

ASSEMBLY BILL NO. 79—COMMITTEE ON NATURAL  
RESOURCES, AGRICULTURE, AND MINING

(ON BEHALF OF THE STATE DEPARTMENT OF AGRICULTURE)

PREFILED DECEMBER 20, 2014

Referred to Committee on Natural Resources,  
Agriculture, and Mining

SUMMARY—Revises provisions relating to agriculture.  
(BDR 50-345)

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 agriculture; deleting obsolete provisions governing the initial membership of each state grazing board; revising provisions which require the State Department of Agriculture to compensate the owners of any animals that are destroyed because of infection with or exposure to an infectious, contagious or parasitic disease; requiring certain administrative fines that are paid to the Department to be accounted for separately and used for certain purposes; revising the definition of “food establishment” to exclude certain establishments where animals are slaughtered and certain facilities that produce eggs; authorizing the Director of the Department to impose a civil penalty for certain violations relating to agricultural products and seeds; authorizing the Director to release certain imported potatoes without an inspection; repealing misdemeanor penalties; deleting provisions which require all nuts, fruits and vegetables that are offered for sale to be mature but not overripe; repealing certain provisions concerning the labeling of commercial feed for livestock; and providing other matters properly relating thereto.



**Legislative Counsel's Digest:**

**Section 1** of this bill deletes provisions governing the composition of state grazing boards in 1975. **Section 2** of this bill requires the State Department of Agriculture to enter into an agreement with the Animal and Plant Health Inspection Service of the United States Department of Agriculture or to take any other action required to compensate the owner of livestock that is destroyed due to infection with or exposure to an infectious, contagious or parasitic disease.

**Section 7** of this bill clarifies that certain establishments where animals are slaughtered or where eggs are produced are not considered "food establishments" for purposes of provisions governing food establishments where food intended for human consumption is manufactured or prepared, or in which any food is sold or served.

Existing law imposes certain requirements concerning agricultural products and seeds. (Chapter 587 of NRS) **Section 9** of this bill authorizes the Director of the Department to impose, after notice and an opportunity for a hearing, a civil penalty of not more than \$500 for each violation of those provisions. Additionally, **sections 3 and 9** of this bill require certain administrative fines and civil penalties imposed by the Department to be: (1) used to fund a program that provides loans to certain persons engaged in agriculture; and (2) deposited in the Account for the Control of Weeds.

Existing law requires any person importing white or Irish potatoes intended for seed purposes into this State to notify the Director of the arrival of the potatoes and hold the potatoes until the potatoes are inspected and released by the Director. (NRS 587.109) **Section 10** of this bill authorizes the Director to release those potatoes without inspection.

**Sections 13 and 16** of this bill remove misdemeanor criminal penalties for violating certain provisions.

Under existing law, it is unlawful for any person to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport or sell in this State any nuts, fresh fruits or vegetables in bulk or in any container or subcontainer unless 90 percent by weight or more of such fruits, nuts or vegetables in bulk or in any container or subcontainer are free from any insect injury which has penetrated or damaged the edible portion, worms, internal breakdown, mold or decay. (NRS 587.650) **Section 14** of this bill requires 90 percent of such nuts, fresh fruits or vegetables to be free from all defects. **Section 14** also deletes a requirement that not more than 5 percent of those nuts, fresh fruits or vegetables have any one defect. **Section 15** of this bill deletes a requirement that all nuts, fruits and vegetables offered for sale must be mature but not overripe.

**Section 16** repeals certain obsolete definitions and certain provisions concerning labeling of commercial feed for livestock.

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

**Section 1.** NRS 568.060 is hereby amended to read as follows:  
568.060 1. ~~{The members and the chair of each of the state grazing boards for the year 1975 shall be the members and chairs of each of the boards of district advisers of each grazing district elected, qualified and serving on January 1, 1975, under the provisions of the Taylor Grazing Act and the regulations promulgated under the provisions of that act. Such members shall~~



~~serve until their successors are elected and qualified as provided in this section.~~

~~2. On and after January 1, 1976, each~~ **Each** state grazing board ~~[shall]~~ **must** consist of not less than five nor more than 12 persons who graze livestock upon the public lands within the grazing district for which such state grazing board is created. Officers and directors of corporations and partners of partnerships which conduct such grazing are qualified to be elected to serve on such boards on behalf of such corporation or partnership. The term of each member is 3 years, beginning on January 1 next after the member's election.

~~[3.] 2. In [November of 1975 and in]~~ November of each third year, ~~[thereafter,]~~ each state grazing board shall specify the number of members to serve on that state grazing board for the following term. Thereafter, the board shall conduct an election of the members to serve for that term.

~~[4.] 3.~~ If a new grazing district is established, the Central Committee of Nevada State Grazing Boards shall, within 90 days after the order establishing the district appears in the Federal Register, specify the number of members to serve on the state grazing board for the new district. Thereafter the Central Committee of the Nevada State Grazing Boards shall conduct an election of the board members to serve for the balance of the current 3-year term.

~~[5.] 4.~~ If any vacancy occurs on a state grazing board for any reason, the remaining board members shall elect a qualified successor to fill the vacancy for the unexpired term.

~~[6.] 5.~~ A duly qualified person elected to serve as a member of a state grazing board shall assume office after taking the oath of office contained in NRS 282.020.

~~[7.] 6.~~ The persons, partnerships, associations or corporations holding licenses or permits to graze livestock on the public lands within the grazing district served by a state grazing board shall elect the members to serve on that state grazing board, except as otherwise provided in this section, and each such permittee is entitled to one vote. The particular state grazing board shall supply the names of eligible persons to be elected to serve on the board to each permittee within the district so that each permittee may cast his or her vote for a candidate of the permittee's choice. The secretary of the state grazing board for such grazing district shall certify the results of the election.

**Sec. 2.** NRS 571.190 is hereby amended to read as follows:

571.190 1. The State Quarantine Officer may order and have destroyed any animal infected with or exposed to any infectious, contagious or parasitic disease.



2. ~~[The Department shall compensate the owners of any animal so destroyed separately or jointly with any county or municipality of the State or any agency of the Federal Government, the amount of the compensation to be determined by appraisal before the affected animal is destroyed.~~

~~—3. The appraisal must be made by the State Quarantine Officer or a qualified agent designated by the State Quarantine Officer and the owners or their authorized representative. In the event of their failure to reach an agreement, the two so selected shall designate a disinterested person, who by reason of experience in such matters is a qualified judge of values of animals, to act with them. The judgment of any two such appraisers is binding and final upon all persons.~~

~~—4. The total amount received by the owners of any animal so destroyed, including compensation paid by the Department, any county or municipality or any agency of the Federal Government or any company that insures animals, and the salvage received from the sale of hides or carcasses or any other source, combined, must not exceed the actual appraised value of the destroyed animal.~~

*—5.] If the State Quarantine Officer deems it necessary to destroy any infected or exposed livestock in order to prevent the spread of an infectious, contagious or parasitic disease which, according to the rules, regulations and standards adopted by the Animal and Plant Health Inspection Service of the United States Department of Agriculture, cannot be extirpated by means other than destroying the infected or exposed livestock, the State Quarantine Officer may have the livestock destroyed and burned, buried or otherwise disposed of in any manner specified by the Department.*

*3. The State Board of Agriculture shall enter into an agreement with the Animal and Plant Health Inspection Service of the United States Department of Agriculture or take any other action required to determine the amount of compensation owed, if any, to the owner of any livestock destroyed pursuant to subsection 2 and the party responsible for paying such compensation.*

4. Any natural person or corporation purchasing any animal which was at the time of purchase under quarantine by any state, county or municipal authorities or any agency of the Federal Government authorized to lay such quarantine, or who purchases any animal which due diligence and caution would have shown to be diseased or which was shipped or transported in violation of the rules and regulations of any agency of the Federal Government or the State of Nevada, is not entitled to receive compensation, and the Department may order the destruction of the animal without making any compensation to the owner.



~~[6. No payment may be made hereunder as compensation for or on account of any such animal destroyed if, at the time of inspection or test of the animal or at the time of the ordered destruction thereof, the animal belongs to or is upon the premises of any person, firm or corporation to which the animal has been sold, shipped or delivered for slaughter.~~

~~7. In no case may any payment by the Department pursuant to the provisions of this section be made unless the owner has complied with all quarantine rules and regulations of the Department.]~~

**Sec. 3.** NRS 571.250 is hereby amended to read as follows:

**571.250 1.** Any person violating the provisions of NRS 571.120 to 571.240, inclusive, or failing, refusing or neglecting to perform or observe any conditions, orders, rules or regulations prescribed by the State Quarantine Officer in accordance with the provisions of NRS 571.120 to 571.240, inclusive, is guilty of a misdemeanor and, in addition to any criminal penalty, shall pay to the Department an administrative fine of not more than \$1,000 per violation. If an administrative fine is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Department.

**2. Any money collected from the imposition of an administrative fine pursuant to subsection 1 must be accounted for separately and:**

**(a) Fifty percent of the money must be used to fund a program selected by the Director that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and**

**(b) The remaining 50 percent must be deposited in the Account for the Control of Weeds established by NRS 555.035.**

**Sec. 4.** (Deleted by amendment.)

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

**Sec. 6.** (Deleted by amendment.)

**Sec. 7.** NRS 446.020 is hereby amended to read as follows:

**446.020 1.** Except as otherwise limited by subsection 2, "food establishment" means any place, structure, premises, vehicle or vessel, or any part thereof, in which any food intended for ultimate human consumption is manufactured or prepared by any manner or means whatever, or in which any food is sold, offered or displayed for sale or served.

**2.** The term does not include:

**(a)** Private homes, unless the food prepared or manufactured in the home is sold, or offered or displayed for sale or for compensation or contractual consideration of any kind;



(b) Fraternal or social clubhouses at which attendance is limited to members of the club;

(c) Vehicles operated by common carriers engaged in interstate commerce;

(d) Any establishment in which religious, charitable and other nonprofit organizations sell food occasionally to raise money or in which charitable organizations receive salvaged food in bulk quantities for free distribution, unless the establishment is open on a regular basis to sell food to members of the general public;

(e) Any establishment where animals , *including, without limitation, mammals, fish and poultry*, are slaughtered which is regulated ~~[and inspected by the State Department of Agriculture;]~~ *pursuant to chapter 583 of NRS;*

(f) Dairy farms and plants which process milk and products of milk or frozen desserts which are regulated under chapter 584 of NRS;

(g) The premises of a wholesale dealer of alcoholic beverages licensed under chapter 369 of NRS who handles only alcoholic beverages which are in sealed containers;

(h) *A facility that produces eggs which is regulated pursuant to chapter 583 of NRS;*

(i) A cottage food operation that meets the requirements of NRS 446.866 with respect to food items as defined in that section; or

~~[(h)]~~ (j) A farm for purposes of holding a farm-to-fork event.

*3. As used in this section, “poultry” has the meaning ascribed to it in NRS 583.405.*

**Sec. 8.** NRS 446.866 is hereby amended to read as follows:

446.866 1. A cottage food operation which manufactures or prepares a food item by any manner or means whatever for sale, or which offers or displays a food item for sale, is not a “food establishment” pursuant to paragraph ~~[(b)]~~ (i) of subsection 2 of NRS 446.020 if each such food item is:

(a) Sold on the private property of the natural person who manufactures or prepares the food item or at a location where the natural person who manufactures or prepares the food item sells the food item directly to a consumer, including, without limitation, a farmers’ market licensed pursuant to chapter 244 or 268 of NRS, flea market, swap meet, church bazaar, garage sale or craft fair, by means of an in-person transaction that does not involve selling the food item by telephone or via the Internet;

(b) Sold to a natural person for his or her consumption and not for resale;

(c) Affixed with a label which complies with the federal labeling requirements set forth in 21 U.S.C. § 343(w) and 9 C.F.R. Part 317 and 21 C.F.R. Part 101;



(d) Labeled with "MADE IN A COTTAGE FOOD OPERATION THAT IS NOT SUBJECT TO GOVERNMENT FOOD SAFETY INSPECTION" printed prominently on the label for the food item;

(e) Prepackaged in a manner that protects the food item from contamination during transport, display, sale and acquisition by consumers; and

(f) Prepared and processed in the kitchen of the private home of the natural person who manufactures or prepares the food item or, if allowed by the health authority, in the kitchen of a fraternal or social clubhouse, a school or a religious, charitable or other nonprofit organization.

2. No local zoning board, planning commission or governing body of an unincorporated town, incorporated city or county may adopt any ordinance or other regulation that prohibits a natural person from preparing food in a cottage food operation.

3. Each natural person who wishes to conduct a cottage food operation must, before selling any food item, register the cottage food operation with the health authority by submitting such information as the health authority deems appropriate, including, without limitation:

(a) The name, address and contact information of the natural person conducting the cottage food operation; and

(b) If the cottage food operation sells food items under a name other than the name of the natural person who conducts the cottage food operation, the name under which the cottage food operation sells food items.

4. The health authority may charge a fee for the registration of a cottage food operation pursuant to subsection 3 in an amount not to exceed the actual cost of the health authority to establish and maintain a registry of cottage food operations.

5. The health authority may inspect a cottage food operation only to investigate a food item that may be deemed to be adulterated pursuant to NRS 585.300 to 585.360, inclusive, or an outbreak or suspected outbreak of illness known or suspected to be caused by a contaminated food item. The cottage food operation shall cooperate with the health authority in any such inspection. If, as a result of such inspection, the health authority determines that the cottage food operation has produced an adulterated food item or was the source of an outbreak of illness caused by a contaminated food item, the health authority may charge and collect from the cottage food operation a fee in an amount that does not exceed the actual cost of the health authority to conduct the investigation.

6. As used in this section:



(a) "Cottage food operation" means a natural person who manufactures or prepares food items in his or her private home or, if allowed by the health authority, in the kitchen of a fraternal or social clubhouse, a school or a religious, charitable or other nonprofit organization, for sale to a natural person for consumption and whose gross sales of such food items are not more than \$35,000 per calendar year.

(b) "Food item" means:

- (1) Nuts and nut mixes;
- (2) Candies;
- (3) Jams, jellies and preserves;
- (4) Vinegar and flavored vinegar;
- (5) Dry herbs and seasoning mixes;
- (6) Dried fruits;
- (7) Cereals, trail mixes and granola;
- (8) Popcorn and popcorn balls;
- (9) Baked goods that:
  - (I) Are not potentially hazardous foods;
  - (II) Do not contain cream, uncooked egg, custard, meringue or cream cheese frosting or garnishes; and
  - (III) Do not require time or temperature controls for food safety.

**Sec. 9.** Chapter 587 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The Director may, after notice and an opportunity for a hearing, impose a civil penalty of not more than \$500 for each violation of this chapter.*

*2. Any money collected from the imposition of a civil penalty pursuant to subsection 1 must be accounted for separately and:*

*(a) Fifty percent of the money must be used to fund a program selected by the Director that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and*

*(b) The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.*

**Sec. 10.** NRS 587.109 is hereby amended to read as follows:

587.109 1. Any person importing any white or Irish potatoes intended for seed purposes into the State of Nevada shall, within 24 hours after the receipt of the potatoes, notify the Director of the arrival of the potatoes and hold them at the person's place of business or at the point of receipt until the potatoes are inspected ~~and~~ or released by the Director ~~[-]~~ *without inspection.*

2. If, upon inspection, the Director finds that the potatoes are infected with bacterial ring rot, or other potato diseases in amounts





1 in excess of that allowed under the standards set for Nevada  
2 certified potatoes, the potatoes may not be released for planting in  
3 this state, but must be disposed of for nonseed purposes in a manner  
4 approved by the Director.

5 3. If the seed potatoes are found to be free from bacterial ring  
6 rot, and other potato diseases are not present in excess of that  
7 allowed under the standards set for Nevada certified seed potatoes,  
8 the Director shall release the potatoes.

9 **Sec. 11.** NRS 587.131 is hereby amended to read as follows:

10 587.131 As used in NRS 587.131 to ~~587.185,~~ **587.181,**  
11 inclusive, unless the context requires otherwise:

12 1. "Advisory Board" means the Alfalfa Seed Advisory Board.

13 2. "Alfalfa seed" means the seed that is harvested from any  
14 variety of alfalfa plant.

15 3. "Dealer" means any person, partnership, association,  
16 corporation, cooperative or other business unit or device that first  
17 handles, packs, ships, buys and sells alfalfa seed.

18 4. "Grower" means any landowner personally engaged in  
19 growing alfalfa seed, or both the owner and tenant jointly, and  
20 includes a person, partnership, association, corporation, cooperative  
21 organization, trust, sharecropper or any and all other business units,  
22 devices or arrangements that grow alfalfa seed.

23 **Sec. 12.** NRS 587.151 is hereby amended to read as follows:

24 587.151 1. The State Board of Agriculture has the following  
25 powers and duties:

26 (a) To appoint the members of the Advisory Board, to fix their  
27 term of office and to fill all vacancies.

28 (b) To establish procedures for the Nevada alfalfa seed industry  
29 to recommend persons for appointment to the Advisory Board.

30 (c) To administer, enforce and control the collection of  
31 assessments levied for the Alfalfa Seed Research and Promotion  
32 Account.

33 (d) To authorize payments from the Alfalfa Seed Research and  
34 Promotion Account upon the recommendation of the Advisory  
35 Board.

36 (e) To contract with natural persons or agencies for the conduct  
37 or management of research and market promotion projects.

38 (f) To adopt regulations to carry out the provisions of NRS  
39 ~~587.135 to 587.185,~~ **587.131 to 587.181,** inclusive.

40 2. Money from the State General Fund may not be utilized by  
41 the State Board of Agriculture in carrying out the provisions of NRS  
42 587.131 to ~~587.185,~~ **587.181,** inclusive. Expenditures for those  
43 purposes must be made only from the Alfalfa Seed Research and  
44 Promotion Account created by NRS 561.409, and are subject to the  
45 limitations stated in that section.



**Sec. 13.** NRS 587.450 is hereby amended to read as follows:

587.450 1. If any quantity of any agricultural product shall have been inspected and a certificate issued under NRS 587.290 to 587.450, inclusive, showing the grade, classification, quality or condition thereof, no person shall represent that the grade, classification, quality or condition of such product at the time and place of such inspection was other than as shown by such certificate.

2. Whenever any standard for a container for an agricultural product becomes effective under NRS 587.290 to 587.450, inclusive, no person thereafter shall pack for sale, offer for sale, consign for sale, or sell and deliver, in a container, any such agricultural product to which the standard is applicable unless the container conforms to the standard, subject to such variations therefrom as may be allowed, in the regulations made under NRS 587.290 to 587.450, inclusive, or unless such product is brought from outside the State and offered for sale, consigned for sale or sold in the original package, but no agricultural product shall be offered for sale which bears a label containing any superlative word or words designating a superior or higher quality unless the product shall conform to the highest grade specification adopted under the provisions of NRS 587.410.

~~[3. Any person violating this section shall be guilty of a misdemeanor.]~~

**Sec. 14.** NRS 587.650 is hereby amended to read as follows:

587.650 It is unlawful for any person to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport or sell in the State of Nevada any nuts, fresh fruits or vegetables in bulk or in any container or subcontainer unless 90 percent by weight or more of such fruits, nuts or vegetables in bulk or in any container or subcontainer, as established by the inspection of a representative sample, ~~[which]~~ are free from *any defects, including, without limitation, any* insect injury which has penetrated or damaged the edible portion, worms, internal breakdown, mold or decay. ~~[In addition, not more than 5 percent tolerance shall be allowed for any one defect.]~~

**Sec. 15.** NRS 587.660 is hereby amended to read as follows:

587.660 The provisions of NRS 587.590 to 587.650, inclusive, apply only to those fruits, nuts or vegetables for which specific quality standards are not otherwise established by this chapter or by regulations adopted by the Director. ~~[All nuts, fruits and vegetables if offered for sale must be mature but not overripe.]~~

**Sec. 16.** NRS 556.110, 587.185, 587.500, 587.520, 587.670, 587.680 and 587.690 are hereby repealed.

**Sec. 17.** Any regulations adopted by the Director of the State Department of Agriculture pursuant to NRS 587.680 are void. The



- 1 Legislative Counsel shall remove those regulations from the Nevada  
2 Administrative Code as soon as practicable after July 1, 2015.  
3 **Sec. 18.** This act becomes effective on July 1, 2015.

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**LEADLINES OF REPEALED SECTIONS**

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**556.110 Criminal penalty.**  
**587.185 Penalty.**  
**587.500 “Mature” defined.**  
**587.520 “Overripe” defined.**  
**587.670 Definitions.**  
**587.680 Adoption of rules and regulations.**  
**587.690 Requirements for labels; information to be  
furnished to purchaser; exceptions.**

