

ASSEMBLY BILL NO. 363—ASSEMBLYMAN CARRILLO

MARCH 18, 2013

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to abatement of public nuisances and conditions by local governments. (BDR 20-663)

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

~

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

AN ACT relating to local governments; authorizing certain local governments to abate public nuisances and conditions involving abandoned, unregistered, inoperable or junk vehicles by requesting the operator of a tow car to abate the public nuisance or condition; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a board of county commissioners of a county or the governing body of a city may adopt by ordinance procedures pursuant to which the board or governing body, or a designee thereof, may order an owner of property to abate a public nuisance or condition on the property, including the clearing of certain debris, to protect the public health, safety and welfare of the residents of the county or city. (NRS 244.3605, 268.4122) Existing law further provides that if, after the provision of notice about the nuisance or condition and an opportunity for a hearing, the property owner does not abate the nuisance or condition, the county or city may abate the nuisance or condition and recover from the property owner the amount expended by the county or city for the labor and materials used to abate the nuisance or condition.

Section 2 of this bill adds abandoned, unregistered, inoperable or junk vehicles to the list of debris and rubbish that constitutes a public nuisance for the purposes of an ordinance adopted by a board of county commissioners. **Section 2** also provides that such an ordinance may authorize the county to request the operator of a tow car to abate a public nuisance by towing an abandoned, inoperable, unregistered or junk vehicle if certain conditions relating to notice and the opportunity for a hearing are satisfied. Similarly, **section 3** of this bill adds vehicles that are unregistered or inoperable to the list of debris and rubbish that constitutes a condition for the purposes of an ordinance adopted by the governing body of a city, and provides that such an ordinance may authorize the city to request the operator of a tow car to abate a condition by towing an abandoned, inoperable, unregistered



* A B 3 6 3 *

or junk vehicle if certain conditions relating to notice and the opportunity for a hearing are satisfied.

Existing law provides for the regulation of tow cars and the operators of tow cars. (NRS 706.445-706.453) **Sections 2 and 3** provide that the operator of a tow car who is requested by a county or city to tow a vehicle to abate a public nuisance or condition must comply with those provisions. **Sections 4 and 5** of this bill provide that the registered owner of a vehicle towed pursuant to a request by a county or a city to abate a public nuisance or condition is responsible for the cost of removal and storage of the vehicle, unless the owner can show that he or she no longer owns the vehicle or that the vehicle was stolen. If the registered owner of the vehicle makes such a showing, the owner of the property from which the car was towed is responsible for the cost of removal and storage of the vehicle.

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

Section 1. NRS 244.3601 is hereby amended to read as follows:

244.3601 1. Notwithstanding the abatement procedures set forth in NRS 244.360 or 244.3605, a board of county commissioners may, by ordinance, provide for a reasonable means to secure or summarily abate a dangerous structure or condition that at least three persons who enforce building codes, housing codes, zoning ordinances or local health regulations, or who are members of a local law enforcement agency or fire department, determine in a signed, written statement to be an imminent danger.

2. Except as otherwise provided in subsection 3, the owner of the property on which the structure or condition is located must be given reasonable written notice that is:

(a) If practicable, hand-delivered or sent prepaid by United States mail to the owner of the property; or

(b) Posted on the property,

↳ before the structure or condition is so secured. The notice must state clearly that the owner of the property may challenge the action to secure or summarily abate the structure or condition and must provide a telephone number and address at which the owner may obtain additional information.

3. If it is determined in the signed, written statement provided pursuant to subsection 1 that the structure or condition is an imminent danger and the result of the imminent danger is likely to occur before the notice and an opportunity to challenge the action can be provided pursuant to subsection 2, then the structure or condition which poses such an imminent danger that presents an immediate hazard may be summarily abated. A structure or condition summarily abated pursuant to this section may only be abated to the extent necessary to remove the imminent danger that



1 presents an immediate hazard. The owner of the structure or
2 condition which is summarily abated must be given written notice of
3 the abatement after its completion. The notice must state clearly that
4 the owner of the property may seek judicial review of the summary
5 abatement and must provide an address and telephone number at
6 which the owner may obtain additional information concerning the
7 summary abatement.

8 4. The costs of securing or summarily abating the structure or
9 condition may be made a special assessment against the real
10 property on which the structure or condition is located and may be
11 collected pursuant to the provisions set forth in subsection 4 of
12 NRS 244.360.

13 5. As used in this section:

14 (a) "Dangerous structure or condition" has the meaning ascribed
15 to it in subsection ~~6~~ 7 of NRS 244.3605.

16 (b) "Imminent danger" means the existence of any structure or
17 condition that could reasonably be expected to cause injury or
18 endanger the life, safety, health or property of:

19 (1) The occupants, if any, of the real property on which the
20 structure or condition is located; or

21 (2) The general public.

22 **Sec. 2.** NRS 244.3605 is hereby amended to read as follows:

23 244.3605 1. Notwithstanding the provisions of NRS 244.360
24 and 244.3601, the board of county commissioners of a county may,
25 to abate public nuisances, adopt by ordinance procedures pursuant
26 to which the board or its designee may order an owner of property
27 within the county to:

28 (a) Repair, safeguard or eliminate a dangerous structure or
29 condition;

30 (b) Clear debris, rubbish and refuse *and abandoned,*
31 *unregistered, inoperable or junk vehicles* which ~~is~~ *are* not subject
32 to the provisions of chapter 459 of NRS;

33 (c) Clear weeds and noxious plant growth; or

34 (d) Repair, clear, correct, rectify, safeguard or eliminate any
35 other public nuisance as defined in the ordinance adopted pursuant
36 to this section,

37 ➔ to protect the public health, safety and welfare of the residents of
38 the county.

39 2. An ordinance adopted pursuant to subsection 1 must:

40 (a) Contain procedures pursuant to which the owner of the
41 property is:

42 (1) Sent notice, by certified mail, return receipt requested, of
43 the existence on the owner's property of a public nuisance set forth
44 in subsection 1 and the date by which the owner must abate the
45 public nuisance.



(2) If the public nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the public nuisance.

(3) Afforded an opportunity for a hearing before the designee of the board and an appeal of that decision either to the board or to a court of competent jurisdiction, as determined by the ordinance adopted pursuant to subsection 1.

(b) Provide that the date specified in the notice by which the owner must abate the public nuisance is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the public nuisance on the property if the owner fails to abate the public nuisance.

(d) Provide for civil penalties for each day that the owner did not abate the public nuisance after the date specified in the notice by which the owner was required to abate the public nuisance.

3. *An ordinance adopted pursuant to subsection 1 may authorize the county to request the operator of a tow car to abate a public nuisance by towing abandoned, inoperable, unregistered or junk vehicles if the conditions of subsection 4 are satisfied. The operator of a tow car requested to tow a vehicle pursuant to this section must comply with the provisions of NRS 706.445 to 706.453, inclusive.*

4. The county may abate the public nuisance on the property and may recover the amount expended by the county for labor and materials used to abate the public nuisance *or request abatement by the operator of a tow car pursuant to subsection 3* if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance on the owner's property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance within the period specified in the order; or

(c) The board or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the public nuisance within the period specified in the order.

~~14.1~~ 5. In addition to any other reasonable means for recovering money expended by the county to abate the public nuisance and, except as otherwise provided in subsection ~~15.1~~ 6 for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1, the expense and civil penalties are a special assessment against the property upon which the public



1 nuisance is located, and this special assessment may be collected
2 pursuant to the provisions set forth in subsection 4 of NRS 244.360.

3 ~~15-1~~ 6. Any civil penalties that have not been collected from
4 the owner of the property are not a special assessment against the
5 property pursuant to subsection ~~14~~ 5 unless:

6 (a) At least 12 months have elapsed after the date specified in
7 the notice by which the owner must abate the public nuisance or the
8 date specified in the order of the board or court by which the owner
9 must abate the public nuisance, whichever is later;

10 (b) The owner has been billed, served or otherwise notified that
11 the civil penalties are due; and

12 (c) The amount of the uncollected civil penalties is more than
13 \$5,000.

14 ~~16-1~~ 7. As used in this section, "dangerous structure or
15 condition" means a structure or condition that is a public nuisance
16 which may cause injury to or endanger the health, life, property or
17 safety of the general public or the occupants, if any, of the real
18 property on which the structure or condition is located. The term
19 includes, without limitation, a structure or condition that:

20 (a) Does not meet the requirements of a code or regulation
21 adopted pursuant to NRS 244.3675 with respect to minimum levels
22 of health or safety; or

23 (b) Violates an ordinance, rule or regulation regulating health
24 and safety enacted, adopted or passed by the board of county
25 commissioners of a county, the violation of which is designated by
26 the board as a public nuisance in the ordinance, rule or regulation.

27 **Sec. 3.** NRS 268.4122 is hereby amended to read as follows:

28 268.4122 1. The governing body of a city may adopt by
29 ordinance procedures pursuant to which the governing body or its
30 designee may order an owner of property within the city to:

31 (a) Repair, safeguard or eliminate a dangerous structure or
32 condition;

33 (b) Clear debris, rubbish, refuse, litter ~~14~~ or garbage ~~14~~ or
34 abandoned , *unregistered, inoperable* or junk vehicles or junk
35 appliances which are not subject to the provisions of chapter 459 of
36 NRS; or

37 (c) Clear weeds and noxious plant growth,
38 ➔ to protect the public health, safety and welfare of the residents of
39 the city.

40 2. An ordinance adopted pursuant to subsection 1 must:

41 (a) Contain procedures pursuant to which the owner of the
42 property is:

43 (1) Sent a notice, by certified mail, return receipt requested,
44 of the existence on the property of a condition set forth in subsection
45 1 and the date by which the owner must abate the condition.



(2) If the condition is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the condition.

(3) Afforded an opportunity for a hearing before the designee of the governing body and an appeal of that decision. The ordinance must specify whether all such appeals are to be made to the governing body or to a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

(d) Provide for civil penalties for each day that the owner did not abate the condition after the date specified in the notice by which the owner was requested to abate the condition.

(e) If the county board of health, city board of health or district board of health in whose jurisdiction the incorporated city is located has adopted a definition of garbage, use the definition of garbage adopted by the county board of health, city board of health or district board of health, as applicable.

3. *An ordinance adopted pursuant to subsection 1 may authorize the city to request the operator of a tow car to abate a condition by towing abandoned, inoperable, unregistered or junk vehicles if the governing body or its designee has directed the abatement of the condition pursuant to subsection 4. The operator of a tow car requested to tow a vehicle by a city pursuant to this section must comply with the provisions of NRS 706.445 to 706.453, inclusive.*

4. The governing body or its designee may direct the city to abate the condition on the property and may recover the amount expended by the city for labor and materials used to abate the condition if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition on the property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition within the period specified in the order; or

(c) The governing body or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the condition within the period specified in the order.



~~14~~ 5. In addition to any other reasonable means for recovering money expended by the city to abate the condition and, except as otherwise provided in subsection ~~15~~ 6 for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1, the governing body may make the expense and civil penalties a special assessment against the property upon which the condition is or was located. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

~~15~~ 6. Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection ~~14~~ 5 by the governing body unless:

(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the condition or the date specified in the order of the governing body or court by which the owner must abate the condition, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than \$5,000.

~~16~~ 7. As used in this section, "dangerous structure or condition" means a structure or condition that may cause injury to or endanger the health, life, property, safety or welfare of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 268.413 with respect to minimum levels of health, maintenance or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the governing body of a city, the violation of which is designated as a nuisance in the ordinance, rule or regulation.

Sec. 4. NRS 706.4477 is hereby amended to read as follows:

706.4477 1. If towing is requested by a person other than the owner, or an agent of the owner, of the motor vehicle or a law enforcement officer:

(a) The person requesting the towing must be the owner of the real property from which the vehicle is towed or an authorized agent of the owner of the real property and must sign a specific request for



1 the towing. For the purposes of this section, the operator is not an
2 authorized agent of the owner of the real property.

3 (b) The area from which the vehicle is to be towed must be
4 appropriately posted in accordance with state or local requirements.

5 (c) Notice must be given to the appropriate law enforcement
6 agency pursuant to state and local requirements.

7 (d) The operator may be directed to terminate the towing by a
8 law enforcement officer.

9 2. *If towing is requested by a county or city pursuant to NRS*
10 *244.3605 or 268.4122, as applicable:*

11 (a) *Notice must be given to the appropriate law enforcement*
12 *agency pursuant to state and local requirements.*

13 (b) *The operator may be directed to terminate the towing by a*
14 *law enforcement officer.*

15 3. The registered owner of a motor vehicle towed pursuant to
16 the provisions of subsection 1 ~~1~~ or 2:

17 (a) Is presumed to have left the motor vehicle on the real
18 property from which the vehicle is towed; and

19 (b) ~~1~~ *Except as otherwise provided in subsection 5, is*
20 *responsible for the cost of removal and storage of the motor vehicle.*

21 ~~1~~ 4. The registered owner may rebut the presumption in
22 subsection ~~2~~ 3 by showing that:

23 (a) The registered owner transferred the registered owner's
24 interest in the motor vehicle:

25 (1) Pursuant to the provisions set forth in NRS 482.399 to
26 482.420, inclusive; or

27 (2) As indicated by a bill of sale for the vehicle that is signed
28 by the registered owner; or

29 (b) The vehicle is stolen, if the registered owner submits
30 evidence that, before the discovery of the vehicle, the registered
31 owner filed an affidavit with the Department or a written report with
32 an appropriate law enforcement agency alleging the theft of the
33 vehicle.

34 5. *For a vehicle towed pursuant to subsection 2, if every*
35 *registered owner rebuts the presumption in subsection 3 pursuant*
36 *to paragraph (b) of subsection 4, the owner of the real property*
37 *from which the vehicle was towed is responsible for the cost of*
38 *removal and storage of the vehicle.*

39 **Sec. 5.** NRS 706.4479 is hereby amended to read as follows:

40 706.4479 1. If a motor vehicle is towed at the request of
41 someone other than the owner, or authorized agent of the owner, of
42 the motor vehicle, the operator of the tow car shall, in addition to the
43 requirements set forth in the provisions of chapter 108 of NRS:

44 (a) Notify the registered and legal owner of the motor vehicle by
45 certified mail not later than 21 days after placing the motor vehicle



* A B 3 6 3 *

1 in storage if the motor vehicle was towed at the request of a law
2 enforcement officer following an accident involving the motor
3 vehicle or not later than 15 days after placing any other vehicle in
4 storage:

- 5 (1) Of the location where the motor vehicle is being stored;
- 6 (2) Whether the storage is inside a locked building, in a
7 secured, fenced area or in an unsecured, open area;
- 8 (3) Of the charge for towing and storage;
- 9 (4) Of the date and time the vehicle was placed in storage;
- 10 (5) Of the actions that the registered and legal owner of the
11 vehicle may take to recover the vehicle while incurring the lowest
12 possible liability in accrued assessments, fees, penalties or other
13 charges; and
- 14 (6) Of the opportunity to rebut the presumptions set forth in
15 NRS 487.220 and 706.4477.

16 (b) If the identity of the registered and legal owner is not known
17 or readily available, make every reasonable attempt and use all
18 resources reasonably necessary, as evidenced by written
19 documentation, to obtain the identity of the owner and any other
20 necessary information from the agency charged with the registration
21 of the motor vehicle in this State or any other state within:

22 (1) Twenty-one days after placing the motor vehicle in
23 storage if the motor vehicle was towed at the request of a law
24 enforcement officer following an accident involving the motor
25 vehicle; or

26 (2) Fifteen days after placing any other motor vehicle in
27 storage.

28 ➔ The operator shall attempt to notify the owner of the vehicle by
29 certified mail as soon as possible, but in no case later than 15 days
30 after identification of the owner is obtained for any motor vehicle.

31 *(c) If the owner of the property from which the vehicle was*
32 *towed is responsible for the cost of removal and storage of the*
33 *vehicle pursuant to subsection 5 of NRS 706.4477, the operator*
34 *shall notify the owner of the property by certified mail not later*
35 *than 15 days after placing the vehicle in storage:*

- 36 *(1) Of the date and time the vehicle was placed in storage;*
- 37 *(2) Of the location where the vehicle is being stored;*
- 38 *(3) Of the charges for towing and storage; and*
- 39 *(4) Of the actions that the owner of the property may take*
40 *to incur the lowest possible liability in accrued assessments, fees,*
41 *penalties or other charges.*

42 2. If an operator includes in the operator's tariff a fee to be
43 charged to the registered and legal owner of a vehicle for the towing
44 and storage of the vehicle, the fee may not be charged:



1 (a) For more than 21 days after placing the motor vehicle in
2 storage if the motor vehicle was towed at the request of a law
3 enforcement officer following an accident involving the motor
4 vehicle; or

5 (b) For more than 15 days after placing any other vehicle in
6 storage,

7 ↪ unless the operator complies with the requirements set forth in
8 subsection 1.

9 3. If a motor vehicle that is placed in storage was towed at the
10 request of a law enforcement officer following an accident involving
11 the motor vehicle, the operator shall not:

12 (a) Satisfy any lien or impose any administrative fee or
13 processing fee with respect to the motor vehicle for the period
14 ending 4 business days after the date on which the motor vehicle
15 was placed in storage; or

16 (b) Impose any fee relating to the auction of the motor vehicle
17 until after the operator complies with the notice requirements set
18 forth in NRS 108.265 to 108.367, inclusive.

