

Amendment No. 759

Senate Amendment to Assembly Bill No. 363 First Reprint (BDR 20-663)

Proposed by: Senate Committee on Government Affairs

Amends: Summary: No 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 underlining* is newly added transitory language.

DPR/MSM



Date: 5/21/2013

A.B. No. 363—Makes various changes relating to abatement of public nuisances and conditions by local governments. (BDR 20-663)



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.

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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 local governments; authorizing boards of county commissioners to abate public nuisances involving litter, garbage, abandoned or junk vehicles and junk appliances; authorizing certain local governments to abate public nuisances and conditions involving abandoned ~~[, 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 litter, garbage, abandoned ~~[, inoperable]~~ or junk vehicles ~~[which are not concealed from ordinary public view]~~ and junk appliances to the list of conditions that constitute a public nuisance for the purposes of an ordinance adopted by a board of county commissioners. ~~[in a county whose population is 700,000 or more (currently only Clark County)]~~ **Section 2** also provides that in a county whose population is 700,000 or more (currently only Clark County), 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]~~ or junk vehicle that is not concealed from ordinary public view if certain requirements relating to notice and the opportunity for a hearing are satisfied. Similarly, **section 3** of this bill ~~adds vehicles which are abandoned, inoperable or junk and which are not concealed from ordinary public view to the list of conditions that constitute an unhealthy or unsafe condition~~ for the purposes of an ordinance adopted by the governing body of a city in any county whose population is 700,000 or more (currently only Clark County), ~~and~~ provides that such an ordinance may authorize the city to request the operator of a tow car to abate such a condition by towing an abandoned ~~[, inoperable]~~ or junk vehicle that is not

concealed from ordinary public view if certain requirements 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. Section 4 of this bill provides 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.

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

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

5. As used in this section:

(a) "Dangerous structure or condition" has the meaning ascribed to it in subsection ~~4~~ 7 of NRS 244.3605.

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

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

(2) The general public.

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

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

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

(b) Clear debris, rubbish, ~~land~~ refuse, litter, garbage, abandoned or junk vehicles or junk appliances which ~~is~~ are not subject to the provisions of chapter 459 of NRS;

~~(c) In any county whose population is 700,000 or more, clear abandoned, inoperable or junk vehicles which are not concealed from ordinary public view by means of inside storage, suitable fencing, opaque covering, trees, shrubbery or other means;~~

~~(d)~~ Clear weeds and noxious plant growth; or

(d) ~~(e)~~ Repair, clear, correct, rectify, safeguard or eliminate any other public nuisance as defined in the ordinance adopted pursuant to this section, to protect the public health, safety and welfare of the residents of the county.

2. An ordinance adopted pursuant to subsection 1 must:

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

(1) Sent notice, by certified mail, return receipt requested, of the existence on the owner's property of a public nuisance set forth in subsection 1 and the date by which the owner must abate the 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. *In any county whose population is 700,000 or more, 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~~ or junk vehicles ~~described in paragraph (c) of subsection 1~~ which are not concealed from ordinary public view by means of inside storage, suitable fencing, opaque covering, trees, shrubbery or other means 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.

~~4-4~~ 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 ~~4-5~~ 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 nuisance is located, and this special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

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

(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the public nuisance or the date specified in the order of the board or court by which the owner must abate the public nuisance, 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.

~~4-6~~ 7. As used in this section, "dangerous structure or condition" means a structure or condition that is a public nuisance which may cause injury to or endanger the health, life, property or safety 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 244.3675 with respect to minimum levels of health or safety; or

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

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

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

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

(b) Clear debris, rubbish, refuse, litter, garbage, *abandoned or junk vehicles* or junk appliances which are not subject to the provisions of chapter 459 of NRS; *or*

(c) ~~In any county whose population is 700,000 or more, clear abandoned, inoperable or junk vehicles which are not concealed from ordinary public view by means of inside storage, suitable fencing, opaque covering, trees, shrubbery or other means; or~~

1 ~~(4)~~ Clear weeds and noxious plant growth,

2 → to protect the public health, safety and welfare of the residents of the city.

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

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

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

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

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

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

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

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

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

28 3. *In any county whose population is 700,000 or more, an ordinance*
29 *adopted pursuant to subsection 1 may authorize the city to request the operator of*
30 *a tow car to abate a condition by towing abandoned ~~+, inoperable,~~ or junk*
31 *vehicles ~~described in paragraph (c) of subsection 1~~ which are not concealed*
32 *from ordinary public view by means of inside storage, suitable fencing, opaque*
33 *covering, trees, shrubbery or other means if the governing body or its designee*
34 *has directed the abatement of the condition pursuant to subsection 4. The*
35 *operator of a tow car requested to tow a vehicle by a city pursuant to this section*
36 *must comply with the provisions of NRS 706.445 to 706.453, inclusive.*

37 4. The governing body or its designee may direct the city to abate the
38 condition on the property and may recover the amount expended by the city for
39 labor and materials used to abate the condition *or request abatement by the*
40 *operator of a tow car pursuant to subsection 3 if:*

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

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

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

51 ~~4.4~~ 5. In addition to any other reasonable means for recovering money
52 expended by the city to abate the condition and, except as otherwise provided in
53 subsection ~~5.1~~ 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 the towing. For the purposes of this section, the operator is not an authorized agent of the owner of the real property.

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

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

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

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

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

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

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

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

(b) Is responsible for the cost of removal and storage of the motor vehicle.

~~13~~ ~~4.~~ The registered owner may rebut the presumption in subsection ~~12~~ ~~3~~ by showing that:

1 (a) The registered owner transferred the registered owner's interest in the
2 motor vehicle:

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

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

7 (b) The vehicle is stolen, if the registered owner submits evidence that, before
8 the discovery of the vehicle, the registered owner filed an affidavit with the
9 Department or a written report with an appropriate law enforcement agency
10 alleging the theft of the vehicle.

11 **Sec. 5.** (Deleted by amendment.)