

SENATE BILL NO. 119—SENATOR SHAFFER

FEBRUARY 13, 2003

Referred to Committee on Natural Resources

SUMMARY—Imposes certain restrictions on transportation of certain hazardous waste and requires State Environmental Commission to impose certain requirements on storage of waste. (BDR 40-394)

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 hazardous waste; imposing certain restrictions on the transportation of certain hazardous waste; requiring the State Environmental Commission to impose certain requirements on the storage of that waste; providing 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 459 of NRS is hereby amended by adding  
2     thereto the provisions set forth as sections 2 to 5, inclusive, of this  
3     act.

4     **Sec. 2.** *“High-level radioactive waste” has the meaning*  
5     *ascribed to that term in 10 C.F.R. § 72.3.*

6     **Sec. 3.** *“Spent nuclear fuel” has the meaning ascribed to*  
7     *that term in 10 C.F.R. § 72.3.*

8     **Sec. 4.** *If, notwithstanding the provisions of NRS 459.910, a*  
9     *repository for the storage of high-level radioactive waste and spent*  
10    *nuclear fuel is located in Nevada, it is unlawful for any person or*  
11    *governmental entity, except as otherwise specifically authorized by*  
12    *federal law, to transport through any area which is located within*  
13    *10 miles of any city or unincorporated town in this state whose*



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1 *population is 3,000 or more, any high-level radioactive waste or*  
2 *spent nuclear fuel intended for storage at or in the repository.*

3 **Sec. 5.** *1. If, notwithstanding the provisions of NRS*  
4 *459.910, a repository for the storage of high-level radioactive*  
5 *waste and spent nuclear fuel is located in Nevada, the Commission*  
6 *shall, except as otherwise specifically prohibited by federal law,*  
7 *adopt such regulations as are necessary to ensure that:*

8 *(a) Each container used for the storage of any high-level*  
9 *radioactive waste or spent nuclear fuel at or in the repository is*  
10 *placed in a manner that allows for the safe retrieval of the*  
11 *container for maintenance;*

12 *(b) A facility is located contiguous to the repository which is*  
13 *capable of safely retrieving, repairing and replacing those*  
14 *containers;*

15 *(c) The repository contains a system for monitoring those*  
16 *containers which:*

17 *(1) Provides for the continuous monitoring of every*  
18 *exterior surface of every container; and*

19 *(2) Allows any member of the general public to view at any*  
20 *time each monitoring device and container through a website on*  
21 *the Internet;*

22 *(d) Representatives of appropriate agencies of this state have*  
23 *complete and unrestricted access to all locations and records*  
24 *necessary to confirm the safety of the repository; and*

25 *(e) No member of the general public receives, as a result of the*  
26 *management and storage of high-level radioactive waste and spent*  
27 *nuclear fuel inside and outside of the repository and all of its*  
28 *associated facilities, any exposure to radionuclides in excess of:*

29 *(1) Four millirems per year to the whole body or any single*  
30 *organ through the normal consumption and other use of any*  
31 *ground water; and*

32 *(2) An annual committed effective dose equivalent of 15*  
33 *millirems.*

34 **2. As used in this section:**

35 *(a) "High-level radioactive waste" has the meaning ascribed to*  
36 *that term in 10 C.F.R. § 72.3.*

37 *(b) "Spent nuclear fuel" has the meaning ascribed to that term*  
38 *in 10 C.F.R. § 72.3.*

39 **Sec. 6.** NRS 459.400 is hereby amended to read as follows:

40 459.400 The purposes of NRS 459.400 to 459.600, inclusive,  
41 *and section 5 of this act* are to:

42 1. Protect human health, public safety and the environment  
43 from the effects of improper, inadequate or unsound management of  
44 hazardous waste;



- 1       2. Establish a program for regulation of the storage, generation,  
2 transportation, treatment and disposal of hazardous waste; and

- 3       3. Ensure safe and adequate management of hazardous waste.

4       **Sec. 7.** NRS 459.405 is hereby amended to read as follows:  
5       459.405 As used in NRS 459.400 to 459.600, inclusive, *and*  
6 *section 5 of this act*, unless the context otherwise requires, the  
7 words and terms defined in NRS 459.410 to 459.455, inclusive,  
8 have the meanings ascribed to them in those sections.

9       **Sec. 8.** NRS 459.460 is hereby amended to read as follows:

10       459.460 1. NRS 459.400 to 459.600, inclusive, *and section 5*  
11 *of this act* do not apply to any activity or substance which is subject  
12 to control pursuant to NRS 445A.300 to 445A.955, inclusive, and  
13 459.010 to 459.290, inclusive, except to the extent that they can be  
14 applied in a manner which is not inconsistent with those sections.

15       2. The Director shall administer NRS 459.400 to 459.600,  
16 inclusive, *and section 5 of this act* in a manner which avoids  
17 duplication of the provisions of NRS 445A.300 to 445A.955,  
18 inclusive, and 445B.100 to 445B.640, inclusive, and the Federal  
19 Insecticide, Fungicide , and Rodenticide Act, 7 U.S.C. §§ 136 et  
20 seq.

21       **Sec. 9.** NRS 459.465 is hereby amended to read as follows:

22       459.465 The following types of waste are subject to the  
23 provisions of NRS 459.400 to 459.600, inclusive, *and section 5 of*  
24 *this act* only if they are regulated pursuant to the ~~[Federal]~~ *federal*  
25 Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§  
26 6901 et seq.:

27       1. Fly ash, bottom ash, slag and waste removed from flue gas  
28 from the combustion of coal or other fossil fuels;

29       2. Solid waste from extraction, beneficiation and processing of  
30 ores and minerals, including phosphate rock and overburden from  
31 the mining of uranium ore;

32       3. Dust from cement kilns; and

33       4. Drilling fluids and other wastes produced by exploration,  
34 development or production of oil, gas or geothermal energy.

35       **Sec. 10.** NRS 459.570 is hereby amended to read as follows:

36       459.570 Whenever the Director finds that any person is  
37 engaging or has engaged in any act or practice which violates any  
38 provision of NRS 459.400 to 459.560, inclusive, *and section 5 of*  
39 *this act*, or a regulation adopted pursuant to those sections or any  
40 term or condition of a permit issued by the Department, he may  
41 issue an order:

42       1. Specifying the provision which is alleged to have been  
43 violated or which is about to be violated;

44       2. Setting forth the facts alleged to constitute the violation;



1       3. Prescribing any corrective action which must be taken and a  
2 reasonable time within which it must be taken; and

3       4. Requiring the person to whom the order is directed to appear  
4 before the Director or a hearing officer appointed by him to show  
5 cause why the Department should not commence an action against  
6 him in district court for appropriate relief.

7       **Sec. 11.** NRS 459.585 is hereby amended to read as follows:

8       459.585 1. Any person who violates or contributes to a  
9 violation of any provision of NRS 459.400 to 459.560, inclusive,  
10 *and section 5 of this act and* 459.590 or of any regulation adopted  
11 or permit or order issued pursuant to those sections, or who does not  
12 take action to correct a violation within the time specified in an  
13 order, is liable to the Department for a civil penalty of not more than  
14 \$25,000 for each day on which the violation occurs. This penalty is  
15 in addition to any other penalty provided by NRS 459.400 to  
16 459.600, inclusive ~~[ ]~~, *and section 5 of this act.*

17       2. The Department may recover, in the name of the State of  
18 Nevada, actual damages which result from a violation, in addition to  
19 the civil penalty provided in this section. The damages may include  
20 expenses incurred by the Department in removing, correcting or  
21 terminating any adverse effects which resulted from the violation  
22 and compensation for any fish, aquatic life or other wildlife  
23 destroyed as a result of the violation.

24       **Sec. 12.** NRS 459.595 is hereby amended to read as follows:

25       459.595 Any person who:

26       1. Knowingly makes any false statement, representation or  
27 certification on any application, record, report, manifest, plan or  
28 other document filed or required to be maintained by any provision  
29 of NRS 459.400 to 459.560, inclusive, ~~[NRS]~~ *and section 5 of this*  
30 *act and* 459.590 or by any regulation adopted or permit or order  
31 issued pursuant to those sections; or

32       2. Falsifies, tampers with or knowingly renders inaccurate any  
33 device or method for continuing observation required by a provision  
34 of NRS 459.400 to 459.560, inclusive, *and section 5 of this act*, or  
35 by any regulation adopted or permit or order issued pursuant to  
36 those sections,  
37 shall be punished by imprisonment in the county jail for not more  
38 than 1 year, or by a fine of not more than \$25,000, or by both fine  
39 and imprisonment. Each day the false document remains  
40 uncorrected or a device or method described in subsection 2 remains  
41 inaccurate constitutes a separate violation of this section for  
42 purposes of determining the maximum fine.

43       **Sec. 13.** NRS 459.700 is hereby amended to read as follows:

44       459.700 As used in NRS 459.700 to 459.780, inclusive, *and*  
45 *sections 2, 3 and 4 of this act*, unless the context otherwise requires,



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1 the words and terms defined in NRS 459.7005 to 459.7032,  
2 inclusive, *and sections 2 and 3 of this act* have the meanings  
3 ascribed to them in those sections.

4 **Sec. 14.** NRS 459.709 is hereby amended to read as follows:

5 459.709 ~~{1-}~~ A motor carrier shall not transport any high-  
6 level radioactive waste or spent nuclear fuel upon a public highway  
7 of this state unless:

8 ~~{(a)}~~ 1. The high-level radioactive waste or spent nuclear fuel is  
9 contained in a package that has been approved for that purpose  
10 pursuant to 10 C.F.R. Part 71; ~~{and}~~

11 ~~{(b)}~~ 2. The carrier has complied with the provisions of 10  
12 C.F.R. Part 71 and 10 C.F.R. Part 73 requiring the advance  
13 notification of the Governor of this state or his designee ~~{-}~~; *and*

14 3. *The carrier complies with section 4 of this act, if*  
15 *applicable.*

16 ~~{2. As used in this section:~~

17 ~~—(a) “High level radioactive waste” has the meaning ascribed to it~~  
18 ~~in 10 C.F.R. § 72.3.~~

19 ~~—(b) “Spent nuclear fuel” has the meaning ascribed to it in 10~~  
20 ~~C.F.R. § 72.3.~~

21 **Sec. 15.** NRS 459.727 is hereby amended to read as follows:

22 459.727 Except as otherwise required by federal law, the  
23 provisions of NRS 459.7052 to 459.728, inclusive, *and section 4 of*  
24 *this act* and the regulations adopted pursuant thereto do not apply to  
25 the transportation of a hazardous material by any vehicle which is  
26 owned and operated by the Federal Government, this state or any  
27 political subdivision of this state.

28 **Sec. 16.** NRS 459.728 is hereby amended to read as follows:

29 459.728 1. Except as otherwise provided in subsection 2, the  
30 provisions of NRS 459.7052 to 459.728, inclusive, *and section 4 of*  
31 *this act*, and the regulations adopted pursuant thereto supersede and  
32 preempt any ordinance or regulation adopted by the governing body  
33 of a political subdivision of this state governing the transportation of  
34 a hazardous material ~~{upon a public highway of}~~ *in* this state.

35 2. The provisions of subsection 1 do not apply to any ordinance  
36 or regulation:

37 (a) For the control of traffic generally; or

38 (b) Which is approved by the Board of Directors of the  
39 Department of Transportation pursuant to paragraph (b) of  
40 subsection 3 of NRS 484.779.

41 **Sec. 17.** NRS 459.774 is hereby amended to read as follows:

42 459.774 1. In addition to any applicable criminal penalties,  
43 the Department may, after providing written notice and an  
44 opportunity for a fair and impartial hearing, impose a civil penalty,  
45 in an amount determined pursuant to the schedule adopted by the



1 Director pursuant to this section, upon a person who violates a  
2 provision of NRS 459.7052 to 459.728, inclusive, *and section 4 of*  
3 *this act* or the regulations adopted pursuant thereto. The notice  
4 required by this section must include the amount of the penalty and  
5 a description of the violation.

6 2. The Director shall adopt a schedule of civil penalties for the  
7 purposes of this section based on a schedule of recommended fines  
8 adopted by a nonprofit organization comprised of representatives  
9 from private industry, state agencies, agencies of the Federal  
10 Government and other governmental agencies, which is dedicated to  
11 improving the safety of commercial vehicles.

12 3. The Department may bring an action to recover a civil  
13 penalty imposed pursuant to this section and shall deposit any  
14 money collected with the State Treasurer for credit to the State  
15 Highway Fund.

16 **Sec. 18.** NRS 459.775 is hereby amended to read as follows:  
17 459.775 Any person who:

18 1. Transports a hazardous material in a motor vehicle without  
19 the permit required pursuant to NRS 459.7052;

20 2. Transports a hazardous material in a motor vehicle that has  
21 not been inspected pursuant to any regulations of the Department  
22 requiring an inspection;

23 3. Fails to carry the permit required pursuant to NRS 459.7052  
24 or a copy of the permit in the driver's compartment of the motor  
25 vehicle if required to do so by a regulation of the Department;

26 4. Transports a hazardous material in a motor vehicle under a  
27 permit required pursuant to NRS 459.7052 which has expired;

28 5. Violates any of the terms or conditions of a permit required  
29 pursuant to NRS 459.7052; ~~for~~

30 6. Fails to pay when due any fee established pursuant to NRS  
31 459.744 ~~for~~; *or*

32 *7. Transports high-level radioactive waste or spent nuclear*  
33 *fuel in violation of the provisions of section 4 of this act,*  
34 *is guilty of a misdemeanor.*

35 **Sec. 19.** The provisions of this act must not be construed in  
36 such a manner as to indicate that the Nevada Legislature or the State  
37 of Nevada explicitly or impliedly consents to the location of a  
38 repository for the storage of high-level radioactive waste and spent  
39 nuclear fuel anywhere in the State of Nevada.

40 **Sec. 20.** This act becomes effective upon passage and  
41 approval.

