

SENATE BILL NO. 396—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE DIVISION OF ENVIRONMENTAL PROTECTION)

MARCH 29, 2005

Referred to Committee on Natural Resources

SUMMARY—Revises various provisions regarding waste disposal and regulation. (BDR 40-401)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 waste; revising the scope of activity for certain fees regarding waste disposal and management; revising the provisions regarding searches and inspections of solid waste disposal facilities; revising the provisions regarding the disposal of motor vehicle batteries, tires and oil; revising the use of injunctions when regulating solid waste; creating a program for reducing and recycling solid waste from businesses in certain counties; revising the notice for the acceptance of used vehicle tires during the retail sale of new tires; authorizing certain grants for solid waste management; revising various provisions regarding permits, procedures, standards and variances for landfills; 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.** NRS 444.560 is hereby amended to read as follows:
2 444.560 1. The State Environmental Commission shall adopt
3 regulations concerning solid waste management systems, or any part
4 thereof, including regulations establishing standards for the
5 issuance, renewal, modification, suspension, revocation and denial
6 of, and for the imposition of terms and conditions for, a permit to
7 construct or operate a disposal site.



2. The State Environmental Commission may establish a schedule of fees for the ~~[importation of solid waste into the State.] disposal of solid waste in areas subject to the jurisdiction of the State Department of Conservation and Natural Resources in accordance with NRS 444.495 or for the issuance of permits or other approvals by the Department for the operation of solid waste management facilities.~~ The Department may use the money collected under the schedule to defray the cost of managing and regulating ~~[the disposal in this State of solid waste which is generated outside of the State.] solid waste.~~

3. Notice of the intention to adopt and the adoption of any regulation or schedule of fees must be given to the clerk of the governing board of all municipalities in this State.

4. Within a reasonable time, as fixed by the State Environmental Commission, after the adoption of any regulation, no governing board of a municipality or person may operate or permit an operation in violation of the regulation.

Sec. 2. NRS 444.570 is hereby amended to read as follows:

444.570 1. The State Department of Conservation and Natural Resources shall:

(a) Advise, consult and cooperate with other agencies and commissions of the State, other states, the Federal Government, municipalities and persons in the formulation of plans for and the establishment of any solid waste management system.

(b) Accept and administer loans and grants from any person that may be available for the planning, construction and operation of solid waste management systems.

(c) Enforce the provisions of NRS 444.440 to 444.560, inclusive, and any regulation adopted by the State Environmental Commission pursuant thereto.

(d) Periodically review the programs of other solid waste management authorities in the State for issuing permits pursuant to NRS 444.553 and 444.556 and ensuring compliance with the terms and conditions of such permits, the regulations of the State Environmental Commission, the laws of this State and the provisions of the Resource Conservation and Recovery Act of 1976, ~~[Subtitle D.]~~ 42 U.S.C. §§ 6941 et seq., and the regulations adopted pursuant thereto. The Director of the State Department of Conservation and Natural Resources shall review the adequacy of such programs in accordance with the standards adopted by the United States Environmental Protection Agency to review the adequacy of the state program. If the Director determines that a program is inadequate, the Department shall act as the solid waste management authority until the deficiency is corrected. A finding by the Director that a program is inadequate is not final until reviewed



1 by the State Environmental Commission. This paragraph does not
2 limit the authority or responsibility of a district board of health to
3 issue permits for disposal sites and enforce the laws of this State
4 regarding solid waste management systems.

5 (e) Make such investigations and inspections and conduct such
6 monitoring and testing as may be necessary to require compliance
7 with NRS 444.450 to 444.560, inclusive, and any regulation adopted
8 by the State Environmental Commission.

9 2. The State Environmental Commission shall:

10 (a) In cooperation with governing bodies of municipalities,
11 develop a statewide solid waste management system plan, and
12 review and revise the plan every 5 years.

13 (b) Examine and approve or disapprove plans for solid waste
14 management systems.

15 (c) Review any determination by the Director of the State
16 Department of Conservation and Natural Resources that a program
17 for issuing permits administered by a solid waste management
18 authority is inadequate. The Commission may affirm, modify or
19 reverse the findings of the Director.

20 3. Employees of the State Department of Conservation and
21 Natural Resources or its authorized representatives ~~{may enter a~~
22 ~~facility.}~~ *may, during the normal hours of operation of a facility*
23 subject to the provisions of NRS 444.440 to 444.620, inclusive,
24 ~~{where solid}~~ *enter and inspect areas of the facility where:*

25 (a) *Solid* waste may have been generated, stored, transported,
26 treated or ~~{disposed, or where records}~~ *disposed; or*

27 (b) *Records* are kept, and may inspect and copy any records,
28 reports, information or test results relating to the management of the
29 solid waste.

30 **Sec. 3.** NRS 444.583 is hereby amended to read as follows:

31 444.583 1. Except as otherwise provided in subsection 5, it is
32 unlawful willfully to:

33 (a) Dispose of, abandon or dump a motor vehicle battery, motor
34 vehicle tire or motor oil at any site which has not been issued a
35 permit for that purpose by the ~~{State Department of Conservation~~
36 ~~and Natural Resources;}~~ *solid waste management authority;*

37 (b) Dispose of, abandon or dump a motor vehicle battery, motor
38 vehicle tire or motor oil at a sanitary landfill or other disposal site
39 established by a municipality which has not been issued a permit for
40 that purpose by the ~~{State Department of Conservation and Natural~~
41 ~~Resources;}~~ *solid waste management authority; or*

42 (c) Incinerate a motor vehicle battery or motor vehicle tire as a
43 means of ultimate disposal, unless the incineration is approved by
44 the ~~{Department}~~ *solid waste management authority* for the
45 recovery of energy or other appropriate use.



2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor and except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, shall be punished by a fine of not less than \$100 per violation.

3. The *State Department of Conservation and Natural Resources* shall establish a plan for the appropriate disposal of used or waste motor vehicle batteries, motor vehicle tires and motor oil. The plan must include the issuance of permits to approved sites or facilities for the disposal of those items by the public. The plan may include ~~coordination with the Office of Community Service within the Governor's Office for the~~ education of the public regarding the necessity of disposing of these items properly and recycling them.

4. The *State Department of Conservation and Natural Resources* shall encourage the voluntary establishment of authorized sites which are open to the public for the deposit of used or waste motor vehicle batteries, motor vehicle tires and motor oil.

5. The provisions of subsections 1 and 2 do not apply to the disposal of used or waste motor vehicle batteries or motor vehicle tires if the unavailability of a site that has been issued a permit by the ~~[State Department of Conservation and Natural Resources]~~ *solid waste management authority* makes disposal at such a site impracticable. The provisions of this subsection do not exempt a person from any other regulation of the ~~[Department]~~ *solid waste management authority* concerning the disposal of used or waste motor vehicle batteries or motor vehicle tires.

Sec. 4. NRS 444.592 is hereby amended to read as follows:

444.592 If the solid waste management authority receives information that the handling, storage, recycling, transportation, treatment or disposal of any solid waste presents or may present a threat to human health, public safety or the environment, or is in violation of a term or condition of a permit issued pursuant to NRS 444.553 or 444.556, a statute, a regulation or an order issued pursuant to NRS 444.594, the authority may, in addition to any other remedy provided in NRS 444.440 to 444.620, inclusive:

1. Issue an order directing the owner or operator of the disposal site or any other site where the handling, storage, recycling, transportation, treatment or disposal has occurred or may occur, or any other person who has custody of the solid waste, to take such steps as are necessary to prevent the act or eliminate the practice which constitutes the threat or violation.

2. Commence an action in a court of competent jurisdiction to enjoin the act or practice which constitutes the threat or violation in accordance with the provisions of NRS ~~[459.580.]~~ *444.600.*

3. Take any other action designed to reduce or eliminate the threat or violation.



Sec. 5. NRS 444A.040 is hereby amended to read as follows:

444A.040 1. The board of county commissioners in a county whose population is 100,000 or more, or its designee, shall make available for use in that county a program for:

(a) The separation at the source of recyclable material from other solid waste originating from the residential premises and public buildings where services for the collection of solid waste are provided.

(b) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

(d) The encouragement of businesses to reduce solid waste and to separate at the source recyclable material from other solid waste. This program must, without limitation, make information regarding solid waste reduction and recycling opportunities available to a business at the time the business applies for or renews a business license.

2. The board of county commissioners of a county whose population is 40,000 or more but less than 100,000, or its designee:

(a) May make available for use in that county a program for the separation at the source of recyclable material from other solid waste originating from the residential premises and public buildings where services for the collection of solid waste are provided.

(b) Shall make available for use in that county a program for:

(1) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program established pursuant to paragraph (a).

(2) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

3. The board of county commissioners of a county whose population is less than 40,000, or its designee, may make available for use in that county a program for:

(a) The separation at the source of recyclable material from other solid waste originating from the residential premises and public buildings where services for the collection of solid waste are provided.



(b) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

4. Any program made available pursuant to this section:

(a) Must not:

(1) Conflict with the standards adopted by the State Environmental Commission pursuant to NRS 444A.020; and

(2) Become effective until approved by the Department.

(b) May be based on the model plans adopted pursuant to NRS 444A.030.

5. The governing body of a municipality may adopt and carry out within the municipality such programs made available pursuant to this section as are deemed necessary and appropriate for that municipality.

6. Any municipality may, with the approval of the governing body of an adjoining municipality, participate in any program adopted by the adjoining municipality pursuant to subsection 5.

7. Persons residing on an Indian reservation or Indian colony may participate in any program adopted pursuant to subsection 5 by a municipality in which the reservation or colony is located if the governing body of the reservation or colony adopts an ordinance requesting such participation. Upon receipt of such a request, the governing body of the municipality shall make available to the residents of the reservation or colony those programs requested.

Sec. 6. NRS 444A.050 is hereby amended to read as follows:

444A.050 1. A county or health district that adopts a program pursuant to NRS 444A.040 shall:

(a) On or before July 1 of each year, submit a report to the Department of the number of tons of material disposed of in the area covered by the program.

(b) Within 6 months after adopting the program, and at least once every 6 months thereafter, notify all persons occupying residential, commercial, governmental and institutional premises within the area covered by the program of the local recycling opportunities and the need to reduce the amount of waste generated.

2. The governing body of a municipality that adopts a program pursuant to NRS 444A.040 shall:

(a) Adopt such ordinances as are necessary for the enforcement of the program.

(b) At least once every ~~36~~ 24 months, conduct a review of the program and ~~make~~ propose such revisions to the program and any



ordinances adopted pursuant thereto as ~~fare deemed~~ *the governing body determines are* necessary and appropriate. *The findings of the review and any proposed revisions must be submitted to the Department for approval on or before July 30 of each even-numbered year.*

Sec. 7. NRS 444A.060 is hereby amended to read as follows:

444A.060 1. A person who offers a tire for a vehicle for sale at retail shall post at the point of purchase a written notice which is at least 8 1/2 inches by 11 inches in size and contains the following information:

NOTICE

State law requires us to accept used tires for *disposal or* recycling when new tires are purchased from us.

2. It is unlawful for a person who offers a tire for a vehicle for retail sale to refuse to accept used or waste tires in exchange on the purchase of a new tire. This section does not require the purchaser of a tire to provide a used or waste tire as a condition of his purchase of a new tire. The seller shall comply with the regulations of the State Environmental Commission regarding the proper disposal of the used or waste tires so collected. In addition to any other applicable penalty, any person who violates the provisions of this subsection is guilty of a misdemeanor and shall be fined not less than \$100 for each day of violation.

Sec. 8. NRS 444A.110 is hereby amended to read as follows:

444A.110 1. The Division ~~{of Environmental Protection of the State Department of Conservation and Natural Resources}~~ shall develop a program of public education to provide information, increase public awareness of the individual responsibility of properly disposing of solid waste and encouraging public participation in recycling, reuse and waste reduction. The program must be designed in accordance with the plans to provide for a solid waste management system approved pursuant to NRS 444.510 to communicate the importance of conserving natural resources, in addition to the importance of protecting public health and the environment. The program must include promotion of the private and public efforts to accomplish conservation, recovery and reuse.

2. The Division ~~{of Environmental Protection of the State Department of Conservation and Natural Resources}~~ shall encourage the reduction of waste and litter by:

(a) Providing, upon request, advice to persons regarding techniques to reduce waste and general information on recycling.



(b) Establishing a computer database to process related information.

(c) Establishing a toll-free telephone line to assist in the dissemination of information.

(d) Sponsoring or cosponsoring technical workshops and seminars on waste reduction.

(e) Assisting local programs for the research and development of plans to reduce waste.

(f) Coordinating the dissemination of publications on waste reduction, regardless of the source of those publications.

(g) Assisting in the development and promotion of programs of continuing education for educators and administrators to enable them to teach and encourage methods of waste reduction.

(h) Developing an emblem to signify and advertise the efforts in Nevada to encourage recycling.

(i) Recommending to educational institutions courses and curricula relating to recycling and the reduction of waste.

(j) Assisting state agencies, upon request, to develop and carry out programs for recycling within state buildings.

3. The Division ~~[of Environmental Protection of the State Department of Conservation and Natural Resources]~~ shall coordinate the technical assistance available from the various state agencies. The Administrator of ~~[that]~~ *the* Division shall prepare and deliver biennial reports to the Governor regarding the progress of the program.

4. The Division may award grants to municipalities, educational institutions and nonprofit organizations for projects that enhance solid waste management systems and promote the efficient use of resources. The Division shall consult a solid waste management authority before awarding a grant for a project within the jurisdiction of that solid waste management authority.

5. The State Environmental Commission shall adopt regulations governing the administration of grants awarded pursuant to subsection 4.

6. As used in this section, unless the context otherwise requires, "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

Sec. 9. NRS 459.520 is hereby amended to read as follows:

459.520 1. The Commission shall adopt regulations for the granting, renewal, modification, suspension, revocation and denial of permits.

2. If the local government within whose territory a facility for the treatment, storage or disposal of hazardous waste is to be located requires that a special use permit or other authorization be obtained



1 for such a facility or activity, the application to the Department for a
2 permit to operate such a facility must show that local authorization
3 has been obtained. This requirement does not apply to an application
4 for a permit to construct a utility facility that is subject to the
5 provisions of NRS 704.820 to 704.900, inclusive.

6 3. Permits may contain terms and conditions which the
7 Department considers necessary and which conform to the
8 provisions of regulations adopted by the Commission.

9 4. Permits may be issued for any period of not more than 5
10 years.

11 5. A permit may not be granted or renewed if the Director
12 determines that granting or renewing the permit is inconsistent with
13 any regulation of the Commission relating to hazardous waste or
14 with the plan for management of hazardous waste developed
15 pursuant to NRS 459.485. The provisions of this subsection do not
16 apply to a permit granted or under review before July 1, 1987.

17 6. The Department may suspend or revoke a permit pursuant to
18 the Commission's regulations if the holder of the permit fails or
19 refuses to comply with the terms of the permit or a regulation of the
20 Commission relating to hazardous waste.

21 7. *A permit may not be granted, renewed or modified for a*
22 *facility for the disposal of hazardous waste that proposes to*
23 *construct or operate a landfill unless the Director determines that*
24 *the landfill is or will be constructed to include at least one liner*
25 *and a leachate collection and removal system designed to prevent*
26 *the migration of waste or leachate to the adjacent subsurface soils,*
27 *groundwater and surface water.*

28 8. *As used in this section:*

29 (a) *"Landfill" means a disposal facility or part of a facility*
30 *where hazardous waste is placed in or on land and which is not a*
31 *pile, a land-treatment facility, a surface impoundment, an*
32 *underground-injection well, a salt-dome formation, a salt-bed*
33 *formation, an underground mine or a cave.*

34 (b) *"Liner" means a continuous layer of man-made material*
35 *installed beneath and on the sides of a landfill which restricts the*
36 *downward or lateral escape of hazardous waste, hazardous waste*
37 *constituents or leachate, and prevents the migration of waste to*
38 *the adjacent subsurface soils, groundwater and surface water.*

39 (c) *"Leachate" means any liquid, including any suspended*
40 *components in the liquid, that has percolated through or drained*
41 *from a landfill.*

42 (d) *"Leachate collection and removal system" means a layer of*
43 *granular or synthetic materials installed above a liner and*
44 *operated in conjunction with drains, pipes, sumps and pumps or*



1 *other means designed to collect and remove leachate from a*
2 *landfill.*

3 **Sec. 10.** NRS 459.545 is hereby amended to read as follows:

4 459.545 1. ~~[The]~~ *Except as otherwise provided in subsection*
5 *3, the* Commission may by regulation adopt a procedure under
6 which an applicant or holder of a permit may demonstrate that a
7 standard he proposes would offer protection of human health, public
8 safety and the environment which is equivalent to a standard of the
9 Commission.

10 2. ~~[The]~~ *Except as otherwise provided in subsection 3, the*
11 Commission may specify certain standards which may be
12 considered for substitution pursuant to this section.

13 *3. The Commission may not by regulation adopt a procedure*
14 *or specify a standard which would allow a facility for the disposal*
15 *of hazardous waste to construct or operate a landfill in a manner*
16 *that fails to comply with the requirements of subsection 7 of*
17 *NRS 459.520.*

18 **Sec. 11.** NRS 459.546 is hereby amended to read as follows:

19 459.546 1. ~~[The]~~ *Except as otherwise provided in subsection*
20 *4, the* owner or operator of a facility for the treatment, storage or
21 disposal of hazardous waste or a person who wishes to construct
22 such a facility may apply to the Commission for a variance from its
23 applicable regulations. The Commission may grant a variance only
24 if, after a public hearing on due notice, it finds from a
25 preponderance of the evidence that:

26 (a) The facility or proposed facility, under the worst adverse
27 conditions, does not or will not endanger or tend to endanger the
28 environment and human health or safety; and

29 (b) Compliance with the regulations would produce serious
30 hardship without equal or greater benefits to the environment or
31 public.

32 2. The Commission shall not grant a variance unless it has
33 considered in the following order of priority the interests of:

34 (a) The public;

35 (b) Other owners of property likely to be affected by the
36 emissions or discharge; and

37 (c) The applicant.

38 3. The Commission may:

39 (a) Upon granting a variance, impose certain conditions upon
40 the applicant; or

41 (b) Revoke the variance if the applicant fails to comply with
42 those conditions.

43 *4. The Commission shall not grant a variance from its*
44 *applicable regulations that would allow a facility for the disposal*
45 *of hazardous waste to construct or operate a landfill in a manner*



1 *that fails to comply with the requirements of subsection 7 of*
2 *NRS 459.520.*

3 **Sec. 12** NRS 444.587 is hereby repealed.

4 **Sec. 13.** The amendatory provisions of sections 9, 10 and 11
5 of this act do not apply to an existing landfill that undergoes or
6 commences closure on or before December 31, 2005.

TEXT OF REPEALED SECTION

444.587 Division of Environmental Protection: Development of markets for products made from recycled materials; reports to Legislature.

1. The Division of Environmental Protection of the State Department of Conservation and Natural Resources shall:

(a) Develop markets in this State for products made from recycled materials;

(b) Determine the feasibility for the development of markets outside the State for products made from recycled materials; and

(c) Provide producers of recycled materials in this State with information relating to manufacturers of products made from those materials.

2. The Division of Environmental Protection of the State Department of Conservation and Natural Resources shall, not later than February 1 of each year, submit a report to the Director of the Legislative Counsel Bureau for presentation to the Legislature. The report must include:

(a) A general description of the markets for recycled materials in this State; and

(b) Any recommendations relating to:

(1) Increasing the demand for recycled materials and developing markets for recycled materials;

(2) The development of state and local policies which encourage the purchasing of products manufactured from recycled materials; and

(3) Financial assistance and incentives to encourage the use of recycled materials in this State.

3. As used in this section, "recycled material" means material which is separated from solid waste and processed for use as a raw material or product.



