

SENATE BILL NO. 45—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE DEPARTMENT OF PUBLIC SAFETY)

PREFILED DECEMBER 15, 2010

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions conferring the powers of a peace officer upon certain personnel of the Department of Public Safety. (BDR 23-463)

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

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to peace officers; revising provisions conferring the powers of a peace officer upon certain personnel of the Department of Public Safety; providing that certain personnel of the Department are category I peace officers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law specifically confers the powers of a peace officer upon certain personnel of the Department of Public Safety, including: (1) the State Fire Marshal and the assistant and deputies of the State Fire Marshal; (2) the investigators, agents, officers and employees of the Investigation Division; (3) the personnel of the Capitol Police Division; and (4) certain personnel of the Nevada Highway Patrol. (NRS 289.250, 289.270) **Sections 1-3** of this bill remove those provisions specifically conferring the powers of a peace officer upon such personnel and provide generally that all personnel assigned to a sworn position in any division of the Department of Public Safety have the powers of a peace officer. **Section 3** also removes parole and probation officers, the assistant and deputies of the State Fire Marshal and the personnel of the Capitol Police Division from the list of "category II" peace officers, thereby making such personnel "category I" peace officers with unrestricted duties. **Section 5** of this bill removes a redundant reference to the State Fire Marshal which is not necessary because the State Fire Marshal is a chief of a division of the Department of Public Safety and, as such, is already covered in the general provision exempting division chiefs from certification by the Peace Officers' Standards and Training Commission.



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

1 **Section 1.** NRS 289.250 is hereby amended to read as follows:

2 289.250 1. ~~{The State Fire Marshal and the assistant and~~
3 ~~deputies of the State Fire Marshal have the powers of a peace~~
4 ~~officer.~~

5 ~~—2.}~~ The following persons have only those powers of a peace
6 officer necessary to enforce the provisions of the laws of this State
7 respecting forest and watershed management or the protection of
8 forests and other lands from fire:

9 (a) Paid foresters and firewardens appointed pursuant to
10 paragraph (a) of subsection 2 of NRS 472.040.

11 (b) Citizen-wardens appointed pursuant to paragraph (b) of
12 subsection 2 of NRS 472.040.

13 (c) Voluntary firewardens appointed pursuant to paragraph (c)
14 of subsection 2 of NRS 472.040.

15 ~~{3.}~~ 2. A paid forester or firewarden appointed as an arson
16 investigator pursuant to paragraph (d) of subsection 2 of NRS
17 472.040 has the powers of a peace officer.

18 ~~{4.}~~ 3. An arson investigator designated as a peace officer
19 pursuant to:

20 (a) Paragraph (c) of subsection 1 of NRS 244.2961; or

21 (b) Subsection 3 of NRS 266.310,

22 ↪ has the powers of a peace officer.

23 **Sec. 2.** NRS 289.270 is hereby amended to read as follows:

24 289.270 1. The following persons have the powers of a peace
25 officer:

26 (a) The Director of the Department of Public Safety.

27 (b) The chiefs of the divisions of the Department of Public
28 Safety.

29 (c) The deputy directors of the Department of Public Safety
30 employed pursuant to NRS 480.120.

31 (d) The ~~{investigators and agents of the Investigation Division~~
32 ~~of the Department of Public Safety and any other officer or~~
33 ~~employee of that Division}~~ *personnel of the Department of Public*
34 *Safety assigned in a sworn position to any division of the*
35 *Department* whose principal duty is to enforce one or more laws of
36 this State, and any person promoted from such a duty to a
37 supervisory position related to such a duty.

38 ~~{The personnel of the Capitol Police Division of the~~
39 ~~Department of Public Safety appointed pursuant to subsection 2 of~~
40 ~~NRS 331.140.~~

41 ~~—(f) The personnel of the Nevada Highway Patrol whose~~
42 ~~principal duty is to enforce one or more laws of this State, and any~~



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~~person promoted from such a duty to a supervisory position related to such a duty.]~~ *Members of the State Disaster Identification Team of the Division of Emergency Management of the Department of Public Safety who are, pursuant to NRS 414.270, activated by the Chief of the Division to perform the duties of the State Disaster Identification Team have the powers of peace officers in carrying out those duties.*

2. Administrators and investigators of the Division of Compliance Enforcement of the Department of Motor Vehicles have the powers of a peace officer to enforce any law of the State of Nevada in carrying out their duties pursuant to NRS 481.048.

3. Officers and investigators of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles, appointed pursuant to NRS 481.0481, have the powers of peace officers in carrying out their duties under that section.

~~[4. Members of the State Disaster Identification Team of the Division of Emergency Management of the Department of Public Safety who are, pursuant to NRS 414.270, activated by the Chief of the Division to perform the duties of the State Disaster Identification Team have the powers of peace officers in carrying out those duties.]~~

Sec. 3. NRS 289.470 is hereby amended to read as follows:
289.470 "Category II peace officer" means:

1. The Bailiff of the Supreme Court;

2. The bailiffs of the district courts, justice courts and municipal courts whose duties require them to carry weapons and make arrests;

3. Constables and their deputies whose official duties require them to carry weapons and make arrests;

4. Inspectors employed by the Nevada Transportation Authority who exercise those powers of enforcement conferred by chapters 706 and 712 of NRS;

~~5. [Parole and probation officers;~~

~~—6.]~~ Special investigators who are employed full-time by the office of any district attorney or the Attorney General;

~~[7.]~~ 6. Investigators of arson for fire departments who are specially designated by the appointing authority;

~~[8. The assistant and deputies of the State Fire Marshal;~~

~~—9.]~~ 7. The brand inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by chapter 565 of NRS;

~~[10.]~~ 8. The field agents and inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by NRS 561.225;



~~{11-}~~ 9. Investigators for the State Forester Firewarden who are specially designated by the State Forester Firewarden and whose primary duties are related to the investigation of arson;

~~{12-}~~ 10. School police officers employed by the board of trustees of any county school district;

~~{13-}~~ 11. Agents of the State Gaming Control Board who exercise the powers of enforcement specified in NRS 289.360, 463.140 or 463.1405, except those agents whose duties relate primarily to auditing, accounting, the collection of taxes or license fees, or the investigation of applicants for licenses;

~~{14-}~~ 12. Investigators and administrators of the Division of Compliance Enforcement of the Department of Motor Vehicles who perform the duties specified in subsection 2 of NRS 481.048;

~~{15-}~~ 13. Officers and investigators of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles who perform the duties specified in subsection 3 of NRS 481.0481;

~~{16-}~~ 14. Legislative police officers of the State of Nevada;

~~{17-} The personnel of the Capitol Police Division of the Department of Public Safety appointed pursuant to subsection 2 of NRS 331.140;~~

~~—18-}~~ 15. Parole counselors of the Division of Child and Family Services of the Department of Health and Human Services;

~~{19-}~~ 16. Juvenile probation officers and deputy juvenile probation officers employed by the various judicial districts in the State of Nevada or by a department of juvenile justice services established by ordinance pursuant to NRS 62G.210 whose official duties require them to enforce court orders on juvenile offenders and make arrests;

~~{20-}~~ 17. Field investigators of the Taxicab Authority;

~~{21-}~~ 18. Security officers employed full-time by a city or county whose official duties require them to carry weapons and make arrests;

~~{22-}~~ 19. The chief of a department of alternative sentencing created pursuant to NRS 211A.080 and the assistant alternative sentencing officers employed by that department;

~~{23-}~~ 20. Criminal investigators who are employed by the Secretary of State; and

~~{24-}~~ 21. The Inspector General of the Department of Corrections and any person employed by the Department as a criminal investigator.

Sec. 4. NRS 289.480 is hereby amended to read as follows:

289.480 “Category III peace officer” means a peace officer whose authority is limited to correctional services, including the



superintendents and correctional officers of the Department of Corrections. The term does not include a person described in subsection ~~24~~ 21 of NRS 289.470.

Sec. 5. NRS 289.550 is hereby amended to read as follows:

289.550 1. Except as otherwise provided in subsection 2 and NRS 3.310 and 4.353, a person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive, must be certified by the Commission within 1 year after the date on which the person commences employment as a peace officer unless the Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6 months, by which the person must become certified. A person who fails to become certified within the required time shall not exercise any of the powers of a peace officer after the time for becoming certified has expired.

2. The following persons are not required to be certified by the Commission:

(a) The Chief Parole and Probation Officer;

(b) The Director of the Department of Corrections;

(c) ~~The State Fire Marshal;~~

~~(d)~~ The Director of the Department of Public Safety, the deputy directors of the Department, the chiefs of the divisions of the Department other than the Investigation Division and the Nevada Highway Patrol, and the members of the State Disaster Identification Team of the Division of Emergency Management of the Department;

~~(e)~~ (d) The Commissioner of Insurance and the chief deputy of the Commissioner of Insurance;

~~(f)~~ (e) Railroad police officers; and

~~(g)~~ (f) California correctional officers.

Sec. 6. NRS 289.800 is hereby amended to read as follows:

289.800 In addition to the compensation required by NRS 281.121, a state agency that employs a person:

1. Upon whom some or all of the powers of a peace officer are conferred pursuant to ~~subsection~~ :

(a) *Subsection 1 of NRS 289.180, subsection 1 of NRS 289.220 ~~or~~ paragraph ~~(f)~~ (e) of subsection 1 of NRS ~~289.270 or~~ subsection 4 of NRS* 289.270; *or*

(b) *Paragraph (d) of subsection 1 of NRS 289.270 and who is employed by the Nevada Highway Patrol;* and

2. Who is required to purchase and wear a uniform or other clothing, accessories or safety equipment while performing the person's duties for the State as a peace officer,

→ may, after first obtaining the written approval of the Director of the Department of Administration, reimburse that person for the cost



1 to repair or replace the person's required uniform or other clothing,
2 accessories or safety equipment if it is damaged or destroyed, by
3 means other than ordinary wear and tear, while the person is
4 performing the person's duties for the State as a peace officer.

5 **Sec. 7.** NRS 179.530 is hereby amended to read as follows:

6 179.530 1. District courts of this state may issue orders
7 authorizing the use of a pen register or trap and trace device upon
8 the application of a district attorney, the Attorney General or their
9 deputies, supported by an affidavit of a peace officer under the
10 circumstances and upon the conditions prescribed by 18 U.S.C. §§
11 3121-3127 as those provisions existed on July 1, 1989.

12 2. As used in this section, "peace officer" means:

13 (a) Sheriffs of counties and metropolitan police departments and
14 their deputies;

15 (b) Investigators, agents, officers and employees of the
16 Investigation Division of the Department of Public Safety who have
17 the powers of peace officers pursuant to ~~paragraph (d) of~~
18 ~~subsection 1 of~~ NRS 289.270;

19 (c) Police officers of cities and towns;

20 (d) Agents of the State Gaming Control Board who are
21 investigating any violation of subsection 2 or 3 of NRS 463.360 or
22 chapter 465 of NRS;

23 (e) Special investigators employed by the Attorney General who
24 have the powers of peace officers pursuant to NRS 289.170; and

25 (f) Investigators employed by a district attorney who have the
26 powers of peace officers pursuant to NRS 289.170.

27 3. A public utility that relies, in good faith, upon an order of a
28 district court authorizing the use of a pen register or trap and trace
29 device is not liable in any civil or criminal action brought against
30 the public utility for the use of the pen register or trap and trace
31 device in accordance with the order of the court.

32 **Sec. 8.** NRS 484A.205 is hereby amended to read as follows:

33 484A.205 "Regulatory agency" means any of the agencies
34 granted police or enforcement powers under the provisions of
35 subsection ~~2~~ **1** of NRS 289.250, NRS 289.260, subsection 2 of
36 NRS 289.270, NRS 289.280, subsection 3 of NRS 289.290 or NRS
37 289.320, 289.340, 407.065, 472.040, 481.048, 501.349, 565.155 or
38 706.8821.

39 **Sec. 9.** This act becomes effective upon passage and approval.

