

Amendment No. 423

Senate Amendment to Senate Bill No. 422	(BDR 40-678)
Proposed by: Senate Committee on Natural Resources	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

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.

WBD/TMC



Date: 4/21/2007

S.B. No. 422—Requires the State Environmental Commission to establish a program for the reduction of greenhouse gases emitted by affected units in this State. (BDR 40-678)



SENATE BILL NO. 422--SENATOR TITUS

MARCH 19, 2007

Referred to Committee on Natural Resources

SUMMARY—Requires the ~~[State Environmental Commission to establish a program for the reduction]~~ **creation of a registry and inventory** of greenhouse gases emitted ~~[by affected units]~~ in this State. (BDR 40-678)

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 pollution; requiring the State Environmental Commission to establish a ~~[program for the reduction]~~ **registry** of greenhouse gases emitted by affected units in this State; ~~[setting forth certain required provisions that the Commission must include in the program; limiting the amount of greenhouse gases that certain affected units may emit;]~~ **requiring the State Department of Conservation and Natural Resources to issue a statewide inventory of greenhouse gas emissions;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State Environmental Commission may adopt certain regulations to prevent, abate and control air pollution and establish standards for air quality. (NRS 445B.210) Also under existing law, a district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more (currently Clark and Washoe Counties) must establish a program for the control of air pollution and administer that program. In any other county, or in any city, a similar program may be established through cooperative or interlocal agreement or the county or city may establish its own program for the control of air pollution. (NRS 445B.500)

Section 5 of this bill requires the Commission to establish, by regulation, a statewide ~~[program for the control]~~ **registry** of greenhouse gases emitted by certain generators of electricity in this State. **Section 4** of this bill defines a "greenhouse gas" to mean carbon dioxide, ~~[hydro fluorocarbons,]~~ **hydrofluorocarbons,** methane, nitrous oxide, ~~[per fluorocarbons]~~ **perfluorocarbons** and sulphur hexafluoride. ~~[The program must include, without limitation, a method for creating allowances of emissions from affected units and the manner in which the allowances must be banked and traded. Section 6 of this bill imposes a limitation on the annual amount of greenhouse gases that an affected unit may emit. The limitation becomes effective on January 1, 2011, and proceeds in accordance with a schedule set forth in section 6.]~~ **Section 5 requires the Commission to prescribe the requirements and procedures for reporting the emissions of greenhouse gases that must be included in**

the registry, methods for identifying and measuring the greenhouse gases that must be reported and methods for independently verifying the information that is reported. The Commission is required to establish the reporting period, but the period must not be longer than 1 year. Finally, section 5 authorizes the Commission to establish procedures for the voluntary reporting of emissions of greenhouse gases from sources that are not otherwise required to report.

Section 6.5 of this bill requires the State Department of Conservation and Natural Resources to issue, at least every 4 years, a statewide inventory of greenhouse gas emissions in this State. The inventory must include the sources, types and amounts of the greenhouse gases, together with the Department's evaluation of the emissions, and must be supported with documentation.

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

Section 1. Chapter 445B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~6.5~~ 6.5, inclusive, of this act.

Sec. 2. *"Affected unit" means a facility for the generation of electricity that:*

1. *Has a maximum design capacity of at least ~~25~~ 5 megawatts;*
2. *~~Combusts a fuel that emits~~ Emits a greenhouse gas; and*
3. *Generates electricity for sale.*

Sec. 3. ~~"Allowance" means an authorization granted by the Commission pursuant to the program specified in section 5 of this act to emit 1 metric ton of carbon dioxide or an equivalent of carbon dioxide allocated to an affected unit by the Commission.~~ (Deleted by amendment.)

Sec. 4. *"Greenhouse gas" means:*

1. *Carbon dioxide;*
2. *~~Hydrofluorocarbons;~~ Hydrofluorocarbons;*
3. *Methane;*
4. *Nitrous oxide;*
5. *~~Perfluorocarbons;~~ Perfluorocarbons; and*
6. *Sulphur hexafluoride.*

Sec. 5. 1. *In addition to any regulation adopted pursuant to NRS 445B.210 to prevent, abate and control air pollution, the Commission shall, by regulation, establish a statewide ~~program for the control~~ registry of greenhouse gases emitted by affected units in this State ~~for~~ during the reporting period established by the Commission.*

2. *The ~~program~~ regulations must include, without limitation, provisions setting forth:*

~~(a) A method for determining allowances which results in the creation of allowances that are quantifiable, surplus and legally enforceable;~~

~~(b) The manner in which allowances must be banked and traded, including, without limitation, the allocation of the allowances among affected units and the auctioning of those allowances; and~~

~~(c) The manner in which the Commission will record transactions occurring within the program.~~ *The requirements and procedures for reporting emissions of greenhouse gases;*

(b) Methods for identifying, measuring and otherwise determining the greenhouse gases that must be reported for inclusion in the registry;

(c) Methods for independently verifying the information reported for inclusion in the registry; and

(d) The reporting period, except that the period must not be longer than 1 year.

3. The Commission may establish procedures for the inclusion in the registry of greenhouse gases emitted from a source other than an affected unit.

~~Sec. 6. Notwithstanding any provision of law to the contrary, on and after January 1, 2011, the annual tonnage limitation for the aggregate quantity of emissions of greenhouse gases from all affected units in this State must not exceed:~~

~~1. For calendar years 2011, 2012, 2013 and 2014, the aggregate quantity of emissions of greenhouse gases emitted by those affected units for calendar year 2006, as determined by the Commission;~~

~~2. For calendar year 2015, the aggregate quantity of emissions of greenhouse gases emitted by those affected units for calendar year 2001, as determined by the Commission;~~

~~3. For calendar years 2016, 2017, 2018 and 2019, the aggregate quantity of emissions of greenhouse gases emitted by those affected units during the immediately preceding calendar year less 1 percent; and~~

~~4. For calendar year 2020 and each calendar year thereafter, the aggregate quantity of emissions of greenhouse gases emitted by those affected units during the immediately preceding calendar year less 1.5 percent.} (Deleted by amendment.)~~

Sec. 6.5. 1. The Department shall, not later than December 31, 2008, and at least every 4 years thereafter, issue a statewide inventory of greenhouse gas emissions.

2. The inventory must include, without limitation:

(a) The sources, types and amounts of the greenhouse gases emitted in this State;

(b) The Department's evaluation of the emissions; and

(c) Documentation for the information set forth in paragraphs (a) and (b).

Sec. 7. NRS 445B.105 is hereby amended to read as follows:

445B.105 As used in NRS 445B.100 to 445B.640, inclusive, and sections 2 to ~~6~~ 6.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 445B.110 to 445B.155, inclusive, and sections 2 ~~f, 3~~ and 4 of this act have the meanings ascribed to them in those sections.

Sec. 8. 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 2 to ~~6~~ 6.5, 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 2 to ~~6.5~~ 6.5, 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.

Sec. 9. 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 2 to ~~6.5~~ 6.5, inclusive, of this act*, the Commission, in addition to any other action which may be necessary or appropriate to carry out ~~such~~ those 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.

Sec. 10. 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~~, *and sections 2 to ~~6.5~~ 6.5, 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~~, *and sections 2 to ~~6.5~~ 6.5, 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 2 to ~~6.5~~ 6.5, 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~~, *and sections 2 to ~~6.5~~ 6.5, 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~~, *and sections 2 to ~~6.5~~ 6.5, 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.

Sec. 11. NRS 445B.500 is hereby amended to read as follows:

445B.500 1. Except as otherwise provided in this section and in NRS 445B.310 ~~and section 5 of this act~~

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

(b) The program:

(1) Must include, without limitation, standards for the control of emissions, emergency procedures and variance procedures established by ordinance or local regulation which are equivalent to or stricter than those established by statute or state regulation;

(2) May, in a county whose population is 400,000 or more, include requirements for the creation, receipt and exchange for consideration of credits to reduce and control air contaminants in accordance with NRS 445B.508; and

(3) Must provide for adequate administration, enforcement, financing and staff.

(c) ~~The~~ ~~Except as otherwise provided in section 5 of this act, the~~ district board of health, county board of health or board of county commissioners is designated as the air pollution control agency of the county for the purposes of NRS 445B.100 to 445B.640, inclusive, and ~~sections 2 to 6.5, inclusive, of this act~~ ~~and~~ the Federal Act insofar as it pertains to local programs, and that agency is authorized to take all action necessary to secure for the county the benefits of the Federal Act.

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

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

3. ~~In~~ ~~Except as otherwise provided in section 5 of this act, in~~ a county whose population is 400,000 or more, the local air pollution control board may delegate to an independent hearing officer or hearing board its authority to determine violations and levy administrative penalties for violations of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.500 to 445B.640, inclusive, ~~and sections 2 to 6.5, inclusive, of this act~~ or any regulation adopted pursuant to those sections. If such a delegation is made, 17.5 percent of any penalty collected must be deposited in the county treasury in an account to be administered by the local air pollution control board to a maximum of \$17,500 per year. The money in the account may only be used to defray the administrative expenses incurred by the local air pollution control board in enforcing the provisions of NRS 445B.100 to 445B.640, inclusive ~~and~~ ~~and sections 2 to 6.5, inclusive, of this act~~. The remainder of the penalty must be deposited in the county school district fund of the county where the violation occurred.

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

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

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

Sec. 12. ~~NRS 445B.508 is hereby amended to read as follows:~~

~~445B.508 1. [In] Except as otherwise provided in section 5 of this act, in a county whose population is 400,000 or more, a district board of health or board of county commissioners may, as a part of its program for the control of air pollution established pursuant to NRS 445B.500, require each person or entity that is proposing to locate a new source of air pollution within its jurisdiction or to modify an existing source of air pollution within its jurisdiction in such a way as to increase emissions of air pollutants, to reduce or mitigate any increase in emissions in accordance with regulations adopted by such board.~~

~~2. If a district board of health or board of county commissioners imposes the requirement described in subsection 1, its program established pursuant to NRS 445B.500 must:~~

~~(a) Provide a method for determining credits which results in credits that are quantifiable, surplus and legally enforceable;~~

~~(b) Set forth the manner in which credits will be banked and traded, and the manner in which such transactions will be tracked and accounted for by the board; and~~

~~(c) By not later than January 1, 2002, prohibit any person or entity from purchasing or selling credits of one type of pollutant if such credits will be used subsequently to produce a different type of pollutant.~~

~~3. If a county operates a program for the control of air pollution that allows a person operating or responsible for the existence of a source to earn credits for maintaining or reducing the level of air contaminant emitted from the source, the program:~~

~~(a) Must allow the person to earn credits for reducing the level of air contaminant emitted from that source through the use of solar energy; and~~

~~(b) Must not allow the person to earn credits for reducing the level of air contaminant emitted from that source if such a reduction is required as a component of a penalty imposed against the person.~~

~~4. A credit earned pursuant to this section does not constitute an interest in property.~~

~~5. As used in this section:~~

~~(a) "Credit" means an administratively created asset that may:~~

~~(1) Entitle a person operating or responsible for the existence of a source to allow the source to emit a certain level of air contaminant above a baseline that is determined by the board;~~

~~(2) Be used to comply with the requirements of a permit; and~~

~~(3) Be traded or sold to another person.~~
~~(b) "Surplus" means that a credit is not earned by compliance with a requirement of the state implementation plan adopted by this State pursuant to 42 U.S.C. § 7410 or any other federal, state or local law, ordinance or regulation.~~
(Deleted by amendment.)

Sec. 13. NRS 445B.540 is hereby amended to read as follows:

445B.540 1. A county or area whose local jurisdiction over air pollution control has been superseded may establish or restore a local air pollution control program if such program is approved as adequate by the Commission.

2. A district, county or city which has an air pollution control program in operation on July 1, 1971, may continue its program if within 1 year after July 1, 1971, the program is approved as adequate by the Commission. Such approval shall be deemed granted unless the Commission specifically disapproves the program after a public hearing. Nothing in NRS 445B.100 to 445B.640, inclusive, *and sections 2 to ~~6.5~~ 6.5, inclusive, of this act* is to be construed as invalidating any rule, regulation, enforcement action, variance, permit, cease and desist order, compliance schedule, or any other legal action taken by any existing air pollution control authority pursuant to former NRS 445.400 to 445.595, inclusive, on or before July 1, 1971, unless it is specifically repealed, superseded or disapproved, pursuant to NRS 445B.215.

Sec. 14. NRS 445B.590 is hereby amended to read as follows:

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

2. 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 2 to ~~6.5~~ 6.5, 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 2 to ~~6.5~~ 6.5, inclusive, of this act.~~

3. 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.

Sec. 15. NRS 445B.600 is hereby amended to read as follows:

445B.600 NRS 445B.100 to 445B.595, inclusive, *and sections 2 to ~~6.5~~ 6.5, inclusive, of this act* does 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.

Sec. 16. NRS 445B.610 is hereby amended to read as follows:

445B.610 1. All rules, regulations and standards promulgated by the State Commission of Environmental Protection pertaining to air pollution control in force on July 1, 1973, ~~shall~~ remain in effect until such time as revised by the State Environmental Commission pursuant to NRS 445B.100 to 445B.640, inclusive ~~and sections 2 to 6.5, inclusive, of this act.~~

2. Any and all action taken by the State Commission of Environmental Protection, including but not limited to existing orders, notices of violation, variances, permits, cease and desist orders and compliance schedules, shall remain in full force and effect and binding upon the State Environmental Commission, the Director, the Department and all persons to whom such action may apply on or after July 1, 1973.

3. In the event that a local air pollution control program described in NRS 445B.500 is transferred in whole or in part from an existing air pollution control agency to another agency, all rules and regulations adopted by the existing agency may be readopted as amended to reflect the transfer of authorities by the new agency immediately upon such transfer, and the provisions of NRS 445B.215 ~~shall~~ do not apply to such readoption.

4. If a transfer of local authority as described in subsection 3 occurs, all orders, notices of violation, variances, cease and desist orders, compliance schedules and other legal action taken by the existing air pollution control board, control officer ~~or~~ or hearing board ~~shall~~ remain in full force and effect, and ~~shall~~ must not be invalidated by reason of such transfer.

Sec. 17. 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 2 to 6.5, 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 2 to 6.5, 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 2 to 6.5, 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 2 to 6.5, inclusive, of this act~~ by injunction or other appropriate remedy, and the Commission or the Director may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

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

5. All administrative fines collected by the Commission pursuant to this section must be deposited in the county school district fund of the county where the violation occurred.

1 **Sec. 18.** NRS 445C.030 is hereby amended to read as follows:

2 445C.030 “Environmental requirement” means a requirement contained in
3 NRS 444.440 to 444.645, inclusive, 445A.300 to 445A.730, inclusive, 445B.100 to
4 445B.640, inclusive, *and sections 2 to ~~6.5~~ 6.5, inclusive, of this act*, 459.400 to
5 459.600, inclusive, 459.700 to 459.856, inclusive, or 519A.010 to 519A.280,
6 inclusive, or in a regulation adopted pursuant to any of those ~~statutes~~ *sections*.

7 **Sec. 19.** NRS 459.460 is hereby amended to read as follows:

8 459.460 1. NRS 459.400 to 459.600, inclusive, do not apply to any activity
9 or substance which is subject to control pursuant to NRS 445A.300 to 445A.955,
10 inclusive, and 459.010 to 459.290, inclusive, except to the extent that they can be
11 applied in a manner which is not inconsistent with those sections.

12 2. The Director shall administer NRS 459.400 to 459.600, inclusive, in a
13 manner which avoids duplication of the provisions of NRS 445A.300 to 445A.955,
14 inclusive, and 445B.100 to 445B.640, inclusive, *and sections 2 to ~~6.5~~ 6.5,*
15 *inclusive, of this act*, and the Federal Insecticide, Fungicide, and Rodenticide Act,
16 7 U.S.C. §§ 136 et seq.

17 **Sec. 20.** NRS 459.930 is hereby amended to read as follows:

18 459.930 1. Notwithstanding any other provision of law to the contrary and
19 regardless of whether he is a participant in a program, a person who:

20 (a) Is a bona fide prospective purchaser is not liable for any response action or
21 cleanup that may be required with respect to any real property pursuant to NRS
22 445A.300 to 445A.730, inclusive, 445B.100 to 445B.640, inclusive, *and sections 2*
23 *to ~~6.5~~ 6.5, inclusive, of this act*, 459.400 to 459.600, inclusive, or any other
24 applicable provision of law.

25 (b) Is an innocent purchaser is not liable for any response action or cleanup that
26 may be required with respect to any real property pursuant to NRS 445A.300 to
27 445A.730, inclusive, 445B.100 to 445B.640, inclusive, *and sections 2 to ~~6.5~~ 6.5,*
28 *inclusive, of this act*, 459.400 to 459.600, inclusive, or any other applicable
29 provision of law.

30 (c) Owns real property that:

31 (1) Is contiguous to or otherwise similarly situated with respect to; and

32 (2) Is or may be contaminated by a release or threatened release of a
33 hazardous substance from,

34 ➤ other real property that the person does not own, is not liable for any response
35 action or cleanup that may be required with respect to the release or threatened
36 release, provided that the person meets the requirements set forth in section
37 107(q)(1) of the Comprehensive Environmental Response, Compensation, and
38 Liability Act of 1980, 42 U.S.C. § 9607(q)(1).

39 2. A person described in paragraph (a), (b) or (c) of subsection 1 shall report
40 to the Division, in a manner prescribed by the Commission:

41 (a) Any of the following substances that are found on or at real property owned
42 by the person:

43 (1) Hazardous substances at or above the required reporting levels
44 designated pursuant to sections 102 and 103 of the Comprehensive Environmental
45 Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9602 and 9603;
46 and

47 (2) Petroleum products of such type and in such amount as are required by
48 the Division to be reported; and

49 (b) Any response action or cleanup that has been performed with respect to the
50 real property described in paragraph (a).

51 3. The provisions of this section do not otherwise limit the authority of the
52 Administrator, the Commission or the Division to require any person who is
53 responsible for the contamination or pollution of real property, by improperly

managing hazardous substances at or on that real property, to perform a response action or cleanup with respect to that real property.

4. If there are costs relating to a response action or cleanup that are incurred and unrecovered by the State of Nevada with respect to real property for which a bona fide prospective purchaser of the real property is not liable pursuant to the provisions of this section, the State of Nevada:

(a) Has a lien against that real property in an amount not to exceed the increase in the fair market value of the real property that is attributable to the response action or cleanup, which increase in fair market value must be measured at the time of the sale or other disposition of the real property; or

(b) May, with respect to those incurred and unrecovered costs and by agreement with the bona fide prospective purchaser of the real property, obtain from that bona fide prospective purchaser:

(1) A lien on any other real property owned by the bona fide prospective purchaser; or

(2) Another form of assurance or payment that is satisfactory to the Administrator.

5. The provisions of this section:

(a) Do not affect the liability in tort of any party; and

(b) Apply only to real property that is acquired on or after the date that is 60 days after May 26, 2003.

6. As used in this section:

(a) "Administrator" means the Administrator of the Division.

(b) "Bona fide prospective purchaser" has the meaning ascribed to it in section 101(40) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601(40).

(c) "Commission" means the State Environmental Commission.

(d) "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(e) "Hazardous substance" has the meaning ascribed to it in NRS 459.620.

(f) "Innocent purchaser" means a person who qualifies for the exemption from liability set forth in section 107(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607(b)(3).

(g) "Participant" has the meaning ascribed to it in NRS 459.622.

(h) "Program" means a program of voluntary cleanup and relief from liability set forth in NRS 459.610 to 459.658, inclusive.

(i) "Response action" means any action to mitigate, attempt to mitigate or assist in the mitigation of the effects of a leak or spill of or an accident involving a hazardous substance, including, without limitation, any action to:

(1) Contain and dispose of the hazardous substance;

(2) Clean and decontaminate the area affected by the leak, spill or accident;

or

(3) Investigate the occurrence of the leak, spill or accident.