

SENATE BILL NO. 58—SENATOR RAGGIO

FEBRUARY 6, 2003

Referred to Committee on Natural Resources

SUMMARY—Makes various changes relating to hazardous materials. (BDR 40-943)

FISCAL NOTE: Effect on Local Government: No.
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 materials; providing that certain required analyses relating to hazardous waste and regulated substances must be performed by certified laboratories; requiring the State Environmental Commission to adopt regulations for the certification of such laboratories; providing for the regulation of certain aboveground storage tanks by the Commission; 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 445A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *“Hazardous waste” has the meaning ascribed to it in*
4 *NRS 459.430.*

5 **Sec. 3. 1.** *Except as otherwise provided in subsection 2, any*
6 *analysis performed to detect the presence of hazardous waste or a*
7 *regulated substance in soil or water as required for the purposes*
8 *of NRS 445A.300 to 445A.730, inclusive, and sections 2 and 3 of*
9 *this act must be performed by a laboratory certified pursuant to*
10 *the regulations adopted pursuant to NRS 445A.425.*

11 **2.** *The provisions of subsection 1 do not apply to an analysis*
12 *of waste that is managed by a facility for the management of*
13 *hazardous waste.*



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1 **Sec. 4.** NRS 445A.310 is hereby amended to read as follows:
2 445A.310 As used in NRS 445A.300 to 445A.730, inclusive,
3 *and sections 2 and 3 of this act*, unless the context otherwise
4 requires, the words and terms defined in NRS 445A.315 to
5 445A.420, inclusive, *and section 2 of this act* have the meanings
6 ascribed to them in those sections.

7 **Sec. 5.** NRS 445A.425 is hereby amended to read as follows:
8 445A.425 1. Except as specifically provided in NRS
9 445A.625 to 445A.645, inclusive, the Commission shall:

10 (a) Adopt regulations carrying out the provisions of NRS
11 445A.300 to 445A.730, inclusive, *and sections 2 and 3 of this act*,
12 including standards of water quality and amounts of waste which
13 may be discharged into the waters of the State.

14 (b) *Adopt regulations providing for the certification of*
15 *laboratories that perform analyses for the purposes of NRS*
16 *445A.300 to 445A.730, inclusive, and sections 2 and 3 of this act to*
17 *detect the presence of hazardous waste or a regulated substance in*
18 *soil or water.*

19 (c) Adopt regulations controlling the injection of fluids through
20 a well to prohibit those injections into underground water, if it
21 supplies or may reasonably be expected to supply any public water
22 system, as defined in NRS 445A.840, which may result in that
23 system's noncompliance with any regulation regarding primary
24 drinking water or may otherwise have an adverse effect on human
25 health.

26 ~~(d)~~ (d) Advise, consult and cooperate with other agencies of
27 the State, the Federal Government, other states, interstate agencies
28 and other persons in furthering the provisions of NRS 445A.300 to
29 445A.730, inclusive ~~(d)~~, *and sections 2 and 3 of this act.*

30 ~~(e)~~ (e) Determine and prescribe the qualifications and duties of
31 the supervisors and technicians responsible for the operation and
32 maintenance of plants for sewage treatment.

33 2. The Commission may by regulation require that supervisors
34 and technicians responsible for the operation and maintenance of
35 plants for sewage treatment be certified by the Department. The
36 regulations may include a schedule of fees to pay the costs of
37 certification. The provisions of this subsection apply only to a
38 package plant for sewage treatment whose capacity is more than
39 5,000 gallons per day and to any other plant whose capacity is more
40 than 10,000 gallons per day.

41 3. In adopting regulations, standards of water quality and
42 effluent limitations pursuant to NRS 445A.300 to 445A.730,
43 inclusive, *and sections 2 and 3 of this act*, the Commission shall
44 recognize the historical irrigation practices in the respective river
45 basins of this state, the economy thereof and their effects.



1 4. The Commission may hold hearings, issue notices of
2 hearings, issue subpoenas requiring the attendance of witnesses and
3 the production of evidence, administer oaths and take testimony as it
4 considers necessary to carry out the provisions of this section and
5 for the purpose of reviewing standards of water quality.

6 5. As used in this section, "plant for sewage treatment" means
7 any facility for the treatment, purification or disposal of sewage.

8 **Sec. 6.** NRS 445A.625 is hereby amended to read as follows:

9 445A.625 ~~[1.]~~ The Department may issue, pursuant to NRS
10 445A.630, 445A.635 and 445A.640, a written permit to an applicant
11 for that person to discharge, deposit, generate or dispose of any
12 radioactive or hazardous waste.

13 ~~[2. — As used in this section, "hazardous waste" has the meaning~~
14 ~~ascribed to it in NRS 459.430.]~~

15 **Sec. 7.** Chapter 459 of NRS is hereby amended by adding
16 thereto the provisions set forth as sections 8 and 9 of this act.

17 **Sec. 8. 1.** *Except as otherwise provided in subsection 2, any*
18 *analysis performed to detect the presence of hazardous waste or a*
19 *regulated substance in soil or water as required for the purposes*
20 *of NRS 459.400 to 459.600, inclusive, and sections 8 and 9 of this*
21 *act, 459.610 to 459.658, inclusive, or 459.800 to 459.856, inclusive,*
22 *must be performed by a laboratory certified pursuant to the*
23 *regulations adopted pursuant to NRS 459.500.*

24 **2.** *The provisions of subsection 1 do not apply to an analysis*
25 *of waste that is managed by a facility for the management of*
26 *hazardous waste.*

27 **Sec. 9.** *Any analysis performed for a person who generates*
28 *waste to identify whether that waste is hazardous as required for*
29 *the purposes of NRS 459.400 to 459.600, inclusive, and sections 8*
30 *and 9 of this act must be performed by a laboratory certified*
31 *pursuant to the regulations adopted pursuant to NRS 459.500.*

32 **Sec. 10.** NRS 459.405 is hereby amended to read as follows:

33 459.405 As used in NRS 459.400 to 459.600, inclusive, *and*
34 *sections 8 and 9 of this act*, unless the context otherwise requires,
35 the words and terms defined in NRS 459.410 to 459.455, inclusive,
36 have the meanings ascribed to them in those sections.

37 **Sec. 11.** NRS 459.460 is hereby amended to read as follows:

38 459.460 1. NRS 459.400 to 459.600, inclusive, *and sections*
39 *8 and 9 of this act*, do not apply to any activity or substance which
40 is subject to control pursuant to NRS 445A.300 to 445A.955,
41 inclusive, and 459.010 to 459.290, inclusive, except to the extent
42 that they can be applied in a manner which is not inconsistent with
43 those sections.

44 2. The Director shall administer NRS 459.400 to 459.600,
45 inclusive, *and sections 8 and 9 of this act*, in a manner which



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1 avoids duplication of the provisions of NRS 445A.300 to 445A.955,
2 inclusive, and 445B.100 to 445B.640, inclusive, and the Federal
3 Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq.

4 **Sec. 12.** NRS 459.465 is hereby amended to read as follows:

5 459.465 The following types of waste are subject to the
6 provisions of NRS 459.400 to 459.600, inclusive, *and sections 8*
7 *and 9 of this act*, only if they are regulated pursuant to the Federal
8 Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§
9 6901 et seq.:

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

12 2. Solid waste from extraction, beneficiation and processing of
13 ores and minerals, including phosphate rock and overburden from
14 the mining of uranium ore;

15 3. Dust from cement kilns; and

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

18 **Sec. 13.** NRS 459.500 is hereby amended to read as follows:

19 459.500 1. Except as otherwise provided in NRS 459.700 to
20 459.780, inclusive, or 459.800 to 459.856, inclusive:

21 (a) Regulations of the Commission must provide:

22 (1) For safety in the packaging, handling, transportation and
23 disposal of hazardous waste;

24 (2) For the certification of consultants involved in
25 consultation regarding the response to and the clean up of leaks of
26 hazardous waste, hazardous material or a regulated substance from
27 underground storage tanks, the clean up of spills of or accidents
28 involving hazardous waste, hazardous material or a regulated
29 substance, or the management of hazardous waste; ~~and~~

30 (3) That a person employed full time by a business to act as
31 such a consultant is exempt from the requirements of certification if
32 the person:

33 (I) Meets the applicable requirements of 29 C.F.R.
34 § 1910.120 to manage such waste, materials or substances; and

35 (II) Is acting in the course of that full-time employment

36 ~~and~~; and

37 (4) *For the certification of laboratories that perform*
38 *analyses for the purposes of NRS 459.400 to 459.600, inclusive,*
39 *and sections 8 and 9 of this act, 459.610 to 459.658, inclusive, and*
40 *459.800 to 459.856, inclusive, to identify whether waste is*
41 *hazardous waste or to detect the presence of hazardous waste or a*
42 *regulated substance in soil or water.*

43 (b) Regulations of the Commission may:



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1 (1) Provide for the licensing and other necessary regulation
2 of generators, including shippers and brokers, who cause that waste
3 to be transported into or through Nevada or for disposal in Nevada;

4 (2) Require that the person responsible for a spill, leak or
5 accident involving hazardous waste, hazardous material or a
6 regulated substance, obtain advice on the proper handling of the
7 spill, leak or accident from a consultant certified under the
8 regulations adopted pursuant to paragraph (a); and

9 (3) Establish standards relating to the education, experience,
10 performance and financial responsibility required for the
11 certification of consultants.

12 2. The regulations may include provisions for:

13 (a) Fees to pay the cost of inspection, certification and other
14 regulation, excluding any activities conducted pursuant to NRS
15 459.7052 to 459.728, inclusive; and

16 (b) Administrative penalties of not more than \$2,500 per
17 violation or \$10,000 per shipment for violations by persons licensed
18 by the Department, and the criminal prosecution of violations of its
19 regulations by persons who are not licensed by the Department.

20 3. Designated employees of the Department and the Nevada
21 Highway Patrol Division shall enforce the regulations of the
22 Commission relating to the transport and handling of hazardous
23 waste and the leakage or spill of that waste from packages.

24 **Sec. 14.** NRS 459.812 is hereby amended to read as follows:

25 459.812 "Owner" means any person who owns ~~it~~:

26 1. *An underground storage tank used to store or dispense*
27 *regulated substances after November 8, 1984, or if the use of the*
28 *tank was discontinued before that date, the last person to own such a*
29 *tank before its use was discontinued ~~it~~; or*

30 2. *An aboveground storage tank used to store or dispense*
31 *regulated substances after October 1, 2003, or, if the use of the*
32 *tank was discontinued before that date, the last person to own*
33 *such a tank before its use was discontinued.*

34 **Sec. 15.** NRS 459.820 is hereby amended to read as follows:

35 459.820 "Storage tank" means any one or combination of
36 stationary tanks, including pipes connected thereto, used to contain
37 and accumulate regulated substances. The term includes only ~~these~~
38 :

39 1. *Underground storage tanks that are regulated pursuant to*
40 *the Federal Resource Conservation and Recovery Act of 1976, 42*
41 *U.S.C. §§ 6901 et seq. ; and*

42 2. *Aboveground storage tanks that have a storage capacity of*
43 *at least 110 gallons but not more than 30,000 gallons, including,*
44 *without limitation, aboveground storage tanks located over water*
45 *and used to supply fuel at a marina or other facility.*



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1 **Sec. 16.** NRS 459.825 is hereby amended to read as follows:
2 459.825 1. The Commission shall coordinate:
3 (a) The collection of fees related to ~~underground~~ storage tanks;
4 (b) The adoption of regulations governing ~~underground~~
5 storage tanks; and
6 (c) The standardization of forms used by the agencies of the
7 State and local governments that regulate ~~underground~~ storage
8 tanks for reporting information relating to such storage tanks.
9 2. Each agency of this state and local government that regulates
10 ~~underground~~ storage tanks shall, in consultation with the
11 Commission:
12 (a) Cooperate to eliminate any duplication, conflicts or
13 inconsistencies in regulations adopted to govern ~~underground~~
14 storage tanks;
15 (b) Review periodically the forms for reporting information
16 related to ~~underground~~ storage tanks to determine whether they are
17 complete and easy to understand and, if appropriate, revise the
18 forms accordingly;
19 (c) Cooperate to develop a uniform format for reporting
20 information related to ~~underground~~ storage tanks;
21 (d) Cooperate to ensure that agencies of local governments that
22 respond to emergencies involving ~~underground~~ storage tanks
23 receive reports of those emergencies in a timely manner; and
24 (e) Consolidate the collection of fees related to ~~underground~~
25 storage tanks.
26 **Sec. 17.** 1. This section becomes effective upon passage and
27 approval.
28 2. Sections 14, 15 and 16 of this act become effective upon
29 passage and approval for the purpose of adopting regulations
30 governing aboveground storage tanks and on October 1, 2003, for
31 all other purposes.
32 3. Section 13 of this act becomes effective upon passage and
33 approval for the purpose of adopting regulations and on July 1,
34 2004, for all other purposes.
35 4. Sections 1 to 12, inclusive, of this act become effective on
36 July 1, 2004.

