.100 to 445B.640, inclusive, and the federal act insofar as it pertains to local programs, and that agency is authorized to take all action necessary to secure for the county the benefits of the federal act.

(d) Powers and responsibilities provided for in NRS 445B.210, 445B.240 to ~~445B.450,~~ **445B.470**, inclusive, 445B.560, 445B.570, 445B.580 and 445B.640 are binding upon and inure to the benefit of local air pollution control authorities within their jurisdiction.

2. The local air pollution control board shall carry out all provisions of NRS 445B.215 with the exception that notices of public hearings must be given in any newspaper, qualified pursuant to the provisions of chapter 238 of NRS, once a week for 3 weeks. The notice must specify with particularity the reasons for the proposed regulations and provide other informative details. NRS 445B.215 does not apply to the adoption of existing regulations upon transfer of authority as provided in NRS 445B.610.

3. In a county whose population is 400,000 or more, the local air pollution control board may delegate to an independent hearing officer or hearing board its authority to determine violations and levy administrative penalties for violations of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.500 to 445B.640, inclusive, or any regulation adopted pursuant to those sections. If such a delegation is made, 17.5 percent of any penalty collected must be deposited in the county treasury in an account to be administered by the local air pollution control board to a maximum of \$17,500 per year. The money in the account may only be used to defray the administrative expenses incurred by the local air pollution control board in enforcing the provisions of NRS 445B.100 to 445B.640, inclusive. The

remainder of the penalty must be deposited in the county school district fund of the county where the violation occurred.

4. Any county whose population is less than 100,000 or any city may meet the requirements of this section for administration and enforcement through cooperative or interlocal agreement with one or more other counties, or through agreement with the state, or may establish its own program for the control of air pollution. If the county establishes such a program, it is subject to the approval of the commission.

5. No district board of health, county board of health or board of county commissioners may adopt any regulation or establish a compliance schedule, variance order or other enforcement action relating to the control of emissions from plants which generate electricity by using steam produced by the burning of fossil fuel.

6. For the purposes of this section, “plants which generate electricity by using steam produced by the burning of fossil fuel” means plants that burn fossil fuels in a boiler to produce steam for the production of electricity. The term does not include any plant which uses technology for a simple or combined cycle combustion turbine, regardless of whether the plant includes duct burners.

Sec. 4. This act becomes effective on July 1, 2001.