

Amendment No. 530

Assembly Amendment to Assembly Bill No. 115 (BDR 46-858)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 115 (§ 2).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

SLP/KCR



Date: 4/21/2007

A.B. No. 115—Enacts provisions governing mines with the potential to emit mercury. (BDR 46-858)



ASSEMBLY BILL NO. 115--ASSEMBLYWOMAN LESLIE

FEBRUARY 15, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Enacts provisions governing mines . ~~[with the potential to emit mercury.]~~ (BDR 46-858)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 mines; making various changes governing the regulation of mines ; ~~[with the potential to emit mercury.]~~ requiring the State Environmental Commission to ~~[raise additional revenue from fees charged for operating permits issued to certain mine operators to pay for certain projects relating to mercury emissions; providing penalties;]~~ **adopt regulations prescribing a fee for operators of mines with the potential to emit mercury;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Administrator of the Division of Industrial Relations of the Department of Business and Industry is authorized to adopt regulations for mine health and safety. (NRS 512.131) **Section 1** of this bill requires the Administrator to adopt regulations ~~[establishing a program for the protection of workers in mines with the potential to emit mercury.]~~

~~Under existing law, the State Department of Conservation and Natural Resources is designated as the Air Pollution Control Agency for Nevada. (NRS 445B.205) The State Environmental Commission is authorized to adopt regulations to prevent, abate and control air pollution. (NRS 445B.210) "Air pollution" is defined as the presence of one or more air contaminants in the outdoor atmosphere that tend to injure human health or property, limit visibility or interfere with the enjoyment of life or property. (NRS 445B.115) An air contaminant is any substance discharged into the atmosphere other than water vapor and water droplets. (NRS 445B.110) The emission of mercury into the atmosphere qualifies as an air contaminant. Section 9 of this bill requires a mine operator who is operating a mine that has the potential to emit mercury to monitor and measure mercury emissions from the mine and to make certain reports of mercury emissions to the Department. The Director of the Department will determine which mines have the potential to emit mercury. Section 10 of this bill requires the Department to conduct unannounced visits to mines that have the potential to emit mercury and to measure and make public the quality of ambient air at the mine. Section 11 of this bill requires the Department to impose a limit on mercury emissions for mines with the potential to emit mercury and reduce, to the greatest extent practicable, current levels of~~

~~mercury emissions by at least 25 percent on or before January 1, 2012.] as necessary to provide safe and healthful working conditions at mines.~~

Under existing law, the State Environmental Commission is required to adopt regulations that require a person operating or responsible for the existence of a source of air contaminant to apply for and obtain an operating permit ~~[(NRS 445B.300) The Commission is also required to adopt regulations that]~~ and to charge appropriate fees for an operating permit. (NRS 445B.300) ~~Section 12] 2~~ of this bill requires the Commission to ~~raise an additional \$500,000 in revenue from annual fees charged to mine]~~ adopt regulations prescribing a fee for operators of mines [that have] with the potential to emit mercury [for operating permits], which must be in addition to the fee for an operating permit. The additional ~~[\$500,000 in]~~ revenue will be used by the ~~[Chairman of the Commission]~~ State Department of Conservation and Natural Resources to pay for ~~[research projects relating to mercury emissions and for projects]~~ employees that will monitor [the presence of mercury in ambient air, fish and water.] compliance with the Nevada Mercury Air Emissions Control Program. (NRS 445B.210, 445B.300; NAC 445B.3611-445B.3689)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 512.131 is hereby amended to read as follows:

512.131 1. The Administrator ~~[(~~

~~(a) Except as otherwise provided in paragraph (b), may adopt any] shall adopt regulations for mine health and safety [he deems necessary and which are consistent with] as necessary to provide safe and healthful working conditions at mines. The regulations must provide protection that is at least equal to the protection provided by the Federal Mine Safety and Health Act, [§] 30 U.S.C. §§ 801 et seq., [D;] as amended.~~

~~[(b) Shall adopt regulations establishing a program for the protection of workers in mines with the potential to emit mercury. The regulations must include, without limitation, provisions that require an operator to:~~

~~(1) Submit urine samples to a laboratory each month, for each worker who may receive exposure to mercury, to be tested for levels of mercury;~~

~~(2) Each month, test the quality of the ambient air in and around the mine by measuring the presence of elemental mercury; and~~

~~(3) Submit the results of each test to the Administrator.] The administrator may consider the following sources in adopting the regulations:~~

~~(a) Common practices of the mining industry;~~

~~(b) The American National Standards Institute;~~

~~(c) The American Society of Mechanical Engineers;~~

~~(d) The American Society for Testing and Materials International;~~

~~(e) Applicable provisions contained in the Code of Federal Regulations;~~

~~(f) The National Fire Protection Association, including, without limitation, the National Electrical Code;~~

~~(g) Any national consensus standard; and~~

~~(h) Any safety order legally adopted by the Administrator.~~

2. The Administrator shall forward a copy of ~~[every] each~~ regulation adopted under this section to the operator of each mine and to the representative of the workers, if any, at the mine. Failure to receive a copy of the regulation does not relieve anyone of the obligation to comply with it.

~~3. As used in this section, "mine with the potential to emit mercury" has the meaning ascribed to it in section 6 of this act.]~~

1 Sec. 2. Chapter 445B of NRS is hereby amended by adding thereto ~~the~~
2 ~~provisions set forth as sections 3 to 12, inclusive, of this act.~~ a new section to read
3 as follows:

4 1. In addition to the fees for an operating permit, the Commission shall
5 adopt regulations prescribing the appropriate fee to be imposed on the operator of
6 a mine with the potential to emit mercury, and the schedule for payment of the
7 fee. The Commission shall ensure that the fees imposed pursuant to this
8 subsection are in an amount sufficient to pay the cost of employing two full-time
9 employees of the Department whose employment responsibilities include ensuring
10 compliance with a program to control mercury emissions adopted pursuant to
11 NRS 445B.100 to 445B.640, inclusive, and any regulations adopted thereto. The
12 Department shall advise the Commission in prescribing an appropriate fee
13 pursuant to this subsection.

14 2. Each operator of a mine with the potential to emit mercury shall pay the
15 fee prescribed by the Commission in accordance with the schedule prescribed by
16 the Commission.

17 3. As used in this section, "mine with the potential to emit mercury" means
18 a mine that, as determined by the Director, has the potential to emit mercury.

19 Sec. 3. ~~["Elemental mercury" means mercury in a liquid state.]~~ (Deleted
20 by amendment.)

21 Sec. 4. ~~["Mine" has the meaning ascribed to it in NRS 512.006.]~~ (Deleted
22 by amendment.)

23 Sec. 5. ~~["Mine operator" has the meaning ascribed to the term "operator"~~
24 ~~in NRS 512.007.]~~ (Deleted by amendment.)

25 Sec. 6. ~~["Mine with the potential to emit mercury" means a mine that, as~~
26 ~~determined by the Director, has the potential to emit mercury.]~~ (Deleted by
27 amendment.)

28 Sec. 7. ~~["Precious metals mining" means the mining of gold or silver ore~~
29 ~~by the owner or operator of a stationary source that belongs to Industry Group~~
30 ~~104, Gold and Silver Ores, of Major Group 10, Metal Mining, of the Standard~~
31 ~~Industrial Classification Manual, 1987 edition, which is published by the United~~
32 ~~States Office of Management and Budget.]~~ (Deleted by amendment.)

33 Sec. 8. ~~["Thermal unit" means an emission unit which:~~

34 ~~1. Is located at a stationary source that conducts precious metals mining;~~
35 ~~and~~

36 ~~2. Uses direct or indirect sources of heat energy.]~~ (Deleted by amendment.)

37 Sec. 9. ~~[A mine operator of a mine with the potential to emit mercury shall:~~

38 ~~1. Monitor and submit a report to the Department setting forth:~~

39 ~~(a) On a quarterly basis, all emissions of elemental mercury at the mine, if~~
40 ~~any; and~~

41 ~~(b) On an annual basis, all emissions of total mercury at the mine, if any,~~
42 ~~including, without limitation, elemental, oxidized and particulate bound mercury.~~

43 ~~2. Immediately report to the Department all deviations in performance,~~
44 ~~resulting in increased emissions of mercury, of the technologies that have been~~
45 ~~implemented at the mine to control mercury emissions.~~

46 ~~3. Establish at least two sites for the mine at which the quality of ambient~~
47 ~~air must be measured by monitoring the presence of elemental mercury. The~~
48 ~~measurements must be taken at least once each month. The monitoring sites must~~
49 ~~be located in areas of the mine where concentrations of elemental mercury are~~
50 ~~expected to be the highest and located in proximity to and generally downwind of~~
51 ~~a thermal unit that emits mercury or an operating heap. The mine operator shall~~
52 ~~collect and submit the measurements to the Department on a quarterly basis~~

~~together with a report documenting each thermal unit in operation at the time the measurements were taken.} (Deleted by amendment.)~~

~~Sec. 10. [At least twice each year, the Department shall conduct unannounced visits to each mine with the potential to emit mercury and measure the quality of ambient air at the mine. The measurements must be maintained at the Department and made available to the public by posting the measurements to the website of the Department.} (Deleted by amendment.)~~

~~Sec. 11. [The Department shall impose a limit on mercury emissions for mines with the potential to emit mercury based on the total amount of mercury emissions from those mines measured for the year 2005. The amount of the limitation must be determined by the Department. The Department shall, to the greatest extent practicable, ensure that mercury emissions from those mines are reduced by not less than 25 percent on or before January 1, 2012, with a reduction of not less than 4 percent in mercury emissions each year. If, during a year, a 4 percent reduction in mercury emissions is not obtained, the Department shall conduct discussions with mine operators and determine the manner in which the 4 percent minimum reduction may be obtained for the following year.} (Deleted by amendment.)~~

~~Sec. 12. [Each year, the Commission shall increase the total amount of fees charged to mine operators for operating permits by an amount that is equal to \$500,000 for that year. Each year, the additional \$500,000 must be accounted for separately in the State General Fund and may only be used by the Commission to pay for:~~

- ~~1. Projects to monitor the presence of mercury in ambient air, fish and water; and~~
- ~~2. Research concerning the health effects and control of mercury emissions from mining.} (Deleted by amendment.)~~

Sec. 13. NRS 445B.100 is hereby amended to read as follows:

445B.100 1. It is the public policy of the State of Nevada and the purpose of NRS 445B.100 to 445B.640, inclusive, ~~and [sections 3 to 12, inclusive,]~~ section 2 of this act to achieve and maintain levels of air quality which will protect human health and safety, prevent injury to plant and animal life, prevent damage to property, and preserve visibility and scenic, esthetic and historic values of the State.

2. It is the intent of NRS 445B.100 to 445B.640, inclusive, ~~and [sections 3 to 12, inclusive,]~~ section 2 of this act to:

(a) Require the use of reasonably available methods to prevent, reduce or control air pollution throughout the State of Nevada;

(b) Maintain cooperative programs between the State and its local governments; and

(c) Facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within a single jurisdiction.

3. The quality of air is declared to be affected with the public interest, and NRS 445B.100 to 445B.640, inclusive, ~~and [sections 3 to 12, inclusive,]~~ section 2 of this act are enacted in the exercise of the police power of this State to protect the health, peace, safety and general welfare of its people.

4. It is also the public policy of this State to provide for the integration of all programs for the prevention of accidents in this State involving chemicals, including, without limitation, accidents involving hazardous air pollutants, highly hazardous chemicals, highly hazardous substances and extremely hazardous substances.

Sec. 14. NRS 445B.105 is hereby amended to read as follows:

445B.105 As used in NRS 445B.100 to 445B.640, inclusive, ~~and [sections 3 to 12, inclusive,]~~ section 2 of this act, unless the context otherwise requires, the

words and terms defined in NRS 445B.110 to 445B.155, inclusive, ~~[and sections 3 to 8, inclusive, of this act]~~ have the meanings ascribed to them in those sections.

Sec. 15. ~~[NRS 445B.210 is hereby amended to read as follows:]~~

~~445B.210 The Commission may:~~

~~1. Subject to the provisions of NRS 445B.215, adopt regulations consistent with the general intent and purposes of NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act to prevent, abate and control air pollution.~~

~~2. Establish standards for air quality.~~

~~3. Require access to records relating to emissions which cause or contribute to air pollution.~~

~~4. Cooperate with other governmental agencies, including other states and the Federal Government.~~

~~5. Establish such requirements for the control of emissions as may be necessary to prevent, abate or control air pollution.~~

~~6. By regulation:~~

~~(a) Designate as a hazardous air pollutant any substance which, on or after October 1, 1993, is on the federal list of hazardous air pollutants pursuant to 42 U.S.C. § 7412(b); and~~

~~(b) Delete from designation as a hazardous air pollutant any substance which, after October 1, 1993, is deleted from the federal list of hazardous air pollutants pursuant to 42 U.S.C. § 7412(b);~~

~~—based upon the Commission's determination of the extent to which such a substance presents a risk to the public health.~~

~~7. Hold hearings to carry out the provisions of NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, except as otherwise provided in those sections.~~

~~8. Establish fuel standards for both stationary and mobile sources of air contaminants. Fuel standards for mobile sources of air contaminants must be established to achieve air quality standards that protect the health of the residents of the State of Nevada.~~

~~9. Require elimination of devices or practices which cannot be reasonably allowed without generation of undue amounts of air contaminants.] (Deleted by amendment.)~~

Sec. 16. ~~[NRS 445B.220 is hereby amended to read as follows:]~~

~~445B.220 In carrying out the purposes of NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, the Commission, in addition to any other action which may be necessary or appropriate to carry out such purposes, may:~~

~~1. Cooperate with appropriate federal officers and agencies of the Federal Government, other states, interstate agencies, local governmental agencies and other interested parties in all matters relating to air pollution control in preventing or controlling the pollution of the air in any area.~~

~~2. Recommend measures for control of air pollution originating in this State.] (Deleted by amendment.)~~

Sec. 17. ~~[NRS 445B.230 is hereby amended to read as follows:]~~

~~445B.230 The Department shall:~~

~~1. Make such determinations and issue such orders as may be necessary to implement the purposes of NRS 445B.100 to 445B.640, inclusive [], and sections 3 to 12, inclusive, of this act.~~

~~2. Apply for and receive grants or other funds or gifts from public or private agencies.~~

~~3. Cooperate and contract with other governmental agencies, including other states and the Federal Government.~~

~~4. Conduct investigations, research and technical studies consistent with the general purposes of NRS 445B.100 to 445B.640, inclusive [.] , and sections 3 to 12, inclusive, of this act.~~

~~5. Prohibit as specifically provided in NRS 445B.300 and 445B.320 and as generally provided in NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act the installation, alteration or establishment of any equipment, device or other article capable of causing air pollution.~~

~~6. Require the submission of such preliminary plans and specifications and other information as it deems necessary to process permits.~~

~~7. Enter into and inspect at any reasonable time any premises containing an air contaminant source or a source under construction for purposes of ascertaining compliance with NRS 445B.100 to 445B.640, inclusive [.] , and sections 3 to 12, inclusive, of this act.~~

~~8. Specify the manner in which incinerators may be constructed and operated.~~

~~9. Institute proceedings to prevent continued violation of any order issued by the Director and to enforce the provisions of NRS 445B.100 to 445B.640, inclusive [.] , and sections 3 to 12, inclusive, of this act.~~

~~10. Require access to records relating to emissions which cause or contribute to air pollution.~~

~~11. Take such action in accordance with the rules, regulations and orders promulgated by the Commission as may be necessary to prevent, abate and control air pollution.] (Deleted by amendment.)~~

Sec. 18. ~~[NRS 445B.235 is hereby amended to read as follows:]~~

~~445B.235 In carrying out the purposes of NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, the Department may : [.] if it considers it necessary or appropriate:]~~

~~1. Cooperate with appropriate federal officers and agencies of the Federal Government, other states, interstate agencies, local governmental agencies and other interested parties in all matters relating to air pollution control in preventing or controlling the pollution of the air in any area.~~

~~2. On behalf of this State, apply for and receive funds made available to the State for programs from any private source or from any agency of the Federal Government under the Federal Act. All [moneys] money received from any federal agency or private source as provided in this section [shall] must be paid into the State Treasury and [shall] must be expended, under the direction of the Department, solely for the purpose [or purposes] for which the grant [or grants have] has been made.~~

~~3. Certify to the appropriate federal authority that facilities are in conformity with the state program and requirements for control of air pollution, or will be in conformity with the state program and requirements for control of air pollution if such a facility is constructed and operated in accordance with the application for certification.~~

~~4. Develop measures for control of air pollution originating in the State.] (Deleted by amendment.)~~

Sec. 19. ~~[NRS 445B.240 is hereby amended to read as follows:]~~

~~445B.240 1. Any [duly] authorized officer, employee or representative of the Department may enter and inspect any property, premises or place on or at which an air contaminant source is located or is being constructed, installed or established at any reasonable time for the purpose of ascertaining the state of compliance with NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act and rules and regulations in force pursuant thereto.~~

~~2. No person [shall] may.~~

~~(a) Refuse entry or access to any authorized representative of the Department who requests entry for purposes of inspection, as provided in this section, and who presents appropriate credentials;~~

~~(b) Obstruct, hamper or interfere with any such inspection;~~

~~3. If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.] (Deleted by amendment.)~~

Sec. 20. ~~[NRS 445B.300 is hereby amended to read as follows:~~

~~445B.300 1. The Commission shall by regulation:~~

~~(a) Require the person operating or responsible for the existence of each source of air contaminant, generally or within a specified class or classes, to apply for and obtain an operating permit for the source;~~

~~(b) Require that written notice be given to the Director before the construction, installation, alteration or establishment of any source of air contaminant or of any specified class or classes of such sources, or the alteration of any device intended primarily to prevent or reduce air pollution. If , within the time prescribed by regulation, the Director determines that:~~

~~(1) The proposed construction, installation, alteration or establishment will not be in accordance with the provisions of the plans, specifications and other design material required to be submitted under NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act or applicable regulations; or~~

~~(2) The design material or the construction itself is of such a nature that it patently cannot bring such a source into compliance with NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act or applicable regulations;~~

~~the Director shall issue an order prohibiting the construction, installation, alteration or establishment of the source or sources of air contaminant.~~

~~2. The Commission shall by regulation provide for:~~

~~(a) The issuance, renewal, modification, revocation and suspension of operating permits, and charge appropriate fees for their issuance in an amount sufficient to pay the expenses of administering NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act and any regulations adopted pursuant to those sections;~~

~~(b) The issuance of authorizations for the issuance of building permits pursuant to paragraph (a) of subsection 2 of NRS 445B.320.~~

~~3. Any failure of the Commission or the Department to issue a regulation or order to prohibit any act does not relieve the person so operating from any legal responsibility for the construction, operation or existence of the source of air contaminant.~~

~~4. All administrative fees collected by the Commission pursuant to subsection 2 must be [accounted for separately and] deposited in the State General Fund for credit to the Account for the Management of Air Quality. This subsection does not apply to any fees collected by political subdivisions or their agencies.] (Deleted by amendment.)~~

Sec. 21. ~~[NRS 445B.330 is hereby amended to read as follows:~~

~~445B.330 When the Department takes any regulatory action, under the provisions of NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, or under any rule, regulation, order or standard based thereon, it shall give reasonable notice to all parties by certified mail, which notice [shall] must state the legal authority, jurisdiction and reasons for the action taken.] (Deleted by amendment.)~~

1 **Sec. 22.** ~~[NRS 445B.460 is hereby amended to read as follows:~~
2 ~~445B.460 1. If, in the judgment of the Director, any person is engaged in or~~
3 ~~is about to engage in any act or practice which constitutes or will constitute a~~
4 ~~violation of any provision of NRS 445B.100 to 445B.640, inclusive, and sections 3~~
5 ~~to 12, inclusive, of this act, or any rule, regulation, order or operating permit issued~~
6 ~~pursuant to NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive,~~
7 ~~of this act, the Director may request that the Attorney General apply to the district~~
8 ~~court for an order enjoining the act or practice, or for an order directing compliance~~
9 ~~with any provision of NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12,~~
10 ~~inclusive, of this act, or any rule, regulation, order or operating permit issued~~
11 ~~pursuant to NRS 445B.100 to 445B.640, inclusive [.] , and sections 3 to 12,~~
12 ~~inclusive, of this act.~~

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

18 ~~3. Upon a showing by the Director or the control officer that a person has~~
19 ~~engaged in or is about to engage in any such act or practice, a permanent or~~
20 ~~temporary injunction, restraining order or other appropriate order may be granted~~
21 ~~by the court.] (Deleted by amendment.)~~

22 **Sec. 23.** ~~[NRS 445B.470 is hereby amended to read as follows:~~

23 ~~445B.470 1. A person shall not knowingly:~~

24 ~~(a) Violate any applicable provision, the terms or conditions of any permit or~~
25 ~~any provision for the filing of information;~~

26 ~~(b) Fail to pay any fee;~~

27 ~~(c) Falsify any material statement, representation or certification in any notice~~
28 ~~or report; or~~

29 ~~(d) Render inaccurate any monitoring device or method;~~

30 ~~required pursuant to the provisions of NRS 445B.100 to 445B.450, inclusive, or~~
31 ~~445B.470 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act or any~~
32 ~~regulation adopted pursuant to those provisions.~~

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

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

38 ~~4. If, in the judgment of the Director [of the Department] or his designee, any~~
39 ~~person is engaged in any act or practice which constitutes a criminal offense~~
40 ~~pursuant to NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive,~~
41 ~~of this act, the Director [of the Department] or his designee may request that the~~
42 ~~Attorney General or the district attorney of the county in which the criminal offense~~
43 ~~is alleged to have occurred institute by indictment or information a criminal~~
44 ~~prosecution of the person.~~

45 ~~5. If, in the judgment of the control officer of a local air pollution control~~
46 ~~board, any person is engaged in such an act or practice, the control officer may~~
47 ~~request that the district attorney of the county in which the criminal offense is~~
48 ~~alleged to have occurred institute by indictment or information a criminal~~
49 ~~prosecution of the person.] (Deleted by amendment.)~~

50 **Sec. 24.** ~~[NRS 445B.590 is hereby amended to read as follows:~~

51 ~~445B.590 1. The Account for the Management of Air Quality is hereby~~
52 ~~created in the State General Fund, to be administered by the Department.~~

~~2. [Money] Except as otherwise provided in subsection 3, money in the Account [for the Management of Air Quality] must be expended only:~~

~~(a) To carry out and enforce the provisions of NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, and of any regulations adopted pursuant to those sections, including, without limitation, the direct and indirect costs of:~~

~~(1) Preparing regulations and recommendations for legislation regarding those provisions;~~

~~(2) Furnishing guidance for compliance with those provisions;~~

~~(3) Reviewing and acting upon applications for operating permits;~~

~~(4) Administering and enforcing the terms and conditions of operating permits;~~

~~(5) Monitoring emissions and the quality of the ambient air;~~

~~(6) Preparing inventories and tracking emissions;~~

~~(7) Performing modeling, analyses and demonstrations; and~~

~~(8) Establishing and administering a program for the provision of assistance, pursuant to 42 U.S.C. § 7661f, to small businesses operating stationary sources; and~~

~~(b) In any other manner required as a condition to the receipt of federal money for the purposes of NRS 445B.100 to 445B.640, inclusive [], and sections 3 to 12, inclusive, of this act.~~

~~3. Money in the Account must not be expended for any project or research for which money is available pursuant to section 12 of this act.~~

~~4. All interest earned on the money in the Account [for the Management of Air Quality] must be credited to the Account. Claims against the Account [for the Management of Air Quality] must be paid as other claims against the State are paid.] (Deleted by amendment.)~~

Sec. 25. ~~[NRS 445B.600 is hereby amended to read as follows:]~~

~~445B.600 The provisions of NRS 445B.100 to 445B.595, inclusive, [does] and sections 3 to 12, inclusive, of this act do not abridge, limit, impair, create, enlarge or otherwise affect substantively or procedurally the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefor in the courts of this State or the courts of the United States on a tort claim against the United States or a federal agency as authorized by federal statutes.] (Deleted by amendment.)~~

Sec. 26. ~~[NRS 445B.640 is hereby amended to read as follows:]~~

~~445B.640 1. Except as otherwise provided in subsection 4 and NRS 445C.010 to 445C.120, inclusive, any person who violates any provision of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, or any regulation in force pursuant thereto, other than NRS 445B.570 on confidential information, is guilty of a civil offense and shall pay an administrative fine levied by the Commission of not more than \$10,000 per day per offense. Each day of violation constitutes a separate offense.~~

~~2. The Commission shall by regulation establish a schedule of administrative fines not exceeding \$500 for lesser violations of any provision of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, or any regulation in force pursuant thereto.~~

~~3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, regulations in force pursuant thereto, and orders made pursuant to NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, by injunction or other appropriate remedy, and the Commission or the Director may~~

1 ~~institute and maintain in the name of the State of Nevada any such enforcement~~
2 ~~proceedings.~~

3 ~~4. Any person who fails to pay a fine levied pursuant to subsection 1 or 2~~
4 ~~within 30 days after the fine is imposed is guilty of a misdemeanor. The provisions~~
5 ~~of this subsection do not apply to persons found by the court to be indigent.~~

6 ~~5. All administrative fines collected by the Commission pursuant to this~~
7 ~~section must be deposited in the county school district fund of the county where the~~
8 ~~violation occurred.] (Deleted by amendment.)~~

9 **Sec. 27.** ~~[NRS 445C.030 is hereby amended to read as follows:~~
10 ~~445C.030 "Environmental requirement" means a requirement contained in~~
11 ~~NRS 444.440 to 444.645, inclusive, 445A.300 to 445A.720, inclusive, 445B.100 to~~
12 ~~445B.640, inclusive, and sections 3 to 12, inclusive, of this act, 459.400 to~~
13 ~~459.600, inclusive, 459.700 to 459.856, inclusive, or 519A.010 to 519A.280,~~
14 ~~inclusive, or in a regulation adopted pursuant to any of those [statutes.] sections.]~~
15 ~~(Deleted by amendment.)~~

16 **Sec. 28.** **The Administrator of the Division of Industrial Relations of the**
17 **Department of Business and Industry shall, on or before June 30, 2009, review**
18 **the regulations adopted pursuant to NRS 512.131 and revise those regulations**
19 **to ensure the regulations comply with the amendatory provisions of section 1**
20 **of this act.**

21 **Sec. 29.** **The State Environmental Commission shall adopt the**
22 **regulations required pursuant to section 2 of this act on or before December**
23 **31, 2007.**

24 ~~[Sec. 28.]~~ **Sec. 30.** **This act becomes effective upon passage and approval .**
25 ~~{for the purpose of adopting regulations necessary to carry out the provisions of this~~
26 ~~act, and on January 1, 2008, for all other purposes.]~~