

**THE SIXTY-EIGHTH DAY**

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CARSON CITY (Friday), April 10, 2015

Assembly called to order at 11:59 a.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblyman Thompson, who was excused.

Prayer by the Chaplain, Pastor Albert Tilstra.

We pray for the members of this body, its officers, and all those who share in its work. We remember that You never were in a hurry nor lost Your inner peace when under pressure. But we are only human. We feel the strain of meeting deadlines, and we chafe under frustration. We need poise and peace of mind, and only You can supply the deepest needs of tired bodies, jaded spirits, and frayed nerves.

Give to us Your peace and refresh us in our weariness, that this may be a good day with much done and done well.

AMEN.

Pledge of allegiance to the Flag.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:03 p.m.

**ASSEMBLY IN SESSION**

At 12:15 p.m.

Mr. Speaker presiding.

Quorum present.

Assemblyman Paul Anderson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

**REPORTS OF COMMITTEES**

*Mr. Speaker:*

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 73, 87, 137, 179, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDY KIRNER, *Chair*

*Mr. Speaker:*

Your Committee on Education, to which was referred Assembly Bill No. 447, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MELISSA WOODBURY, *Chair*

*Mr. Speaker:*

Your Committee on Government Affairs, to which was referred Assembly Bill No. 428, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Government Affairs, to which was referred Assembly Bill No. 415, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which were referred Assembly Bills Nos. 104, 241, 345, 410, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Ways and Means.

Also, your Committee on Government Affairs, to which were referred Assembly Bills Nos. 300, 355, 403, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Ways and Means.

JOHN C. ELLISON, *Chair*

*Mr. Speaker:*

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 320, 460, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

LYNN D. STEWART, *Chair*

*Mr. Speaker:*

Your Committee on Taxation, to which was referred Assembly Bill No. 399, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Ways and Means.

DEREK ARMSTRONG, *Chair*

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:17 p.m.

## ASSEMBLY IN SESSION

At 12:19 p.m.

Mr. Speaker presiding.

Quorum present.

## MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 8, 2015

*To the Honorable the Assembly:*

I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 239, 339, 389, 482.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 29, 53, 86, 93, 129, 147, 151, 170, 176, 191, 205, 238, 249, 256, 294, 340; Senate Joint Resolution No. 11.

SHERRY RODRIGUEZ

*Assistant Secretary of the Senate*

SENATE CHAMBER, Carson City, April 9, 2015

*To the Honorable the Assembly:*

I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 307, 485; Senate Joint Resolution No. 20.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 7, 15, 59, 181, 196.

SHERRY RODRIGUEZ  
*Assistant Secretary of the Senate*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Assembly Bills Nos. 24, 48, and 57 be taken from their positions on the General File and placed at the bottom of the General File.

Motion carried.

Senate Joint Resolution No. 11.

Assemblyman Paul Anderson moved that the resolution be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Joint Resolution No. 20.

Assemblyman Paul Anderson moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senate Concurrent Resolution No. 7.

Assemblyman Paul Anderson moved the adoption of the resolution.

Remarks by Assemblyman Paul Anderson.

ASSEMBLYMAN PAUL ANDERSON:

Senate Concurrent Resolution 7 authorizes the state Public Works Division of the Department of Administration to receive and use federal grant money for the demolition of the field maintenance shop at Nevada National Guard Henderson Armory.

Resolution adopted and ordered transmitted to the Senate.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:23 p.m.

ASSEMBLY IN SESSION

At 12:24 p.m.

Mr. Speaker presiding.

Quorum present.

NOTICE OF EXEMPTION

April 9, 2015

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 310.

CINDY JONES  
*Fiscal Analysis Division*

April 9, 2015

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 111 and 439.

MARK KRMPOTIC  
*Fiscal Analysis Division*

April 10, 2015

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 450.

CINDY JONES  
*Fiscal Analysis Division*

#### WAIVER OF JOINT STANDING RULES

A Waiver requested by Senator Roberson.

For: Senate Bill No. 291.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: April 08, 2015.

SENATOR MICHAEL ROBERSON  
*Senate Majority Leader*

ASSEMBLYMAN JOHN HAMBRICK  
*Speaker of the Assembly*

A Waiver requested by Senator Roberson.

For: Senate Bill No. 300.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: April 08, 2015.

SENATOR MICHAEL ROBERSON  
*Senate Majority Leader*

ASSEMBLYMAN JOHN HAMBRICK  
*Speaker of the Assembly*

#### INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 7.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 15.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 29.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 53.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 59.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 86.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 93.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Taxation.

Motion carried.

Senate Bill No. 129.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 147.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 151.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 170.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Taxation.

Motion carried.

Senate Bill No. 176.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 181.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 191.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 196.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 205.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 238.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 239.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 249.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 256.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 294.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 307.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senate Bill No. 339.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 340.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 389.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 482.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 485.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

#### SECOND READING AND AMENDMENT

Assembly Bill No. 43.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 83.

AN ACT relating to public works; providing that certain documents and other information submitted by a person seeking a contract with a public body to construct certain public works are confidential until **notice of intent to award** the contract is ~~awarded~~ **issued**; and providing other matters properly relating thereto.

#### **Legislative Counsel's Digest:**

Under existing law, the Department of Transportation is authorized to advertise for proposals from design-build teams and contract with a design-build team for the design and construction of certain projects. (NRS 408.388, 408.3883) The Department is also authorized to accept requests from certain persons seeking to develop, construct, improve, maintain or operate certain transportation facilities. (NRS 408.5475) The Department may authorize the person who requested such a project to carry out the project or may request that other persons submit proposals for the project. (NRS 408.5473, 408.548) **Sections 2 and 3** of this bill provide that certain documents or other information submitted to the Department by a person seeking a contract with the Department for a design-build project or a transportation facility project are confidential until **notice of intent to award** the contract is ~~awarded~~ **issued**.

Existing law authorizes public bodies to construct public works by advertising for proposals for a construction manager at risk and then selecting and entering into a contract with a construction manager at risk. **As part of the selection process, a public body or its authorized representative is required to appoint a panel to rank the proposals submitted to the public body. After the proposals are ranked, the public body or its authorized representative is required to select for interviews a certain number of applicants whose proposals received the highest scores, and is then authorized to appoint a separate panel to interview and rank such selected applicants.** (NRS 338.169, 338.1692 ~~to~~ **338.1693**) Section 6 of this bill provides that certain documents or other information submitted to a public body by a construction manager at risk seeking a contract with a public body for a public works project are confidential until **notice of intent to award** the contract is ~~forwarded~~ **issued**. **Section 7.5 of this bill requires a public body or its authorized representative to make certain information determined by the panel that ranked the proposals and the panel that conducted the interviews of the selected applicants available to all applicants and the public.**

Under existing law, all public books and records of a governmental entity, the contents of which are not otherwise declared by law to be confidential, are required to be open at all times during office hours for inspection and copying by the public. (NRS 239.010) **Section 8** of this bill adds to the list of public books and records which are declared confidential those documents and other information as reflected in **sections 2, 3 and 6**. **Section 7.7 of this bill clarifies that if a public book or record is declared by law to be open to the public, such a declaration does not imply, and must not be construed to mean, that a public book or record is confidential if it is not declared by law to be open to the public and is not otherwise declared by law to be confidential.**

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

**Section 1.** Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

**Sec. 2. 1.** *Any document or other information submitted to the Department in response to a design-build project initiated pursuant to NRS 408.3881 by a person who is a member of a design-build team seeking a design-build contract pursuant to NRS 408.3875 to 408.3887, inclusive, is confidential and may not be disclosed until notice of intent to award the contract is ~~forwarded~~ **issued**.*

**2.** *As used in this section, the term “document or other information” means any submittal by a person who is a member of a design-build team to the Department ~~[required pursuant to NRS 408.3875 to 408.3887, inclusive, for the selection of a design-build team]~~ in response to a design-build project initiated pursuant to NRS 408.3881 and includes, without limitation, a*



*preliminary proposal made pursuant to NRS 408.3883, a statement that the person satisfies the requirements of NRS 408.3884 and a final proposal submitted pursuant to NRS 408.3886.*

**Sec. 3.** *1. Any document or other information submitted to the Department in response to a request for proposals pursuant to NRS 408.548 by a person seeking a contract to develop, construct, improve, maintain or operate, or any combination thereof, a transportation facility pursuant to NRS 408.5471 to 408.549, inclusive, is confidential and may not be disclosed until notice of intent to award the contract is ~~awarded~~ issued.*

*2. As used in this section, the term "document or other information" means any submittal by a person to the Department ~~required pursuant to NRS 408.5471 to 408.549, inclusive, as part of the submission or approval of a request or proposal~~ in response to a request for proposals pursuant to NRS 408.548 and includes, without limitation, ~~a request made pursuant to NRS 408.5475,~~ a proposal made pursuant to NRS 408.548 and any submittal required by regulations promulgated by the Department pursuant to NRS 408.548.*

**Sec. 4.** NRS 408.3875 is hereby amended to read as follows:

408.3875 As used in NRS 408.3875 to 408.3887, inclusive, *and section 2 of this act*, unless the context otherwise requires, the words and terms defined in NRS 408.3876 to 408.3879, inclusive, have the meanings ascribed to them in those sections.

**Sec. 5.** NRS 408.5471 is hereby amended to read as follows:

408.5471 As used in NRS 408.5471 to 408.549, inclusive, *and section 3 of this act*, unless the context otherwise requires, "transportation facility" means a road, railroad, bridge, tunnel, overpass, airport, mass transit facility, parking facility for vehicles or similar commercial facility used for the support of or the transportation of persons or goods, including, without limitation, any other property that is needed to operate the facility. The term does not include a toll bridge or toll road.

**Sec. 6.** Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Any document or other information submitted to a public body in response to a request for proposals pursuant to NRS 338.1692 by a contractor seeking a contract between the public body and a construction manager at risk pursuant to NRS 338.1685 to 338.16995, inclusive, is confidential and may not be disclosed until notice of intent to award the contract is ~~awarded~~ issued.*

*2. As used in this section, the term "document or other information" means any submittal by a contractor to a public body ~~required pursuant to NRS 338.1685 to 338.16995, inclusive, as part of the selection process for a construction manager at risk~~ in response to a request for proposals pursuant to NRS 338.1692 and includes, without limitation, a proposal made pursuant to NRS 338.1692.*

**Sec. 7.** NRS 338.1685 is hereby amended to read as follows:

338.1685 The Legislature hereby declares that the provisions of NRS 338.1685 to 338.16995, inclusive, ***and section 6 of this act***, relating to contracts involving construction managers at risk, are intended:

1. To promote public confidence and trust in the contracting and bidding procedures for public works established therein;
2. For the benefit of the public, to promote the philosophy of obtaining the best possible value as compared to low-bid contracting; and
3. To better equip public bodies to address public works that present unique and complex construction challenges.

**Sec. 7.5. NRS 338.1693 is hereby amended to read as follows:**

338.1693 1. The public body or its authorized representative shall appoint a panel consisting of at least three but not more than seven members, a majority of whom must have experience in the construction industry, to rank the proposals submitted to the public body by evaluating the proposals as required pursuant to subsections 2 and 3.

2. The panel appointed pursuant to subsection 1 shall rank the proposals by:

(a) Verifying that each applicant satisfies the requirements of NRS 338.1691; and

(b) Evaluating and assigning a score to each of the proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for proposals.

3. When ranking the proposals, the panel appointed pursuant to subsection 1 shall assign a relative weight of 5 percent to the applicant's possession of a certificate of eligibility to receive a preference in bidding on public works if the applicant submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that work.

4. After the panel appointed pursuant to subsection 1 ranks the proposals, the public body or its authorized representative shall, except as otherwise provided in subsection 8, select at least the two but not more than the five applicants whose proposals received the highest scores for interviews.

5. The public body or its authorized representative may appoint a separate panel to interview and rank the applicants selected pursuant to subsection 4. If a separate panel is appointed pursuant to this subsection, the panel must consist of at least three but not more than seven members, a majority of whom must have experience in the construction industry.

6. During the interview process, the panel conducting the interview may require the applicants to submit a preliminary proposed amount of compensation for managing the preconstruction and construction of the public work, but in no event shall the proposed amount of compensation exceed 20 percent of the scoring for the selection of the most qualified applicant. All

presentations made at any interview conducted pursuant to this subsection or subsection 5 may be made only by key personnel employed by the applicant, as determined by the applicant, and the employees of the applicant who will be directly responsible for managing the preconstruction and construction of the public work.

7. After conducting such interviews, the panel that conducted the interviews shall rank the applicants by using a ranking process that is separate from the process used to rank the applicants pursuant to subsection 2 and is based only on information submitted during the interview process. The score to be given for the proposed amount of compensation, if any, must be calculated by dividing the lowest of all the proposed amounts of compensation by the applicant's proposed amount of compensation multiplied by the total possible points available to each applicant. When ranking the applicants, the panel that conducted the interviews shall assign a relative weight of 5 percent to the applicant's possession of a certificate of eligibility to receive a preference in bidding on public works if the applicant submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that work.

8. If the public body did not receive at least two proposals, the public body may not contract with a construction manager at risk.

9. Upon receipt of the final rankings of the applicants from the panel that conducted the interviews, the public body or its authorized representative shall enter into negotiations with the most qualified applicant determined pursuant to the provisions of this section for a contract for preconstruction services, unless the public body required the submission of a proposed amount of compensation, in which case the proposed amount of compensation submitted by the applicant must be the amount offered for the contract. If the public body or its authorized representative is unable to negotiate a contract with the most qualified applicant for an amount of compensation that the public body or its authorized representative and the most qualified applicant determine to be fair and reasonable, the public body or its authorized representative shall terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

10. The public body or its authorized representative shall ~~make~~ :

**(a) Make** available to all applicants and the public the ~~final~~ **following information, as determined by the panel appointed pursuant to subsection 1 and the panel that conducted the interviews, as applicable:**

~~(1) The final~~ rankings of the applicants ~~[, as determined by the panel that conducted the interviews,]~~ ;

~~(2) The score assigned to each proposal received by the public body;~~  
~~and~~

~~(3) For each proposal received by the public body, the score assigned to each factor that the public body specified in the request for proposals; and [shall provide,]~~

~~(b) Provide,~~ upon request, an explanation to any unsuccessful applicant of the reasons why the applicant was unsuccessful.

**Sec. 7.7. NRS 239.001 is hereby amended to read as follows:**

239.001 The Legislature hereby finds and declares that:

1. The purpose of this chapter is to foster democratic principles by providing members of the public with access to inspect and copy public books and records to the extent permitted by law;

2. The provisions of this chapter must be construed liberally to carry out this important purpose;

3. Any exemption, exception or balancing of interests which limits or restricts access to public books and records by members of the public must be construed narrowly; ~~and~~

4. The use of private entities in the provision of public services must not deprive members of the public access to inspect and copy books and records relating to the provision of those services ~~[,]~~; ~~and~~

**5. If a public book or record is declared by law to be open to the public, such a declaration does not imply, and must not be construed to mean, that a public book or record is confidential if it is not declared by law to be open to the public and is not otherwise declared by law to be confidential.**

**Sec. 8.** NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105,

281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 598.0964, 598A.110, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, and sections 2, 3 and 6 of this act, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general

public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

**Sec. 9.** 1. This act becomes effective upon passage and approval.

2. ~~Section~~ **Sections 6 and 7.5** of this act ~~expires~~ **expire** by limitation on June 30, 2017.

Assemblyman Wheeler moved the adoption of the amendment.

Remarks by Assemblyman Wheeler.

ASSEMBLYMAN WHEELER:

Amendment 83 to Assembly Bill 43 changes the time during which certain documents or other information submitted by persons seeking a contract with the Department of Transportation for a design-build project or a transportation facility project, or with a public body for a public works project, from "until the contract is awarded" to "until notice of intent to award the contract is issued." Amendment 83 also revises the types of documents that must remain confidential during that time. Finally, Amendment 83 requires a public body or its authorized representative to make certain information relating to the selection process for a construction manager at risk for a public works project available to all applicants and the public.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 51.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 230.

AN ACT relating to securities; requiring ~~broker-dealers and investment advisers to provide training to~~ certain persons **to complete training**

concerning ~~[identifying the]~~ **identification of the** suspected exploitation of an older person or vulnerable person; requiring ~~[certain persons who work for]~~ broker-dealers and investment advisers to **designate a person to whom a report of the suspected or known exploitation of an older person or vulnerable person ~~[+] may be made;~~** authorizing the Administrator of the Securities Division of the Office of the Secretary of State to adopt regulations relating to the federal Jumpstart Our Business Startups Act; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law establishes the Uniform Securities Act which sets forth provisions governing the sale and purchase of securities in this State in a manner consistent with federal laws and regulations. (Chapter 90 of NRS) **Sections 2-9** of this bill require **certain persons employed by** broker-dealers and investment advisers to ~~[provide]~~ **complete** training ~~[to certain persons]~~ concerning the identification and reporting of suspected exploitation of older persons and vulnerable persons. "Older persons" are defined in existing law as persons who are 60 years of age or older. "Vulnerable persons" are defined in existing law as persons who are 18 years of age or older who: (1) suffer from a condition of physical or mental incapacitation because of a development disability, organic brain damage or mental illness; or (2) have one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living. (NRS 200.5092) **Section 8** specifies which sales representatives, representatives of an investment adviser and officers and employees of broker-dealers or investment advisers must ~~[receive]~~ **complete** the training, when the training must be ~~[provided]~~ **completed** and the content of the training. ~~[Section 8 further requires those persons to report incidents that reasonably appear to be exploitation of an older person or vulnerable person.]~~ **Section 9** requires each broker-dealer and investment adviser to designate a person to whom ~~[such]~~ reports ~~[must]~~ **of suspected exploitation of an older person or vulnerable person may** be made. The person so designated is then responsible for determining when a formal report must be reported to the appropriate agency.

Existing law authorizes the imposition or granting of certain actions and penalties against a person who has violated any provision of state law or a regulation or order of the Administrator of the Securities Division of the Office of the Secretary of State relating to securities, including civil penalties, restitution and costs of investigation and prosecution of such a violation. (NRS 90.630, 90.640, 90.650) **Sections 11-13** of this bill revise those provisions to include, if the violation was committed against an older person or vulnerable person, the imposition or granting of civil penalties, restitution and costs of investigation and prosecution in amounts equal to twice the amounts that would otherwise have been imposed or granted.

**Section 10** of this bill authorizes the Administrator to adopt regulations consistent with the federal Jumpstart Our Business Startups Act (Pub. L. No.

112-106), including regulations relating to the creation and oversight of funding portals for the purchase of securities.

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

**Section 1.** Chapter 90 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Designated reporter” means a person designated by a broker-dealer or investment adviser to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 9 of this act.*

**Sec. 4.** *“Exploitation” has the meaning ascribed to it in subsection 2 of NRS 200.5092.*

**Sec. 5.** *“Older person” has the meaning ascribed to it in subsection 5 of NRS 200.5092.*

**Sec. 6.** *“Reasonable cause to believe” has the meaning ascribed to it in NRS 200.50925.*

**Sec. 7.** *“Vulnerable person” has the meaning ascribed to it in subsection 7 of NRS 200.5092.*

**Sec. 8. 1.** *Each broker-dealer ~~and~~, investment adviser, sales representative, representative of an investment adviser and officer or employee of a broker-dealer or investment adviser shall ~~provide~~ complete training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person ~~to each sales representative, representative of the investment adviser and officer and employee of the broker-dealer or investment adviser who may~~; if he or she:*

*(a) As part of his or her regular duties for ~~the~~ a broker-dealer or investment adviser, ~~come~~ comes into direct contact with an older person or vulnerable person;*

*(b) ~~Review or approve~~ Reviews or approves the financial documents, records or transactions of an older person or vulnerable person in connection with the offer, sale or purchase of securities; or*

*(c) ~~Offer~~ Offers advice as to the value or advisability of investing in, purchasing or selling securities to an older person or vulnerable person.*

**2.** *The training required pursuant to subsection 1 must be ~~provided as soon as reasonably practicable, but~~ completed not later than 6 months after the sales representative, representative of the investment adviser or officer or employee is employed by ~~the~~ a broker-dealer or investment adviser ~~f~~ and every 2 years thereafter.*

**3.** *The training required pursuant to subsection 1 must include, without limitation:*



(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation of an older person or vulnerable person are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. A sales representative, representative of an investment adviser or officer or employee of a broker-dealer or investment adviser who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his or her scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person ~~shall~~ may report the known or suspected exploitation to a designated reporter pursuant to section 9 of this act.

Sec. 9. 1. Each broker-dealer and investment adviser shall designate a person or persons to whom a sales representative, representative of the investment adviser or officer or employee of the broker-dealer or investment adviser ~~must~~ may report known or suspected exploitation of an older person or vulnerable person.

2. If a sales representative, representative of an investment adviser or officer or employee of a broker-dealer or investment adviser reports known or suspected exploitation of an older person to a designated reporter and, based on such a report or based on his or her own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation of the older person to:

(1) The local office of the Aging and Disability Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected exploitation occurred; or

(4) A toll-free telephone service designated by the Aging and Disability Services Division; and

(b) Make such a report as soon as reasonably practicable.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation of the older person involves an act or omission of the Aging and Disability Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the designated reporter shall make the report to an agency other than the agency alleged to have committed the act or omission.

4. If a sales representative, representative of an investment adviser or officer or employee of a broker-dealer or investment adviser reports known or suspected exploitation of a vulnerable person to a designated reporter and,

*based on such a report or based on his or her own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:*

*(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and*

*(b) Make such a report as soon as reasonably practicable.*

*5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the agency alleged to have committed the act or omission.*

*6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:*

*(a) Disclose any fact or information that forms the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and*

*(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.*

*7. A sales representative, representative of an investment adviser or officer or employee of a broker-dealer or investment adviser and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.*

**Sec. 10. 1.** *The Administrator may adopt, by regulation or order, any filing requirements, registration exemptions and licensing requirements which are consistent with the Jumpstart Our Business Startups Act, Public Law 112-106, and any regulation adopted pursuant thereto by the United States Securities and Exchange Commission, including, without limitation, regulations relating to the creation and oversight of funding portals.*

*2. As used in this section, “funding portal” has the meaning ascribed to it in section 3(a)(80) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78a et seq.*

**Sec. 11.** NRS 90.630 is hereby amended to read as follows:

90.630 1. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that:

(a) The sale of a security is subject to registration under this chapter and the security is being offered or has been offered or sold by the issuer or another person in violation of NRS 90.460; or

(b) A person is acting as a broker-dealer or investment adviser in violation of NRS 90.310 or 90.330,

➡ the Administrator, in addition to any specific power granted under this chapter and subject to compliance with the requirements of NRS 90.820, may issue, without a prior hearing, a summary order against the person engaged in

the prohibited activities, directing the person to desist and refrain from further activity until the security is registered or the person is licensed under this chapter. The summary order to cease and desist must state the section of this chapter or regulation or order of the Administrator under this chapter which the Administrator reasonably believes has been or is being violated.

2. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that a person has violated this chapter or a regulation or order of the Administrator under this chapter, the Administrator, in addition to any specific power granted under this chapter, after giving notice by registered or certified mail and conducting a hearing in an administrative proceeding, unless the right to notice and hearing is waived by the person against whom the sanction is imposed, may:

- (a) Issue an order against the person to cease and desist;
- (b) Censure the person if he or she is a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser;
- (c) Bar or suspend the person from association with a licensed broker-dealer or investment adviser in this State;
- (d) Issue an order against an applicant, licensed person or other person who willfully violates this chapter, imposing a civil penalty of not more than \$25,000 for each violation ~~or~~ *or , if the violation was committed against an older person or vulnerable person, a civil penalty equal to twice the amount of the civil penalty that would otherwise have been imposed pursuant to this paragraph, not to exceed \$50,000 for each violation; or*
- (e) Initiate one or more of the actions specified in NRS 90.640.

3. If the person to whom the notice is addressed pursuant to subsection 2 does not request a hearing within 45 days after receipt of the notice, the person waives the right to a hearing and the Administrator shall issue a permanent order. If a hearing is requested, the Administrator shall set the matter for hearing not less than 15 days nor more than 60 days after the Administrator receives the request for a hearing. The Administrator shall promptly notify the parties by registered or certified mail of the time and place set for the hearing.

4. Imposition of the sanctions under this section is limited as follows:

- (a) If the Administrator revokes the license of a broker-dealer, sales representative, investment adviser or representative of an investment adviser or bars a person from association with a licensed broker-dealer or investment adviser under this section or NRS 90.420, the imposition of that sanction precludes imposition of a civil penalty under subsection 2; and
- (b) The imposition by the Administrator of one or more sanctions under subsection 2 with respect to a specific violation precludes the Administrator from later imposing any other sanctions under paragraphs (a) to (d), inclusive, of subsection 2 with respect to the violation.

5. For the purposes of determining any sanction to be imposed pursuant to paragraphs (a) to (d), inclusive, of subsection 2, the Administrator shall consider, among other factors, the frequency and persistence of the conduct constituting a violation of this chapter, or a regulation or order of the

Administrator under this chapter, the number of persons adversely affected by the conduct and the resources of the person committing the violation.

6. If a sanction is imposed pursuant to this section, reimbursement for the costs of the proceeding, including investigative costs and attorney's fees incurred, may be ordered and recovered by the Administrator. Money recovered for reimbursement of the investigative costs and attorney's fees must be deposited in the State General Fund for credit to the Secretary of State's Operating General Fund Budget Account.

7. *As used in this section:*

(a) *"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.*

(b) *"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.*

(c) *"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.*

**Sec. 12.** NRS 90.640 is hereby amended to read as follows:

90.640 1. Upon a showing by the Administrator that a person has violated or is about to violate this chapter, or a regulation or order of the Administrator under this chapter, the appropriate district court may grant or impose one or more of the following appropriate legal or equitable remedies:

(a) Upon a showing that a person has violated this chapter, or a regulation or order of the Administrator under this chapter, the court may singly or in combination:

(1) Issue a temporary restraining order, permanent or temporary prohibitory or mandatory injunction or a writ of prohibition or mandamus;

(2) Impose a civil penalty of not more than \$25,000 for each violation ~~or~~ *or, if the violation was committed against an older person or vulnerable person, a civil penalty equal to twice the amount of the civil penalty that would otherwise have been imposed pursuant to this subparagraph, not to exceed \$50,000 for each violation;*

(3) Issue a declaratory judgment;

(4) Order restitution to investors ~~or~~ *which, if the violation was committed against an older person or vulnerable person, must be in an amount equal to twice the amount of restitution that would otherwise have been ordered pursuant to this subparagraph;*

(5) Provide for the appointment of a receiver or conservator for the defendant or the defendant's assets;

(6) Order payment of the Division's investigative costs ~~or~~ *which, if the violation was committed against an older person or vulnerable person, must be in an amount equal to twice the amount of the Division's investigative costs that would otherwise have been ordered for payment pursuant to this subparagraph; or*

(7) Order such other relief as the court deems just.

(b) Upon a showing that a person is about to violate this chapter, or a regulation or order of the Administrator under this chapter, a court may issue:

- (1) A temporary restraining order;
- (2) A temporary or permanent injunction; or
- (3) A writ of prohibition or mandamus.

2. In determining the appropriate relief to grant, the court shall consider enforcement actions taken and sanctions imposed by the Administrator under NRS 90.630 in connection with the transactions constituting violations of this chapter or a regulation or order of the Administrator under this chapter. If a remedial action is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Administrator.

3. The court shall not require the Administrator to post a bond in an action under this section.

4. Upon a showing by the administrator or securities agency of another state that a person has violated the securities act of that state or a regulation or order of the administrator or securities agency of that state, the appropriate district court may grant, in addition to any other legal or equitable remedies, one or more of the following remedies:

- (a) Appointment of a receiver, conservator or ancillary receiver or conservator for the defendant or the defendant's assets located in this State; or
- (b) Other relief as the court deems just.

5. *As used in this section:*

(a) *"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.*

(b) *"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.*

(c) *"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.*

**Sec. 13.** NRS 90.650 is hereby amended to read as follows:

90.650 1. A person who willfully violates:

(a) A provision of this chapter, except NRS 90.600 ~~to 9~~ **and sections 2 to 9, inclusive, of this act** or who violates NRS 90.600 knowing that the statement made is false or misleading in any material respect;

(b) A regulation adopted pursuant to this chapter; or

(c) An order denying, suspending or revoking the effectiveness of registration or an order to cease and desist issued by the Administrator pursuant to this chapter,

➤ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, or by a fine of not more than \$500,000, or by both fine and imprisonment, for each violation. In addition to any other penalty, the court shall order the person to pay restitution and may order the person to repay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. ***If the violation was committed against an older person or vulnerable person, any restitution and costs of investigation and prosecution imposed by the court must be in an***

*amount equal to twice the amount that would otherwise have been imposed by the court.* Money recovered for reimbursement of the costs of investigation and prosecution must be deposited in the State General Fund for credit to the Secretary of State's Operating General Fund Budget Account.

2. A person convicted of violating a regulation or order under this chapter may be fined, but must not be imprisoned, if the person proves lack of knowledge of the regulation or order.

3. This chapter does not limit the power of the State to punish a person for conduct which constitutes a crime under other law.

**Sec. 14.** This act becomes effective on July 1, 2015.

Assemblyman Hansen moved the adoption of the amendment.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

This amendment requires broker-dealers and investment advisers to take continuing education credits in elder exploitation within six months of being hired and every two years thereafter. The amendment changes language from "must report" to "may report" known or suspected exploitation of an older person.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 67.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 38.

AN ACT relating to public safety; revising provisions governing the admission into evidence of certain affidavits and declarations in certain criminal proceedings; revising provisions governing the administration of certain tests for the presence of alcohol, controlled substances and prohibited substances; ~~providing for~~ **revising provisions concerning** the revocation of the license, permit or privilege to drive ; ~~of a person who fails to submit to certain tests for the presence of alcohol, controlled substances and prohibited substances under certain circumstances; revising provisions concerning operating or being in actual physical control of a vessel;~~ and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law makes it unlawful for a person to drive, operate or be in actual physical control of a vehicle or vessel while under the influence of intoxicating liquor or a controlled substance, or both. (NRS 484C.110, 484C.120, 488.410)

**Sections 9 and 20** of this bill define the term "under the influence" for the purposes of existing law relating to driving, operating or being in actual physical control of a vehicle or vessel while under the influence of intoxicating liquor or a controlled substance, or both.

Existing law allows the affidavits and declarations of certain persons to be admitted as evidence during a criminal proceeding to prove certain facts

relating to the testing of the blood, breath or urine of a defendant to determine the presence or concentration of alcohol or certain other substances. In a felony trial, if the defendant objects in writing to the admission of such affidavits or declarations, the court must not admit the affidavit or declaration into evidence and the prosecution may cause the witness to testify at trial concerning the information contained in the affidavit or declaration. A defendant in a misdemeanor trial, however, must also establish that: (1) there is a substantial and bona fide dispute between the prosecution and the defense regarding the facts in the declaration; and (2) it is in the best interests of justice that the witness who signed the affidavit or declaration be cross-examined. (NRS 50.315) The Nevada Supreme Court has held that the additional requirements imposed on a misdemeanor defendant under existing law violate a defendant's constitutional right to confront the witnesses against him or her and are therefore unconstitutional. (*City of Reno v. Howard*, 130 Nev. Adv. Op. 12, 318 P.3d 1063 (2014))

**Section 1** of this bill eliminates the constitutional defect identified by the Nevada Supreme Court and provides instead that an affidavit or declaration must not be admitted as evidence during a misdemeanor trial to prove certain facts relating to the testing of the blood, breath or urine of a defendant to determine the presence or concentration of alcohol or certain other substances if, not later than 10 days before the date set for trial or such shorter time before the date set for trial as authorized by the court, the defendant objects in writing to the admission of the affidavit or declaration. ~~and requests an opportunity to cross-examine the witness at trial.~~ Under **section 1**, if the affidavit or declaration is not admitted into evidence, the prosecution may produce the witness to provide testimony at trial concerning the information contained in the affidavit or declaration at trial.

Under existing law, a person who drives a vehicle in this State is deemed to have given his or her consent to an evidentiary test of his or her blood, urine, breath or other bodily substance to determine the concentration of alcohol in his or her blood or breath or to determine whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present. If a person who has thus given his or her "implied consent" to an evidentiary test refuses to submit to the test when directed to do so by a police officer who has reason to believe that the person was driving a vehicle or operating a vessel while under the influence of alcohol or a controlled substance, existing law authorizes the police officer to direct that reasonable force be used to obtain a sample of blood from the person to be tested. (NRS 484C.160) The Nevada Supreme Court has held that the consent implied by a person's decision to drive in this State is not voluntary consent to an evidentiary blood test and, thus, existing laws that allow a police officer to obtain a blood sample from a person without a warrant and without voluntary consent are unconstitutional. (*Byars v. State*, 130 Nev. Adv. Op. No. 85, 336 P.3d 939 (2014))

**Sections 12 and 14** of this bill eliminate the constitutional defect identified by the Nevada Supreme Court and provide instead that if a person refuses to

submit to an evidentiary blood test at the request of a police officer: (1) the officer may apply for a warrant or other court order directing the use of reasonable force to obtain the blood sample; and (2) the person's driver's license must be revoked for a certain period. **Section 14 further authorizes the revocation of a person's license, permit or privilege to drive if an evidentiary test reveals the presence of a detectable amount of a controlled substance for which he or she did not have a valid prescription or reveals a prohibited substance in his or her blood or urine.** Sections 15 and 16 of this bill make corresponding revisions to provisions of existing law which establish the procedure for effecting such a revocation and provide for an administrative hearing to challenge such a revocation. **Section 25** of this bill makes comparable changes to existing law concerning the evidentiary tests of persons who operate or exercise actual physical control over vessels on the waters of this State. **Section 5** of this bill makes comparable changes to existing law concerning evidentiary tests of persons who have actual physical possession of a firearm.

~~[ Existing law makes it unlawful for a person to operate or be in actual physical control of a vessel on the waters of this State while under the influence of intoxicating liquor or a controlled substance or while engaging in certain other prohibited conduct if the vessel is "under power or sail." (NRS 488.410) Section 21 of this bill makes the operation or actual physical control of a vessel by such a person unlawful if the vessel is "under way," that is, if the vessel is adrift, making way or being propelled, and is not aground, made fast to the shore or tied or made fast to a dock or mooring. Sections 2, 4, 6, 8, 19, 21, 25 and 27-30 of this bill make conforming changes.]~~

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

**Section 1.** NRS 50.315 is hereby amended to read as follows:

50.315 1. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person is admissible in evidence in any criminal or administrative proceeding to prove:

(a) That the affiant or declarant has been certified by the Director of the Department of Public Safety as being competent to operate devices of a type certified by the Committee on Testing for Intoxication as accurate and reliable for testing a person's breath to determine the concentration of alcohol in his or her breath;

(b) The identity of a person from whom the affiant or declarant obtained a sample of breath; and

(c) That the affiant or declarant tested the sample using a device of a type so certified and that the device was functioning properly.

2. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person who has examined a prepared chemical solution or gas that has been used in calibrating, or verifying the calibration of, a device for testing another's breath to determine the concentration of alcohol in his or her



breath is admissible in evidence in any criminal or administrative proceeding to prove:

- (a) The occupation of the affiant or declarant; and
- (b) That the solution or gas has the chemical composition necessary for use in accurately calibrating, or verifying the calibration of, the device.

3. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person who calibrates a device for testing another's breath to determine the concentration of alcohol in his or her breath is admissible in evidence in any criminal or administrative proceeding to prove:

- (a) The occupation of the affiant or declarant;
- (b) That on a specified date the affiant or declarant calibrated the device at a named law enforcement agency by using the procedures and equipment prescribed in the regulations of the Committee on Testing for Intoxication;
- (c) That the calibration was performed within the period required by the Committee's regulations; and
- (d) Upon completing the calibration of the device, it was operating properly.

4. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration made under the penalty of perjury of a person who withdraws a sample of blood from another for analysis by an expert as set forth in NRS 50.320 is admissible in any criminal or administrative proceeding to prove:

- (a) The occupation of the affiant or declarant;
- (b) The identity of the person from whom the affiant or declarant withdrew the sample;
- (c) The fact that the affiant or declarant kept the sample in his or her sole custody or control and in substantially the same condition as when he or she first obtained it until delivering it to another; and
- (d) The identity of the person to whom the affiant or declarant delivered it.

5. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person who receives from another a sample of blood or urine or other tangible evidence that is alleged to contain alcohol or a controlled substance, chemical, poison, organic solvent or another prohibited substance may be admitted in any criminal or civil or administrative proceeding to prove:

- (a) The occupation of the affiant or declarant;
- (b) The fact that the affiant or declarant received a sample or other evidence from another person and kept it in his or her sole custody or control in substantially the same condition as when he or she first received it until delivering it to another; and
- (c) The identity of the person to whom the affiant or declarant delivered it.

6. If, ~~at or before the time of trial,~~ **not later than 10 days before the date set for trial or such shorter time before the date set for trial as authorized by the court,** the defendant ~~establishes that:~~

~~(a) There is a substantial and bona fide dispute regarding the facts in the affidavit or declaration; and~~

~~— (b) It is in the best interests of justice that the witness who signed the affidavit or declaration be cross examined. *Objects* objects in writing to admitting into evidence the affidavit or declaration, and~~

~~— (b) Requests an opportunity to cross examine at trial the witness who signed the affidavit or declaration;~~

~~→~~ the court *shall not admit the affidavit or declaration into evidence and* may order the prosecution to produce the witness and may continue the trial for any time the court deems reasonably necessary to receive such testimony. The time within which a trial is required is extended by the time of the continuance.

7. During any trial in which the defendant has been accused of committing a felony, the defendant may object in writing to admitting into evidence an affidavit or declaration described in this section. If the defendant makes such an objection, the court shall not admit the affidavit or declaration into evidence and the prosecution may cause the person to testify to any information contained in the affidavit or declaration.

8. The Committee on Testing for Intoxication shall adopt regulations prescribing the form of the affidavits and declarations described in this section.

~~Sec. 2. [NRS 50.325 is hereby amended to read as follows:~~

~~50.325 1. If a person is charged with an offense listed in subsection 4, and it is necessary to prove:~~

~~— (a) The existence of any alcohol;~~

~~— (b) The quantity of a controlled substance; or~~

~~— (c) The existence or identity of a controlled substance, chemical, poison, organic solvent or another prohibited substance;~~

~~→ the prosecuting attorney may request that the affidavit or declaration of an expert or other person described in NRS 50.315 and 50.320 be admitted into evidence at the preliminary hearing, hearing before a grand jury or trial concerning the offense. Except as otherwise provided in NRS 50.315 and 50.320, the affidavit or declaration must be admitted into evidence at the trial.~~

~~2. If the request is to have the affidavit or declaration admitted into evidence at a preliminary hearing or hearing before a grand jury, the affidavit or declaration must be admitted into evidence upon submission. If the request is to have the affidavit or declaration admitted into evidence at trial, the request must be:~~

~~— (a) Made at least 10 days before the date set for the trial;~~

~~— (b) Sent to the defendant's counsel and to the defendant, by registered or certified mail, or personally served on the defendant's counsel or the defendant; and~~

~~— (c) Accompanied by a copy of the affidavit or declaration and the name, address and telephone number of the affiant or declarant.~~

~~3. The provisions of this section do not prohibit either party from producing any witness to offer testimony at trial.~~

~~4. The provisions of this section apply to any of the following offenses:~~

~~— (a) An offense punishable pursuant to NRS 202.257, 455A.170, 455B.080, 493.130 or 639.283;~~

~~— (b) An offense punishable pursuant to chapter 453, 484A to 484E, inclusive, or 488 of NRS;~~

~~— (c) A homicide resulting from driving, operating or being in actual physical control of a vehicle or a vessel under [power or sail] way while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425;~~

~~— (d) Any other offense for which it is necessary to prove, as an element of the offense:~~

~~— (1) The existence of any alcohol;~~

~~— (2) The quantity of a controlled substance; or~~

~~— (3) The existence or identity of a controlled substance, chemical, poison, organic solvent or another prohibited substance.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 62E.620 is hereby amended to read as follows:~~

~~— 62E.620 1. The juvenile court shall order a delinquent child to undergo an evaluation to determine whether the child is an abuser of alcohol or other drugs if the child committed:~~

~~— (a) An unlawful act in violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430;~~

~~— (b) The unlawful act of using, possessing, selling or distributing a controlled substance; or~~

~~— (c) The unlawful act of purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020.~~

~~— 2. Except as otherwise provided in subsection 3, an evaluation of the child must be conducted by:~~

~~— (a) A clinical alcohol and drug abuse counselor who is licensed, an alcohol and drug abuse counselor who is licensed or certified, or an alcohol and drug abuse counselor intern or a clinical alcohol and drug abuse counselor intern who is certified, pursuant to chapter 641C of NRS, to make that classification; or~~

~~— (b) A physician who is certified to make that classification by the Board of Medical Examiners.~~

~~— 3. If the child resides in this State but the nearest location at which an evaluation may be conducted is in another state, the court may allow the evaluation to be conducted in the other state if the person conducting the evaluation:~~

~~— (a) Possesses qualifications that are substantially similar to the qualifications described in subsection 2;~~

~~— (b) Holds an appropriate license, certificate or credential issued by a regulatory agency in the other state; and~~

~~— (c) Is in good standing with the regulatory agency in the other state.~~

~~— 4. The evaluation of the child may be conducted at an evaluation center.~~

~~5. The person who conducts the evaluation of the child shall report to the juvenile court the results of the evaluation and make a recommendation to the juvenile court concerning the length and type of treatment required for the child.~~

~~6. The juvenile court shall:~~

~~(a) Order the child to undergo a program of treatment as recommended by the person who conducts the evaluation of the child.~~

~~(b) Require the treatment facility to submit monthly reports on the treatment of the child pursuant to this section.~~

~~(c) Order the child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay any charges relating to the evaluation and treatment of the child pursuant to this section. If the child or the parent or guardian of the child, or both, do not have the financial resources to pay all those charges:~~

~~(1) The juvenile court shall, to the extent possible, arrange for the child to receive treatment from a treatment facility which receives a sufficient amount of federal or state money to offset the remainder of the costs; and~~

~~(2) The juvenile court may order the child, in lieu of paying the charges relating to the child's evaluation and treatment, to perform community service.~~

~~7. After a treatment facility has certified a child's successful completion of a program of treatment ordered pursuant to this section, the treatment facility is not liable for any damages to person or property caused by a child who:~~

~~(a) Drives, operates or is in actual physical control of a vehicle or a vessel under [power or sail] way while under the influence of intoxicating liquor or a controlled substance; or~~

~~(b) Engages in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130, 484C.420, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct.~~

~~8. The provisions of this section do not prohibit the juvenile court from:~~

~~(a) Requiring an evaluation to be conducted by a person who is employed by a private company if the company meets the standards of the Division of Public and Behavioral Health of the Department of Health and Human Services. The evaluation may be conducted at an evaluation center.~~

~~(b) Ordering the child to attend a program of treatment which is administered by a private company.~~

~~9. Except as otherwise provided in section 6 of chapter 435, Statutes of Nevada 2007, all information relating to the evaluation or treatment of a child pursuant to this section is confidential and, except as otherwise authorized by the provisions of this title or the juvenile court, must not be disclosed to any person other than:~~

~~(a) The juvenile court;~~

~~(b) The child;~~

~~(c) The attorney for the child, if any;~~

~~—(d) The parents or guardian of the child;~~  
~~—(e) The district attorney; and~~  
~~—(f) Any other person for whom the communication of that information is necessary to effectuate the evaluation or treatment of the child.~~  
~~—10. A record of any finding that a child has violated the provisions of NRS 484C.110, 484C.120, 484C.130 or 484C.430 must be included in the driver's record of that child for 7 years after the date of the offense.}] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 178.484 is hereby amended to read as follows:~~  
~~—178.484 1. Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.~~  
~~—2. A person arrested for a felony who has been released on probation or parole for a different offense must not be admitted to bail unless:~~  
~~—(a) A court issues an order directing that the person be admitted to bail;~~  
~~—(b) The State Board of Parole Commissioners directs the detention facility to admit the person to bail; or~~  
~~—(c) The Division of Parole and Probation of the Department of Public Safety directs the detention facility to admit the person to bail.~~  
~~—3. A person arrested for a felony whose sentence has been suspended pursuant to NRS 4.373 or 5.055 for a different offense or who has been sentenced to a term of residential confinement pursuant to NRS 4.3762 or 5.076 for a different offense must not be admitted to bail unless:~~  
~~—(a) A court issues an order directing that the person be admitted to bail; or~~  
~~—(b) A department of alternative sentencing directs the detention facility to admit the person to bail.~~  
~~—4. A person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.~~  
~~—5. A person arrested for a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is under the influence of intoxicating liquor must not be admitted to bail or released on the person's own recognizance unless the person has a concentration of alcohol of less than 0.04 in his or her breath. A test of the person's breath pursuant to this subsection to determine the concentration of alcohol in his or her breath as a condition of admission to bail or release is not admissible as evidence against the person.~~  
~~—6. A person arrested for a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is under the influence of a controlled substance, is under the combined influence of intoxicating liquor and a controlled substance, or inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle or vessel under [power or~~

~~sail] way must not be admitted to bail or released on the person's own recognizance sooner than 12 hours after arrest.~~

~~7. A person arrested for a battery that constitutes domestic violence pursuant to NRS 33.018 must not be admitted to bail sooner than 12 hours after arrest. If the person is admitted to bail more than 12 hours after arrest, without appearing personally before a magistrate or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:~~

~~—(a) Three thousand dollars, if the person has no previous convictions of battery that constitute domestic violence pursuant to NRS 33.018 and there is no reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation;~~

~~—(b) Five thousand dollars, if the person has:~~

~~——(1) No previous convictions of battery that constitute domestic violence pursuant to NRS 33.018, but there is reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or~~

~~——(2) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018, but there is no reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or~~

~~—(c) Fifteen thousand dollars, if the person has:~~

~~——(1) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 and there is reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or~~

~~——(2) Two or more previous convictions of battery that constitute domestic violence pursuant to NRS 33.018.~~

~~➤ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court, or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.~~

~~8. A person arrested for violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or for violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or for violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or for violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378 must not be admitted to bail sooner than 12 hours after arrest if:~~

~~— (a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;~~

~~— (b) The person has previously violated a temporary or extended order for protection of the type for which the person has been arrested; or~~

~~— (c) At the time of the violation or within 2 hours after the violation, the person has:~~

~~— (1) A concentration of alcohol of 0.08 or more in the person's blood or breath; or~~

~~— (2) An amount of a prohibited substance in the person's blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484C.110.~~

~~— 9. If a person is admitted to bail more than 12 hours after arrest, pursuant to subsection 8, without appearing personally before a magistrate or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:~~

~~— (a) Three thousand dollars, if the person has no previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378;~~

~~— (b) Five thousand dollars, if the person has one previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378;~~

~~or~~

~~— (c) Fifteen thousand dollars, if the person has two or more previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378.~~

~~→ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before~~

~~the magistrate or the court or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378, if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.~~

~~10. The court may, before releasing a person arrested for an offense punishable as a felony, require the surrender to the court of any passport the person possesses.~~

~~11. Before releasing a person arrested for any crime, the court may impose such reasonable conditions on the person as it deems necessary to protect the health, safety and welfare of the community and to ensure that the person will appear at all times and places ordered by the court, including, without limitation:~~

~~—(a) Requiring the person to remain in this State or a certain county within this State;~~

~~—(b) Prohibiting the person from contacting or attempting to contact a specific person or from causing or attempting to cause another person to contact that person on the person's behalf;~~

~~—(c) Prohibiting the person from entering a certain geographic area; or~~

~~—(d) Prohibiting the person from engaging in specific conduct that may be harmful to the person's own health, safety or welfare, or the health, safety or welfare of another person.~~

~~➤ In determining whether a condition is reasonable, the court shall consider the factors listed in NRS 178.4853.~~

~~12. If a person fails to comply with a condition imposed pursuant to subsection 11, the court may, after providing the person with reasonable notice and an opportunity for a hearing:~~

~~—(a) Deem such conduct a contempt pursuant to NRS 22.010; or~~

~~—(b) Increase the amount of bail pursuant to NRS 178.499.~~

~~13. An order issued pursuant to this section that imposes a condition on a person admitted to bail must include a provision ordering any law enforcement officer to arrest the person if the officer has probable cause to believe that the person has violated a condition of bail.~~

~~14. Before a person may be admitted to bail, the person must sign a document stating that:~~



~~— (a) The person will appear at all times and places as ordered by the court releasing the person and as ordered by any court before which the charge is subsequently heard;~~

~~— (b) The person will comply with the other conditions which have been imposed by the court and are stated in the document; and~~

~~— (c) If the person fails to appear when so ordered and is taken into custody outside of this State, the person waives all rights relating to extradition proceedings;~~

~~— The signed document must be filed with the clerk of the court of competent jurisdiction as soon as practicable, but in no event later than the next business day;~~

~~— 15. If a person admitted to bail fails to appear as ordered by a court and the jurisdiction incurs any cost in returning the person to the jurisdiction to stand trial, the person who failed to appear is responsible for paying those costs as restitution.~~

~~— 16. For the purposes of subsections 8 and 9, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.~~

~~— 17. As used in this section, “strangulation” has the meaning ascribed to it in NRS 200.481.] (Deleted by amendment.)~~

**Sec. 5.** NRS 202.257 is hereby amended to read as follows:

202.257 1. It is unlawful for a person who:

(a) Has a concentration of alcohol of 0.10 or more in his or her blood or breath; or

(b) Is under the influence of any controlled substance, or is under the combined influence of intoxicating liquor and a controlled substance, or any person who inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him or her incapable of safely exercising actual physical control of a firearm,

➔ to have in his or her actual physical possession any firearm. This prohibition does not apply to the actual physical possession of a firearm by a person who was within the person’s personal residence and had the firearm in his or her possession solely for self-defense.

2. Any evidentiary test to determine whether a person has violated the provisions of subsection 1 must be administered in the same manner as an evidentiary test that is administered pursuant to NRS 484C.160 to 484C.250, inclusive, except that submission to the evidentiary test is required of any person who is ~~directed~~ **requested** by a police officer to submit to the test. If a person to be tested fails to submit to a required test as ~~directed~~ **requested** by a police officer, the officer may ~~direct~~ **apply for a warrant or court order directing** that reasonable force be used to the extent necessary to obtain the samples of blood from the person to be tested, if the officer has reasonable cause to believe that the person to be tested was in violation of this section.

3. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

4. A firearm is subject to forfeiture pursuant to NRS 179.1156 to 179.119, inclusive, only if, during the violation of subsection 1, the firearm is brandished, aimed or otherwise handled by the person in a manner which endangered others.

5. As used in this section, the phrase “concentration of alcohol of 0.10 or more in his or her blood or breath” means 0.10 gram or more of alcohol per 100 milliliters of the blood of a person or per 210 liters of his or her breath.

**Sec. 6.** ~~NRS 453A.300 is hereby amended to read as follows:~~  
~~453A.300 1. A person who holds a registry identification card issued to him or her pursuant to NRS 453A.220 or 453A.250 is not exempt from state prosecution for, nor may the person establish an affirmative defense to charges arising from, any of the following acts:~~  
~~(a) Driving, operating or being in actual physical control of a vehicle or a vessel under [power or sail] way while under the influence of marijuana.~~  
~~(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420, 488.425 or 493.130.~~  
~~(c) Possessing a firearm in violation of paragraph (b) of subsection 1 of NRS 202.257.~~  
~~(d) Possessing marijuana in violation of NRS 453.336 or possessing paraphernalia in violation of NRS 453.560 or 453.566, if the possession of the marijuana or paraphernalia is discovered because the person engaged or assisted in the medical use of marijuana in:~~  
~~(1) Any public place or in any place open to the public or exposed to public view; or~~  
~~(2) Any local detention facility, county jail, state prison, reformatory or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders.~~  
~~(e) Delivering marijuana to another person who he or she knows does not lawfully hold a registry identification card issued by the Division or its designee pursuant to NRS 453A.220 or 453A.250.~~  
~~(f) Delivering marijuana for consideration to any person, regardless of whether the recipient lawfully holds a registry identification card issued by the Division or its designee pursuant to NRS 453A.220 or 453A.250.~~  
~~2. Except as otherwise provided in NRS 453A.225 and in addition to any other penalty provided by law, if the Division determines that a person has willfully violated a provision of this chapter or any regulation adopted by the Division to carry out the provisions of this chapter, the Division may, at its own discretion, prohibit the person from obtaining or using a registry identification card for a period of up to 6 months.] (Deleted by amendment.)~~

**Sec. 7.** ~~NRS 458.260 is hereby amended to read as follows:~~

~~458.260 1. Except as otherwise provided in subsection 2, the use of alcohol, the status of drunkard and the fact of being found in an intoxicated condition are not:~~

~~(a) Public offenses and shall not be so treated in any ordinance or resolution of a county, city or town.~~

~~(b) Elements of an offense giving rise to a criminal penalty or civil sanction.~~

~~2. The provisions of subsection 1 do not apply to:~~

~~(a) A civil or administrative violation for which intoxication is an element of the violation pursuant to the provisions of a specific statute or regulation;~~

~~(b) A criminal offense for which intoxication is an element of the offense pursuant to the provisions of a specific statute or regulation;~~

~~(c) A homicide resulting from driving, operating or being in actual physical control of a vehicle or a vessel under [power or sail] way while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425; and~~

~~(d) Any offense or violation which is similar to an offense or violation described in paragraph (a), (b) or (c) and which is set forth in an ordinance or resolution of a county, city or town.~~

~~3. This section does not make intoxication an excuse or defense for any criminal act.~~ **(Deleted by amendment.)**

**Sec. 8. [NRS 458.270 is hereby amended to read as follows:**

~~458.270 1. Except as otherwise provided in subsection 7, a person who is found in any public place under the influence of alcohol, in such a condition that the person is unable to exercise care for his or her health or safety or the health or safety of other persons, must be placed under civil protective custody by a peace officer.~~

~~2. A peace officer may use upon such a person the kind and degree of force which would be lawful if the peace officer were effecting an arrest for a misdemeanor with a warrant.~~

~~3. If a licensed facility for the treatment of persons who abuse alcohol exists in the community where the person is found, the person must be delivered to the facility for observation and care. If no such facility exists in the community, the person so found may be placed in a county or city jail or detention facility for shelter or supervision for his or her health and safety until he or she is no longer under the influence of alcohol. The person may not be required against his or her will to remain in a licensed facility, jail or detention facility longer than 48 hours.~~

~~4. An intoxicated person taken into custody by a peace officer for a public offense must immediately be taken to a secure detoxification unit or other appropriate medical facility if the condition of the person appears to require emergency medical treatment. Upon release from the detoxification unit or medical facility, the person must immediately be remanded to the custody of the apprehending peace officer and the criminal proceedings proceed as prescribed by law.~~

~~5. The placement of a person found under the influence of alcohol in civil protective custody must be:~~

~~(a) Recorded at the facility, jail or detention facility to which the person is delivered; and~~

~~(b) Communicated at the earliest practical time to the person's family or next of kin if they can be located.~~

~~6. Every peace officer and other public employee or agency acting pursuant to this section is performing a discretionary function or duty.~~

~~7. The provisions of this section do not apply to a person who is apprehended or arrested for:~~

~~(a) A civil or administrative violation for which intoxication is an element of the violation pursuant to the provisions of a specific statute or regulation;~~

~~(b) A criminal offense for which intoxication is an element of the offense pursuant to the provisions of a specific statute or regulation;~~

~~(c) A homicide resulting from driving, operating or being in actual physical control of a vehicle or a vessel under [power or sail] way while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425; and~~

~~(d) Any offense or violation which is similar to an offense or violation described in paragraph (a), (b) or (c) and which is set forth in an ordinance or resolution of a county, city or town.] **(Deleted by amendment.)**~~

**Sec. 9.** Chapter 484C of NRS is hereby amended by adding thereto a new section to read as follows:

***“Under the influence” means impaired to a degree that renders a person incapable of safely driving or exercising actual physical control of a vehicle.***

**Sec. 10.** NRS 484C.010 is hereby amended to read as follows:

484C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 484C.020 to 484C.100, inclusive, **and section 9 of this act** have the meanings ascribed to them in those sections.

**Sec. 11.** NRS 484C.150 is hereby amended to read as follows:

484C.150 1. Any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access shall be deemed to have given his or her consent to a preliminary test of his or her breath to determine the concentration of alcohol in his or her breath when the test is administered at the ~~[direction]~~ **request** of a police officer at the scene of a vehicle accident or collision or where the police officer stops a vehicle, if the officer has reasonable grounds to believe that the person to be tested was:

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance; or

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430.

2. If the person fails to submit to the test, the officer shall ~~[seize]~~ :

(a) **Seize** the license or permit of the person to drive as provided in NRS 484C.220 ; and

(b) *If reasonable grounds otherwise exist*, arrest the person and take him or her to a convenient place for the administration of a reasonably available evidentiary test under NRS 484C.160.

3. The result of the preliminary test must not be used in any criminal action, except to show there were reasonable grounds to make an arrest.

**Sec. 12.** NRS 484C.160 is hereby amended to read as follows:

484C.160 1. Except as otherwise provided in subsections ~~{3 and 4,}~~ **4 and 5**, any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access shall be deemed to have given his or her consent to an evidentiary test of his or her blood, urine, breath or other bodily substance to determine the concentration of alcohol in his or her blood or breath or to determine whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present, if such a test is administered at the ~~{direction}~~ **request** of a police officer having reasonable grounds to believe that the person to be tested was:

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance ~~{;}~~ or **with a prohibited substance in his or her blood or urine; or**

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430.

2. *A police officer who requests that a person submit to a test pursuant to subsection 1 shall inform the person that his or her license, permit or privilege to drive will be revoked if he or she fails to submit to the test.*

3. If the person to be tested pursuant to subsection 1 is dead or unconscious, the officer shall direct that samples of blood from the person be tested.

~~{3-}~~ 4. Any person who is afflicted with hemophilia or with a heart condition requiring the use of an anticoagulant as determined by a physician is exempt from any blood test which may be required pursuant to this section but must, when appropriate pursuant to the provisions of this section, be required to submit to a breath or urine test.

~~{4-}~~ 5. If the concentration of alcohol in the blood or breath of the person to be tested is in issue:

(a) Except as otherwise provided in this section, the person may refuse to submit to a blood test if means are reasonably available to perform a breath test.

(b) The person may request a blood test, but if means are reasonably available to perform a breath test when the blood test is requested, and the person is subsequently convicted, the person must pay for the cost of the blood test, including the fees and expenses of witnesses *whose testimony* in court ~~{;}~~ **or an administrative hearing is necessary because of the use of the blood test. The expenses of such a witness ~~{must}~~ may be assessed at an hourly rate of not less than:**

- (1) *Fifty dollars for travel to and from the place of the proceeding; and*
- (2) *One hundred dollars for giving or waiting to give testimony.*

(c) ~~{A police officer may direct the person to submit to a blood test if the officer has reasonable grounds to believe that the person:~~

~~—— (1) Caused death or substantial bodily harm to another person as a result of driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or as a result of engaging in any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430; or~~

~~—— (2) Has been convicted within the previous 7 years of:~~

~~—— (I) A violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of another jurisdiction that prohibits the same or similar conduct; or~~

~~—— (II) Any other offense in this State or another jurisdiction in which death or substantial bodily harm to another person resulted from conduct prohibited by a law set forth in sub-subparagraph (I).~~

~~—5.] Except as otherwise provided in NRS 484C.200, not more than three samples of the person's blood or breath may be taken during the 5-hour period immediately following the time of the initial arrest.~~

6. If the presence of a controlled substance, chemical, poison, organic solvent or another prohibited substance in the blood or urine of the person is in issue, the officer may ~~{direct}~~ **request that** the person ~~{to}~~ submit to a blood or urine test, or both. ~~[, in addition to the breath test.~~

~~—6.] 7. Except as otherwise provided in subsections {3 and 5,} 4 and 6, a police officer shall not {direct} request that a person {to} submit to a urine test.~~

~~{7.} 8. If a person to be tested fails to submit to a required test as {directed} requested by a police officer pursuant to this section and the officer has reasonable grounds to believe that the person to be tested was:~~

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance ~~{;}~~ or **with a prohibited substance in his or her blood or urine; or**

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430,

➔ the officer may ~~{direct}~~ **apply for a warrant or court order directing** that reasonable force be used to the extent necessary to obtain samples of blood from the person to be tested. ~~{Not more than three such samples may be taken during the 5-hour period immediately following the time of the initial arrest. In such a circumstance, the officer is not required to provide the person with a choice of tests for determining the concentration of alcohol or presence of a controlled substance or another prohibited substance in his or her blood.~~

~~—8.] 9. If a person who is less than 18 years of age is {directed} requested to submit to an evidentiary test pursuant to this section, the officer shall, before testing the person, make a reasonable attempt to notify the parent, guardian or custodian of the person, if known.~~

**Sec. 13.** NRS 484C.200 is hereby amended to read as follows:

484C.200 1. Except as otherwise provided in subsection 2, an evidentiary test of breath to determine the concentration of alcohol in a

person's breath may be used to establish that concentration only if two consecutive samples of the person's breath are taken and:

(a) The difference between the concentration of alcohol in the person's breath indicated by the two samples is less than or equal to 0.02;

(b) If the provisions of paragraph (a) do not apply, a third evidentiary test of breath is administered and the difference between the concentration of alcohol in the person's breath indicated by the third sample and one of the first two samples is less than or equal to 0.02; or

(c) If the provisions of paragraphs (a) and (b) do not apply, a fourth evidentiary test is administered. Except as otherwise provided in NRS 484C.160, the fourth evidentiary test must be a blood test.

2. If the person fails to provide the second or third consecutive sample, or to submit to the fourth evidentiary test, the results of the first test may be used alone as evidence of the concentration of alcohol in the person's breath. If for some other reason a second, third or fourth sample is not obtained, the results of the first test may be used with all other evidence presented to establish the concentration.

3. If a person refuses or otherwise fails to provide a second or third consecutive sample or submit to a fourth evidentiary test, ~~if a police officer may direct that reasonable force be used to obtain a sample or conduct a test pursuant to~~ ***such refusal or failure constitutes a failure to submit to a required test as provided in NRS 484C.160.***

**Sec. 14.** NRS 484C.210 is hereby amended to read as follows:

484C.210 1. ***If a person fails to submit to an evidentiary test as requested by a police officer pursuant to NRS 484C.160, the license, permit or privilege to drive of the person must be revoked as provided in NRS 484C.220, and the person is not eligible for a license, permit or privilege to drive for a period of:***

***(a) One year; or***

***(b) Three years, if the license, permit or privilege to drive of the person has been revoked during the immediately preceding 7 years for failure to submit to an evidentiary test.***

2. If the result of a test given under NRS 484C.150 or 484C.160 shows that a person had a concentration of alcohol of 0.08 or more in his or her blood or breath ***or a detectable amount of a controlled substance for which he or she did not have a valid prescription or a prohibited substance in his or her blood or urine*** at the time of the test, the license, permit or privilege of the person to drive must be revoked as provided in NRS 484C.220 and the person is not eligible for a license, permit or privilege for a period of 90 days.

~~{2-}~~ 3. If a revocation of a person's license, permit or privilege to drive under NRS 62E.640 or 483.460 follows a revocation under subsection ~~{4}~~ 2 which was based on the person having a concentration of alcohol of 0.08 or more in his or her blood or breath, the Department shall cancel the revocation under that subsection and give the person credit for any period during which the person was not eligible for a license, permit or privilege.

~~{3-}~~ 4. Periods of ineligibility for a license, permit or privilege to drive which are imposed pursuant to this section must run consecutively.

**Sec. 15.** NRS 484C.220 is hereby amended to read as follows:

484C.220 1. As agent for the Department, the officer who *requested that a test be given pursuant to NRS 484C.150 or 484C.160 or who* obtained the result of a test given pursuant to NRS 484C.150 or 484C.160 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who *failed to submit to a test requested by the police officer pursuant to NRS 484C.150 or 484C.160 or who* has a concentration of alcohol of 0.08 or more in his or her blood or breath or has a detectable amount of a controlled substance for which he or she does not have a valid prescription or a prohibited substance in his or her blood or urine, if that person is present, and shall seize the license or permit to drive of the person. The officer shall then, *unless the information is expressly set forth in the order of revocation*, advise the person of his or her right to administrative and judicial review of the revocation pursuant to NRS 484C.230 and, except as otherwise provided in this subsection, that the person has a right to request a temporary license. If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484C.230, the person is not entitled to request an additional temporary license pursuant to this section or NRS 484C.230, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer shall issue the person a temporary license on a form approved by the Department if the person requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had a concentration of alcohol of 0.08 or more in his or her blood or breath or had a detectable amount of a controlled substance for which he or she did not have a valid prescription or a prohibited substance in his or her blood or urine, the officer shall immediately prepare and transmit to the Department, together with the seized license or permit and a copy of the result of the test, *if any*, a written certificate that the officer had reasonable grounds to believe that the person had been driving or in actual physical control of a vehicle ~~{with}~~:

(a) *With* a concentration of alcohol of 0.08 or more in his or her blood or breath or with a detectable amount of a controlled substance for which he or she did not have a valid prescription or a prohibited substance in his or her blood or urine, as determined by a chemical test ~~{-}~~; *or*

(b) *While under the influence of intoxicating liquor or a controlled substance or with a prohibited substance in his or her blood or urine and the person refused to submit to a required evidentiary test.*



↪ The certificate must also indicate whether the officer served an order of revocation on the person and whether the officer issued the person a temporary license.

3. The Department, upon receipt of such a certificate for which an order of revocation has not been served, after examining the certificate and copy of the result of the chemical test, if any, and finding that revocation is proper, shall issue an order revoking the person's license, permit or privilege to drive by mailing the order to the person at the person's last known address. The order must indicate the grounds for the revocation and the period during which the person is not eligible for a license, permit or privilege to drive and state that the person has a right to administrative and judicial review of the revocation and to have a temporary license. The order of revocation becomes effective 5 days after mailing.

4. Notice of an order of revocation and notice of the affirmation of a prior order of revocation or the cancellation of a temporary license provided in NRS 484C.230 is sufficient if it is mailed to the person's last known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the Department, specifying the time of mailing the notice. The notice is presumed to have been received upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

**Sec. 16.** NRS 484C.230 is hereby amended to read as follows:

484C.230 1. At any time while a person is not eligible for a license, permit or privilege to drive following an order of revocation issued pursuant to NRS 484C.220, the person may request in writing a hearing by the Department to review the order of revocation, but the person is only entitled to one hearing. The hearing must be conducted ~~[within 15 days after receipt of the request, or]~~ as soon ~~[thereafter]~~ as is practicable ~~[, in the county where the requester resides unless the parties agree otherwise.]~~ **at any location, if the hearing officer permits each party and witness to attend the hearing by telephone, videoconference or other electronic means.** The Director or agent of the Director may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the requester. Unless the person is ineligible for a temporary license pursuant to NRS 484C.220, the Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review.

2. The scope of the hearing must be limited to the issue of whether the person ~~[, at]~~:

(a) *Failed to submit to a required test provided for in NRS 484C.150 or 484C.160; or*

(b) *At the time of the test, had a concentration of alcohol of 0.08 or more in his or her blood or breath or a detectable amount of a **controlled substance for which he or she did not have a valid prescription** or a prohibited substance in his or her blood or urine.*

↪ Upon an affirmative finding on ~~this~~ *either* issue, the Department shall affirm the order of revocation. Otherwise, the order of revocation must be rescinded.

3. If, after the hearing, the order of revocation is affirmed, the person whose license, privilege or permit has been revoked is entitled to a review of the same issues in district court in the same manner as provided by chapter 233B of NRS. The court shall notify the Department upon the issuance of a stay, and the Department shall issue an additional temporary license for a period which is sufficient to complete the review.

4. If a hearing officer grants a continuance of a hearing at the request of the person whose license was revoked, or a court does so after issuing a stay of the revocation, the officer or court shall notify the Department, and the Department shall cancel the temporary license and notify the holder by mailing the order of cancellation to the person's last known address.

**Sec. 17.** NRS 484C.240 is hereby amended to read as follows:

484C.240 1. If a person refuses to submit to a required chemical test provided for in NRS 484C.150 or 484C.160, evidence of that refusal is admissible in any criminal or administrative action arising out of acts alleged to have been committed while the person was:

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance ~~or~~ *or with a prohibited substance in his or her blood or urine; or*

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430.

2. Except as otherwise provided in subsection 3 of NRS 484C.150, a court or hearing officer may not exclude evidence of a required test or failure to submit to such a test if the police officer or other person substantially complied with the provisions of NRS 484C.150 to 484C.250, inclusive, and 484C.600 to 484C.640, inclusive.

3. If a person submits to a chemical test provided for in NRS 484C.150 or 484C.160, full information concerning that test must be made available, upon request of the person, to the person or his or her attorney.

4. Evidence of a required test is not admissible in a criminal or administrative proceeding unless it is shown by documentary or other evidence that the law enforcement agency calibrated the breath-testing device and otherwise maintained it as required by the regulations of the Committee on Testing for Intoxication.

**Sec. 18.** NRS 484C.250 is hereby amended to read as follows:

484C.250 1. The results of any blood test administered under the provisions of NRS 484C.160 or 484C.180 are not admissible in any hearing or criminal action arising out of acts alleged to have been committed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance *or with a prohibited substance in his or her blood or urine* or who was engaging in any other

conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430 unless:

(a) The blood tested was withdrawn by a person, other than an arresting officer, who:

(1) Is a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, registered nurse, licensed practical nurse, advanced emergency medical technician, paramedic or a phlebotomist, technician, technologist or assistant employed in a medical laboratory; or

(2) Has special knowledge, skill, experience, training and education in withdrawing blood in a medically acceptable manner, including, without limitation, a person qualified as an expert on that subject in a court of competent jurisdiction or a person who has completed a course of instruction that qualifies him or her to take an examination in phlebotomy that is administered by the American Medical Technologists or the American Society for Clinical Pathology; and

(b) The test was performed on whole blood, except if the sample was clotted when it was received by the laboratory, the test may be performed on blood serum or plasma.

2. The limitation contained in paragraph (a) of subsection 1 does not apply to the taking of a chemical test of the urine, breath or other bodily substance.

3. No person listed in paragraph (a) of subsection 1 incurs any civil or criminal liability as a result of the administering of a blood test when requested by a police officer or the person to be tested to administer the test.

**Sec. 19.** ~~NRS 484C.360 is hereby amended to read as follows:~~

~~484C.360 1. When a program of treatment is ordered pursuant to NRS 484C.340 or paragraph (a) or (b) of subsection 1 of NRS 484C.400, the court shall place the offender under the clinical supervision of a treatment facility for treatment in accordance with the report submitted to the court pursuant to NRS 484C.340 or subsection 3, 4, 5 or 6 of NRS 484C.350, as appropriate. The court shall:~~

~~(a) Order the offender confined in a treatment facility, then release the offender for supervised aftercare in the community; or~~

~~(b) Release the offender for treatment in the community,~~

~~for the period of supervision ordered by the court.~~

~~2. The court shall:~~

~~(a) Require the treatment facility to submit monthly progress reports on the treatment of an offender pursuant to this section; and~~

~~(b) Order the offender, to the extent of his or her financial resources, to pay any charges for treatment pursuant to this section. If the offender does not have the financial resources to pay all those charges, the court shall, to the extent possible, arrange for the offender to obtain the treatment from a treatment facility that receives a sufficient amount of federal or state money to offset the remainder of the charges.~~

~~3. A treatment facility is not liable for any damages to person or property caused by a person who:~~

~~— (a) Drives, operates or is in actual physical control of a vehicle or a vessel under [power or sail] way while under the influence of intoxicating liquor or a controlled substance; or~~

~~— (b) Engages in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct;~~

~~— after the treatment facility has certified that the offender has successfully completed a program of treatment ordered pursuant to NRS 484C.340 or paragraph (a) or (b) of subsection 1 of NRS 484C.400.} **(Deleted by amendment.)**~~

**Sec. 20.** NRS 488.035 is hereby amended to read as follows:

488.035 As used in this chapter, unless the context otherwise requires:

1. “Aquatic invasive species” means an aquatic species which is exotic or not native to this State and which the Commission has determined to be detrimental to aquatic life, water resources or infrastructure for providing water in this State.

2. “Aquatic plant material” means aquatic plants or parts of plants that are dependent on an aquatic environment to survive.

3. “Commission” means the Board of Wildlife Commissioners.

4. “Conveyance” means a motor vehicle, trailer or any other equipment used to transport a vessel or containers or devices used to haul water on a vessel that may contain or carry an aquatic invasive species or aquatic plant material.

5. “Decontaminate” means eliminate any aquatic invasive species on a vessel or conveyance in a manner specified by the Commission which may include, without limitation, washing the vessel or conveyance, draining the water in the vessel or conveyance, drying the vessel or conveyance or chemically, thermally or otherwise treating the vessel or conveyance.

6. “Department” means the Department of Wildlife.

7. “Flat wake” means the condition of the water close astern a moving vessel that results in a flat wave disturbance.

8. “Interstate waters of this State” means waters forming the boundary between the State of Nevada and an adjoining state.

9. “Legal owner” means a secured party under a security agreement relating to a vessel or a renter or lessor of a vessel to the State or any political subdivision of the State under a lease or an agreement to lease and sell or to rent and purchase which grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

10. “Motorboat” means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

11. “Operate” means to navigate or otherwise use a motorboat or a vessel.

12. “Owner” means:

(a) A person having all the incidents of ownership, including the legal title of a vessel, whether or not he or she lends, rents or pledges the vessel; and

(b) A debtor under a security agreement relating to a vessel.

↪ “Owner” does not include a person defined as a “legal owner” under subsection 9.

13. “Prohibited substance” has the meaning ascribed to it in NRS 484C.080.

14. “Registered owner” means the person registered by the Commission as the owner of a vessel.

15. *“Under the influence” means impaired to a degree that renders a person incapable of safely operating or exercising actual physical control of a vessel.*

16. A vessel is “under way” if it is adrift, making way or being propelled, and is not aground, made fast to the shore, or tied or made fast to a dock or mooring.

~~[16.]~~ 17. “Vessel” means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

~~[17.]~~ 18. “Waters of this State” means any waters within the territorial limits of this State.

Sec. 21. ~~[NRS 488.410 is hereby amended to read as follows:]~~

~~488.410 1. It is unlawful for any person who:~~

~~—(a) Is under the influence of intoxicating liquor;~~

~~—(b) Has a concentration of alcohol of 0.08 or more in his or her blood or breath; or~~

~~—(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel to have a concentration of alcohol of 0.08 or more in his or her blood or breath,~~

~~↪ to operate or be in actual physical control of a vessel under [power or sail] way on the waters of this State.~~

~~2. It is unlawful for any person who:~~

~~—(a) Is under the influence of a controlled substance;~~

~~—(b) Is under the combined influence of intoxicating liquor and a controlled substance; or~~

~~—(c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely operating or exercising actual physical control of a vessel under [power or sail] way;~~

~~↪ to operate or be in actual physical control of a vessel under [power or sail] way on the waters of this State.~~

~~3. It is unlawful for any person to operate or be in actual physical control of a vessel under [power or sail] way on the waters of this State with an amount of a prohibited substance in his or her blood or urine that is equal to or greater than:~~

	Urine	Blood
	Nanograms per	Nanograms per
Prohibited substance	milliliter	milliliter

<del>(a) Amphetamine</del>	<del>500</del>	<del>100</del>
<del>(b) Cocaine</del>	<del>150</del>	<del>50</del>
<del>(c) Cocaine metabolite</del>	<del>150</del>	<del>50</del>
<del>(d) Heroin</del>	<del>2,000</del>	<del>50</del>
<del>(e) Heroin metabolite:</del>		
<del>    (1) Morphine</del>	<del>2,000</del>	<del>50</del>
<del>    (2) 6 monoacetyl morphine</del>	<del>10</del>	<del>10</del>
<del>(f) Lysergic acid diethylamide</del>	<del>25</del>	<del>10</del>
<del>(g) Marijuana</del>	<del>10</del>	<del>2</del>
<del>(h) Marijuana metabolite</del>	<del>15</del>	<del>5</del>
<del>(i) Methamphetamine</del>	<del>500</del>	<del>100</del>
<del>(j) Phenethylidine</del>	<del>25</del>	<del>10</del>

~~4. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his or her blood was tested, to cause the defendant to have a concentration of 0.08 or more of alcohol in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.~~

~~5. Except as otherwise provided in NRS 488.427, a person who violates the provisions of this section is guilty of a misdemeanor.} (Deleted by amendment.)~~

~~Sec. 22. [NRS 488.420 is hereby amended to read as follows:~~

~~488.420 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who:~~

- ~~(a) Is under the influence of intoxicating liquor;~~
- ~~(b) Has a concentration of alcohol of 0.08 or more in his or her blood or breath;~~
- ~~(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under [power or sail] way to have a concentration of alcohol of 0.08 or more in his or her blood or breath;~~
- ~~(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;~~
- ~~(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely operating or being in actual physical control of a vessel under [power or sail;] way; or~~
- ~~(f) Has a prohibited substance in his or her blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.410, and does any act or neglects any duty imposed by law while operating or being in actual physical control of any vessel under [power or sail;] way, if the act or neglect of duty proximately causes the death of, or substantial bodily~~

harm to, another person, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and shall be further punished by a fine of not less than \$2,000 nor more than \$5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

~~2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 must not be suspended, and probation must not be granted.~~

~~3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel under [power or sail,] way, and before his or her blood was tested, to cause the defendant to have a concentration of alcohol of 0.08 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.~~

~~4. If a person less than 15 years of age was in the vessel at the time of the defendant's violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.] (Deleted by amendment.)~~

Sec. 23. [NRS 488.425 is hereby amended to read as follows:

~~488.425 1. A person commits homicide by vessel if the person:~~

~~(a) Operates or is in actual physical control of a vessel under [power or sail] way on the waters of this State and:~~

~~(1) Is under the influence of intoxicating liquor;~~

~~(2) Has a concentration of alcohol of 0.08 or more in his or her blood or breath;~~

~~(3) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under [power or sail] way to have a concentration of alcohol of 0.08 or more in his or her blood or breath;~~

~~(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;~~

~~(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely operating or exercising actual physical control of a vessel under [power or sail,] way; or~~

~~(6) Has a prohibited substance in his or her blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.410;~~

~~— (b) Proximately causes the death of another person while operating or in actual physical control of a vessel under [power or sail,] way, and~~

~~— (c) Has previously been convicted of at least three offenses.~~

~~— 2. A person who commits homicide by vessel is guilty of a category A felony and shall be punished by imprisonment in the state prison:~~

~~— (a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or~~

~~— (b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.~~

~~— 3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.~~

~~— 4. A prosecuting attorney shall not dismiss a charge of homicide by vessel in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.~~

~~— 5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his or her blood or breath was tested, to cause the defendant to have a concentration of alcohol of 0.08 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.~~

~~— 6. If the defendant was transporting a person who is less than 15 years of age in the vessel at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.~~

~~— 7. As used in this section, “offense” means:~~

~~— (a) A violation of NRS 488.410 or 488.420;~~

~~— (b) A homicide resulting from operating or being in actual physical control of a vessel while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 488.410 or 488.420; or~~

~~— (c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b).] **(Deleted by amendment.)**~~

**Sec. 24.** NRS 488.450 is hereby amended to read as follows:

488.450 1. Any person who operates or is in actual physical control of a vessel under power or sail ~~[way]~~ on the waters of this State shall be deemed to have given consent to a preliminary test of his or her breath to determine the concentration of alcohol in his or her breath when the test is administered at the ~~[direction]~~ **request** of a peace officer after a vessel accident or collision or



where an officer stops a vessel, if the officer has reasonable grounds to believe that the person to be tested was:

(a) Operating or in actual physical control of a vessel under power or sail ~~way~~ while under the influence of intoxicating liquor or a controlled substance; or

(b) Engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425.

2. If the person fails to submit to the test, the officer shall **, if reasonable grounds otherwise exist**, arrest the person and take him or her to a convenient place for the administration of a reasonably available evidentiary test under NRS 488.460.

3. The result of the preliminary test must not be used in any criminal action, except to show there were reasonable grounds to make an arrest.

**Sec. 25.** NRS 488.460 is hereby amended to read as follows:

488.460 1. Except as otherwise provided in subsections 3 and 4, a person who operates or is in actual physical control of a vessel under power or sail ~~way~~ on the waters of this State shall be deemed to have given consent to an evidentiary test of his or her blood, urine, breath or other bodily substance to determine the concentration of alcohol in his or her blood or breath or to determine whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present, if such a test is administered at the ~~direction~~ **request** of a peace officer having reasonable grounds to believe that the person to be tested was:

(a) Operating or in actual physical control of a vessel under power or sail ~~way~~ while under the influence of intoxicating liquor or a controlled substance ~~or~~ **or with a prohibited substance in his or her blood or urine; or**

(b) Engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425.

2. If the person to be tested pursuant to subsection 1 is dead or unconscious, the officer shall direct that samples of blood from the person be tested.

3. Any person who is afflicted with hemophilia or with a heart condition requiring the use of an anticoagulant as determined by a physician is exempt from any blood test which may be required pursuant to this section, but must, when appropriate pursuant to the provisions of this section, be required to submit to a breath or urine test.

4. If the concentration of alcohol of the blood or breath of the person to be tested is in issue:

(a) Except as otherwise provided in this section, the person may refuse to submit to a blood test if means are reasonably available to perform a breath test.

(b) The person may request a blood test, but if means are reasonably available to perform a breath test when the blood test is requested, and the person is subsequently convicted, the person must pay for the cost of the blood test, including the fees and expenses of witnesses **whose testimony** in court ~~is~~

*is necessary because of the use of the blood test. The expenses of such a witness ~~must~~ may be assessed at an hourly rate of not less than:*

*(1) Fifty dollars for travel to and from the place of the proceeding; and*

*(2) One hundred dollars for giving or waiting to give testimony.*

(c) ~~A peace officer may direct the person to submit to a blood test if the officer has reasonable grounds to believe that the person:~~

~~— (1) Caused death or substantial bodily harm to another person as a result of operating or being in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or as a result of engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425; or~~

~~— (2) Has been convicted within the previous 7 years of:~~

~~— (I) A violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of another jurisdiction that prohibits the same or similar conduct; or~~

~~— (II) Any other offense in this State or another jurisdiction in which death or substantial bodily harm to another person resulted from conduct prohibited by a law set forth in sub-subparagraph (I).]~~ *Except as otherwise provided in NRS 488.470, not more than three samples of the person's blood or breath may be taken during the 5-hour period immediately following the time of the initial arrest.*

5. If the presence of a controlled substance, chemical, poison, organic solvent or another prohibited substance in the blood or urine of the person is in issue, the officer may ~~direct~~ *request that* the person ~~to~~ submit to a blood or urine test, or both . ~~[, in addition to the breath test.]~~

6. Except as otherwise provided in subsections 3 and 5, a peace officer shall not ~~direct~~ *request that* a person ~~to~~ submit to a urine test.

7. If a person to be tested fails to submit to a required test as ~~directed~~ *requested* by a peace officer pursuant to this section and the officer has reasonable grounds to believe that the person to be tested was:

(a) Operating or in actual physical control of a vessel under power or sail ~~way~~ while under the influence of intoxicating liquor or a controlled substance ~~;~~ *or with a prohibited substance in his or her blood or urine; or*

(b) Engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425,

↪ the officer may ~~direct~~ *apply for a warrant or court order directing* that reasonable force be used to the extent necessary to obtain samples of blood from the person to be tested. ~~[Not more than three such samples may be taken during the 5-hour period immediately following the time of the initial arrest. In such a circumstance, the officer is not required to provide the person with a choice of tests for determining the alcoholic content or presence of a controlled substance or another prohibited substance in the person's blood.]~~

8. *If a person who is less than 18 years of age is requested to submit to an evidentiary test pursuant to this section, the officer shall, before testing*

*the person, make a reasonable attempt to notify the parent, guardian or custodian of the person, if known.*

**Sec. 26.** NRS 488.470 is hereby amended to read as follows:

488.470 1. Except as otherwise provided in subsection 2, an evidentiary test of breath to determine the concentration of alcohol in a person's breath may be used to establish that concentration only if two consecutive samples of the person's breath are taken and:

(a) The difference between the concentration of alcohol in the person's breath indicated by the two samples is less than or equal to 0.02;

(b) If the provisions of paragraph (a) do not apply, a third evidentiary test of breath is administered and the difference between the concentration of alcohol in the person's breath indicated by the third sample and one of the first two samples is less than or equal to 0.02; or

(c) If the provisions of paragraphs (a) and (b) do not apply, a fourth evidentiary test is administered. Except as otherwise provided in NRS 488.460, the fourth evidentiary test must be a blood test.

2. If the person fails to provide the second or third consecutive sample, or to submit to the fourth evidentiary test, the results of the first test may be used alone as evidence of the concentration of alcohol in the person's breath. If for some other reason a second, third or fourth sample is not obtained, the results of the first test may be used with all other evidence presented to establish the concentration.

3. If a person refuses or otherwise fails to provide a second or third consecutive sample or submit to a fourth evidentiary test, ~~if a peace officer may direct that reasonable force be used to obtain a sample or conduct a test pursuant to~~ *such refusal or failure constitutes a failure to submit to a required evidentiary test as provided in NRS 488.460.*

**Sec. 27.** ~~NRS 488.480 is hereby amended to read as follows:~~

~~488.480 1. If a person refuses to submit to a required chemical test provided for in NRS 488.450 or 488.460, evidence of that refusal is admissible in any criminal action arising out of acts alleged to have been committed while the person was:~~

~~(a) Operating or in actual physical control of a vessel under [power or sail] way while under the influence of intoxicating liquor or a controlled substance;~~  
~~or~~

~~(b) Engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425.~~

~~2. Except as otherwise provided in subsection 3 of NRS 488.450, a court may not exclude evidence of a required test or failure to submit to such a test if the peace officer or other person substantially complied with the provisions of NRS 488.450 to 488.500, inclusive.~~

~~3. If a person submits to a chemical test provided for in NRS 488.450 or 488.460, full information concerning that test must be made available, upon request, to the person or the person's attorney.~~

~~4. Evidence of a required test is not admissible in a criminal proceeding unless it is shown by documentary or other evidence that the device for testing breath was certified pursuant to NRS 484C.610 and was calibrated, maintained and operated as provided by the regulations of the Committee on Testing for Intoxication adopted pursuant to NRS 484C.620, 484C.630 or 484C.640.~~

~~5. If the device for testing breath has been certified by the Committee on Testing for Intoxication to be accurate and reliable pursuant to NRS 484C.610, it is presumed that, as designed and manufactured, the device is accurate and reliable for the purpose of testing a person's breath to determine the concentration of alcohol in the person's breath.~~

~~6. A court shall take judicial notice of the certification by the Director of a person to operate testing devices of one of the certified types. If a test to determine the amount of alcohol in a person's breath has been performed with a certified type of device by a person who is certified pursuant to NRS 484C.630 or 484C.640, it is presumed that the person operated the device properly.~~

~~7. This section does not preclude the admission of evidence of a test of a person's breath where the:~~

~~(a) Information is obtained through the use of a device other than one of a type certified by the Committee on Testing for Intoxication;~~

~~(b) Test has been performed by a person other than one who is certified by the Director.~~

~~8. As used in this section, "Director" means the Director of the Department of Public Safety.] (Deleted by amendment.)~~

**Sec. 28.** [NRS 488.490 is hereby amended to read as follows:

~~488.490 1. A person who is arrested for operating or being in actual physical control of a vessel under [power or sail] way while under the influence of intoxicating liquor or a controlled substance or for engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425 must be permitted, upon the person's request and at his or her expense, reasonable opportunity to have a qualified person of his or her own choosing administer a chemical test to determine:~~

~~(a) The concentration of alcohol in his or her blood or breath; or~~

~~(b) Whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present in his or her blood or urine.~~

~~2. The failure or inability to obtain such a test does not preclude the admission of evidence relating to the refusal to submit to a test or relating to a test taken upon the request of a peace officer.~~

~~3. A test obtained under the provisions of this section may not be substituted for or stand in lieu of the test required by NRS 488.460.] (Deleted by amendment.)~~

**Sec. 29.** NRS 488.500 is hereby amended to read as follows:

488.500 1. The results of any blood test administered under the provisions of NRS 488.460 or 488.490 are not admissible in any criminal action arising out of acts alleged to have been committed by a person who was

operating or in actual physical control of a vessel under power or sail ~~way~~ while under the influence of intoxicating liquor or a controlled substance or ***with a prohibited substance in his or her blood or urine or*** who was engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425 unless:

(a) The blood tested was withdrawn by a person, other than an arresting officer, who:

(1) Is a physician, registered nurse, licensed practical nurse, advanced emergency medical technician, paramedic or a phlebotomist, technician, technologist or assistant employed in a medical laboratory; or

(2) Has special knowledge, skill, experience, training and education in withdrawing blood in a medically acceptable manner, including, without limitation, a person qualified as an expert on that subject in a court of competent jurisdiction or a person who has completed a course of instruction that qualifies him or her to take an examination in phlebotomy that is administered by the American Medical Technologists or the American Society for Clinical Pathology; and

(b) The test was performed on whole blood, except if the sample was clotted when it was received by the laboratory, the test may be performed on blood serum or plasma.

2. The limitation contained in paragraph (a) of subsection 1 does not apply to the taking of a chemical test of the urine, breath or other bodily substance.

3. No person listed in paragraph (a) of subsection 1 incurs any civil or criminal liability as a result of the administering of a blood test when requested by a peace officer or the person to be tested to administer the test.

**Sec. 30. [NRS 488.520 is hereby amended to read as follows:]**

~~488.520 1. Any coroner, or other public officer performing like duties, shall in all cases in which a death has occurred as a result of an accident involving a vessel under [power or sail] way on the waters of this state, whether the person killed is the operator of the vessel or a passenger or other person, cause to be drawn from each decedent, within 8 hours after the accident, a blood sample to be analyzed for the presence and concentration of alcohol.~~

~~2. The findings of the examinations are a matter of public record and must be reported to the Commission by the coroner or other public officer within 30 days after the death.~~

~~3. Analyses of blood alcohol are acceptable only if made by laboratories licensed to perform this function.] (Deleted by amendment.)~~

**Sec. 31. [This act becomes]**

**1. This section and sections 2 to 30, inclusive, of this act become effective upon passage and approval.**

**2. Section 1 of this act becomes effective on July 1, 2015.**

Assemblyman Hansen moved the adoption of the amendment.

Remarks by Assemblymen Hansen, Carlton, Titus, and Gardner.

ASSEMBLYMAN HANSEN:

Amendment 38 to Assembly Bill 67 amends the bill to clarify the right to confrontation, retains current statutory language of “vessel under power or sail,” and clarifies the assessment of witness expenses is discretionary with the court. The amendment also clarifies that a detectable amount of controlled substance is without a valid prescription and allows that a hearing must be conducted as soon as practicable at any location so long as the hearing officer allows each party and witness to testify by telephone, videoconference, or other electronic means. Lastly, it changes the effective date of section 1 of the bill to July 1, 2015.

ASSEMBLYWOMAN CARLTON:

I have two questions from page 16 in the amendment. How does this new procedure of refusing to submit to the required test change the current procedure? I know that if you refuse the field sobriety test now, they draw blood and you wait for the results to come back before a license is touched.

My second question is regarding the language “for which he or she does not have a valid prescription.” I need to remind the body that we have a marijuana registry. It is not a valid prescription, but we recognize it as a state. I would hate to see marijuana patients be put in a catch-22 position.

ASSEMBLYMAN HANSEN:

As Chairman of Judiciary, I will respond to my colleague from Assembly District 14. I will have to get the answers to that.

ASSEMBLYWOMAN TITUS:

I can clarify that. At this time, in order to have a marijuana card, you have to have a valid prescription from a physician. I have written one, so I know that is a fact.

ASSEMBLYWOMAN CARLTON:

That takes me back to the original question, Mr. Chair.

ASSEMBLYMAN HANSEN:

Again, I will have to do the research and get back to you on it.

ASSEMBLYMAN GARDNER:

I believe the answer to that first question is that right now, there is a presumption under the law that if you are driving a car, you give permission for them to take your blood. That was struck down by the Supreme Court; you cannot do that anymore. So now if you decide you do not want to do it, they have to ask for a court order to be able to draw your blood. I believe that would be the change.

ASSEMBLYWOMAN TITUS:

As a point of clarification on my previous comment, since I had an Assemblywoman from the north ask me if I have a prescription for medical marijuana, I do not. I do not use medical marijuana, but I have written one prescription for medical marijuana.

ASSEMBLYWOMAN CARLTON:

But how does this language effect that? Is this truing this up or is it changing it? That is not clear.

In our discussion on A.B. 67, the learned doctor in the body and I have had further conversations, and I would like to clarify that marijuana does not receive a “valid prescription,” and we do now agree on that. If you refer to NRS 453A.210, it describes it, and the doctor and I are in agreement, so we have found another issue with Assembly Bill 67.

Motion to adopt amendment withdrawn.

Bill ordered to third reading.

Assembly Bill No. 77.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 337.

AN ACT relating to state governmental administration; revising certain provisions governing district boards of agriculture, agricultural associations and the operation of a state fair or regional fair in this State; making various changes to provisions governing noxious weeds; increasing the maximum rate of certain taxes on sheep; revising certain provisions governing public sales of livestock and licenses for the operation of public livestock auctions; authorizing the issuance of a free-sale certificate for an agricultural product under certain circumstances; requiring a person to register as a produce vendor under certain circumstances; requiring the State Sealer of Consumer Equitability to take certain actions concerning cash registers and to establish ~~fees~~ **civil penalties** for ~~any~~ **certain** tests of **nonconforming** point-of-sale systems and cash registers; revising certain provisions governing the inspection of meat and poultry, pesticides and the sale of antifreeze; repealing and reenacting, without substantive change, provisions relating to the cleanup of discharged petroleum ; ~~and~~ **repealing** provisions relating to dangerous caustic or corrosive acids, alkalis and other substances; authorizing the imposition of a civil penalty for certain violations relating to apiaries, quarantines, noxious weeds and meat, fish, produce, poultry and eggs; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law regulates the formation and powers of district boards of agriculture. (Chapter 547 of NRS) Existing law provides that the eight members of the district boards must be divided into different classes to provide for staggered terms. (NRS 547.040) **Sections 1 and 3** of this bill deletes those provisions. Existing law requires the district boards of agriculture to organize annual fairs or exhibitions of the industries in their districts, and that counties may appropriate not more than \$1,500 from their general funds to aid in this effort. (NRS 547.110, 547.120, 547.140) **Sections 4-6** of this bill make these fairs optional and increase the allowable county appropriation to not more than \$150,000 in any 1 year. Existing law requires that an annual mineral industries exhibition be held in Ely, Nevada. (NRS 551.010) **Section 9** of this bill renames this exhibition, makes it optional and removes the requirement that it be held in Ely. **Section 8** of this bill authorizes the State Department of Agriculture to hold a state fair once a year. **Sections 10-12** of this bill place the control of the apiary industry under the Director of the Department. **Sections 13-21** of this bill revise punitive provisions relating to quarantines of agricultural products, increasing penalties and providing for civil penalties. **Sections 22 and 40** of this bill revise the definitions of "pest" and "pesticide" as those definitions relate to the control of pests and weeds. **Section 23** of this bill authorizes the Director to adopt a program certifying certain agricultural products as being free of noxious weeds. **Sections 30-35** of this bill replace references to the eradication, removal or destruction of weeds with the term

“control.” **Sections 36, 39 and 43** of this bill replace criminal penalties relating to the control of weeds with civil penalties. **Section 102** of this bill increases the maximum amount of the tax on sheep from 18 cents per head to \$1.50 per head. **Sections 103-105** of this bill place the proceeds of those taxes solely under the control of the State Controller and adjust the amount of the proceeds that may be spent on advancing the interests of the sheep industry. **Sections 108-113** of this bill revise provisions for the licensing of persons operating public livestock auctions to increase the amounts of surety bonds and available credit, provide for financial audits and increase fines for violations. **Section 125** of this bill requires sellers of certain farm products to register as produce vendors. **Sections 127 and 128** of this bill remove requirements for agricultural brokers, dealers, commission merchants and agents to disclose arrests and civil suits during the application process and to show good character. ~~Existing law authorizes the State Sealer of Consumer Equitability to test and license commercial weighing and measuring devices. (NRS 581.075) Sections~~ **Section 136** ~~and 137~~ of this bill ~~add~~ **requires the State Sealer of Consumer Equitability to conduct random inspections of point-of-sale systems and cash registers** ~~to the devices which may be regulated,~~ **and to adopt regulations establishing a schedule of civil penalties concerning point-of-sale systems and cash registers that are not in compliance with certain requirements.** Existing law prohibits the sale of spoiled or diseased meat, fish, produce and poultry in any city or town. (NRS 583.010, 583.060, 583.070) **Sections 142, 149 and 150** of this bill expand this prohibition to include any location in the State. ~~Sections 143,~~ **145, 151, 157, 159, 165 and 166** of this bill replace references to the Department of Health and Human Services with the State Department of Agriculture. **Sections 144, 147, 151, 152, 161, 163 and 164** of this bill revise the punitive provisions governing the regulation of meat, fish, produce, poultry and eggs. **Sections 191 and 193** of this bill replace the criminal provisions governing pesticides with civil penalties. **Sections 68-94** of this bill reenact in chapter 445C of NRS, without substantive change, provisions currently in chapter 590 of NRS which relate to the cleanup of discharged petroleum and which are repealed by **section 210** of this bill. ~~Sections 168-174~~ **Section 96.5** of this bill ~~reenact~~ **reenacts** in chapter ~~585~~ **446** of NRS, without substantive change, ~~provisions~~ **a provision** currently in chapter ~~586~~ **583** of NRS which ~~relate to dangerous caustic or corrosive acids, alkalis and other substances~~ **relates to the sale of diseased animal flesh or a container containing shellfish which has not been stamped as approved** and which ~~are~~ **is** repealed by **section 210** of this bill. The purpose of repealing and reenacting these ~~two groups of~~ provisions is to move the provisions, without substantive change, from one chapter in NRS to another chapter in NRS. **Section 210** of this bill also repeals provisions dealing with mineral content in fertilizer. **Section 194** of this bill authorizes the Director to adopt certain national standards concerning fertilizer. **Section 198** of this bill revises punitive provisions governing fertilizer. Existing law requires used and recycled oil to



be clearly labelled on the package. (NRS 590.060) **Section 201** of this bill requires bulk deliveries of used or recycled oil to be clearly identified on the receipt. **Section 202** of this bill revises the testing procedures for motor oil viscosity. **Section 204** of this bill removes the requirement for the State Sealer of Consumer Equitability to inspect antifreeze before the antifreeze is sold, but requires the State Sealer of Consumer Equitability to issue a license authorizing its sale if it is in compliance with certain standards.

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

**Section 1.** NRS 547.040 is hereby amended to read as follows:

547.040 1. Not later than 10 days after an agricultural association is formed within an agricultural district listed in NRS 547.010 pursuant to the provisions of this chapter:

(a) The Governor, if the agricultural district is composed of more than one county, shall appoint eight persons who are residents of the agricultural district and who are members of the agricultural association to be members of the district board of agriculture for the agricultural district; or

(b) The board of county commissioners, if the agricultural district constitutes a single-county agricultural district, shall appoint eight persons who are residents of the agricultural district to be members of the district board of agriculture for the agricultural district.

2. Within 10 days after their appointment, the persons so appointed shall meet at a place within the agricultural district and organize by the election of:

(a) One of their number as president of the district board of agriculture and the agricultural association, who shall hold the office of president for 1 year and until his or her successor is elected.

(b) A secretary and a treasurer.

~~[3.— At the same meeting the members of the district board of agriculture shall, by lot or otherwise, classify themselves into four classes of two members each. The terms of office of:~~

~~—(a) The first class expire:~~

~~—(1) At the end of the first fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is 100,000 or more as determined by the population of the county or counties that compose the district; or~~

~~—(2) On December 31 of the first fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is less than 100,000 as determined by the population of the county or counties that compose the district.~~

~~—(b) The second class expire:~~

~~—(1) At the end of the second fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is 100,000 or more as determined by the population of the county or counties that compose the district; or~~

~~—(2) On December 31 of the second fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is less than 100,000 as determined by the population of the county or counties that compose the district.~~

~~—(c) The third class expire:~~

~~—(1) At the end of the third fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is 100,000 or more as determined by the population of the county or counties that compose the district; or~~

~~—(2) On December 31 of the third fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is less than 100,000 as determined by the population of the county or counties that compose the district.~~

~~—(d) The fourth class expire:~~

~~—(1) At the end of the fourth fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is 100,000 or more as determined by the population of the county or counties that compose the district; or~~

~~—(2) On December 31 of the fourth fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is less than 100,000 as determined by the population of the county or counties that compose the district.]~~

**Sec. 2.** NRS 547.050 is hereby amended to read as follows:

547.050 When any district board of agriculture is ~~[classified and]~~ organized as provided in NRS 547.040, the secretary of the board shall report such ~~[classification and]~~ organization to:

1. The State Department of Agriculture; and
2. Its appointing authority.

**Sec. 3.** NRS 547.060 is hereby amended to read as follows:

547.060 1. ~~[Except as otherwise provided in subsection 3 of NRS 547.040, each]~~ **Each** member of a district board of agriculture must be appointed for a term of 4 years. ~~[The term begins on:~~

~~—(a) July 1, if the member was appointed to a district board of agriculture for an agricultural district whose population is 100,000 or more as determined by the population of the county or counties that compose the district; or~~

~~—(b) January 1, if the member was appointed to a district board of agriculture for an agricultural district whose population is less than 100,000 as determined by the population of the county or counties that compose the district.]~~

2. The secretary shall report any vacancy which may occur in the district board of agriculture to its appointing authority as specified in NRS 547.040, and the vacancy must be filled by appointment for the unexpired term.

3. The incumbent members of the district board of agriculture may submit to the appointing authority for consideration a list of nominees for appointment to fill any vacancy on the board.

**Sec. 4.** NRS 547.110 is hereby amended to read as follows:

547.110 The district board of agriculture ~~[shall]~~ **may** provide for ~~[an annual]~~ a fair or exhibition by the agricultural association of ~~[all]~~ the industries and industrial products in the agricultural district, at such time and place as the board may deem advisable, but:

1. No district fair shall be held in any of the districts at the same time as the state fair; and

2. The State shall in no event be liable for any premium offered, or award, or for any debt contracted by any district board of agriculture or agricultural association.

**Sec. 5.** NRS 547.120 is hereby amended to read as follows:

547.120 For the purpose of aiding each and any agricultural association formed under the provisions of this chapter within any county or counties in successfully carrying out the purposes for which it has been organized, which association ~~[shall annually]~~ **may** hold, within any county or counties comprising the agricultural district, a fair or exhibition, the boards of county commissioners of the several counties are authorized to appropriate any money or moneys out of the general fund of their respective counties to aid any such agricultural association composing any agricultural district of which the county or counties may be a part.

**Sec. 6.** NRS 547.140 is hereby amended to read as follows:

547.140 1. Except as otherwise provided in subsection 2, if two or more counties are included in and comprise an agricultural district, the boards of county commissioners of such counties are authorized to appropriate, out of the general fund of such counties, such money for the encouragement of such agricultural associations as the boards may, in their judgment, deem just and proper.

2. In no case may an appropriation described in subsection 1 exceed the sum of ~~[\$1,500]~~ **\$150,000** in any 1 year, unless the money so appropriated was obtained from the proceeds of a tax imposed pursuant to chapter 377A of NRS.

**Sec. 7.** NRS 547.160 is hereby amended to read as follows:

547.160 1. When the boards of county commissioners of the counties constituting and comprising the agricultural district shall determine and allow the amount to be appropriated ~~[annually]~~ for the purposes mentioned in NRS 547.130, the same shall be paid as other bills against the county are paid.

2. All warrants drawn pursuant to the provisions of this section shall be made payable to the order of the president of the district board of agriculture of such agricultural association, or in the case of the president's absence or inability to serve, such warrants shall be made payable to the order of a member of the district board of agriculture as such board shall, by a majority vote thereof, determine and direct.

**Sec. 8.** Chapter 551 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. Except as otherwise provided in NRS 547.110, the State Department of Agriculture may operate or authorize the operation of any state fair or regional fair in this State.**

**2. The Director of the Department must determine the venue and frequency of any state fair or regional fair, except that a state fair or regional fair may not be held more frequently than once each calendar year.**

**3. The Department may charge and collect fees for vendor spaces and accept any contributions and sponsorships to offset any expenses associated with operating a state fair or regional fair.**

**Sec. 9.** NRS 551.010 is hereby amended to read as follows:

551.010 1. A statewide mining, petroleum and industrial exhibition, to be known as the Nevada ~~[Fair of]~~ Mineral ~~[Industries, shall be held at Ely, Nevada, annually.]~~ **Exhibition, may be held** under the administration of ~~[the District Board of Agriculture of Agricultural District No. 13,]~~ **a district board of agriculture** and may, at the discretion of the ~~[Board,]~~ **board**, be held in connection with an agricultural district exhibition to include other fields of endeavor.

2. ~~[In addition to its other responsibilities, the Agricultural District shall use all suitable means to]~~ **An agricultural district may** collect and disseminate ~~[, throughout the State,]~~ information ~~[calculated to educate and benefit]~~ **regarding** the mineral industries within the State of Nevada, including the petroleum industry.

**Sec. 10.** Chapter 552 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The Department has control of all matters pertaining to the apiary industry in this State.**

**2. The Director may adopt regulations to carry out the provisions of this chapter.**

**3. 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.**

**4. Any money collected from the imposition of a civil penalty pursuant to subsection 3 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. 11.** NRS 552.170 is hereby amended to read as follows:

552.170 If the owner or person in possession of an apiary neglects or refuses to comply with an order issued under NRS 552.160, the Department may ~~[refer the facts to the appropriate district attorney for prosecution under NRS 552.300, and may]~~ authorize the inspector or other agent to abate the nuisance by the method prescribed in the order.

**Sec. 12.** NRS 552.280 is hereby amended to read as follows:

552.280 It shall be unlawful for the owner, owners, lessee, lessees, agent or caretaker of any apiary, including appliances, structures, buildings and honey, wherein disease exists, to move or distribute any diseased bees, whether

they are queens or workers, colonies, honeycombs, appliances or structures beyond the already established boundaries of such apiary wherein disease exists without written permission from the ~~Chief Inspector or the Chief Inspector's deputies so to do.~~ **Director or his or her designee.**

**Sec. 13.** Chapter 554 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. In addition to any criminal penalty imposed pursuant to this chapter, any person violating any provision of this chapter or any regulation adopted pursuant thereto is subject to a civil penalty not to exceed:**

- (a) For the first violation, \$1,500;**
- (b) For a second violation, \$3,000; and**
- (c) For each subsequent violation, \$5,000.**

**2. If a defendant is convicted of violating any provision of this chapter or any regulation adopted pursuant thereto, the court shall order the defendant to pay a civil penalty pursuant to subsection 1. The court shall fix the manner and time of payment.**

**3. Any money collected from the imposition of a civil penalty pursuant to this section must be accounted for separately and:**

**(a) Fifty percent of the money must be used to fund a program selected by the Director of the State Department of Agriculture 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. 14.** NRS 554.020 is hereby amended to read as follows:

554.020 1. The State Quarantine Officer may proclaim and enforce a quarantine against any state, territory or district, or any portion of any state, territory or district, relating to the importation into or transportation through this State of any agricultural commodity, burlap, container or other packing material that:

(a) Is infected with, or which may have been exposed to infection with, any contagious or destructive disease, or infested with or exposed to infestation with a parasite, noxious weed, weed seed, propagating part of a plant, or vertebrate or invertebrate pest, or the eggs or larvae thereof; and

(b) Is dangerous to:

- (1) The public health or quality of any water in this State; or
- (2) Any wildlife, beneficial use of land in or industry of this State.

2. A quarantine must not be issued pursuant to the provisions of NRS 554.020 to ~~{554.090,}~~ **554.080**, inclusive, if the issuance of the quarantine will conflict with the provisions of the Constitution of the United States or any act of the Congress of the United States.

3. The quarantine remains effective until vacated by an order of the State Quarantine Officer.

**Sec. 15.** NRS 554.030 is hereby amended to read as follows:

554.030 1. Any quarantine issued under the provisions of NRS 554.020 to ~~[554.090,]~~ **554.080**, inclusive, may:

(a) Consist of a complete embargo against the importation into or transportation through the State of any agricultural commodity so quarantined against; or

(b) Provide for the importation into or transportation through the State of such agricultural commodity under such rules and regulations as may be set forth and prescribed in the quarantine at the time the same is issued.

2. Any quarantine issued under the provisions of NRS 554.020 to ~~[554.090,]~~ **554.080**, inclusive, shall remain fully in force and effect until dissolved or modified by the State Quarantine Officer, provided:

(a) That the State Quarantine Officer may amend from time to time any quarantine so issued; and

(b) That any such amendments shall be general in their application and shall not apply to any individual shipment or importation.

**Sec. 16.** NRS 554.040 is hereby amended to read as follows:

554.040 When a quarantine is declared as provided in NRS 554.020 to ~~[554.090,]~~ **554.080**, inclusive, against the importation into or transportation through this State of any agricultural commodity from any other state, territory or district, or any portion or portions thereof, a certified copy of such quarantine shall be personally delivered by the State Quarantine Officer or the State Quarantine Officer's representative, or mailed by certified or registered mail, to each of the following:

1. The governor or the proper quarantine official of such state, territory or district.

2. The United States quarantine official having jurisdiction over the same character of quarantine.

3. The state agent or other qualified official of any interstate railroad, express company or other common carrier doing business within this State.

**Sec. 17.** NRS 554.050 is hereby amended to read as follows:

554.050 1. The State Quarantine Officer is designated the authority to administer NRS 554.020 to ~~[554.090,]~~ **554.080**, inclusive.

2. Insofar as practicable, the State Quarantine Officer, in carrying out the provisions of NRS 554.020 to ~~[554.090,]~~ **554.080**, inclusive, shall cooperate with the federal authorities and the quarantine officials of the several states, territories and districts.

**Sec. 18.** NRS 554.060 is hereby amended to read as follows:

554.060 1. Any agricultural commodity imported into or being transported through this State in violation of any quarantine issued pursuant to the provisions of NRS 554.020 to ~~[554.090,]~~ **554.080**, inclusive, must be immediately seized by the State Quarantine Officer or the State Quarantine Officer's authorized representative and treated in a manner approved by the State Quarantine Officer, or destroyed or sent out of the State within 48 hours, at the option and expense of the owner thereof.

2. If an agricultural commodity is seized by the State Quarantine Officer pursuant to the provisions of subsection 1 and the movement of the agricultural commodity to a point outside of the State would further endanger:

- (a) The public health or quality of any water in this State; or
- (b) Any wildlife, beneficial use of land in or industry of this State,

→ the agricultural commodity seized by the State Quarantine Officer must be destroyed as provided in subsection 1.

**Sec. 19.** NRS 554.070 is hereby amended to read as follows:

554.070 It shall be unlawful for any railroad, express company or other common carrier, or any person or persons, to import into or transport through the State of Nevada any agricultural commodity in violation of the provisions of NRS 554.020 to ~~554.090,~~ **554.080**, inclusive, or to make delivery of any such commodity to any person or persons within the limits of this State.

**Sec. 20.** NRS 554.080 is hereby amended to read as follows:

554.080 In any criminal proceeding arising under NRS 554.020 to ~~554.090,~~ **554.080**, inclusive, proof that any commodity, prohibited by proclamation of quarantine from importation into or transportation through this State, was imported into or transported through this State in violation of such quarantine shall be deemed proof within the meaning of NRS 554.020 to ~~554.090,~~ **554.080**, inclusive, that the same was diseased, exposed to disease or infested, or exposed to infestation.

**Sec. 21.** NRS 554.240 is hereby amended to read as follows:

554.240 ~~Any~~ ***Except as otherwise provided in NRS 554.140 and 554.190, any person*** ~~or any officer, agent or employee of any corporation, who shall export, or who shall assist in exporting, as a principal or accessory, any agricultural commodity forbidden to be exported by any proclamation of quarantine shall be~~ ***who violates any provision of this chapter is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 364 days, or by a fine of not more than \$5,000, or by both fine and imprisonment. The prosecuting attorney and the State Department of Agriculture may recover the costs of the proceeding, including investigative costs, against a person convicted of a gross misdemeanor pursuant to this section.***

**Sec. 22.** NRS 555.005 is hereby amended to read as follows:

555.005 As used in this chapter, unless the context requires otherwise:

1. "Department" means the State Department of Agriculture.
2. "Director" means the Director of the Department.
3. "Noxious weed" means any species of plant which is, or is likely to be, ***a public nuisance***, detrimental or destructive and difficult to control . ~~for eradicate.~~

4. "***Pest***" means any form of animal or vegetable life detrimental to the crops, horticulture, livestock, public health, wildlife, quality of water and beneficial uses of land in this State, including, without limitation, any insect, snail, nematode, fungus, virus, bacterium, microorganism, mycoplasma, weed, parasitic plant or any other plant that is normally considered to be a

*pest of cultivated plants, uncultivated plants, agricultural commodities, horticultural products or nursery stock, or that the Director declares to be a pest.*

5. “Vertebrate pest” means any animal of the subphylum Vertebrata, except predatory animals, which is normally considered to be a pest, including a gopher, ground squirrel, rat, mouse, starling, blackbird and any other animal which the Director may declare to be a pest.

**Sec. 23.** NRS 555.010 is hereby amended to read as follows:

555.010 Within the limits of any appropriation made by law ~~[, the]~~ :

1. *The* Director may:

~~{1.}~~ (a) Investigate the prevalence of; and

~~{2.}~~ (b) Take the necessary action to control,

↪ vertebrate and invertebrate pests of plants and animals, plant diseases, physiological plant disorders and noxious weeds for the protection of the crops, livestock, public health, wildlife, water quality and beneficial uses of land in the State of Nevada.

2. *The Director may, by regulation, establish and administer a program to certify agricultural products as being free from noxious weeds to support the control and prevention of the spread of noxious weeds in this State and to allow businesses in this State to market those products in compliance with any applicable federal law or regulation or any other requirement specified by the Director.*

**Sec. 24.** NRS 555.100 is hereby amended to read as follows:

555.100 1. The Department shall, if necessary or if a complaint is made to the Department, cause an inspection to be conducted of any premises, land, means of conveyance or article of any person in this State ~~[, and]~~ if *it is* found *to be* infested with any pest, **noxious weed** or plant disease that is injurious to:

(a) The public health or quality of any water in this State; or

(b) Any wildlife, beneficial use of land or agriculture in this State. ~~[~~

↪ ~~the]~~

2. *The* Department may provide a written notice of its findings to the owner or occupant of the premises, land, means of conveyance or article and require the owner or occupant to control ~~[, treat or eradicate]~~ the pest, **noxious weed** or plant disease in the manner and within the period specified in the notice.

~~{2.}~~ 3. A notice issued pursuant to the provisions of subsection ~~{1.}~~ 2:

(a) May be served upon the owner or occupant by an officer or employee of the Department; and

(b) Must be served in writing, by certified mail or personally, with receipt given therefor.

**Sec. 25.** NRS 555.110 is hereby amended to read as follows:

555.110 1. Any premises found to be infested with any pest, **noxious weed** or plant disease is hereby adjudged and declared to be a public nuisance. If such a nuisance exists at any place within the jurisdiction of the Department and the owner or occupant of the premises, after notification, refuses or



neglects to abate the nuisance within the period specified, the Department shall cause the nuisance to be abated at once by ~~foradicating or~~ controlling pests, **noxious weeds** or plant diseases in a manner to be determined by the Department.

2. The expense thereof must be paid from any money made available to the Department by direct legislative appropriation or otherwise.

**Sec. 26.** NRS 555.120 is hereby amended to read as follows:

555.120 1. All sums paid by the Department constitute a lien on the property and premises from which the nuisance has been removed or abated pursuant to NRS 555.100 and 555.110, and may be recovered by an action against that property and premises.

2. A notice of lien must be filed and recorded in the office of the county recorder of the county in which the property and premises are situated within 30 days after the right to liens has accrued.

3. An action to foreclose a lien may be commenced at any time within 1 year after the filing and recording of the notice of lien, which action must be brought in the proper court by the district attorney of the county in the name and for the benefit of the Department.

4. If the property is sold, enough of the proceeds must be paid to the Department to satisfy the lien and costs, and the ~~{overplus,}~~ **balance remaining**, if any, must be paid to the owner of the property if the owner is known, and if not, into the Court for the owner's use when ascertained. All sales under the provisions of this section and NRS 555.100 and 555.110 must be made in the same manner and upon the same notice as sales of real property under execution from a Justice Court.

**Sec. 27.** NRS 555.125 is hereby amended to read as follows:

555.125 1. If it appears that an area has or is likely to become infested with a pest which cannot be practically ~~foradicated or~~ controlled except by the means provided in this section, the Department shall hold a public hearing to determine the necessity of declaring a time during which or an area in which plants capable of acting as hosts for the pest may not be planted, grown, cultivated, maintained or allowed to exist.

2. Notice of the hearing must be given to all growers of the host plants within the area and must specify:

- (a) The time and place of the hearing.
- (b) The host plant.
- (c) The pest.
- (d) The purpose of the hearing.

3. If, after the hearing, the Department determines that the pest cannot otherwise be practically ~~foradicated or~~ controlled, the Department shall issue an order prescribing a time during which or an area in which the host plants may not be planted, grown, cultivated, maintained or allowed to exist, and requiring owners or occupiers of property upon which the host plants exist to ~~foradicate~~ **control** the plants.

4. If the owner or occupant neglects or refuses to ~~eradicate~~ **control** the plants, the Department may do so in the manner prescribed by NRS 555.110.

5. Any person violating such an order is ~~guilty of a misdemeanor~~ **subject to a civil penalty pursuant to NRS 555.201.**

**Sec. 28.** NRS 555.130 is hereby amended to read as follows:

555.130 ~~The~~

**1. Except as otherwise provided in subsection 2, the** State Quarantine Officer may declare by regulation the weeds of the state that are noxious weeds, but a weed must not be designated as noxious which is already introduced and established in the State to such an extent as to make its control ~~for eradication~~ impracticable in the judgment of the State Quarantine Officer.

**2. The State Quarantine Officer may temporarily designate a weed as a noxious weed if he or she determines that immediate control of the weed is necessary. A temporary designation expires 18 months after the State Quarantine Officer makes the designation.**

**Sec. 29.** NRS 555.140 is hereby amended to read as follows:

555.140 1. The State Quarantine Officer shall carry out and enforce the provisions of NRS 555.130 to 555.220, inclusive.

2. To secure information better to carry out the provisions of NRS 555.130 to 555.220, inclusive, the State Quarantine Officer may conduct reasonably limited trials of various methods of controlling ~~for eradicating~~ noxious or potentially noxious weeds under practical Nevada conditions.

3. The State Quarantine Officer may provide supervision and technical advice in connection with any project approved by him or her for the control ~~for eradication~~ of any noxious weed or weeds in this State.

4. All funds appropriated for, or received incident to, the control ~~for eradication~~ of any noxious weeds must be available for carrying out the provisions of NRS 555.130 to 555.220, inclusive.

**Sec. 30.** NRS 555.150 is hereby amended to read as follows:

555.150 Every railroad, canal, ditch or water company, and every person owning, controlling or occupying lands in this State, and every county, incorporated city or district having the supervision and control over streets, alleys, lanes, rights-of-way, or other lands, shall ~~cut, destroy or eradicate~~ **control** all weeds declared and designated as noxious as provided in NRS 555.130 ~~[, before such weeds propagate and spread,]~~ **in any manner specified by** and whenever required by the State Quarantine Officer.

**Sec. 31.** NRS 555.160 is hereby amended to read as follows:

555.160 1. The State Quarantine Officer shall make or cause to be made a careful examination and investigation of the spread, development and growth of noxious weeds in this State. Upon the discovery of those weeds, the State Quarantine Officer shall ascertain the name of the owner or occupant of the land and the description of the land where the weeds are found. The State Quarantine Officer may serve notice in writing upon the owner or occupant of the land to ~~cut, eradicate or destroy~~ **control** the weeds within such time and

in such manner as designated and described in the notice. One such notice shall be deemed sufficient for the entire season of weed growth during that year.

2. Notices may be served upon the owner or occupant by an officer or employee of the Department, and must be served in writing, personally or by certified mail, with receipt given therefor.

**Sec. 32.** NRS 555.170 is hereby amended to read as follows:

555.170 1. If any owner or occupant of the lands described in the notice served, as provided in NRS 555.160, shall fail, neglect or refuse to ~~cut, destroy or eradicate~~ **control** the weeds designated, upon the land described, in accordance with the requirements of the notice, the State Quarantine Officer may notify the board of county commissioners of the county or counties in which the land is located of such failure, neglect or refusal.

2. Upon notice as provided in subsection 1, the board of county commissioners concerned shall proceed to ~~have cut, destroyed or eradicated~~ **control** the weeds in question in accordance with the requirements of the notice served upon the owner or occupant of the land in question, paying for such ~~cutting, destruction or eradication~~ **control** out of county funds.

3. Upon the completion of ~~such work of cutting, destruction or eradication of such~~ **the work of controlling the** weeds, the board of county commissioners shall prepare in triplicate itemized statements of all expenses incurred in ~~the cutting, destruction or eradication of~~ **controlling** the weeds involved, and shall deliver the three copies of the statements to the county treasurer within 10 days of the date of the completion of the work involved.

**Sec. 33.** NRS 555.180 is hereby amended to read as follows:

555.180 1. Upon receipt of the itemized statements of the cost of ~~cutting, destroying or eradication of such~~ **controlling the** weeds ~~[,] pursuant to NRS 555.170,~~ the county treasurer shall forthwith mail one copy to the owner or occupant of the land on which the weeds were ~~cut, destroyed or eradicated,~~ **controlled,** together with a statement that objections may be made to the whole or any part of the statement so filed to the board of county commissioners within 30 days. A hearing may be had upon any objections made.

2. If any objections to any statement are filed with the board of county commissioners, the board shall set a date for a hearing, giving due notice thereof, and upon the hearing fix and determine the actual cost of ~~cutting, destroying or eradicating~~ **controlling** the weeds and report its findings to the county treasurer.

3. If no objections to the items of the accounts so filed are made within 30 days ~~of~~ **after** the date of mailing the itemized statement, the county treasurer shall enter the amount of such statement upon his or her tax roll in a column prepared for that purpose; and within 10 days ~~from~~ **after** the date of the action of the board of county commissioners upon objections filed, the county treasurer shall enter the amount found by the board of county commissioners as the actual cost of ~~cutting, destroying or eradicating~~ **controlling** the weeds in the prepared column upon the tax roll.

4. If current tax notices have been mailed, the costs may be carried over on the rolls to the year following. The costs incurred shall be a lien upon the land from which the weeds were ~~cut, destroyed or eradicated,~~ **controlled**, and shall be collected as provided by law for the collection of other liens.

**Sec. 34.** NRS 555.190 is hereby amended to read as follows:

555.190 Any expense incurred by any county in ~~the cutting, destroying or eradicating of~~ **controlling** noxious weeds from any street, lane, alley or other property owned or controlled by an incorporated city in that city, in accordance with the provisions of NRS 555.170, must be repaid to the county from the general fund of the incorporated city, upon presentation to the governing body of the incorporated city of an itemized statement of the expense so incurred.

**Sec. 35.** NRS 555.200 is hereby amended to read as follows:

555.200 1. Whenever a noxious weed is found growing upon the public domain or any other lands in this State owned by the Federal Government, the State Quarantine Officer may serve notice, as provided in NRS 555.160, upon the person within the county or this State who is in charge of the activities of the federal agency having control or jurisdiction of the land.

2. If the agency described in the notice fails or refuses to comply with the notice, the State Quarantine Officer may provide for the ~~cutting, destruction or eradication~~ **control** of the weeds in any manner permitted by federal law. The State Quarantine Officer or the political subdivision shall seek reimbursement from the Federal Government for any expense incurred by the State or the political subdivision pursuant to this section.

**Sec. 36.** NRS 555.201 is hereby amended to read as follows:

555.201 Any person violating any of the provisions of NRS 555.130 to 555.200, inclusive, or failing, refusing or neglecting to perform or observe any conditions or regulations prescribed by the State Quarantine Officer, in accordance with the provisions of NRS 555.130 to 555.200, inclusive, is ~~guilty of a misdemeanor,~~ **subject to a civil penalty not to exceed:**

1. **For the first violation, \$250.**
2. **For a second violation, \$500.**
3. **For each subsequent violation, \$1,000.**

**Sec. 37.** NRS 555.203 is hereby amended to read as follows:

555.203 1. The board of county commissioners of any county may, in accordance with chapter 308 of NRS, create one or more weed control districts in that portion of the county which lies outside any incorporated city. Creation of such a district may be initiated by the board of county commissioners or by a petition which:

(a) Designates the area to be included in the weed control district, either as the entire unincorporated area of the county or by sections or parts of sections with appropriate township and range references; and

(b) Is signed by an owner of land within the proposed weed control district.

2. Lands proposed for inclusion in a weed control district need not be contiguous.

3. Before creating a weed control district, the board of county commissioners shall:

(a) Hold at least one public hearing pursuant to NRS 308.070. At this hearing, the board of county commissioners shall entertain applications for the exclusion of lands, designated by sections or parts of sections as prescribed in subsection 1, from the proposed district, if any such application is made. The board of county commissioners shall exclude any such lands as to which it is shown to their satisfaction that any weeds which exist on that land do not render substantially more difficult the control of weeds on other lands in the proposed district.

(b) Provide for the hearing of protests against the establishment of the district in the manner set forth in NRS 318.065 and 318.070.

4. The board of trustees of a general improvement district may, in accordance with NRS 318.077, add to the basic powers of the district the control ~~and eradication~~ of noxious weeds.

**Sec. 38.** NRS 555.208 is hereby amended to read as follows:

555.208 1. The board of directors of a weed control district or the board of county commissioners of any county having lands situated in a weed control district or proposed for inclusion in such a district may request that the State Board of Agriculture review any action taken by the board of county commissioners of a county, or the board of directors of the district, in connection with the creation of the district or a change in the boundaries of the district.

2. Upon receiving such a request the State Board of Agriculture shall, after notice and opportunity for a hearing, affirm or reverse the action. The decision of the State Board of Agriculture is a final decision for purposes of judicial review.

3. This section does not limit the right of any landowner to seek judicial review of actions taken by a board of directors or a board of county commissioners in connection with the creation of a district or a change in the boundaries of a district.

**4. *A landowner may seek the removal of a member of the board of directors of that district for cause. A decision of the State Board of Agriculture made pursuant to this subsection is a final decision for the purpose of judicial review.***

**Sec. 39.** NRS 555.220 is hereby amended to read as follows:

555.220 Any person violating any of the provisions of NRS 555.202 to 555.210, inclusive, or failing, refusing or neglecting to perform or observe any conditions or regulations prescribed by the State Quarantine Officer, in accordance with the provisions of NRS 555.202 to 555.210, inclusive, is ~~[guilty of a misdemeanor]~~ **subject to a civil penalty not to exceed:**

- 1. For the first violation, \$250.**
- 2. For a second violation, \$500.**
- 3. For each subsequent violation, \$1,000.**

**Sec. 40.** NRS 555.267 is hereby amended to read as follows:

555.267 “Pesticide” ~~means:~~ ***includes, without limitation:***

1. Any substance or mixture of substances, including any living organisms or any product derived therefrom or any fungicide, herbicide, insecticide, nematocide or rodenticide, intended to prevent, destroy, control, repel, attract or mitigate any insect, rodent, nematode, snail, slug, fungus and weed and any other form of plant or animal life or virus, except virus on or in a living human or other animal, which is normally considered to be a pest or which the Director declares to be a pest.

2. Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant, and any other substances intended for that use as are named by the Director by regulation.

**Sec. 41.** NRS 555.2695 is hereby amended to read as follows:

555.2695 “Wildlife” means all living things that are neither human, domesticated ~~nor~~ ~~as defined in NRS 555.2665,~~ pests, including but not limited to mammals, birds and aquatic life.

**Sec. 42.** NRS 555.310 is hereby amended to read as follows:

555.310 1. The Director shall collect from each person applying for the examination or reexamination a testing fee established by regulation of the ~~State Board of Agriculture.~~ **Director.**

2. ~~Upon the successful completion of the testing, the~~ **The** Director shall, before the license is issued, collect from each person applying for a license for pest control an annual fee established by regulation of the ~~State Board of Agriculture.~~ **Director.** Any ~~company or~~ person employing primary principals, principals, operators or agents shall pay to the Director a fee established by regulation of the ~~Board~~ **Director** for each primary principal, principal, operator or agent licensed.

**Sec. 43.** NRS 555.570 is hereby amended to read as follows:

555.570 **1.** Any person violating any of the provisions of NRS 555.500 to 555.560, inclusive, or failing, refusing or neglecting to perform or observe any conditions or regulation prescribed by the State Board of Agriculture, in accordance with the provisions of NRS 555.500 to 555.540, inclusive, is ~~guilty of a misdemeanor.~~ ***subject to a civil penalty not to exceed:***

(a) ***For the first violation, \$250.***

(b) ***For a second violation, \$500.***

(c) ***For each subsequent violation, \$1,000.***

**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. 44.** NRS 556.110 is hereby amended to read as follows:

556.110 **1.** A person who violates any of the provisions of this chapter is ~~guilty of a misdemeanor.~~ ***subject to a civil penalty not to exceed:***

(a) *For the first violation, \$250.*

(b) *For a second violation, \$500.*

(c) *For each subsequent violation, \$1,000.*

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. 45.** NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

(a) The Governor.

(b) Except as otherwise provided in NRS 209.221, the Department of Corrections.

(c) The Nevada System of Higher Education.

(d) The Office of the Military.

(e) The State Gaming Control Board.

(f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission.

(g) The Division of Welfare and Supportive Services of the Department of Health and Human Services.

(h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.

(i) The State Board of Examiners acting pursuant to chapter 217 of NRS.

(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.

(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.

(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to ~~NRS 590.830~~ **section 84 of this act.**

(n) The Silver State Health Insurance Exchange.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(d) NRS 90.800 for the use of summary orders in contested cases, ➤ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694; or

(d) The judicial review of decisions of the Public Utilities Commission of Nevada.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

**Sec. 46.** NRS 318.116 is hereby amended to read as follows:

318.116 Any one, all or any combination of the following basic powers may be granted to a district in proceedings for its organization, or its reorganization pursuant to NRS 318.077 and all provisions in this chapter supplemental thereto, or as may be otherwise provided by statute:

1. Furnishing electric light and power, as provided in NRS 318.117;

2. Extermination and abatement of mosquitoes, flies, other insects, rats, and liver fluke or *Fasciola hepatica*, as provided in NRS 318.118;

3. Furnishing facilities or services for public cemeteries, as provided in NRS 318.119;

4. Furnishing facilities for swimming pools, as provided in NRS 318.1191;

5. Furnishing facilities for television, as provided in NRS 318.1192;

6. Furnishing facilities for FM radio, as provided in NRS 318.1187;

7. Furnishing streets and alleys, as provided in NRS 318.120;



8. Furnishing curbs, gutters and sidewalks, as provided in NRS 318.125;
9. Furnishing sidewalks, as provided in NRS 318.130;
10. Furnishing facilities for storm drainage or flood control, as provided in NRS 318.135;
11. Furnishing sanitary facilities for sewerage, as provided in NRS 318.140;
12. Furnishing facilities for lighting streets, as provided in NRS 318.141;
13. Furnishing facilities for the collection and disposal of garbage and refuse, as provided in NRS 318.142;
14. Furnishing recreational facilities, as provided in NRS 318.143;
15. Furnishing facilities for water, as provided in NRS 318.144;
16. Furnishing fencing, as provided in NRS 318.1195;
17. Furnishing facilities for protection from fire, as provided in NRS 318.1181;
18. Furnishing energy for space heating, as provided in NRS 318.1175;
19. Furnishing emergency medical services, as provided in NRS 318.1185;
20. Control ~~and eradication~~ of noxious weeds, as provided in chapter 555 of NRS; and
21. Establishing, controlling, managing and operating an area or zone for the preservation of one or more species or subspecies of wildlife that has been declared endangered or threatened pursuant to the federal Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq., as provided in NRS 318.1177.

**Sec. 47.** NRS 360A.020 is hereby amended to read as follows:

360A.020 The Department shall adopt:

1. Such regulations as are necessary to carry out the provisions of this chapter.
2. Regulations providing for:
  - (a) The electronic submission of returns to the Department; and
  - (b) The payment to the Department of any amount required to be paid pursuant to this chapter or chapter 365, 366 or 373 of NRS, or NRS 590.120 or ~~590.840~~ **section 86 of this act** through the use of credit cards, debit cards and electronic transfers of money.

**Sec. 48.** NRS 360A.040 is hereby amended to read as follows:

360A.040 1. If a check or other method of payment submitted to the Department for payment of any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~590.840~~ **section 86 of this act** is returned to the Department or otherwise dishonored upon presentation for payment, the Department:

- (a) Shall charge an additional fee in the amount established by the State Controller pursuant to NRS 353C.115 for handling the check or other method of payment; and
- (b) Except as otherwise provided in NRS 353.1467, may require that any future payments be made by cashier's check, traveler's check, money order or cash.

2. If a check or other method of payment is submitted to the Department for payment of a tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~590.840~~ **section 86 of this act** on or before the date the tax or fee is due, but is afterward returned to the Department or otherwise dishonored upon presentation for payment, the submission of the check or other method of payment shall be deemed not to constitute timely payment of the tax or fee.

**Sec. 49.** NRS 360A.050 is hereby amended to read as follows:

360A.050 If the Department grants an extension of time for paying any amount required to be paid pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~590.840~~ **section 86 of this act**, a person who pays the amount within the period for which the extension is granted shall pay, in addition to the amount owing, interest at the rate of 1 percent per month from the date the amount would have been due without the extension until the date of payment.

**Sec. 50.** NRS 360A.060 is hereby amended to read as follows:

360A.060 Unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~590.840~~ **section 86 of this act** to this State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee that is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment.

**Sec. 51.** NRS 360A.070 is hereby amended to read as follows:

360A.070 1. If the Director of the Department or a hearing officer designated by the Director finds that the failure of a person to make a timely return or payment of a tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~590.840~~ **section 86 of this act** is the result of circumstances beyond the control of the person and occurred despite the exercise of ordinary care and without willful neglect, the Department may relieve the person of all or part of any interest or penalty, or both.

2. A person requesting relief must file with the Department a statement signed, under penalty of perjury, that sets forth the facts upon which the person bases his or her claim for relief.

3. The Department shall disclose, upon the request of any person:

- (a) The name of the person to whom relief was granted; and
- (b) The amount of the relief.

**Sec. 52.** NRS 360A.080 is hereby amended to read as follows:

360A.080 The Department may:

1. Enter into a written agreement with a person who is required to pay the taxes or fees required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~590.840~~ **section 86 of this act** for the payment of delinquent taxes or fees, interest or penalties imposed pursuant to those provisions.

2. Adopt regulations providing for:

(a) The payment of delinquent taxes or fees, interest or penalties upon the execution of a written agreement between the Department and such a person; and

(b) The cancellation of such an agreement if the person becomes delinquent in his or her payment of the delinquent taxes or fees, interest or penalties owed to the Department pursuant to the provisions of chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~590.840~~ **section 86 of this act.**

**Sec. 53.** NRS 360A.090 is hereby amended to read as follows:

360A.090 1. The amounts, including interest and penalties, required to be paid by a person pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~590.840~~ **section 86 of this act** must be satisfied first if:

- (a) The person is insolvent;
- (b) The person makes a voluntary assignment of his or her assets;
- (c) The estate of the person in the hands of executors, administrators or heirs, before distribution, is insufficient to pay all the debts due from the deceased; or
- (d) The estate and effects of an absconding, concealed or absent person required to pay any amount by force of such a revenue act are levied upon by process of law.

2. This section does not give the State of Nevada a preference over:

- (a) Any recorded lien that attached before the date when the amounts required to be paid became a lien; or
- (b) Any costs of administration, funeral expenses, expenses of personal illness, family allowances or debts preferred pursuant to federal law or wages as provided in NRS 147.195.

**Sec. 54.** NRS 360A.100 is hereby amended to read as follows:

360A.100 Except as otherwise provided in NRS 366.395:

1. If a person fails to file a return or the Department is not satisfied with the return of any tax or fee required to be paid to the Department pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~590.840~~ **section 86 of this act**, the Department may determine the amount required to be paid upon the basis of:

- (a) The facts contained in the return;
- (b) Any information that is in the possession of the Department or may come into its possession; or
- (c) Reasonable estimates of the amount.

2. One or more deficiency determinations may be made with respect to the amount due for one or more periods.

3. In making its determination of the amount required to be paid, the Department shall impose a penalty and interest on the amount of tax or fee determined to be due, calculated at the rate and in the manner set forth in NRS 360A.060.

4. If a business is discontinued, a determination may be made at any time thereafter within the period prescribed in NRS 360A.150 concerning liability

arising out of that business, irrespective of whether the determination is issued before the due date of the liability.

**Sec. 55.** NRS 360A.120 is hereby amended to read as follows:

360A.120 If any part of the deficiency for which a deficiency determination is made is because of negligence or intentional disregard of any applicable provision of chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840.]~~ **section 86 of this act**, or the regulations of the Department adopted pursuant thereto, a penalty of 10 percent of the amount of the determination must be added thereto.

**Sec. 56.** NRS 360A.130 is hereby amended to read as follows:

360A.130 If any part of the deficiency for which a deficiency determination is made is because of fraud or an intent to evade the payment of a tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840.]~~ **section 86 of this act**, or the regulations of the Department adopted pursuant thereto, a penalty of 25 percent of the amount of the determination must be added thereto.

**Sec. 57.** NRS 360A.150 is hereby amended to read as follows:

360A.150 1. Except as otherwise provided in subsections 2, 3 and 5, each notice of a deficiency determination issued by the Department must be personally served, mailed or, pursuant to subsection 4, sent by electronic mail within 4 years after the last day of the month following the period for which the amount is proposed to be determined or within 4 years after the return is filed, whichever period expires later.

2. In the case of a failure to make a return or a claim for an additional amount, each notice of determination must be mailed, personally served or, pursuant to subsection 4, sent by electronic mail within 8 years after the last day of the month following the period for which the amount is proposed to be determined.

3. If, before the expiration of the time prescribed in this section for the service of a notice of determination, the taxpayer has signed a waiver consenting to the service of the notice after that time, the notice may be mailed, personally served or, pursuant to subsection 4, sent by electronic mail at any time before the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing if each agreement is made before the expiration of the period previously agreed upon.

4. The provision by a person to the Department of an electronic mail address shall be deemed an agreement for the purposes of NRS 719.220 to receive notice pursuant to this section by electronic mail. If served by electronic mail, the notice must be sent to the person at his or her electronic mail address as it appears in the records of the Department and service is complete at the time the electronic mail is sent.

5. This section does not apply to cases of fraud or the intentional evasion of a provision of chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840.]~~ **section 86 of this act**, or any regulation of the Department adopted pursuant thereto.

**Sec. 58.** NRS 360A.230 is hereby amended to read as follows:

360A.230 If the Department believes that the collection of any amount of taxes or fees due pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act** will be jeopardized by delay, the Department shall make a determination of the amount required to be collected and serve notice of the determination upon the person against whom it is made.

**Sec. 59.** NRS 360A.260 is hereby amended to read as follows:

360A.260 1. If a person who is delinquent in the payment of any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act** has not paid the amount of a deficiency determination, the Department may bring an action in a court of this State, a court of any other state or a court of the United States to collect the delinquent or deficient amount, penalties and interest. The action must be brought not later than 3 years after the payment became delinquent or the determination became final or within 5 years after the last recording of an abstract of judgment or of a certificate constituting a lien for the tax or fee owed.

2. The Attorney General shall prosecute the action. The provisions of NRS and the Nevada Rules of Civil Procedure and Nevada Rules of Appellate Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings. In the action, a writ of attachment may issue. A bond or affidavit is not required before an attachment may be issued.

3. In the action, a certificate by the Department showing the delinquency is prima facie evidence of:

- (a) The determination of the tax or fee or the amount of the tax or fee;
- (b) The delinquency of the amounts; and
- (c) The compliance by the Department with the procedures required by law related to the computation and determination of the amounts.

**Sec. 60.** NRS 360A.270 is hereby amended to read as follows:

360A.270 1. If, with respect to any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act**, a person:

- (a) Fails to pay the tax or fee when due according to his or her return filed with the Department;
- (b) Fails to pay a deficiency determination when due; or
- (c) Defaults on a payment pursuant to a written agreement with the Department,

↪ the Department may, within 3 years after the amount is due, file in the office of the clerk of any court of competent jurisdiction an application for the entry of a summary judgment for the amount due.

2. The application must be accompanied by a certificate that specifies:

- (a) The amount required to be paid, including any interest and penalties due;
- (b) The name and address of the person liable for the payment, as they appear on the records of the Department;
- (c) The basis for the determination of the Department of the amount due; and

(d) That the Department has complied with the applicable provisions of law relating to the determination of the amount required to be paid.

3. The application must include a request that judgment be entered against the person in the amount required to be paid, including any interest and penalties due, as set forth in the certificate.

**Sec. 61.** NRS 360A.330 is hereby amended to read as follows:

360A.330 1. If any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act**, is not paid when due, the Department may, within 3 years after the date that the tax or fee became due, file for record a certificate in the office of any county recorder which states:

- (a) The amount of the tax or fee and any interest or penalties due;
- (b) The name and address of the person who is liable for the amount due as they appear on the records of the Department; and
- (c) That the Department has complied with the procedures required by law for determining the amount due.

2. From the time of the filing of the certificate, the amount due, including interest and penalties, constitutes a lien upon all real and personal property in the county owned by the person or acquired by the person afterwards and before the lien expires. The lien has the effect and priority of a judgment lien and continues for 5 years after the time of the filing of the certificate unless sooner released or otherwise discharged.

3. Within 5 years after the date of the filing of the certificate or within 5 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by filing for record a new certificate in the office of the county recorder of any county. From the time of filing, the lien is extended to all real and personal property in the county owned by the person or acquired by the person afterwards for 5 years, unless sooner released or otherwise discharged.

**Sec. 62.** NRS 360A.350 is hereby amended to read as follows:

360A.350 1. The Department or its authorized representative may issue a warrant for the enforcement of a lien and for the collection of any delinquent taxes or fees required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act**:

- (a) Within 3 years after the person is delinquent in the payment of the tax or fee; or
- (b) Within 5 years after the last recording of an abstract of judgment or of a certificate constituting a lien for the tax or fee.

2. The warrant must be directed to a sheriff or constable and has the same effect as a writ of execution.

3. The warrant must be levied and sale made pursuant to the warrant in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

**Sec. 63.** NRS 360A.370 is hereby amended to read as follows:

360A.370 1. If a person is delinquent in the payment of any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~NRS 590.840,~~ **section 86 of this act**, or if a determination has been made against the person that remains unpaid, the Department may:

(a) Not later than 3 years after the payment became delinquent or the determination became final; or

(b) Not later than 5 years after the last recording of an abstract of judgment or of a certificate constituting a lien for the tax or fee owed,

➤ give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this State or any political subdivision or agency of this State, who has in his or her possession or under his or her control any credits or other personal property belonging to the delinquent taxpayer, or owing any debts to the delinquent taxpayer or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent taxpayer or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before it presents the claim of the delinquent taxpayer to the State Controller.

2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.

3. After receiving the demand to transmit, the persons so notified may not transfer or otherwise dispose of the credits, other personal property, or debts in their possession or under their control at the time they received the notice until the Department consents to a transfer or other disposition.

4. Each person so notified shall, within 10 days after receipt of the demand to transmit, inform the Department of, and transmit to the Department all such credits, other personal property, or debts in his or her possession, under his or her control or owing by that person within the time and in the manner requested by the Department. Except as otherwise provided in subsection 5, no further notice is required to be served upon that person.

5. If the property of the delinquent taxpayer consists of a series of payments owed to him or her, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing that person to continue to transmit payments to the Department or that his or her duty to transmit the payments to the Department has ceased.

6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank or other depository institution, the notice must be delivered or mailed to the branch or office of the bank or other

depository institution at which the deposit is carried or at which the credits or personal property is held.

7. If any person so notified makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, he or she is liable to this State for any indebtedness due pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act** from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition, this State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

**Sec. 64.** NRS 360A.390 is hereby amended to read as follows:

360A.390 1. If a person who is liable for any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act** sells any portion of his or her business or stock of goods not in the ordinary course of business or quits the business, the successors or assignees of that person shall:

(a) If the business or stock of goods was purchased for money, withhold from the purchase price the amount due; or

(b) If the business or stock of goods was not purchased for money, withhold a sufficient portion of the assets of the business or stock of goods which, if sold, would equal the amount due,

↪ until the former owner provides the successors or assignees with a receipt or certificate from the Department indicating that he or she paid the amount due.

2. A successor or assignee who fails to withhold the amount required pursuant to subsection 1 becomes personally liable for the payment of the amount required to be withheld by him or her to the extent of the consideration paid for the business or stock of goods, valued in money.

3. The Department shall issue a certificate of the amount due to the successor or assignee:

(a) Not later than 60 days after receiving a written request from the successor or assignee for such a certificate; or

(b) Not later than 60 days after the date the records of the former owner are made available for audit,

↪ whichever period expires later, but not later than 90 days after receiving the request.

4. If the Department fails to mail the certificate, the successor or assignee is released from any further obligation to withhold any portion of the purchase price, business or stock of goods.

5. The time within which the obligation of the successor or assignee may be enforced begins when the person who is liable for the tax or fee sells or assigns all or any portion of his or her business or stock of goods or when the determination against the person becomes final, whichever occurs later.

**Sec. 65.** NRS 360A.400 is hereby amended to read as follows:



360A.400 1. At any time within 3 years after a person has become delinquent in the payment of any amount of taxes or fees due pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840.]~~ **section 86 of this act**, the Department may seize any property, real or personal, of the person and sell the property, or a sufficient part of it, at public auction to pay the amount due, together with any interest or penalties imposed for the delinquency and any costs incurred on account of the seizure and sale.

2. Any seizure made to collect a tax or fee due may be only of the property of the person not exempt from execution under the provisions of law.

**Sec. 66.** NRS 408.242 is hereby amended to read as follows:

408.242 1. The Department shall establish an account in the State Highway Fund to be administered by the Director. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account must be used exclusively for the construction, reconstruction, improvement and maintenance of public roads.

2. The account consists of:

(a) The money transferred to the account pursuant to ~~[NRS 590.860.]~~ **section 88 of this act;**

(b) All income and interest earned on the money in the account; and

(c) All other money received by the account from any source.

3. On July 1 and December 31 of each year, the Director shall allocate:

(a) Seventy percent of the money in the account to a regional transportation commission in a county whose population is 700,000 or more;

(b) Twenty percent of the money in the account to a regional transportation commission in a county whose population is 100,000 or more but less than 700,000; and

(c) Ten percent of the money in the account to the Department for use in counties that have a population of less than 100,000.

**Sec. 67.** Chapter 445C of NRS is hereby amended by adding thereto the provisions set forth as sections 68 to 94, inclusive of this act.

**Sec. 68.** *As used in sections 68 to 94, inclusive of this act, unless the context otherwise requires, the words and terms defined in sections 68 to 81, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 69.** *“Board” means the Board to Review Claims.*

**Sec. 70.** *“Department” means the Department of Motor Vehicles.*

**Sec. 71.** *“Diesel fuel of grade number 1” means a distillate from fuel oil which is of high volatility and used in high-speed diesel engines generally operated under variations in speed and load. The term includes diesel fuel of the type “C-B,” generally used in buses and similar operations.*

**Sec. 72.** *“Diesel fuel of grade number 2” means a distillate from gas oil which is of low volatility and used in high-speed diesel engines generally operated under uniform speed and load. The term includes diesel fuel of the*

type “R-R,” generally used in railroad locomotives, and type “T-T,” generally used in trucks with diesel engines.

Sec. 73. “Discharge” means any release, leaking or spilling from a storage tank into water or soil, unless the discharge is authorized by state or federal law.

Sec. 74. “Division” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

Sec. 75. “Fund” means the Fund for Cleaning Up Discharges of Petroleum.

Sec. 76. “Heating oil” means diesel fuel of grade number 1 or 2 or any other form of petroleum used in an oil-fired furnace or boiler for space heating.

Sec. 77. “Motor vehicle fuel” has the meaning ascribed to it in NRS 365.060.

Sec. 78. “Operator” means a person who owns, controls or is responsible for the operation of a storage tank.

Sec. 79. “Person” includes the United States, this State, and any agency or political subdivision of this State.

Sec. 80. “Petroleum” means crude oil or any fraction thereof which is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

Sec. 81. “Storage tank” means any tank used to store petroleum, except petroleum for use in a chemical process.

Sec. 82. The Legislature finds that:

1. Protection of this State’s environment, particularly its supplies of water, requires the prompt cleaning up of any discharge of petroleum from a storage tank.

2. Federal law and regulations require each operator of a storage tank to show financial responsibility for this purpose, but the capital of smaller operators is too little to meet these requirements and insurance to cover this liability is prohibitively costly for these smaller operators.

3. Free competitive access to the business of distributing petroleum therefore requires a system of funding this liability in which all engaged in the business must participate equitably.

4. The fee imposed by section 86 of this act is not an excise tax but a fee for engaging in the refining or importation of motor vehicle fuel, diesel fuel of grade number 1, diesel fuel of grade number 2 and heating oil.

Sec. 83. 1. The Board to Review Claims is hereby created in the Division. The Board consists of:

- (a) The Administrator of the Division;
- (b) The Director of the Department;
- (c) The State Fire Marshal;
- (d) A representative of refiners of petroleum;
- (e) A representative of independent dealers in petroleum;
- (f) A representative of independent retailers of petroleum; and

(g) *A representative of the general public.*

2. *An officer designated as a member of the Board may designate a substitute. The Governor shall appoint the respective representatives designated as members of the Board. Each representative of a field of enterprise must be appointed from a list of three persons nominated by persons engaged in that field in this State, through their trade association if one exists.*

3. *The Board shall select its Chair. The Administrator of the Division shall provide administrative assistance to the Board as required.*

4. *Each member who is appointed by the Governor is entitled to receive a salary of not more than \$80, as fixed by the Board, for each day's attendance at a meeting of the Board.*

5. *While engaged in the business of the Board, each member of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*

Sec. 84. 1. *The Fund for Cleaning Up Discharges of Petroleum is hereby created as a special revenue fund in the State Treasury. The Division shall administer the Fund for the purposes prescribed in sections 68 to 94, inclusive, of this act, and the Board shall adopt appropriate regulations for the investigation and payment of claims against the Fund. The Board shall review each claim presented and authorize payment to the extent warranted by the facts of the case.*

2. *The expenses incurred by the Division in performing its duties pursuant to sections 68 to 94, inclusive, of this act are a charge against the Fund. The interest earned on money in the Fund must be credited to the Fund.*

3. *The Board shall transmit a copy of any resolution that the Board has adopted in carrying out its duties pursuant to this section to the Legislative Counsel within 5 working days after the adoption of the resolution for inclusion in the register of administrative regulations published pursuant to NRS 233B.0653.*

Sec. 85. *Notwithstanding any provision of sections 68 to 94, inclusive, of this act to the contrary, and except as otherwise provided in this section:*

1. *The Division may expend not more than \$250,000 from the Fund per year as reimbursement for necessary costs incurred by the Division in the response to and cleanup of any discharge involving petroleum, including discharges from a storage tank and discharges from a mobile tank that occur during the transportation of petroleum on roads and highways. If the discharge involving petroleum also involves the discharge of another hazardous material, the Division may expend money pursuant to this section in the cleanup of the discharge of petroleum and the other hazardous material. The Division shall not expend money from the Fund pursuant to this section to clean up discharges involving petroleum from pipelines.*

2. *Except as otherwise provided in this subsection, money from the Fund expended by the Division pursuant to this section must be used to augment,*

*and must not be used to replace or supplant, any money available from other sources for the cleanup of discharges of petroleum, including, without limitation, reimbursements by operators required to be made to the Division pursuant to sections 87 and 89 of this act. If no money is available from those other sources, the Division may expend money from the Fund pursuant to this section to reimburse the Division for any costs specified in subsection 1.*

*3. If the Division expends money pursuant to this section to clean up a discharge involving petroleum, the operator of the tank shall reimburse the Division for the operator's share of the costs for cleaning up the discharge. The Division shall, upon being reimbursed by the operator of the tank pursuant to this subsection, deposit that money in the Fund.*

*4. As used in this section:*

*(a) "Discharge" means any release, leaking or spilling from a tank into water or soil, unless the discharge is authorized by state or federal law.*

*(b) "Operator" means a person who owns, controls or is responsible for the operation of a tank.*

*(c) "Tank" means a storage tank or a mobile tank used to transport petroleum received for sale or use in this State.*

*Sec. 86. 1. Except as otherwise provided in subsection 2, the Department shall collect for deposit in the Fund a fee of 0.75 cent for each gallon of motor vehicle fuel, diesel fuel of grade number 1, diesel fuel of grade number 2 and heating oil imported into this State in one of those forms or refined in this State. The fee imposed by this section is in addition to the taxes imposed by chapters 365 and 366 of NRS.*

*2. The fee imposed by subsection 1 does not apply to motor vehicle fuel, diesel fuel of grade number 1, diesel fuel of grade number 2 or heating oil that is:*

*(a) Imported or refined by the United States, its unincorporated agencies and instrumentalities, or any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States;*

*(b) Exported from this State;*

*(c) Imported or refined by railroad companies for use in locomotive engines;*

*(d) Being transported through this State in interstate commerce; or*

*(e) Used as fuel for jet or turbine-powered aircraft.*

*3. The fee is payable on or before the last day of each calendar month for those products subject to the fee that are handled during the preceding calendar month. The Department shall prescribe by regulation the manner of payment of the fee and for this purpose may reasonably classify the persons liable for payment. The Department may, in collecting the fee, employ any administrative power conferred upon it by chapter 360A or 365 of NRS.*

*4. The expenses incurred by the Department in performing its duties under sections 68 to 94, inclusive, of this act are a charge against the Fund.*

*Sec. 87. 1. Except as otherwise provided in subsection 2, the Division shall collect for deposit in the Fund an annual fee not to exceed \$100, set by the Board, for the registration of each storage tank.*

*2. No fee is to be collected, and no registration is required, with respect to a storage tank used to store heating oil for consumption on the same premises where the oil is stored, or a storage tank operated by a person not required to pay the fee for petroleum produced in or imported into this State.*

*3. The operator of a storage tank required to be registered pursuant to this section who fails to register that tank or to pay the annual fee when required shall reimburse the Division for any expense incurred by the Division in cleaning up a discharge from that storage tank and for any discharge of liability to a third person. If, in cleaning up the discharge from that storage tank, the Division expends money from the Fund in accordance with section 85 of this act, the Division shall, upon being reimbursed by the operator of the storage tank pursuant to this subsection, deposit that money in the Fund.*

*Sec. 88. If the balance in the Fund for Cleaning Up Discharges of Petroleum at the end of any fiscal year is estimated at \$7,500,000 or more, the Department shall transfer to the account created pursuant to NRS 408.242 the balance in the Fund for Cleaning Up Discharges of Petroleum which exceeds \$7,500,000.*

*Sec. 89. 1. The operator of every storage tank, and every person who for compensation puts petroleum into a storage tank, shall report to the Division every discharge from that tank of which the operator or other person is aware or has reason to believe has occurred. The Division shall undertake or contract for cleaning up the discharge unless the operator or another person is already acting properly to clean it up. If the Division cleans up the discharge, the operator shall reimburse the Division for the operator's share of the costs. If, in cleaning up the discharge, the Division expends money from the Fund in accordance with section 85 of this act, the Division shall, upon being reimbursed by the operator of the storage tank pursuant to this subsection, deposit that money in the Fund.*

*2. Each operator who is required or who chooses to register a tank must, unless the tank has been tested for tightness under the federal standards embodied in 40 C.F.R. § 280.43c since July 1, 1988, test the tank pursuant to those standards before it is eligible for the coverage provided by sections 90 and 91 of this act.*

*Sec. 90. The costs resulting from a discharge from a storage tank which has a capacity of 1,100 gallons or less and is used to store heating oil for consumption on the same premises where the oil is stored must be paid as follows, to the extent applicable:*

*1. The first \$250 for cleaning up and the first \$250 of liability for damages to a person other than this State or the operator of the tank, or both amounts, by the operator.*

2. *If necessary to protect the environment or the public health and safety, the next \$250,000 for cleaning up and the next \$250,000 for damages to a person other than this State or the operator of the tank, or both amounts, from the Fund. These limits apply to any one discharge and to the total for discharges from storage tanks controlled by any one operator in any fiscal year. For the purpose of this limitation, a group of operators more than 50 percent of whose net worth is beneficially owned by the same person or persons constitutes one operator.*

3. *Any further cost for cleaning up or for damages, by the operator.*

Sec. 91. *If the costs resulting from a discharge from any other storage tank exceed \$5,000, the costs must be paid as follows, to the extent applicable:*

1. *By an operator which is an agency, department, division or political subdivision of the State, 10 percent or \$10,000, whichever is less, of the first \$1,000,000 for cleaning up each tank and of the first \$1,000,000 of liability for damages from each tank to any person other than this State or the operator of the tank, or both amounts. The balance of the first \$1,000,000 for cleaning up each tank or for damages from each tank must be paid from the Fund, but the total amount paid from the Fund pursuant to this subsection in any one fiscal year for discharges from two or more storage tanks under the control of any one operator must not exceed \$1,980,000 for cleaning up and \$1,980,000 for damages.*

2. *By an operator which is a small business, 10 percent of the first \$1,000,000 for cleaning up each tank and of the first \$1,000,000 of liability for damages from each tank to a person other than this State or the operator of the tank, or both amounts. The total amount paid by an operator pursuant to this subsection must not exceed \$50,000 for cleaning up and \$50,000 for damages regardless of the number of storage tanks involved. The balance of the first \$1,000,000 for cleaning up each tank or for damages from each tank must be paid from the Fund, but the total amount paid from the Fund pursuant to this subsection in any one fiscal year for discharges from two or more storage tanks under the control of any one operator must not exceed \$1,900,000 for cleaning up and \$1,900,000 for damages. For the purpose of this limitation, a group of operators more than 50 percent of whose net worth is beneficially owned by the same person or persons constitutes one operator.*

3. *By all other operators:*

(a) *Ten percent of the first \$1,000,000 for cleaning up each tank and of the first \$1,000,000 of liability for damages from each tank to a person other than this State or the operator of the tank, or both amounts.*

(b) *Ninety percent of the first \$1,000,000 for cleaning up each tank or for damages from each tank must be paid from the Fund.*

➡ *The total amount paid from the Fund pursuant to paragraph (b) in any one fiscal year for discharges from two or more storage tanks under the control of any one operator must not exceed \$1,800,000 for cleaning up and \$1,800,000 for damages. For the purpose of this limitation, a group of*

*operators more than 50 percent of whose net worth is beneficially owned by the same person or persons constitutes one operator.*

4. *Any further cost for cleaning up or for damages which is in excess of the amounts paid pursuant to subsections 1, 2 and 3 must be paid by the operator.*

5. *A political subdivision of the State that receives money from the Fund pursuant to subsection 1 to pay for the costs of cleaning up shall hold one public hearing upon initiation of the cleanup and one public hearing every 3 months thereafter until the cleanup is completed to ensure that the cleanup complies with any requirements of the Division concerning the cost-effectiveness of cleaning up. The costs incurred by the political subdivision for the hearing must not be attributed to the political subdivision as part of the costs paid by the political subdivision pursuant to subsection 1.*

6. *For the purposes of this section, a small business is a business which receives less than \$500,000 in gross annual receipts from the site where the tank is located.*

Sec. 92. 1. *Any person who, through willful or wanton misconduct, through gross negligence or through violation of any applicable statute or regulation, including specifically any state or federal standard pertaining to the preparation or maintenance of sites for storage tanks, proximately causes a discharge is liable to the Division for any cost in cleaning up the discharge or paying for it to be cleaned up.*

2. *If a discharge occurs, the site of the tank and any other premises affected by the discharge must be brought into compliance with any applicable standard as described in subsection 1.*

Sec. 93. *If the balance in the Fund is insufficient to pay in full all amounts payable from it under sections 68 to 94, inclusive, of this act, these amounts must be reduced pro rata and the amounts so withheld must be paid pro rata as additional money becomes available in the Fund.*

Sec. 94. 1. *Except as otherwise specifically provided in section 85 of this act, the provisions of sections 87 to 93, inclusive, of this act do not apply to any tank which:*

(a) *Contains petroleum being transported through this State in interstate commerce, but do apply to a tank being used to store petroleum received for sale or use in this State;*

(b) *Contains fuel for jet or turbine-powered aircraft, or is above ground and has a capacity of 30,000 gallons or less, unless in either case the operator complies with subsection 2; or*

(c) *Is above ground and has a capacity of more than 30,000 gallons.*

2. *The operator of a tank exempted by paragraph (b) of subsection 1 may obtain the coverage provided by sections 90 and 91 of this act by applying to the Board, paying the fee set pursuant to section 87 of this act for its registration, and, if the tank is used to store fuel for jet or turbine-powered aircraft, reporting monthly the number of gallons of fuel put into the tank and paying the fee required by section 86 of this act. Coverage pursuant to*

*this subsection begins 6 months after the tank is registered and the required fee first paid.*

**Sec. 95.** NRS 445C.010 is hereby amended to read as follows:

445C.010 As used in ~~[this chapter]~~ **NRS 445C.010 to 445C.120, inclusive**, unless the context otherwise requires, the words and terms defined in NRS 445C.020 to 445C.060, inclusive, have the meanings ascribed to them in those sections.

**Sec. 96.** NRS 445C.110 is hereby amended to read as follows:

445C.110 1. Except as otherwise provided in this section, an environmental audit conducted pursuant to the provisions of ~~[this chapter]~~ **NRS 445C.010 to 445C.120, inclusive**, shall be deemed privileged and is not admissible in an administrative proceeding or civil action against the regulated person who conducted the audit or the regulated facility which is owned or operated by the regulated person.

2. The privilege provided by subsection 1 does not apply if:

(a) A regulatory agency requests the admission of the results of an environmental audit at an administrative proceeding or civil action commenced by the regulatory agency;

(b) The regulated person expressly waives the privilege; or

(c) A court or administrative hearing officer determines in camera that the presumption against administrative or civil liability is rebutted pursuant to NRS 445C.090.

3. For the purposes of paragraph (b) of subsection 2, a regulated person does not waive the privilege if he or she voluntarily discloses, pursuant to NRS 445C.010 to 445C.120, inclusive, the results of an environmental audit or a violation of an environmental requirement discovered as a result of an environmental audit to a regulatory agency.

4. This section does not prohibit a person or entity from:

(a) Obtaining information concerning a violation of an environmental requirement from a source independent of an environmental audit.

(b) Commencing an administrative proceeding or civil or criminal action against a regulated person or a regulated facility which is owned or operated by a regulated person based upon information that was obtained from a source independent of an environmental audit.

(c) Intervening in a proceeding or action filed against a regulated person or regulated facility if the intervention is specifically authorized by statute or regulation.

**Sec. 96.5. Chapter 446 of NRS is hereby amended by adding thereto a new section to read as follows:**

**Any person who knowingly sells any flesh of any diseased animal or any container containing shellfish, if the container does not have an approved stamp authorized by the Division of Public and Behavioral Health of the Department of Health and Human Services, is guilty of a gross misdemeanor.**

**Sec. 96.7. NRS 446.945 is hereby amended to read as follows:**



446.945 ~~[Any]~~ ***Except as otherwise provided in section 96.5 of this act,*** ***any*** person who violates any of the provisions of this chapter is guilty of a misdemeanor. In addition thereto, such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute a separate violation.

**Sec. 97.** NRS 561.301 is hereby amended to read as follows:

561.301 Aquatic agriculture, which includes the propagation, cultivation and harvesting of plants ***or animals*** indigenous to water in a ***man-made***, controlled or selected aquatic environment for the commercial production of food, is one of the agricultural enterprises conducted in this state. The Department shall promote, protect and regulate aquatic agriculture to the extent that the Department is authorized to regulate other forms of agriculture and other agricultural products. The Department shall confer with the Department of Wildlife regarding aquatic agriculture to prevent any adverse effects on existing aquatic animals.

**Sec. 98.** NRS 561.305 is hereby amended to read as follows:

561.305 The Department shall establish and maintain a laboratory for the following purposes:

1. The diagnosis of infectious, contagious and parasitic diseases of animals, as may be necessary under the provisions of chapter 571 of NRS.
2. The diagnosis of infectious, contagious and parasitic diseases of bees, as may be necessary under the provisions of chapter 552 of NRS.
3. The diagnosis of infectious, contagious and destructive diseases of agricultural commodities, and infestations thereof by pests, as may be necessary under the provisions of chapter 554 of NRS.
4. The survey and identification of insect pests, plant diseases and noxious weeds, and the maintenance of a herbarium, as may be necessary under the provisions of NRS 555.005 to 555.249, inclusive.
5. The testing of pesticides, as may be necessary under the provisions of NRS 555.2605 to 555.460, inclusive, and ~~[586.010 to 586.450, inclusive.]~~ ***chapter 586 of NRS.***
6. The safekeeping and maintenance of official standards of weights and measures, as may be necessary under the provisions of chapter 581 of NRS.
7. The testing and grading of agricultural products and the testing of the purity and germinating power of agricultural seeds and the testing of the spray residue contained in produce, as may be necessary under the provisions of chapter 587 of NRS.
8. The analysis and testing of commercial fertilizers and agricultural minerals, as may be necessary under the provisions of chapter 588 of NRS.
9. The analysis and testing of petroleum products or motor vehicle fuel, as may be necessary under the provisions of NRS 590.010 to 590.150, inclusive.
10. The analysis and testing of antifreeze, as may be necessary under the provisions of NRS 590.340 to 590.450, inclusive.
11. Any laboratory examinations, diagnoses, analyses or testing as may be deemed necessary by the Director and which can be made with equipment

available in any such laboratory. Any resident of this State may submit samples to the Department for examination, diagnosis, analysis or testing, subject to such rules and regulations as may be adopted by the Director.

**Sec. 99.** NRS 561.315 is hereby amended to read as follows:

561.315 The Director may fix the maximum number of *field inspections that may be conducted or laboratory* samples that may be examined, diagnosed, analyzed or tested ~~[in the Department's laboratory]~~ free of charge for any one *public agency*, natural person, group or corporation in any one period, and may fix reasonable fees for ~~[samples submitted]~~ *any services provided* in excess of those ~~[tested]~~ *provided* free of charge.

**Sec. 100.** NRS 561.355 is hereby amended to read as follows:

561.355 1. The Plant Industry Program is hereby established.

2. The following fees and money must be used in the Plant Industry Program:

(a) ~~[Fees]~~ *Except as otherwise provided in NRS 555.570 and section 10 of this act, fees* and money collected pursuant to the provisions of chapters 552, 555 and 587 of NRS.

(b) Laboratory fees collected for the diagnosis of infectious, contagious and parasitic diseases of bees, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of chapter 552 of NRS.

(c) Laboratory fees collected for the diagnosis of infectious, contagious and destructive diseases of agricultural commodities, and infestations thereof by pests, as authorized by NRS 561.305, and as may be necessary pursuant to the provisions of chapter 554 of NRS.

(d) Laboratory fees collected for the survey and identification of insect pests, plant diseases and noxious weeds, as authorized by NRS 561.305, and as may be necessary pursuant to the provisions of NRS 555.005 to 555.249, inclusive.

(e) Laboratory fees collected for the testing of the purity and germinating power of agricultural seeds, as authorized by NRS 561.305, and as may be necessary pursuant to the provisions of NRS 587.015 to 587.123, inclusive.

(f) Money received from a tax on the transfer of real property imposed pursuant to NRS 375.026.

3. Expenditures for the Plant Industry Program must be made only for the purposes of carrying out the provisions of this chapter and chapters 552, 554, 555 and 587 of NRS.

4. The money credited to the Program pursuant to NRS 375.026 must be allocated for disbursement to each county in proportion to the amount of money collected in that county and must only be used:

(a) By the Department for programs on the exclusion, detection and control of:

(1) Invasive species; and

(2) Endemic pests and weeds designated by the Director; and

(b) For grants to local governments and nonprofit organizations for the control or management of such species, pests and weeds.

5. As used in this section:

(a) "Invasive species" means any living organism not native to this State that may present a threat to the economy, environment or public health of this State.

(b) "Local government" has the meaning ascribed to it in NRS 237.050.

**Sec. 101.** NRS 561.385 is hereby amended to read as follows:

561.385 1. The Agriculture Registration and Enforcement Account is hereby created in the State General Fund for the use of the Department.

2. The following fees must be deposited in the Agriculture Registration and Enforcement Account:

(a) Except as otherwise provided in NRS 586.270 ~~and 586.450~~, fees collected pursuant to the provisions of *chapter 586 of NRS*. ~~[586.010 to 586.450, inclusive.]~~

(b) Fees collected pursuant to the provisions of chapter 588 of NRS.

(c) Fees collected pursuant to the provisions of NRS 590.340 to 590.450, inclusive.

(d) Laboratory fees collected for the testing of pesticides as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 555.2605 to 555.460, inclusive, and ~~[586.010 to 586.450, inclusive.]~~, *except as otherwise provided in NRS 586.270 and 586.450, chapter 586 of NRS.*

(e) Laboratory fees collected for the analysis and testing of commercial fertilizers and agricultural minerals, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of chapter 588 of NRS.

(f) Laboratory fees collected for the analysis and testing of petroleum products or motor vehicle fuel, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 590.010 to 590.150, inclusive.

(g) Laboratory fees collected for the analysis and testing of antifreeze, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 590.340 to 590.450, inclusive.

3. Expenditures from the Agriculture Registration and Enforcement Account may be made to carry out the provisions of this chapter, NRS 555.2605 to 555.460, inclusive, or chapters 586, 588 and 590 of NRS or for any other purpose authorized by the Legislature.

**Sec. 102.** NRS 562.170 is hereby amended to read as follows:

562.170 1. Except as otherwise provided in this section, the rate of tax fixed by the Board, as provided for in NRS 562.160, must not exceed the equivalent of ~~[18 cents]~~ **\$1.50** per head on all sheep. The minimum tax that must be paid annually by an owner of sheep is ~~[\$5]~~ **\$5.00**.

2. The tax paid by an owner of sheep must be deposited in the ~~[state or county treasury in which]~~ **State Treasury for credit to** the State Sheep Inspection ~~[Account is located for credit to that]~~ Account. The money in the State Sheep Inspection Account must be made available and disbursed by the ~~[proper state or county officials]~~ **State Controller** upon request of the Board for the purposes provided for in this chapter.

**Sec. 103.** NRS 562.200 is hereby amended to read as follows:

562.200 All contributions of money which the Board is authorized to accept and which are made by any organization interested in the welfare of the sheep industry must be deposited by the Board with the ~~[state or county treasurer who has custody of]~~ **State Treasury for credit to** the State Sheep Inspection ~~[Account for credit to that]~~ Account. The money in the Account must be disbursed by the ~~[proper state or county officials]~~ **State Controller** when ordered by the Board in accordance with the purposes for which each contribution was made.

**Sec. 104.** NRS 562.210 is hereby amended to read as follows:

562.210 1. The Board may encourage, promote, advance and protect the sheep interests of the State and may, directly or indirectly, by expenditure or by payment or otherwise to any association formed for any such purposes or objects, pay annually, out of the State Sheep Inspection Account, for any enumerated purposes, not to exceed the equivalent of ~~[40 cents]~~ **50 percent** of the levy assessed pursuant to NRS 562.170.

2. The Board is the sole and exclusive judge of the expenditures of all sums directly or by the payment to any association, club or other organization pursuant to this section.

**Sec. 105.** NRS 562.230 is hereby amended to read as follows:

562.230 ~~[Whenever any inspector files in the office of the]~~ **The** State Controller ~~[for county treasurer who has custody of the State Sheep Inspection Account]~~ **shall draw a warrant or check payable out of the State Sheep Inspection Account to any inspector who files** proper vouchers or claims, duly approved by the Board, setting forth:

1. The name of the inspector;
2. The kind and nature of service rendered;
3. The particular locality where the work was done;
4. The length of time employed;
5. The number of sheep inspected and the name of the owner or person in charge of the sheep;
6. The disease or diseases treated, and the length of time of the treatment; and
7. The amount claimed for the services . ~~[~~

~~→ the State Controller or county treasurer shall draw a warrant or check in favor of the inspector, payable out of the money in the State Sheep Inspection Account.]~~

**Sec. 106.** ~~[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.] 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.] (Deleted by amendment.)~~

~~Sec. 107. [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.] subject to a civil penalty not to exceed:~~

~~(a) For the first violation, \$250.~~

~~(b) For a second violation, \$500.~~

~~(c) For each subsequent violation, \$1,000.~~

~~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.] (Deleted by amendment.)~~

**Sec. 108.** NRS 573.020 is hereby amended to read as follows:

573.020 1. A person shall not hold, operate, conduct or carry on a public livestock auction in this state without first securing a license therefor from the Department.

2. The application for a license must be on a form prescribed and furnished by the Department and set forth:

(a) The name of the operator of the public livestock auction.

(b) The location of the establishment or premises where the public livestock auction will be conducted.

(c) The type or kinds of livestock to be handled, sold or exchanged.

(d) A description of the facilities that will be used to conduct the public livestock auction.

(e) The weekly or monthly sales day or days on which the applicant proposes to operate the applicant's public livestock auction.

(f) The name and address of the bank or credit union where the custodial account for consignors' proceeds will be established and maintained by the operator of the public livestock auction in compliance with the provisions of NRS 573.104.

(g) Such other information as the Department reasonably may require, including, without limitation, proof that at the time of application the applicant has a line of credit established at a bank or credit union in the State of Nevada in ~~[an]~~ **the** amount ~~[at least equal to the estimated average weekly gross sales receipts of the public livestock auction that will be conducted by the applicant.]~~ **of \$400,000 or more.**

3. The application must be accompanied by a bond or deposit receipt and the required fee as provided in this chapter.

**Sec. 109.** NRS 573.033 is hereby amended to read as follows:

573.033 1. If an applicant delivers a surety bond to the Director pursuant to the provisions of subsection 1 of NRS 573.030, the surety bond must be:

(a) In the ~~[sum provided for in subsection 2.]~~ **amount of \$200,000 or more but less than \$1,000,000.**

(b) Executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety.

(c) A standard form and approved by the Director as to terms and conditions.

(d) Conditioned that the principal will not commit any fraudulent act and will comply with the provisions of this chapter and the rules and regulations adopted by the Department.

(e) To the State of Nevada in favor of every consignor creditor whose livestock was handled or sold through or at the licensee's public livestock auction.

2. ~~If the application for a license to operate a public livestock auction is submitted by a person who:~~

~~—(a) Has not operated in the past 12 month period, the Director shall determine the sum of the initial bond that the applicant must execute in favor of the State, which sum must be equal to an amount estimated to be 50 percent of the average monthly gross sales proceeds of the public livestock auction in the first 6 months of operation, but the sum must not be less than \$10,000 or more than \$100,000. At any time within the first 12 months of licensed operation, the Director may, upon written notice to the licensee, review the licensee's operations and determine whether, because of increased or decreased sales, the amount of the bond should be altered.~~

~~—(b) Has operated in the past 12 month period, the Director shall determine the sum of the bond that the applicant must execute in favor of the State, which sum must be equal to an amount equal to 50 percent of the average monthly gross sales proceeds received by the public livestock auction during the 6 successive months of the last 12 month period which produced the highest dollar volume, but the sum must not be less than \$10,000 or more than \$100,000.~~

~~—3.]~~ The total and aggregate liability of the surety for all claims upon the bond must be limited to the face amount of the bond.

**Sec. 110.** NRS 573.050 is hereby amended to read as follows:

573.050 Upon receipt of an application for a license under this chapter, accompanied by the required bond and license fee, the Department shall examine the application, and if it finds the application to be in proper form and that the applicant has otherwise complied with this chapter, the ~~[Department]~~ **Director or his or her designee** shall grant *and sign* the license as applied for, subject to the provisions of this chapter.

**Sec. 111.** NRS 573.080 is hereby amended to read as follows:

573.080 Licenses ~~[shall]~~ **must** be renewed annually upon like application and procedure as in the case of original licenses. ***An application for renewal must be accompanied by:***

1. *A full audit completed not more than 2 months before the date of the application which must be signed and certified as correct by a holder of a live permit issued pursuant to chapter 628 of NRS.*

2. *The name and address of the bank or credit union where the custodial account for consignors' proceeds will be established and maintained by the operator of the public livestock auction in compliance with the provisions of NRS 573.104.*

**Sec. 112.** NRS 573.103 is hereby amended to read as follows:

573.103 ~~[1. Except as otherwise provided in subsection 2, every operator of a public livestock auction shall cause his or her accounts to be audited at least annually by a holder of a live permit under chapter 628 of NRS,~~

and shall file with the Director a copy of the audit, signed and certified as correct by the auditor. The Director may prescribe by regulation the content and times for filing of the audits.

—2.] Every operator *of a public livestock auction* whose accounts are audited under the provisions of the Packers and Stockyards Act, 7 U.S.C. § 204, as amended, shall file a copy of each such audit with the Director.

**Sec. 113.** NRS 573.105 is hereby amended to read as follows:

573.105 ~~[The Director shall ascertain, at least quarterly, the continued existence and]~~ *An operator of a public livestock auction shall notify the Department within 30 days after any change in the* amount of the line of credit shown pursuant to paragraph (g) of subsection 2 of NRS 573.020, or its replacement by a line of credit at another bank or credit union in the State of Nevada and the amount of the replacement. If the line of credit is replaced, the custodial account must be transferred to the bank or credit union issuing the new line of credit. If a line of credit in the amount required is not maintained, the Director shall suspend the operator's license.

**Sec. 114.** NRS 573.140 is hereby amended to read as follows:

573.140 1. The yards, pens and premises where livestock is held or handled ~~[shall]~~ **must** be ~~[regularly]~~ cleaned and ~~[disinfected]~~ **maintained** for the purpose of preventing infectious, contagious or parasitic livestock diseases.

2. If livestock is held on the premises for more than 10 hours, then facilities for feeding and watering the livestock so held ~~[shall]~~ **must** be provided.

**Sec. 115.** NRS 573.180 is hereby amended to read as follows:

573.180 None of the provisions of this chapter shall be deemed to apply to the Nevada ~~[Fair of]~~ Mineral ~~[Industries,]~~ *Exhibition*, 4-H clubs, *the Future Farmers of America*, the Nevada Junior Livestock Show, the Nevada State Livestock Show, the Nevada Hereford Association, and any other organization or association which is entirely nonprofit in character.

**Sec. 116.** NRS 573.190 is hereby amended to read as follows:

573.190 1. Any person who operates a public livestock auction without a license required by this chapter, or who violates any of the provisions of this chapter or of any rules or regulations adopted pursuant thereto, is guilty of a misdemeanor and, in addition to any criminal penalty, shall pay to the Department an administrative fine of not ~~[more]~~ **less** than \$1,000 **and not more than \$5,000** 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. Each day's operation in which livestock is sold or exchanged at any unlicensed public livestock auction constitutes a separate offense.

3. *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 of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.*

**Sec. 117.** NRS 575.120 is hereby amended to read as follows:

575.120 The Department shall ~~[prepare]~~ **provide** a ~~[form for]~~ declaration of livestock and sheep on which an owner of livestock or sheep shall declare the average number, kind and classification of all livestock and sheep in the State owned by him or her during the year immediately preceding the date the declaration is made.

**Sec. 118.** NRS 575.130 is hereby amended to read as follows:

575.130 1. The Department shall ~~[mail]~~ **provide** the ~~[form for]~~ declaration to each owner of livestock or sheep listed in its most current report of such owners. ~~[The Department may include the form with any other mailing sent to that owner.]~~

2. An owner of livestock or sheep who fails to complete ~~[and return the form for]~~ a declaration within 30 days after the date it was ~~[mailed]~~ **provided** to him or her is subject to a penalty of \$5 assessed by the Department.

**Sec. 119.** NRS 575.150 is hereby amended to read as follows:

575.150 1. Upon receipt of the ~~[forms for]~~ declaration of livestock and sheep and the report of owners of livestock and sheep, the Department shall:

(a) Make an estimate of the number, kind and classification of all livestock and sheep owned by any person failing to return the ~~[form for]~~ declaration of livestock and sheep and include that information on the report; and

(b) Examine each completed ~~[form for]~~ declaration of livestock and sheep and the report to determine its accuracy, and if there is any evidence that any information is inaccurate or incomplete, may change and correct any listing as to number, kind, classification, ownership or location by adding thereto or deducting therefrom as necessary to make the report complete and accurate.

2. The Department may verify the number of livestock or sheep by any reasonable means, including actual count at any reasonable time.

3. If the Department changes the listings on the report of owners of livestock and sheep for any owner and the listing for that owner does not conform to the listings on the ~~[form for]~~ declaration completed by that owner, the Department shall notify the owner of the change within 15 days after the change is made. The notification must contain a statement explaining the owner's right to challenge the accuracy of the report made by the Department.

**Sec. 120.** Chapter 576 of NRS is hereby amended by adding thereto the provisions set forth as sections 121 to 125, inclusive, of this act.

**Sec. 121.** *“Agricultural product” means a product of the soil, a farm product and any product commonly used to enhance agricultural production, including, without limitation, a product produced by hydroponic or aquatic farming. The term does not include a product inspected by a federal or other state agency.*

**Sec. 122.** *“Free-sale certificate” means a document which certifies that an agricultural product which is proposed to be exported is the same type of agricultural product freely marketed and sold in this State.*

**Sec. 123.** *“Produce vendor” means any person engaged in the sale of farm products other than any poultry, livestock or livestock product.*

**Sec. 124.** *The Department may provide a free-sale certificate for an agricultural product if:*

- 1. An application is submitted in the manner prescribed by the Director;*
- 2. The applicant is located in this State;*
- 3. The agricultural product is grown, produced or processed in this State; and*
- 4. The applicant pays a fee in an amount determined by the Department.*

**Sec. 125.** *1. Except as otherwise provided in subsection 3, the Department shall adopt regulations pursuant to which a person must register as a produce vendor.*

*2. The Department may impose fees for the registration of a person as a produce vendor and any inspections necessary for that registration.*

*3. A person who obtains certification pursuant to NRS 576.128 is not required to register as a produce vendor pursuant to this section.*

**Sec. 126.** NRS 576.010 is hereby amended to read as follows:

576.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 576.0115 to 576.018, inclusive, *and sections 121, 122 and 123 of this act* have the meanings ascribed to them in those sections.

**Sec. 127.** NRS 576.030 is hereby amended to read as follows:

576.030 1. Every person, before acting as a broker, dealer, commission merchant or agent, shall file an application with the Department for a license to transact such business. Separate applications must be filed for each class of business.

2. The application must be on a form prescribed and furnished by the Department and must set forth:

(a) The full name of the person applying for the license. If the applicant is a firm, exchange, association or corporation, the full name of each member of the firm, or the names of the officers of the exchange, association or corporation must be given in the application.

(b) If the applicant is a natural person, the social security number of the applicant.

(c) The principal business address of the applicant in this State and elsewhere.

(d) The name of the person authorized to accept service of summons and legal notice of all kinds for the applicant.

(e) The names and addresses of all persons by whom the applicant has been employed for a period of 3 years immediately preceding the making of the application.

(f) A complete statement of the applicant’s business activity for the 3 years immediately preceding the making of the application which is not covered by paragraph (e).

(g) ~~[A statement of whether the applicant has ever been arrested for any crime other than a traffic violation punishable by a fine of \$25 or less and, if so, when and where, the nature of the crime charged, the disposition of the charge, the title and address of the police officers having custody of the record of arrest, and the names and locations of all the courts before which any proceedings in connection with the arrest took place.~~

~~—(h) A statement of whether the applicant has ever been a party in a civil suit and, if so, the nature of the suit, whether the applicant was the plaintiff or the defendant, the disposition of the suit, and, if the applicant was the defendant and lost, whether there is a judgment or any portion thereof which remains unpaid.~~

~~—(i)} The county or counties in which the applicant proposes to engage in business.~~

~~[(j)]~~ (h) The class or classes of farm products the applicant proposes to handle.

~~[(k)]~~ (i) Such other information as the Department may reasonably require.

3. In addition to the general requirements applicable to all classes of applications as set forth in subsection 2, ~~[the following requirements apply to the class of applications specified in this subsection:~~

~~—(a) Commission merchants. Each application must include a complete schedule of commissions and an itemized listing of all charges for all services. Any services rendered for which charges are made, if not listed in the schedule on the application, must be rendered on a strictly cost basis.~~

~~—(b) Agents. Each~~ *each* application *for a license as an agent* must be in the same form as an application for a license as a broker, dealer or commission merchant, and must include the name and address of the broker, dealer or commission merchant represented or sought to be represented by the agent, and the written endorsement or nomination of the broker, dealer or commission merchant.

4. The application must be accompanied by an executed instrument whereby the applicant:

(a) Appoints and constitutes the Director and the Director's successor or successors in office the true and lawful attorney of the applicant upon whom all lawful process in any action or legal proceeding against the applicant arising in this State from a transaction under the provisions of this chapter may be served; and

(b) Agrees that any lawful process against the applicant which may be served upon the applicant's attorney as provided in this subsection is of the same force and validity as if served upon the applicant and that the authority thereof continues in force irrevocably as long as any liability of the applicant in the State remains outstanding.

**Sec. 128.** NRS 576.035 is hereby amended to read as follows:

576.035 1. ~~[The Department shall require the applicant for a license as a broker, dealer, commission merchant or agent to make a showing of character, responsibility and good faith in seeking to carry on the business stated in the~~

application, and may make investigations, hold hearings and make determinations regarding those matters.

~~2. If the applicant is a corporation or partnership, it shall satisfy the Department of the character, responsibility and good faith of all persons connected with it in a responsible or managing position, including the manager, superintendent, officer and director.~~

~~3. Failure of any person to satisfy the Department of the person's character, responsibility or good faith may be considered by the Department as adverse to a showing of such qualifications and is sufficient grounds for the denial of an application for a license or of the renewal thereof.] A previous conviction of a felony, previous bankruptcy, voluntary or involuntary, or previous violation of this chapter may be considered by the Department as adverse to a showing of [such] character, responsibility or good faith on the part of [the] an applicant [~~

~~4.] for a license as a broker, dealer, commission merchant or agent.~~

2. Any person adjudged a bankrupt, or any person against whose bondsman or bondsmen or deposit in lieu of bond a claim has been collected by a court order, who has not made full settlement with all producer-creditors, may not be licensed by the Department for 3 years after the date of the adjudication or collection.

~~[5.]~~ 3. The Department may refuse to accept a new application for a license by an applicant rejected pursuant to this section for a period not exceeding 3 years after the date of rejection of the first application.

**Sec. 129.** NRS 576.042 is hereby amended to read as follows:

576.042 1. Any:

(a) Producer of livestock or farm products or the producer's agent or consignee ~~[;]~~ **or produce vendor;**

(b) Licensed broker, dealer or commission merchant; or

(c) Nonprofit organization or association, including the Nevada ~~[Fair of]~~ Mineral ~~[Industries.]~~ **Exhibition**, 4-H clubs, **the Future Farmers of America**, the Nevada Junior Livestock Show, the Nevada State Livestock Show and the Nevada Hereford Association,

↪ who is injured by any violation of the provisions of this chapter, or by any misrepresentations or fraud on the part of any licensed dealer, broker or commission merchant, may maintain a civil action against the dealer, broker or commission merchant. If the dealer, broker or commission merchant is licensed, he or she may also maintain an action against the surety on any bonds, or the money or securities deposited in lieu of a bond. In such an action against an unlicensed dealer, broker or commission merchant, the injured person is entitled to treble damages.

2. Any person having a claim pursuant to subsection 1 against any licensed dealer, broker or commission merchant must begin legal action on any bond, or money or securities deposited in lieu of a bond, for recovery of the amount claimed to be due within 1 year after the claim has accrued.

3. Pursuant to subsection 4 of NRS 576.030, process may be served by delivering to the Director duplicate copies of the process and paying a fee established by regulation of the State Board of Agriculture. The service upon the Director shall be deemed service upon the dealer, broker or commission merchant. The Director shall forward one copy of the process by registered mail prepaid to the defendant dealer, broker or commission merchant, specifying the day and hour of service. The return receipt of the defendant is prima facie evidence of the completion of service. If service of summons is made upon the Director in accordance with the provisions of this subsection, the period within which the defendant must appear is extended 10 days. The provisions of this subsection are not exclusive, but if a defendant dealer, broker or commission merchant is found within the State of Nevada, he or she must be served with process in the State of Nevada.

**Sec. 130.** NRS 576.048 is hereby amended to read as follows:

576.048 1. If the Department receives notice from a producer of livestock or farm products or the producer's agent or consignee *or produce vendor* of the default of a licensed dealer, broker or commission merchant, the Department shall issue an order to the licensee to show cause why his or her license should not be revoked. The notice must be in writing and set forth a time and place for a hearing to be held before the Director.

2. If a license is revoked pursuant to subsection 1, the Director shall, by publication in a newspaper of general circulation in the area, notify all known producers of livestock or farm products in the area in which the licensee operated that the license has been revoked.

**Sec. 131.** NRS 576.100 is hereby amended to read as follows:

576.100 1. An agent shall not act for any dealer, broker or commission merchant unless:

(a) The dealer, broker or commission merchant is licensed and has designated the agent to act in his or her behalf; and

(b) The Department has been notified in writing and has approved the appointment of the agent.

2. The dealer, broker or commission merchant is accountable and responsible for contracts made by his or her agents.

3. An agent must, before approval by the Department, file an application with the Department pursuant to ~~paragraph (b) of~~ subsection 3 of NRS 576.030.

**Sec. 132.** NRS 576.120 is hereby amended to read as follows:

576.120 1. The Department may refuse to grant or renew a license or ~~registration as provided in subsection 4 of NRS 576.140 or~~ may suspend or revoke a license ~~for registration as provided in subsection 4 of NRS 576.140~~ if, after notice and a hearing, the Department is satisfied of the existence of any of the following facts, the existence of which is hereby declared to be a violation of this chapter:

(a) That the applicant or licensee has intentionally made any false or misleading statement concerning the conditions of the market for any farm products.

(b) That the applicant or licensee has made fictitious sales or has been guilty of collusion to defraud the producer.

(c) That the licensee was intentionally guilty of fraud or deception in the procurement of the license.

(d) That the applicant or licensee has in the handling of any farm products been guilty of fraud, deceit or willful negligence.

(e) That the licensee, without reasonable cause, has failed or refused to execute or carry out a lawful contract with a producer.

(f) That the licensee, without reasonable cause, has issued checks for the payment of farm products received without sufficient money to cover them or has stopped payment on a check given in payment for farm products received.

(g) That the licensee, without reasonable cause, has failed to account or make payment for farm products as required by this chapter.

(h) That the licensee has knowingly employed an agent without causing the agent to comply with the licensing requirements of this chapter applicable to agents.

(i) That the licensee has failed or refused to maintain and file records as required by this chapter.

(j) That the licensee has failed or refused to maintain a bond or other security as required by the provisions of NRS 576.040.

2. The Department may suspend, pending inquiry, for not longer than 30 days, and after hearing or investigation may refuse to grant, renew or revoke any license as the case may require, if it is satisfied that the licensee has become bankrupt or insolvent, and is thereby unable to pay producer-creditors of the licensee, or producers with whom the licensee has executory or executed contracts for the purchase of farm products, or for the handling of farm products on consignment.

3. A license is suspended automatically, without action of the Department, if the bond filed pursuant to subsection 1 of NRS 576.040 is cancelled, and remains suspended until the bond is renewed.

4. In the case of any hearing held under the provisions of this section, there must be filed in the office of the Department a memorandum stating briefly the reasons of the Department for the denial, suspension or revocation of the license, but formal findings of fact need not be made or filed.

**Sec. 133.** NRS 576.128 is hereby amended to read as follows:

576.128 1. The Department shall adopt regulations pursuant to which a person ~~[may obtain certification that the person]~~ *who* is an actual producer of farm products other than any livestock, livestock product or poultry ~~[ ]~~ **must obtain certification as an actual producer of farm products.** The regulations may include provisions for the certification by reciprocity of a person who holds a similar certification from another jurisdiction where the requirements for that certification are substantially equal to the requirements in this state.

2. The Department may impose fees for the certification of a person as an actual producer of farm products specified in subsection 1 and any inspections necessary for that certification. The fees must be set in an amount which approximates the cost to the Department of performing those services and activities.

3. A person who obtains certification pursuant to this section is exempt from any:

(a) Tax or other fee imposed pursuant to NRS 244.335, 266.355, subsection 7 of NRS 266.600, NRS 268.095, 269.170 or 269.175, relating to the issuance of any license to sell or offer to sell, in its natural and unprocessed state directly to any consumer, restaurant or grocery store, farm products specified in subsection 1 for which the person has obtained certification pursuant to this section.

(b) Fee imposed for:

(1) The issuance of a permit pursuant to the provisions of chapter 446 of NRS to sell or offer to sell, in its natural and unprocessed state directly to any consumer, restaurant or grocery store, farm products specified in subsection 1 for which the person has obtained certification pursuant to this section; or

(2) Any inspection conducted pursuant to the provisions of chapter 446 of NRS relating to such a sale or offer to sell.

**Sec. 134.** NRS 576.140 is hereby amended to read as follows:

576.140 Except as otherwise provided in NRS 576.042, the provisions of this chapter do not apply to:

1. The Nevada ~~Fair of~~ Mineral ~~Industries,~~ *Exhibition*, 4-H clubs, *the Future Farmers of America*, the Nevada Junior Livestock Show, the Nevada State Livestock Show, the Nevada Hereford Association, or any other nonprofit organization or association.

2. Any railroad transporting livestock interstate or intrastate.

3. Any farmer or rancher purchasing or receiving livestock for grazing, pasturing or feeding on his or her premises within the State of Nevada and not for immediate resale.

4. Operators of public livestock auctions as defined in NRS 573.010, and all buyers of livestock at those auctions at which the public livestock auction licensee does not control title or ownership to the livestock being sold or purchased at those auctions, and any person buying for interstate shipments only and subject to and operating under a bond required by the United States pursuant to the provisions of the Packers and Stockyards Act, 7 U.S.C. § 204, and the regulations adopted pursuant to those provisions. ~~Each person exempted by the provisions of this subsection shall register annually with the Department, giving the location of his or her place of business, the number of his or her license and bond and the expiration date thereof. Each such registrant shall pay an annual registration fee of \$40 to the Department.~~

5. Any farmer or rancher whose farm or ranch is located in the State of Nevada, who buys or receives farm products or livestock from another farmer or rancher not for immediate resale.

6. Any retail merchant having a fixed and established place of business in this state and who conducts a retail business exclusively.

**Sec. 135.** NRS 576.150 is hereby amended to read as follows:

576.150 1. Except as otherwise provided by a specific statute, a person who acts as a dealer, broker, commission merchant or agent without a license therefor as required by the provisions of this chapter, or who violates any other provision of this chapter, or any of the regulations lawfully adopted pursuant to provisions of this chapter, is guilty of a misdemeanor. If the violation relates to the failure to make payment for farm products, an intent to defraud must be proven before a misdemeanor or other penalty may be imposed.

2. Any prosecution brought pursuant to this chapter may be brought in any county of this State in which the defendant or any one of the defendants resides, or in which the unlawful act was committed, or in which the defendant or any one of the defendants has his or her principal place of business.

3. In addition to any criminal penalty imposed pursuant to, or any remedy provided by, this chapter, the Director, after notice and a hearing in an administrative proceeding, may issue an order against any person who has violated any provision of this chapter or any regulation adopted pursuant to this chapter imposing a civil penalty of not more than \$5,000 for each violation. ~~[Any civil penalty collected pursuant to this subsection must be deposited in the State General Fund.]~~

**4. Any money collected from the imposition of a civil penalty pursuant to subsection 3 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. 136.** NRS 581.067 is hereby amended to read as follows:

581.067 The State Sealer of Consumer Equitability shall:

1. Adopt regulations establishing such primary standards and secondary standards for weights and measures for use in this State as the State Sealer of Consumer Equitability determines appropriate.

2. Maintain traceability of the state standards to the national standards of the National Institute of Standards and Technology.

3. Enforce the provisions of this chapter.

4. Adopt other reasonable regulations for the enforcement of this chapter.

5. Establish requirements for:

(a) Labeling;

(b) The presentation of information relating to cost per unit;

(c) Standards of weight, measure or count, and reasonable standards of fill, for any packaged commodity; and

(d) Information relating to open dating of packaged food.

6. Grant such exemptions from the provisions of this chapter or any regulations adopted pursuant thereto as the State Sealer of Consumer



Equitability determines appropriate to the maintenance of good commercial practices within this State.

7. Conduct investigations to ensure compliance with this chapter.

8. Delegate to appropriate personnel any of the responsibilities of the Division as needed for the proper administration of the Division.

9. Adopt regulations establishing a schedule of civil penalties for any violation of NRS 581.415, ~~and for any point-of-sale system or cash register determined not to be in compliance with the provisions of subsection 19.~~

10. Inspect and test commercial weights and measures that are kept, offered or exposed for sale.

11. Inspect and test, to ascertain if they are correct, weights and measures that are commercially used to:

(a) Determine the weight, measure or count of commodities or things that are sold, or offered or exposed for sale, on the basis of weight, measure or count; or

(b) Compute the basic charge or payment for services rendered on the basis of weight, measure or count.

12. Test all weights and measures used in checking the receipt or disbursement of supplies by entities funded by legislative appropriations.

13. Approve for use such commercial weights and measures as the State Sealer of Consumer Equitability determines are correct and appropriate. The State Sealer of Consumer Equitability may mark such commercial weights and measures. The State Sealer of Consumer Equitability shall reject and order to be corrected, replaced or removed any commercial weights and measures found to be incorrect. Weights and measures that have been rejected may be seized if they are not corrected within the time specified or if they are used or disposed of in a manner not specifically authorized. The State Sealer of Consumer Equitability shall remove from service and may seize weights and measures found to be incorrect that are not capable of being made correct.

14. Weigh, measure or inspect packaged commodities that are kept, offered or exposed for sale, sold or in the process of delivery to determine whether the packaged commodities contain the amounts represented and whether they are kept, offered or exposed for sale in accordance with this chapter or the regulations adopted pursuant thereto. In carrying out the provisions of this subsection, the State Sealer of Consumer Equitability shall employ recognized sampling procedures, including, without limitation, sampling procedures adopted by the National Conference on Weights and Measures.

15. Adopt regulations prescribing the appropriate term or unit of weight or measure to be used whenever the State Sealer of Consumer Equitability determines that an existing practice of declaring the quantity of a commodity, or of setting charges for a service by weight, measure, numerical count or time, or any combination thereof, does not facilitate value comparisons by consumers or may confuse consumers.

16. Allow reasonable variations from the stated quantity of contents that entered intrastate commerce, which must include those variations caused by loss or gain of moisture during the course of good distribution practices or by unavoidable deviations in good manufacturing practices.

17. Provide for the training of persons employed by any governmental entity within this State, including, without limitation, state, county and municipal personnel, who enforce the provisions of this chapter and chapter 582 of NRS, and any regulations adopted pursuant thereto, relating to weights and measures. The State Sealer of Consumer Equitability may establish by regulation minimum training and performance requirements which must be met by all such persons.

18. Verify advertised prices ~~[.]~~ and price representations, ~~[and point-of-sale systems, and cash registers,]~~ as necessary, to determine ~~[the]~~ their accuracy.

19. Without charging and collecting a fee, conduct random tests of point-of-sale systems and cash registers to determine the accuracy of prices, including advertised prices and price representations, and computations and the correct use of the equipment, and, if such systems utilize scanning or coding means in lieu of manual entry, the accuracy of prices printed or recalled from a database. ~~[In carrying out the provisions of this subsection, the State Sealer of Consumer Equitability shall:~~

~~—(a)]~~ 20. Employ recognized procedures for making ~~[such]~~ verifications and determinations of accuracy, including, without limitation, any appropriate procedures designated by the National Institute of Standards and Technology.

~~—(b)]~~ 21. Adopt regulations and issue orders regarding standards for the accuracy of advertised prices and automated systems for retail price charging, ~~[or]~~ point-of-sale systems ~~[.]~~ and cash registers, and for the enforcement of those standards. ~~[.]~~ and

~~—(c)]~~ 22. Conduct investigations to ensure compliance with ~~[those standards.]~~ the regulations adopted pursuant to subsection 21.

Sec. 137. ~~[NRS 581.075 is hereby amended to read as follows:~~

~~581.075 The State Sealer of Consumer Equitability may establish:~~

~~1. A schedule of fees for any tests of weighing and measuring devices, point-of-sale systems and cash registers that the State Sealer of Consumer Equitability determines to be necessary.~~

~~2. An annual fee for the issuance of a certificate of registration pursuant to NRS 581.103.~~

~~3. An annual license fee for all commercial weighing and measuring equipment [.] , point of sale systems and cash registers.] (Deleted by amendment.)~~

Sec. 138. NRS 581.417 is hereby amended to read as follows:

581.417 1. A person subject to a civil penalty may request an administrative hearing within 10 days after receipt of the notice of the civil penalty. The State Sealer of Consumer Equitability or a designee shall conduct

the hearing after giving appropriate notice to the respondent. The decision of the State Sealer of Consumer Equitability or the designee is subject to appropriate judicial review.

2. If the respondent has exhausted all administrative appeals and the civil penalty has been upheld, the respondent shall pay the civil penalty:

(a) If no petition for judicial review is filed pursuant to NRS 233B.130, within 40 days after the final decision of the State Sealer of Consumer Equitability ~~or~~ *or designee*; or

(b) If a petition for judicial review is filed pursuant to NRS 233B.130 and the civil penalty is upheld, within 10 days after the effective date of the final decision of the court.

3. If the respondent fails to pay the penalty, a civil action may be brought by the State Sealer of Consumer Equitability in any court of competent jurisdiction to recover the civil penalty. ~~[All civil penalties collected pursuant to this chapter must be deposited with the State Treasurer for credit to the State General Fund.]~~

**4. Any money collected from the recovery of a civil penalty pursuant to subsection 3 must be accounted for separately and:**

**(a) Fifty percent of the money must be used to fund a program selected by the Director of the State Department of Agriculture 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. 139.** Chapter 583 of NRS is hereby amended by adding thereto the provisions set forth as sections 140 and 141 of this act.

**Sec. 140.** *As used in this chapter, unless the context otherwise requires, "Department" means the State Department of Agriculture.*

**Sec. 141. 1.** *Any person violating any provision of this chapter or any regulation adopted pursuant thereto is subject to a civil penalty. In addition to any other penalties set forth in this chapter, the Director of the Department may assess a civil penalty not to exceed:*

*(a) For the first violation, \$250.*

*(b) For a second violation, \$500.*

*(c) For each subsequent violation, \$1,000.*

**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 of the Department 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. 142.** NRS 583.010 is hereby amended to read as follows:

583.010 1. No person shall bring, expose or offer for sale, or sell ~~in any city or town~~ within this state, for human food, any ~~[-~~

~~—(a) Blown, meager,] **unsound**, diseased or [bad] **unwholesome fish**, meat or game . [; or~~

~~—(b) Unsound, diseased or unwholesome fish.]~~

2. No person shall bring, expose or offer for sale, or sell ~~[in any city or town]~~ within this state, the flesh of any animal which, when killed, was sick or diseased, or that died a natural or accidental death.

3. No person shall slaughter, expose for sale or sell, or bring or cause to be brought into ~~[any city or town within]~~ this state, for human food, any calf unless it is in good, healthy condition . ~~[and 4 weeks of age.]~~

4. Any article or animal that shall be offered or exhibited for sale, in any part of this state, in any market or elsewhere, as though it were intended for sale, shall be deemed offered and exposed for sale, within the intent and meaning of this section.

5. Any person who, in violation of the provisions of this section, shall bring, slaughter, expose or offer for sale, or sell ~~[in any city or town]~~ within this state any article or animal which is unfit or unsafe for human food shall forfeit the same to the authorities.

6. Any sheriff, constable, police officer or other peace officer or the ~~[Chief Medical]~~ **State Quarantine** Officer shall forthwith remove any of the animals or articles named in this section, when aware of the existence thereof, at the expense of the owner thereof, in a manner that will ensure safety and protection to the public.

7. Any person violating any of the provisions of this section ~~[shall be guilty of a misdemeanor.]~~ **is subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 143.** ~~[NRS 583.020 is hereby amended to read as follows:~~

~~583.020 Any person who shall knowingly sell any flesh of any diseased animal or any container containing shellfish, if such container does not have an approved stamp authorized by the [Division of Public and Behavioral Health of the Department of Health and Human Services,] **Department**, is guilty of a gross misdemeanor.] **(Deleted by amendment.)**~~

**Sec. 144.** NRS 583.030 is hereby amended to read as follows:

583.030 1. It shall be unlawful for any person, firm or corporation to possess, with intent to sell:

(a) The carcass or part of any carcass of any animal which has died from any cause other than being slaughtered in a sanitary manner; **or**

(b) The carcass or part of any carcass of any animal that shows evidence of any disease, or that came from a sick or diseased animal . ~~[; or~~

~~—(c) The carcass or part of the carcass of any calf that was killed before it had attained the age of 4 weeks.]~~

2. Any person, firm or corporation violating any of the provisions of this section ~~[shall be guilty of a misdemeanor.]~~ **is subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 145.** NRS 583.040 is hereby amended to read as follows:

583.040 1. It shall be unlawful for any person, firm or corporation to sell within this State, or to possess with the intent to sell within this State, for human food, the carcass or parts of the carcass of any animal which has been slaughtered, or is prepared, handled or kept under insanitary conditions, or any primal cut of meat which is not stamped with an approved stamp authorized by the ~~[Division of Public and Behavioral Health of the Department of Health and Human Services.]~~ **Department.**

2. Insanitary conditions shall be deemed to exist in any slaughterhouse that does not comply with the provisions of chapter 446 of NRS.

3. Any person, firm or corporation violating any of the provisions of this section ~~[shall be guilty of a misdemeanor.]~~ **is subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 146.** NRS 583.045 is hereby amended to read as follows:

583.045 1. No person or corporation may sell or offer for sale to the consumer through a meat market, store or otherwise any meats, either fresh or frozen, which are products of any country foreign to the United States, without first indicating such fact by labels or brands on each quarter, half or whole carcass of such meat, and on each counter display containing any of the above-described products, naming the country of its origin.

2. Any person violating any of the provisions of this section is ~~[guilty of a misdemeanor.]~~ **subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 147.** NRS 583.050 is hereby amended to read as follows:

583.050 1. It shall be unlawful for any person to sell the meat of any equine animal without informing the purchaser thereof, at the time of such sale, that the meat is the meat of an equine animal.

2. It shall be unlawful for any person peddling the meat of any equine animal, who is not the keeper of any shop or meat market, to sell such meat without possessing then and there the hide of such animal containing the brand and other marks thereon, and upon request not to exhibit the hide of such animal containing the brand and other marks thereon.

3. Any person violating any of the provisions of this section ~~[shall be guilty of a misdemeanor.]~~ **is subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 148.** NRS 583.055 is hereby amended to read as follows:

583.055 1. The ~~[State]~~ Department ~~[of Agriculture shall]~~ **may** establish a program for grading and certifying meats, prepared meats and meat products in conformity with federal practice.

2. The Department may enter into cooperative agreements with the Agricultural Marketing Service of the United States Department of Agriculture and the College of Agriculture, **Biotechnology and Natural Resources** of the University of Nevada, Reno, and adopt appropriate regulations to carry out the program.

3. The Department may establish fees, to be collected from slaughtering or other processing operations, for the purpose of grading and certifying meats, prepared meats and meat products.

**Sec. 149.** NRS 583.060 is hereby amended to read as follows:

583.060 1. No person shall bring, expose or offer for sale, or sell ~~in any city or town~~ within this state for human food any unsound, diseased or unwholesome fruit, vegetables or other market produce.

2. Any article that shall be offered or exhibited for sale, in any part of this state, in any market or elsewhere, as though it were intended for sale, shall be deemed offered and exposed for sale, within the intent and meaning of this section.

3. Any person who, in violation of the provisions of this section, shall bring, expose or offer for sale, or sell ~~in any city or town~~ within this state any article which is unfit or unsafe for human food shall forfeit the same to the authorities.

4. Any sheriff, constable, police officer or other peace officer or the ~~Chief Medical~~ **State Quarantine** Officer shall forthwith remove any of the articles named in this section, when aware of the existence thereof, at the expense of the owner thereof, in a manner that will ensure safety and protection to the public.

5. Any person violating any of the provisions of this section ~~shall be guilty of a misdemeanor.~~ **is subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 150.** NRS 583.070 is hereby amended to read as follows:

583.070 1. No person shall bring, expose or offer for sale, or sell ~~in any city or town~~ within this state for human food any ~~blown, meager,~~ **unsound**, diseased or ~~bad~~ **unwholesome** poultry.

2. Any article that shall be offered or exhibited for sale, in any part of this state, in any market or elsewhere, as though it were intended for sale, shall be deemed offered and exposed for sale, within the intent and meaning of this section.

3. Any person who, in violation of the provisions of this section, shall bring, expose or offer for sale, or sell ~~in any city or town~~ within this state any article which is unfit or unsafe for human food shall forfeit the same to the authorities.

4. Any sheriff, constable, police officer or other peace officer or the ~~Chief Medical~~ **State Quarantine** Officer shall forthwith remove any of the articles named in this section, when aware of the existence thereof, at the expense of the owner thereof, in a manner that will ensure safety and protection to the public.

5. Any person violating any of the provisions of this section ~~shall be guilty of a misdemeanor.~~ **is subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 151.** NRS 583.080 is hereby amended to read as follows:

583.080 1. It shall be unlawful for any person, firm or corporation to possess, with intent to sell:

(a) The carcass or part of any carcass of any fowl which has died from any cause other than being slaughtered in a sanitary manner;

(b) The carcass or part of any carcass of any fowl that shows evidence of any disease, or that came from a sick or diseased fowl; or

(c) The carcass or part of any carcass of any fowl not processed in an establishment approved by the ~~{Division of Public and Behavioral Health of the Department of Health and Human Services}~~ **Department** or in accordance with poultry regulations adopted by the ~~{Division}~~ **Department**.

2. Any person, firm or corporation violating any of the provisions of this section ~~{shall be guilty of a misdemeanor}~~ **is subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 152.** NRS 583.210 is hereby amended to read as follows:

583.210 Any person who violates any of the provisions of NRS 583.110 to 583.200, inclusive, ~~{shall be guilty of a misdemeanor}~~ **is subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 153.** NRS 583.255 is hereby amended to read as follows:

583.255 As used in NRS 583.255 to 583.555, inclusive, unless the context otherwise requires, the words and terms defined in NRS 583.265 to 583.429, inclusive, have the meanings ascribed to them in ~~{NRS 583.265 to 583.429, inclusive}~~ **those sections.**

**Sec. 154.** NRS 583.295 is hereby amended to read as follows:

583.295 “Inspector” means:

1. A person who has entered into a contract pursuant to NRS 583.448; or
2. An employee or official of the ~~{Division of Public and Behavioral Health of the Department of Health and Human Services}~~ **Department** authorized by the Officer to inspect livestock, poultry, game mammals or birds or carcasses or parts thereof.

**Sec. 155.** NRS 583.365 is hereby amended to read as follows:

583.365 “Officer” means the ~~{Chief Medical}~~ **State Quarantine** Officer.

**Sec. 156.** NRS 583.375 is hereby amended to read as follows:

583.375 “Official establishment” means any establishment in this state, other than an establishment covered by subsection 1 of NRS 583.545, which on a commercial basis slaughters ~~{or processes}~~ for hire any meat animal, game mammal, poultry or game bird for human consumption, and which has been inspected and approved by the Officer.

**Sec. 157.** NRS 583.435 is hereby amended to read as follows:

583.435 1. Meat, meat food products, and poultry products are an important source of the supply of human food in this State and legislation to assure that such food supplies are unadulterated and otherwise fit for human consumption, and properly labeled, is in the public interest. Therefore, it is hereby declared to be the policy of this State to provide for the inspection of slaughtered livestock, poultry and other animals, and the carcasses and parts thereof which are used for human food, at certain establishments to prevent the distribution in intrastate commerce, for human consumption, of animal carcasses and parts thereof which are adulterated or otherwise unfit for human food.

2. The ~~[Division of Public and Behavioral Health of the Department of Health and Human Services]~~ **Department** is hereby designated as the single state agency primarily responsible for the administration of the program established by NRS 583.255 to 583.555, inclusive.

**Sec. 158.** NRS 583.445 is hereby amended to read as follows:

583.445 1. The Officer, an inspector or a person acting as an inspector shall make an ante mortem inspection of livestock, poultry and game mammals and birds in any official establishment where livestock, poultry or game mammals or birds are slaughtered for commercial purposes.

2. Whenever slaughtering ~~for other processing]~~ operations are being conducted, the Officer, an inspector or a person acting as an inspector shall make postmortem inspection of the carcasses and parts thereof of each animal and bird slaughtered in an official establishment.

3. The Officer, inspector or person acting as an inspector shall quarantine, segregate and reinspect livestock, poultry, game mammals and birds, and carcasses and parts thereof in official establishments as he or she deems necessary to effectuate the purposes of NRS 583.255 to 583.555, inclusive.

4. Except as otherwise provided in this section, all carcasses of livestock, poultry, other animals and parts thereof found by the Officer, an inspector or person acting as an inspector to be adulterated in any official establishment must be condemned by the Officer or an inspector. If no appeal is taken from the determination of condemnation, the carcasses must be destroyed for human food purposes under the supervision of an inspector unless the carcasses can, by ~~reprocessing,~~ **processing**, be made unadulterated. In such a case they need not be so condemned and destroyed if ~~reprocessed]~~ **processed** under the supervision of an inspector and thereafter found to be unadulterated. If any appeal is taken from the determination of condemnation, the carcasses must be appropriately marked and segregated pending completion of an additional inspection. The appeal is at the cost of the appellant if the Officer, after a hearing, determines that the appeal is frivolous. If the determination of condemnation is sustained, the carcasses must be destroyed for human food purposes under the supervision of an inspector.

**Sec. 159.** NRS 583.453 is hereby amended to read as follows:

583.453 1. A person shall not operate an official establishment unless the person receives a permit issued by the Officer.

2. A person must apply for a permit ~~for a form provided by the Division of Public and Behavioral Health of the Department of Health and Human Services.]~~ **in the manner prescribed by the Department.** The application must include:

- (a) The applicant's full name and address;
- (b) A statement whether the applicant is a natural person, firm or corporation, and if a partnership, the names and addresses of the partners;
- (c) A statement of the location and type of proposed establishment; and
- (d) The signature of the applicant.



3. Upon receipt of an application, an inspector shall make an inspection of the establishment. If the inspection indicates that the requirements of this chapter have been met, the Officer shall issue a permit to the applicant.

4. A permit issued pursuant to this section is not transferable and must be posted in the establishment.

**Sec. 160.** NRS 583.455 is hereby amended to read as follows:

583.455 1. Each official establishment at which livestock, poultry or game mammals or birds are slaughtered ~~for carcasses or parts thereof are processed~~ for intrastate commerce must be operated in accordance with sanitary practices required by rules or regulations prescribed by the Officer. Carcasses or parts of livestock, poultry or game mammals or birds must not be admitted into any official establishment unless they have been prepared in accordance with procedures approved pursuant to NRS 583.255 to 583.555, inclusive, the Wholesome Poultry Products Act or the Wholesome Meat Act, or unless their admission is permitted by rules or regulations prescribed by the ~~[State Board of Health.] Department.~~

2. The Officer may issue a permit for an establishment to operate as an official establishment but shall not approve any establishment whose premises, facilities or equipment, or the operation thereof, fail to meet the requirements of this section.

3. A local government shall not issue a business license for operation of any establishment unless it has been issued a permit as an official establishment.

**Sec. 161.** NRS 583.472 is hereby amended to read as follows:

583.472 1. It is unlawful for the owner, proprietor or manager of a retail meat market, personally or through another, to advertise any prepackaged meat or meat food product with a United States Department of Agriculture grade unless such meat or meat food product is actually available to the public and bears the grade awarded to it by the United States Department of Agriculture.

2. It is unlawful for the owner, proprietor or manager of a retail meat market, personally or through another, to advertise carcass, quarter or primal cuts of meat with a USDA grade unless the USDA yield grade is included in the advertisement.

3. Any person who violates any provision of this section shall be punished by a fine of not ~~more~~ less than \$500 ~~[.]~~ **or more than \$2,000.**

**Sec. 162.** NRS 583.475 is hereby amended to read as follows:

583.475 It is unlawful for any person:

1. To process, sell or offer for sale, transport or deliver or receive for transportation, in intrastate commerce, any livestock or poultry carcass or part thereof unless such article has been inspected and unless the article and its shipping container and immediate container, if any, are marked in accordance with the requirements of NRS 583.255 to 583.555, inclusive, or the Wholesome Meat Act or the Wholesome Poultry Products Act.

2. To sell or otherwise dispose of, for human food, any livestock or poultry carcass or part thereof which has been inspected and declared to be adulterated

in accordance with NRS 583.255 to 583.555, inclusive, or which is misbranded.

3. Falsely to make or issue, alter, forge, simulate or counterfeit or use without proper authority any official inspection certificate, memorandum, mark or other identification, or device for making such mark or identification, used in connection with inspection in accordance with NRS 583.255 to 583.555, inclusive, or cause, procure, aid, assist in, or be a party to such false making, issuing, altering, forging, simulating, counterfeiting or unauthorized use, or knowingly to possess, without promptly notifying the Officer or the Officer's representative, utter, publish or use as true, or cause to be uttered, published or used as true, any such falsely made or issued, altered, forged, simulated or counterfeited official inspection certificate, memorandum, mark or other identification, or device for making such mark or identification, or to represent that any article has been officially inspected in accordance with NRS 583.255 to 583.555, inclusive, when such article has in fact not been so inspected, or knowingly to make any false representations in any certificate prescribed by the Officer or any form resembling any such certificate.

4. To misbrand or do an act intending to misbrand any livestock or poultry carcass or part thereof, in intrastate commerce.

5. To use any container bearing an official inspection mark unless the article contained therein is in the original form in which it was inspected and covered by such mark unless the mark is removed, obliterated or otherwise destroyed.

6. To refuse at any reasonable time to permit access:

(a) By ~~the health officer or the health officer's~~ ***the Officer or his or her*** agents to the premises of an establishment in this state where carcasses of livestock or poultry, or parts thereof, are processed for intrastate commerce.

(b) By the Secretary of Agriculture or the Secretary's representative to the premises of any establishment specified in paragraph (a), for inspection and the taking of reasonable samples.

7. To refuse to permit access to and the copying of any record as authorized by NRS 583.485.

8. To use for personal advantage, or reveal, other than to the authorized representatives of any state agency in their official capacity, or to the courts when relevant in any judicial proceeding, any information acquired under the authority of NRS 583.255 to 583.555, inclusive, concerning any matter which as a trade secret is entitled to protection.

9. To deliver, receive, transport, sell or offer for sale or transportation in intrastate commerce, for human consumption, any uneviscerated slaughtered poultry, or any livestock or poultry carcass or part thereof which has been processed in violation of any requirements under NRS 583.255 to 583.555, inclusive, except as may be authorized by and pursuant to rules and regulations prescribed by the Officer.

10. ~~{To deliver, receive, transport, sell or offer for sale or transportation in intrastate commerce any adulterated or misbranded livestock or poultry carcass or part thereof which is exempted under NRS 583.515.~~

~~—11.}~~ To apply to any livestock or poultry carcass or part thereof, or any container thereof, any official inspection mark or label required by NRS 583.255 to 583.555, inclusive, except by, or under the supervision of, an inspector.

**Sec. 163.** NRS 583.476 is hereby amended to read as follows:

583.476 1. If a carcass of livestock or of a game mammal or bird is delivered for processing to a person who is engaged in the business of processing such carcasses, the person shall not, if he or she returns the carcass after processing it to the person who delivered it, return to that person a processed carcass other than the carcass which was delivered for processing.

2. For the purposes of carrying out the provisions of subsection 1, a person who is engaged in the business of processing carcasses of livestock or game mammals or birds shall mark any such carcass that is to be returned to the person who delivered it for processing in a manner which provides for the identification of that person.

3. A person who violates any provision of this section is guilty of a misdemeanor ~~{}~~ **and subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 164.** NRS 583.495 is hereby amended to read as follows:

583.495 1. A person who ~~{}~~  
~~—(a) Violates}~~ **violates** any of the provisions of NRS 583.475 and 583.485 ~~{is guilty of a misdemeanor.}~~ :

**(a) For a first violation, is subject to a civil penalty pursuant to section 141 of this act.**

**(b) ~~{Is once convicted of violating the provisions of NRS 583.475 and 583.485 and again violates any of those provisions}~~ For a second violation, is guilty of a gross misdemeanor ~~{}~~ and subject to a civil penalty pursuant to section 141 of this act.**

**(c) ~~{Is twice convicted of violating the provisions of NRS 583.475 and 583.485 and again violates any of those provisions}~~ For a third or subsequent violation, is guilty of a category D felony and shall be punished as provided in NRS 193.130 ~~{}~~ and subject to a civil penalty pursuant to section 141 of this act.**

2. When construing or enforcing the provisions of NRS 583.255 to 583.555, inclusive, the act, omission or failure of a person acting for or employed by an individual, partnership, corporation, association or other business unit, within the scope of the person's employment or office, shall in every case be deemed the act, omission or failure of the individual, partnership, corporation, association or other business unit, as well as of the person.

3. A carrier is not subject to the penalties imposed by this section by reason of the carrier's receipt, carriage, holding or delivery, in the usual course of

business as a carrier, of livestock or poultry carcasses or parts thereof owned by another person, unless the carrier:

(a) Has knowledge, or is in possession of facts which would cause a reasonable person to believe, that the articles do not comply with the provisions of NRS 583.255 to 583.555, inclusive.

(b) Refuses to furnish, on request of a representative of the Officer, the name and address of the person from whom the carrier received the livestock or poultry carcasses, or parts thereof, and copies of all documents pertaining to the delivery of such carcasses, or parts thereof, to the carrier.

4. A person, firm or corporation is not subject to the penalties imposed by this section for receiving for transportation any shipment in violation of NRS 583.255 to 583.555, inclusive, if the receipt was made in good faith, unless the person, firm or corporation refuses to furnish on request of a representative of the Officer:

(a) The name and address of the person from whom such shipment was received; and

(b) Copies of all documents pertaining to the delivery of the shipment to the person, firm or corporation.

**Sec. 165.** NRS 583.545 is hereby amended to read as follows:

583.545 1. NRS 583.255 to 583.555, inclusive, do not apply to any act or transaction subject to regulation under the Wholesome Poultry Products Act and the Wholesome Meat Act.

2. The Department ~~[of Health and Human Services]~~ may enter into agreements with the Federal Government in carrying out the provisions of NRS 583.255 to 583.555, inclusive, the Wholesome Poultry Products Act and the Wholesome Meat Act, and may accept financial aid from the Federal Government for such purpose.

**Sec. 166.** NRS 583.555 is hereby amended to read as follows:

583.555 1. The cost of inspection of an official establishment must be paid by the owner or operator of the establishment.

2. The Officer may establish a mandatory schedule of killing days for an official establishment in any area of the State if the schedule conforms with the reasonable needs of the establishment and has received the approval of the ~~[Division of Public and Behavioral Health of the]~~ Department. ~~[of Health and Human Services.]~~ If such a schedule is established, it must be exclusively used for the inspection of the slaughtering operations of the official establishment.

**Sec. 167.** ~~[Chapter 585 of NRS is hereby amended by adding thereto the provisions set forth as sections 168 to 174, inclusive, of this act.] (Deleted by amendment.)~~

**Sec. 168.** ~~[As used in sections 168 to 174, inclusive, of this act, unless the context or subject matter otherwise requires, "dangerous caustic or corrosive substance" means each and all of the acids, alkalis and substances named below.]~~

~~1. Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 percent or more.~~

~~2. Sulfuric acid and any preparation containing free or chemically unneutralized sulfuric acid (H<sub>2</sub>SO<sub>4</sub>) in a concentration of 10 percent or more.~~

~~3. Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO<sub>3</sub>) in a concentration of 5 percent or more.~~

~~4. Carboic acid (C<sub>6</sub>H<sub>5</sub>OH), otherwise known as phenol, and any preparation containing carboic acid in a concentration of 5 percent or more.~~

~~5. Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid (H<sub>2</sub>C<sub>2</sub>O<sub>4</sub>) in a concentration of 10 percent or more.~~

~~6. Any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 percent or more.~~

~~7. Acetic acid or any preparation containing free or chemically unneutralized acetic acid (HC<sub>2</sub>H<sub>3</sub>O<sub>2</sub>) in a concentration of 20 percent or more.~~

~~8. Hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield 10 percent or more by weight of available chlorine, excluding oxal-chlorinata, bleaching powder and chloride of lime.~~

~~9. Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of 10 percent or more.~~

~~10. Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of 10 percent or more.~~

~~11. Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO<sub>3</sub>) in a concentration of 5 percent or more.~~

~~12. Ammonia water and any preparation yielding free or chemically uncombined ammonia (NH<sub>3</sub>), including ammonium hydroxide and hartshorn, in a concentration of 5 percent or more.] (Deleted by amendment.)~~

Sec. 169. ~~[As used in sections 168 to 174, inclusive, of this act, unless the context or subject matter otherwise requires, "misbranded parcel, package or container" means a retail parcel, package or container of any dangerous caustic or corrosive substance for household use, not bearing a conspicuous, easily legible label or sticker, containing:~~

~~1. The name of the article.~~

~~2. The name and place of business of the manufacturer, packer, seller or distributor.~~

~~3. The word "poison" running parallel with the main body of reading matter on the label or sticker, on a clear, plain background of a distinctly~~

~~contrasting color, in uncondensed gothic capital letters, the letters to be not less than 24 point size, unless there is on the label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker.~~

~~4. Directions for treatment in case of accidental personal injury by the dangerous caustic or corrosive substance.} (Deleted by amendment.)~~

Sec. 170. ~~{No person shall sell, barter or exchange, or receive, hold, pack, display, or offer for sale, barter or exchange in the State of Nevada, any dangerous caustic or corrosive substance in a misbranded parcel, package or container, the parcel, package or container being designed for household use.} (Deleted by amendment.)~~

Sec. 171. ~~{1. Any dangerous caustic or corrosive substance in a misbranded parcel, package or container suitable for household use that is being sold, bartered or exchanged, or held, displayed or offered for sale, barter or exchange, shall be liable to be proceeded against in any justice court of the county wherein such sale, barter, exchange, display, offer for sale, barter or exchange shall take place within the jurisdiction of which the same is found, and if such substance is condemned as misbranded, it shall be disposed of by destruction or sale, as the court may direct.~~

~~2. If sold, the proceeds, less the actual costs and charges, shall be paid over to the State Treasurer. Such substance shall not be sold contrary to the laws of the State.~~

~~3. Upon the payment of the costs of such proceedings and the execution and delivery of a good and sufficient bond to the effect that such substance will not be unlawfully sold or otherwise disposed of, the court may by order direct that such substance be delivered to the owner thereof.} (Deleted by amendment.)~~

Sec. 172. ~~{1. The Commissioner of Food and Drugs shall enforce the provisions of sections 168 to 174, inclusive, of this act.~~

~~2. The Commissioner of Food and Drugs is authorized and empowered to approve and register such brands and labels intended for use under the provisions of sections 168 to 174, inclusive, of this act as may be submitted to the Commissioner for that purpose and as may in the Commissioner's judgment conform to the requirements of sections 168 to 174, inclusive, of this act, but in any prosecution under sections 168 to 174, inclusive, of this act, the fact that any brand or label involved in such prosecution has not been submitted to the Commissioner for approval, or if submitted has not been approved, shall be immaterial.} (Deleted by amendment.)~~

Sec. 173. ~~{Every district attorney to whom there is presented, or who in any way procures, satisfactory evidence of any violation of the provisions of sections 168 to 174, inclusive, of this act shall cause appropriate proceedings to be commenced and prosecuted in the proper courts, without delay, for the enforcement of the penalties provided in section 174 of this act.} (Deleted by amendment.)~~

**Sec. 174.** ~~[Any person violating the provisions of sections 168 to 174, inclusive, of this act shall be punished by a fine of not more than \$250.]~~  
**(Deleted by amendment.)**

**Sec. 175.** NRS 586.010 is hereby amended to read as follows:

586.010 ~~[NRS 586.010 to 586.450, inclusive,]~~ *This chapter* may be cited as the Nevada Pesticides Act.

**Sec. 176.** NRS 586.020 is hereby amended to read as follows:

586.020 As used in ~~[NRS 586.010 to 586.450, inclusive,]~~ *this chapter*, unless the context otherwise requires, the words and terms defined in NRS 586.030 to 586.220, inclusive, have the meanings ascribed to them in those sections.

**Sec. 177.** NRS 586.180 is hereby amended to read as follows:

586.180 "Misbranded" shall apply:

1. To any pesticide or device if its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.

2. To any pesticide:

(a) If it is an imitation of, or is offered for sale under the name of, another pesticide;

(b) If its labeling bears any reference to registration under ~~[NRS 586.010 to 586.450, inclusive,]~~ *this chapter*;

(c) If the labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public;

(d) If the label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to living human beings and other vertebrate animals;

(e) If the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase;

(f) If any word, statement or other information required by or under the authority of ~~[NRS 586.010 to 586.450, inclusive,]~~ *this chapter* to appear on the labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(g) If in the case of a pesticide, when used as directed, or in accordance with commonly recognized practice, it shall be injurious to living human beings or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying such pesticide; or

(h) If in the case of a plant regulator, defoliant or desiccant, when used as directed, it shall be injurious to human beings or other vertebrate animals, or vegetation to which it is applied; but physical or physiological effects on plants

or parts thereof shall not be deemed to be injury when this is the purpose for which the plant regulator, defoliant or desiccant was applied, in accordance with the label claims and recommendations.

**Sec. 178.** NRS 586.200 is hereby amended to read as follows:

586.200 “Registrant” means the person registering any brand of pesticide pursuant to the provisions of ~~[NRS 586.010 to 586.450, inclusive.]~~ **this chapter.**

**Sec. 179.** NRS 586.220 is hereby amended to read as follows:

586.220 “Weed” means any plant which ~~[grows where not wanted.]~~ **is or is likely to be a public nuisance, detrimental or destructive, or difficult to control.**

**Sec. 180.** NRS 586.230 is hereby amended to read as follows:

586.230 Jurisdiction in all matters pertaining to the distribution, sale and transportation of pesticides and devices is, pursuant to ~~[NRS 586.010 to 586.450, inclusive.]~~ **this chapter**, vested exclusively in the Director.

**Sec. 181.** NRS 586.270 is hereby amended to read as follows:

586.270 1. A registrant shall pay an annual registration fee in an amount established by regulation of the Director for each brand of pesticide registered.

2. **All registrations expire on December 31 and are renewable annually.**

3. The Director shall, for each annual registration fee collected, deposit in a separate account the amount established for that purpose by regulation of the Director. The money deposited in the account must be used:

- (a) For the disposal of pesticides;
- (b) To monitor pesticides;
- (c) To protect groundwater and surface water from contamination by pesticides; and
- (d) For the ~~[eradication and]~~ control of noxious weeds.

~~[3.]~~ 4. A registrant who offers a pesticide for sale before registering the brand of pesticide shall pay an amount equal to twice the registration fee for registering the brand of pesticide.

~~[4.]~~ 5. As used in this section, “noxious weed” has the meaning ascribed to it in NRS 555.005.

**Sec. 182.** NRS 586.280 is hereby amended to read as follows:

586.280 1. If the Director deems it necessary in the administration of ~~[NRS 586.010 to 586.450, inclusive.]~~ **this chapter**, the Director may require the submission of the complete formula of any pesticide.

2. If it appears to the Director that the composition of the article is such as to warrant the proposed claims for it, and if the article and its labeling and other material required to be submitted comply with the requirements of NRS 586.350 to 586.410, inclusive, the Director shall register the article.

**Sec. 183.** NRS 586.290 is hereby amended to read as follows:

586.290 1. If it does not appear to the Director that the article is such as to warrant the proposed claims for it, or if the article and its labeling and other material required to be submitted do not comply with the provisions of ~~[NRS 586.010 to 586.450, inclusive.]~~ **this chapter**, the Director shall notify



the registrant of the manner in which the article, labeling or other material required to be submitted fails to comply with ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter** to allow the registrant an opportunity to make the necessary corrections.

2. The registration of an article is not a defense for the commission of any offense prohibited under NRS 586.350 to 586.410, inclusive.

**Sec. 184.** NRS 586.300 is hereby amended to read as follows:

586.300 Notwithstanding any other provision of ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter**, registration is not required in the case of a pesticide shipped from one plant within this state to another plant within this state operated by the same person.

**Sec. 185.** NRS 586.330 is hereby amended to read as follows:

586.330 To avoid confusion endangering the public health resulting from diverse requirements, particularly as to the labeling and coloring of pesticides, and to avoid increased costs to the residents of this state because of the necessity of complying with diverse requirements in the manufacture and sale of pesticides, it is desirable that there be uniformity between the requirements of the several states and the Federal Government relating to pesticides. To this end the Director may, after a public hearing, adopt such regulations applicable to and in conformity with the primary standards established by ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter** as have been or may be prescribed by the United States Environmental Protection Agency with respect to pesticides.

**Sec. 186.** NRS 586.370 is hereby amended to read as follows:

586.370 It shall be unlawful for any person to distribute, sell or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State through any point outside this State any pesticide which contains any substance or substances in quantities highly toxic to humans, determined as provided in NRS 586.310, unless the label shall bear, in addition to any other matter required by ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter**:

1. The skull and crossbones.
2. The word "poison" prominently, in red, on a background of distinctly contrasting color.
3. A statement of an antidote for the pesticide.

**Sec. 187.** NRS 586.380 is hereby amended to read as follows:

586.380 1. It is unlawful for any person to distribute, sell or offer for sale within this State, or deliver for transportation or transport in intrastate commerce or between points within this State through any point outside this State, the pesticides commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluorosilicate, and barium fluorosilicate, and those containing mercurial compounds, unless they have been distinctly colored or discolored as provided by the regulations adopted in accordance with the provisions of ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter**, or any other white powder pesticide which the Director, after investigation of and after

public hearing on the necessity for such action for the protection of the public health and the feasibility of the coloration or discoloration, by regulation requires to be distinctly colored or discolored, unless it has been so colored or discolored.

2. The Director may exempt any pesticide to the extent that it is intended for a particular use from the coloring or discoloring required or authorized by this section if the Director determines that the coloring or discoloring for that use is not necessary to protect the public health.

**Sec. 188.** NRS 586.400 is hereby amended to read as follows:

586.400 It shall be unlawful for any person to detach, alter, deface or destroy, in whole or in part, any label or labeling provided for in ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter** or regulations promulgated thereunder, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter.**

**Sec. 189.** NRS 586.403 is hereby amended to read as follows:

586.403 1. The regulations governing the use of restricted-use pesticides may:

(a) Provide the time when and the conditions under which they may be used in this State.

(b) Prohibit their use in areas of this State.

(c) Provide that they shall be used only under a permit for each application; and the permit may set forth the time, conditions, quantity and concentration of its use.

2. Every permit which is issued under the regulations adopted pursuant to this section is conditioned upon compliance with such regulations and upon such other specified conditions as may be deemed necessary to avoid injury.

3. Any permit may be refused, revoked or suspended for violation of any of the conditions of such permit, or for violation of any provisions of ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter** or the regulations adopted pursuant ~~[to such sections.]~~ **thereto.**

**Sec. 190.** NRS 586.420 is hereby amended to read as follows:

586.420 1. The penalties provided for violations of NRS 586.350 to 586.390, inclusive, do not apply to:

(a) Any carrier while lawfully engaged in transporting a pesticide within this state, if the carrier, upon request, permits the Director or the Director's designated agent to copy all records showing the transactions in and movement of the articles.

(b) Public officers of this state and the Federal Government engaged in the performance of their duties.

(c) The manufacturer or shipper of a pesticide for experimental use only:

(1) By or under the supervision of an agency of this state or of the Federal Government authorized by law to conduct research in the field of pesticides; or

(2) By other persons if the pesticide is not sold and if the container thereof is plainly and conspicuously marked "For experimental use only—Not to be sold," together with the manufacturer's name and address, but if a written permit has been obtained from the Director, pesticides may be sold for experimental purposes subject to such restrictions and conditions as may be set forth in the permit.

2. An article shall not be deemed in violation of the provisions of ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter** if intended solely for export to a foreign country and if prepared or packed according to the specifications or directions of the purchaser. If not so exported, all the provisions of ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter** apply.

**Sec. 191.** NRS 586.430 is hereby amended to read as follows:

586.430 ~~[1.]~~ The examination of pesticides or devices must be made under the direction of the Director to determine whether they comply with the requirements of ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter**. If it appears from the examination that a pesticide or device fails to comply with the provisions of ~~[NRS 586.010 to 586.450, inclusive, and the Director contemplates instituting criminal proceedings against any person,]~~ **this chapter**, the Director shall cause appropriate notice to be given to the person. Any person so notified must be given an opportunity to present the person's views, orally or in writing, ~~[with regard to those contemplated proceedings,]~~ and if thereafter in the opinion of the Director it appears that the provisions of ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter** have been violated by the person, the Director ~~[shall refer the facts to the district attorney of the county in which the violation occurred with a copy of the results of the analysis or the examination of the article.]~~ **may impose a civil penalty pursuant to NRS 586.450.** The provisions of ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter** do not require the Director to ~~[report]~~ **commence formal proceedings** for any act or failure to act ~~[for prosecution or for the institution of libel proceedings, or to report minor violations of NRS 586.010 to 586.450, inclusive,]~~ if the Director believes that the public interest will be best served by a suitable notice of warning in writing.

~~[2.— Each district attorney to whom any such violation is reported shall cause appropriate proceedings to be instituted and prosecuted in a court of proper jurisdiction without delay.~~

~~—3.— The Director shall, by publication in such manner as the Director may prescribe, give notice of all judgments entered in actions instituted under the authority of NRS 586.010 to 586.450, inclusive.]~~

**Sec. 192.** NRS 586.440 is hereby amended to read as follows:

586.440 1. Any pesticide or device that is distributed, sold or offered for sale within the State of Nevada, or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state is liable to be proceeded against in any district court in any county of this state where it may be found and seized for confiscation by process of libel for condemnation:

(a) In the case of a pesticide:

(1) If it is adulterated or misbranded.

(2) If the brand of the pesticide has not been registered under the provisions of NRS 586.250 to 586.300, inclusive.

(3) If it is a white powder pesticide and is not colored as required under ~~NRS 586.010 to 586.450, inclusive.~~ **this chapter.**

(4) If it fails to bear on the label the information required by ~~NRS 586.010 to 586.450, inclusive.~~ **this chapter.**

(b) In the case of a device, if it is misbranded.

2. If the article is condemned, it must, after the entry of the decree, be disposed of by destruction or sale as the court may direct, and the proceeds must be paid to the State Treasurer and deposited in the State General Fund. The article seized must not be sold or destroyed contrary to the provisions of ~~NRS 586.010 to 586.450, inclusive.~~ **this chapter.** The article must not be sold or destroyed if the owner thereof pays the costs of condemnation and executes a good and sufficient bond conditioned that the article must not be disposed of unlawfully. The court shall then order that the article condemned must be delivered to the owner thereof for relabeling or reprocessing as the case may be.

3. When a decree of condemnation is entered against the article, court costs, fees and storage charges, and other proper expenses, must be awarded against the person, if any, intervening as claimant of the article.

**Sec. 193.** NRS 586.450 is hereby amended to read as follows:

586.450 1. Any person violating ~~NRS 586.350 shall be guilty of a misdemeanor.~~ **any provision of this chapter is subject to a civil penalty not to exceed:**

(a) *For the first violation, \$250.*

(b) *For a second violation, \$500.*

(c) *For each subsequent violation, \$1,000.*

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.*

3. Notwithstanding any other provision of this section, if any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under authority of NRS 586.280, the person shall be guilty of a gross misdemeanor.

**Sec. 194.** Chapter 588 of NRS is hereby amended by adding thereto a new section to read as follows:

***Pursuant to NRS 233B.040, the Director may adopt by reference the fertilizer control rules and standards of the Association of American Plant Food Control Officials or its successor organization.***

**Sec. 195.** NRS 588.170 is hereby amended to read as follows:

588.170 1. Each brand and grade of commercial fertilizer or agricultural mineral must be registered with the Department before being offered for sale, sold or distributed in this state.

2. An application for registration must be submitted to the Director on a form furnished by the Director, and, except as otherwise provided in subsection 3, must be accompanied by a *nonrefundable* registration fee in an amount to be fixed annually by the Director for each combined registration of brand and grade.

3. A person who offers a commercial fertilizer or agricultural mineral for sale before registering the brand and grade of the commercial fertilizer or agricultural mineral shall pay an amount equal to twice the otherwise applicable registration fee for registering the brand and grade of the commercial fertilizer or agricultural mineral.

4. ~~Upon approval by the Director, a copy of the registration must be furnished to the applicant.~~ *The Director may deny the renewal of a registration if all the required tonnage reports have not been submitted and all fees and penalties have not been paid.*

5. All registrations expire on ~~June 30~~ *December 31* of each year.

**Sec. 196.** NRS 588.210 is hereby amended to read as follows:

588.210 1. There must be paid to the Department for all commercial fertilizers offered for sale, sold or distributed in this state a fee established by regulation of the State Board of Agriculture for each ton sold, but sales to manufacturers or exchanges between them are exempt.

2. There must be paid to the Department for all agricultural minerals offered for sale, sold or distributed in this state a fee established by regulation of the State Board of Agriculture. The regulations must specify the amount of the fee for each ton of agricultural minerals that is sold in packages and the amount of the fee for each ton of those minerals that is sold in bulk, but sales to manufacturers or exchanges between them are exempt.

3. The Department shall prepare suitable forms for reporting sales and, on request, shall furnish the forms without cost to all persons dealing in registered brands of commercial fertilizers or agricultural minerals. *The form must be filed regardless of whether the person sold any commercial fertilizers or agricultural minerals during the reporting period.*

4. *The registrant of each brand must report the total tonnage sold and pay the appropriate fees unless the responsibility for reporting and payment of fees has been assigned to another person by a contract entered into pursuant to subsection 5.*

5. *A contract specified in subsection 4 must:*

- (a) Include the registration number of the brand;*
- (b) Identify each party by name, address, telephone number and title, if applicable;*
- (c) Identify the specific product covered by the contract;*

*(d) Include an effective date and expiration date, not beginning or ending during a reporting period and not exceeding 3 years in duration; and*

*(e) Be signed by each party or his or her authorized agent.*

**6. A person who violates any provision of this section is subject to a civil penalty pursuant to NRS 588.350.**

**Sec. 197.** NRS 588.270 is hereby amended to read as follows:

588.270 1. ~~{At least annually, the}~~ **The** Director ~~{shall}~~ **may** publish, in such form as the Director may deem proper:

(a) Information concerning the sales of commercial fertilizers and agricultural minerals, together with such data on their production and use as the Director may consider advisable.

(b) A report of the results of the analyses based on official samples of commercial fertilizers or agricultural minerals sold within the State as compared with the analyses guaranteed under NRS 588.170 to 588.200, inclusive.

2. The information concerning production and use of commercial fertilizers or agricultural minerals must be shown separately for the periods from July 1 to December 31 and from January 1 to June 30 of each year.

~~{3. No disclosure may be made of the operations of any person.}~~

**Sec. 198.** NRS 588.290 is hereby amended to read as follows:

588.290 If any commercial fertilizer or agricultural mineral in the possession of the consumer is found by the Director to be short in weight, the registrant of the commercial fertilizer or agricultural mineral ~~{shall, within 30 days after notice from the Director, pay to the consumer a penalty equal to 4 times the value of the actual shortage.}~~ **is subject to a civil penalty pursuant to NRS 588.350.**

**Sec. 199.** NRS 588.295 is hereby amended to read as follows:

588.295 1. It is unlawful for any person to sell or offer to sell at retail, or to distribute or deliver for transportation for delivery to the consumer or user, a restricted-use commercial fertilizer or agricultural mineral unless the person is registered with the Director.

2. Each person applying for registration must provide the Director with a registration statement that includes:

(a) The name and address of the person registering; and

(b) The name and address of any person who, on behalf of the person registering, sells, offers to sell, distributes or delivers for transportation a restricted-use commercial fertilizer or agricultural mineral.

3. All such registrations expire on ~~{December}~~ **January** 31 of ~~{each}~~ **the** year ***immediately after the year in which the person registers pursuant to this section*** and are renewable annually.

4. ***Each application for renewal must be accompanied by the fourth quarter tonnage report for the immediately preceding year.***

5. Each person registering with the Director must pay:

(a) An annual registration fee established by regulation of the State Board of Agriculture; and

(b) A penalty fee established by regulation of the State Board of Agriculture if the person failed to renew the person's previous registration on or before ~~February~~ **March** 1 next following its expiration, unless the registration is accompanied by a signed statement that no person named on the registration statement has sold or distributed any restricted-use commercial fertilizer or agricultural mineral during the period the registration was not in effect.

~~{5-}~~ **6.** Each person registered pursuant to this section shall maintain for at least 2 years a record of all sales of restricted-use commercial fertilizers or agricultural minerals showing:

(a) The date of sale or delivery of the restricted-use commercial fertilizer or agricultural mineral;

(b) The name and address of the person to whom the restricted-use commercial fertilizer or agricultural mineral was sold or delivered;

(c) The brand name of the restricted-use commercial fertilizer or agricultural mineral sold or delivered;

(d) The amount of the restricted-use commercial fertilizer or agricultural mineral sold or delivered; and

(e) Such other information as may be required by the Director.

~~{6-}~~ **7.** Each person registered pursuant to this section shall, on or before the date specified for each reporting period established pursuant to subsection ~~{7-}~~ **8**, file a report with the Director specifying the restricted-use commercial fertilizers or agricultural minerals that the person sold during the reporting period. The Director shall provide the form for the report. The report must be filed regardless of whether the person sold any commercial fertilizers or agricultural minerals during the reporting period.

~~{7-}~~ **8.** The Director shall adopt regulations establishing reporting periods and dates for filing reports pursuant to subsection ~~{6-}~~ **7**.

**Sec. 200.** NRS 588.350 is hereby amended to read as follows:

588.350 **1.** Any person violating any provisions of this chapter ~~[shall be guilty of a misdemeanor.]~~ **is subject to a civil penalty not to exceed:**

(a) **For the first violation, \$250.**

(b) **For a second violation, \$500.**

(c) **For each subsequent violation, \$1,000.**

**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. 201.** NRS 590.060 is hereby amended to read as follows:

590.060 **1.** Except as otherwise provided in NRS 590.063 and 590.065, it is unlawful for any person, or any officer, agent or employee thereof, to adulterate any petroleum product or motor vehicle fuel, to sell, attempt to sell, offer for sale or assist in the sale of any product resulting from the adulteration,

and to represent the product as the petroleum product or motor vehicle fuel of a brand name in general use by any other marketer or producer of petroleum products or motor vehicle fuel.

2. Whenever the description of any petroleum product or motor vehicle fuel is displayed on any tank, receptacle or other delivery device used for sale to the public, the kind, character and name of the petroleum product or motor vehicle fuel dispensed therefrom must correspond to the representations thereon.

3. Except as otherwise provided in this subsection, it is unlawful for any person, or any officer, agent or employee thereof, to deposit or deliver into any tank, receptacle or other container any petroleum product or motor vehicle fuel other than the petroleum product or motor vehicle fuel intended to be stored in the tank, receptacle or container and distributed therefrom, as indicated by the name of the producer, manufacturer or distributor of the product displayed on the container itself, or on the pump, dispenser or other distributing device used in connection therewith. This section does not apply to any person who sells or offers for sale under the person's name or brand name the product or output of another manufacturer or producer, with the consent of that manufacturer or producer.

4. If used oil or recycled oil, other than rerefined oil, is sold or offered for sale or delivery in this state, the container in which that oil is sold or offered for sale or delivery ***or, in the case of a bulk delivery, the delivery receipt,*** must bear a superimposed sign or label containing the clearly legible words "Recycled Oil" or "Used Oil."

**Sec. 202.** NRS 590.080 is hereby amended to read as follows:

590.080 1. Except as otherwise provided in subsection 2, crankcase drainings, lube-distillate, or any other petroleum product may not be sold, offered for sale, delivered, offered for delivery or stored as a motor oil or lubricating oil for use in the crankcase of an internal combustion engine unless it conforms to the performance rating set forth on its container ***or, in the case of a bulk delivery, on the delivery receipt,*** and the following specifications:

(a) ***It must meet the specifications for engine oil performance and engine service classification set by SAE International.***

(b) It must be free from water and suspended matter when tested ~~[by means of centrifuge,]~~ in accordance with the ~~[testing]~~ procedures approved by the State Sealer of Consumer Equitability.

~~[(b)]~~ (c) The flash points for the various viscosity grade classifications must not be less than the ~~[following]~~ ***most recent viscosity grade classifications determined by SAE International*** when tested by the ~~[Cleveland Open Cup Method in accordance with the testing procedures approved by the State Sealer of Consumer Equitability. Except as otherwise provided in this paragraph, the]~~ ***Pensky-Martens Closed Cup method.*** The viscosity grade classification number of motor or lubricating oils must conform to the latest ~~[Society of Automotive Engineers]~~ viscosity ***grade***



classification ~~[. Grade numbers 60 and 70 must conform to the requirements listed in this paragraph.~~

Classification	Viscosity		Viscosity Saybolt Seconds	
	Minimum Flash	Universal 210 Degrees	Fahrenheit	
	Degrees Fahrenheit		Fahrenheit	
S.A.E. 5W	305			
S.A.E. 10W	335			
S.A.E. 20 and 20W	345			
S.A.E. 30	355			
S.A.E. 40	375			
S.A.E. 50	400			
Grade 60	435	110 to less than 125		
Grade 70	470	125 to less than 150		

*determined by SAE International.*

2. The provisions of this section do not apply to any oil labeled “prediluted” or intended only for mixture with gasoline or other motor fuel in a two-cycle engine.

**Sec. 203.** NRS 590.324 is hereby amended to read as follows:

590.324 1. A person subject to a civil penalty may request an administrative hearing within 10 days after receipt of the notice of the civil penalty. The State Sealer of Consumer Equitability or a designee thereof shall conduct the hearing after giving appropriate notice to the respondent. The decision of the State Sealer of Consumer Equitability or designee is subject to appropriate judicial review.

2. If the respondent has exhausted all administrative appeals and the civil penalty has been upheld, the respondent shall pay the civil penalty:

(a) If no petition for judicial review is filed pursuant to NRS 233B.130, within 40 days after the final decision of the State Sealer of Consumer Equitability ~~[.]~~ *or designee*; or

(b) If a petition for judicial review is filed pursuant to NRS 233B.130 and the civil penalty is upheld, within 10 days after the effective date of the final decision of the court.

3. If the respondent fails to pay the civil penalty, a civil action may be brought by the State Sealer of Consumer Equitability in any court of competent jurisdiction to recover the civil penalty. ~~[All civil penalties collected pursuant to this chapter must be deposited with the State Treasurer for credit to the State General Fund.]~~

**Sec. 204.** NRS 590.380 is hereby amended to read as follows:

590.380 1. Before any antifreeze may be sold, displayed for sale or held with intent to sell within this State, ~~[a sample thereof must be inspected annually by the State Sealer of Consumer Equitability.~~

~~—2. Upon~~ *and upon* application of the manufacturer, packer, seller or distributor and the payment of a *license* fee established by regulation of the State Board of Agriculture for each brand of antifreeze submitted, the State

Sealer of Consumer Equitability shall ~~inspect the antifreeze submitted. If~~, *if* the antifreeze ~~is~~:

- ~~— (a) Is not adulterated or misbranded;~~
  - ~~— (b) Meets the standards of the State Sealer of Consumer Equitability; and~~
  - ~~— (c) Is~~ *is* not in violation of NRS 590.340 to 590.450, inclusive,
- ~~{→ the State Sealer of Consumer Equitability shall}~~ issue to the applicant a ~~{written permit}~~ *license* authorizing its sale in this State for the fiscal year in which the ~~{inspection}~~ *license* fee is paid.

~~{3.}~~ **2.** If the State Sealer of Consumer Equitability at a later date finds that:

- (a) The product to be sold, displayed for sale or held with intent to sell has been materially altered or adulterated;
- (b) A change has been made in the name, brand or trademark under which the antifreeze is sold; or
- (c) The antifreeze violates the provisions of NRS 590.340 to 590.450, inclusive,

↪ the State Sealer of Consumer Equitability shall notify the applicant and the ~~{permit}~~ *license* must be cancelled forthwith.

**Sec. 205.** NRS 590.420 is hereby amended to read as follows:

590.420 The State Sealer of Consumer Equitability may furnish upon request a list of the brands and trademarks of antifreeze ~~{inspected}~~ *licensed* by the State Sealer of Consumer Equitability or his or her agents during the fiscal year which have been found to be in accord with NRS 590.340 to 590.450, inclusive.

**Sec. 206.** NRS 590.430 is hereby amended to read as follows:

590.430 No advertising literature relating to any antifreeze sold or to be sold in this State shall contain any statement that the antifreeze advertised for sale has been approved by the State Sealer of Consumer Equitability; but if any antifreeze has been ~~{inspected}~~ *licensed* by the State Sealer of Consumer Equitability and found ~~{to meet the standards of the State Sealer of Consumer Equitability and}~~ not to be in violation of NRS 590.340 to 590.450, inclusive, such statement may be contained in any advertising literature where such brand or trademark of antifreeze is being advertised for sale.

**Sec. 207.** NRS 590.450 is hereby amended to read as follows:

590.450 ~~{If any}~~

**1.** Any person ~~{partnership, corporation or association shall violate the provisions}~~ *violating any provision* of NRS 590.340 to 590.440, inclusive, ~~{such person, partnership, corporation or association shall be guilty of a misdemeanor.}~~ *is subject to a civil penalty not to exceed:*

- (a) *For the first violation, \$250.*
- (b) *For a second violation, \$500.*
- (c) *For each subsequent violation, \$1,000.*

**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 of the State Department of Agriculture 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. 208.** 1. Any administrative regulations adopted by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in force until amended by the officer, agency or other entity to which the responsibility for the adoption of regulations is transferred.

2. Any contracts or other agreements entered into by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity are binding upon the officer, agency or other entity to which the responsibility for the administration of the provisions of the contract or other agreement have been transferred. Such contracts and other agreements may be enforced by the officer, agency or other entity to which the responsibility for the enforcement of the provisions of the contract or other agreement have been transferred.

3. Any actions taken by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in effect as if taken by the officer, agency or other entity to which the responsibility for the enforcement of the actions was transferred.

**Sec. 209.** The Legislative Counsel shall, in preparing the Nevada Revised Statutes or any supplements to the Nevada Administrative Code, use the authority set forth in subsection 10 of NRS 220.120 to change appropriately the name of any agency, officer or instrumentality of the State whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate agency, officer or instrumentality.

**Sec. 210.** NRS 552.090, 552.300, 552.310, 554.085, 554.090, 554.180, 555.23572, 555.2665, 562.195, 583.020, 583.515, 583.525, 583.535, 586.460, 586.470, 586.480, 586.490, 586.500, 586.510, 586.520, 588.240, 588.250, 590.440, 590.700, 590.710, 590.720, 590.725, 590.726, 590.730, 590.740, 590.750, 590.760, 590.765, 590.770, 590.780, 590.790, 590.800, 590.810, 590.820, 590.830, 590.835, 590.840, 590.850, 590.860, 590.870, 590.880, 590.890, 590.900, 590.910 and 590.920 are hereby repealed.

**Sec. 211.** This act becomes effective:

1. Upon passage and approval for the purposes of adopting any regulations and performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On July 1, 2015, for all other purposes.

## LEADLINES OF REPEALED SECTIONS

552.090 Control of apiary industry: Authority of Department; adoption of regulations; imposition and deposit of civil penalties.

552.300 Prosecution of violations.

552.310 Penalty.

554.085 Civil penalties.

554.090 Criminal penalties.

554.180 Procedure for indemnification for loss by destruction.

555.23572 “Pest” defined.

555.2665 “Pest” defined.

562.195 State Sheep Inspection Account: Agreement with board of county commissioners for administration; annual statement by county treasurer; reimbursement for administration; termination of agreement.

583.020 Sale of flesh of diseased animal or shellfish containers without approved stamp is gross misdemeanor.

583.515 Exemptions.

583.525 Denial of inspection.

583.535 Regulations of State Board of Health; appointment of necessary personnel.

586.460 “Dangerous caustic or corrosive substance” defined.

586.470 “Misbranded parcel, package or container” defined.

586.480 Sale of dangerous caustic or corrosive substance for household use in misbranded parcel, package or container prohibited.

586.490 Misbranded dangerous caustic or corrosive substance may be proceeded against in justice court; condemnation, destruction or sale; disposition of sale proceeds.

586.500 Enforcement by Commissioner of Food and Drugs; approval and registration of brands and labels.

586.510 Duties of district attorney.

586.520 Penalty.

588.240 Assessment and payment of penalties when fertilizer or mineral is short of guaranteed analysis; appeal.

588.250 Annual determination and publication of values per pound of nitrogen, phosphoric acid and soluble potash.

590.440 Institution of proceedings by district attorney.

590.700 Definitions.

590.710 “Board” defined.

590.720 “Department” defined.

590.725 “Diesel fuel of grade number 1” defined.

590.726 “Diesel fuel of grade number 2” defined.

590.730 “Discharge” defined.

590.740 “Division” defined.

590.750 “Fund” defined.

590.760 “Heating oil” defined.

**590.765 “Motor vehicle fuel” defined.**

**590.770 “Operator” defined.**

**590.780 “Person” defined.**

**590.790 “Petroleum” defined.**

**590.800 “Storage tank” defined.**

**590.810 Legislative findings.**

**590.820 Board to Review Claims: Creation; members; Chair; administrative assistance; compensation of members.**

**590.830 Fund for Cleaning Up Discharges of Petroleum: Creation; administration by Division; adoption of regulations by Board; claims; expenses and interest; resolutions adopted by Board concerning Fund.**

**590.835 Fund for Cleaning Up Discharges of Petroleum: Expenditures for certain discharges; limitations; reimbursement.**

**590.840 Collection of fee for certain fuels and heating oil; exempt products; payment of expenses of Department.**

**590.850 Registration of storage tanks: Collection of annual fee; exempt tanks; reimbursement and other liability for noncompliance.**

**590.860 Transfer of portion of ending balance in Fund to account created in NRS 408.242.**

**590.870 Report of discharge from tank required; Division to clean up discharge; exception; reimbursement; test of tank required for coverage.**

**590.880 Allocation of costs resulting from discharge from certain storage tanks for heating oil.**

**590.890 Allocation of costs resulting from discharge from other storage tanks; requirement to hold public hearings under certain circumstances.**

**590.900 Liability for costs to clean up discharge caused by willful or wanton misconduct, gross negligence or violation of statute or regulation.**

**590.910 Pro rata reduction required if balance in Fund insufficient for full payment.**

**590.920 Tanks exempted from certain provisions; optional coverage of exempted tank.**

Assemblywoman Titus moved the adoption of the amendment.

Remarks by Assemblywoman Titus.

ASSEMBLYWOMAN TITUS:

Amendment 337 moves a provision from a chapter in Title 51 to a better chapter in Title 40 on public health. It deletes two sections that are duplicates of sections in another bill. It converts periodic inspections and fees for point-of-sale systems and cash registers to random inspections and civil penalties for noncompliance and repeals antiquated provisions from 1925 on pesticides.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 79.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 309.

AN ACT relating to agriculture; deleting obsolete provisions governing the initial membership of each state grazing board; ~~deleting~~ **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 provisions governing declarations of livestock and sheep;~~ 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 ~~removes the requirement that~~ **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 ~~owners~~ **owner** of ~~an animal~~ **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.

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.** ~~{NRS 575.120 is hereby amended to read as follows:~~

~~575.120 The Department shall [prepare a form for] provide a declaration of livestock and sheep on which an owner of livestock or sheep shall declare the average number, kind and classification of all livestock and sheep in the State owned by him or her during the year immediately preceding the date the declaration is made.}~~ **(Deleted by amendment.)**

**Sec. 5.** ~~{NRS 575.130 is hereby amended to read as follows:~~

~~575.130 1. The Department shall [mail the form for] **provide the declaration of livestock and sheep** to each owner of livestock or sheep listed in its most current report of such owners. The Department may include the [form] **declaration** with any [other] mailing sent to that owner.~~

~~2. An owner of livestock or sheep who fails to complete [and return] the [form for] **declaration of livestock and sheep** within 30 days after the date it was [mailed] **provided** to him or her is subject to a penalty of \$5 assessed by the Department.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 575.150 is hereby amended to read as follows:~~

~~575.150 1. Upon receipt of the [forms for] declaration of livestock and sheep and the report of owners of livestock and sheep, the Department shall:~~

~~(a) Make an estimate of the number, kind and classification of all livestock and sheep owned by any person failing to return the [form for] declaration of livestock and sheep and include that information on the report; and~~

~~(b) Examine each completed [form for] declaration of livestock and sheep and the report to determine its accuracy, and if there is any evidence that any information is inaccurate or incomplete, may change and correct any listing as to number, kind, classification, ownership or location by adding thereto or deducting therefrom as necessary to make the report complete and accurate.~~

~~2. The Department may verify the number of livestock or sheep by any reasonable means, including actual count at any reasonable time.~~

~~3. If the Department changes the listings on the report of owners of livestock and sheep for any owner and the listing for that owner does not conform to the listings on the [form for] **declaration of livestock and sheep** completed by that owner, the Department shall notify the owner of the change within 15 days after the change is made. The notification must contain a statement explaining the owner's right to challenge the accuracy of the report made by the Department.] (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

~~[(i)]~~ (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 ~~[(h)]~~ (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; or
- (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 in excess of that allowed under the standards set for Nevada certified potatoes, the potatoes may not be released for planting in this state, but must be disposed of for nonseed purposes in a manner approved by the Director.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Money from the State General Fund may not be utilized by the State Board of Agriculture in carrying out the provisions of NRS 587.131 to ~~587.185,~~ **587.181**, inclusive. Expenditures for those purposes must be made only from the Alfalfa Seed Research and Promotion Account created by NRS 561.409, and are subject to the 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 Legislative Counsel shall remove those regulations from the Nevada Administrative Code as soon as practicable after July 1, 2015.

**Sec. 18.** This act becomes effective on July 1, 2015.

#### LEADLINES OF REPEALED SECTIONS

**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.**

Assemblywoman Titus moved the adoption of the amendment.

Remarks by Assemblywomen Titus and Kirkpatrick.

ASSEMBLYWOMAN TITUS:

This amendment revises the language relating to compensation for animals destroyed by the Department of Agriculture due to disease and deletes three sections of the bill that are duplicates of amendments in another bill.

ASSEMBLYWOMAN KIRKPATRICK:

I just wanted to get some clarification from the Chair of the Committee on Natural Resources, Agriculture, and Mining. I want to know a little about the loan process in section 3, subsection 2. Currently it says that 50 percent of it will be used to provide loans to persons under the age of 21 who are engaged in agriculture. I just want to be clear about the process because sometimes during the legislative interim, folks try to bring new regulations and I want to be clear about what this is.

ASSEMBLYWOMAN TITUS:

I looked into this and if you look, you will find that language is repeated throughout not only A.B. 79, but in A.B. 77. What they are doing with these fees is that 50 percent of them will go to support agriculture projects for anyone less than 21 years of age. It does not have to be just 4-H or FFA [Future Farmers of America]; it could be any individual project. It could be an urban project if it is related to agriculture. The interesting thing is these are loans to start these projects and these companies. They have to pay them back, but they are zero interest loans.

ASSEMBLYWOMAN KIRKPATRICK:

To my colleague from the rurals, if you could get this body the information about how folks can apply for those, that would be helpful. Even in our urban areas, we do a lot with agriculture, and I think that would be helpful for our constituents.

ASSEMBLYWOMAN TITUS:

I will happily do that. The neat thing about this program is that it is not restricted just to rural kids as long as it is related to agriculture.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 92.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 71.

AN ACT relating to parentage; requiring the State Registrar of Vital Statistics to prepare and file a birth certificate with the name or names of the intended parent or parents pursuant to ~~to~~ **an order issued by a** district court ~~order~~ **in Nevada** which validates a gestational agreement; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law defines a “gestational agreement” as a contract between an intended parent or parents and a gestational carrier intended to result in a live birth. (NRS 126.570) Existing law also authorizes a district court in Nevada to issue an order validating such an agreement and declaring the intended parent or parents to be the parent or parents of the resulting child. (NRS 126.720) This bill requires the State Registrar of Vital Statistics, upon receipt of such a court order, to prepare and file a certificate of birth for the resulting child which shows the intended parent or parents as the parent or parents of the child and to seal and file the court order and original certificate of birth, if any. **This bill also provides that unless the order was issued by a district court in Nevada for an action which was originally commenced in this State, a court order concerning a gestational agreement is not valid for any purpose in Nevada as it relates to a child born in this State.**

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

**Section 1.** NRS 126.161 is hereby amended to read as follows:

126.161 1. A judgment or order of a court, or a judgment or order entered pursuant to an expedited process, determining the existence or nonexistence of the relationship of parent and child is determinative for all purposes.

2. If such a judgment or order of this State is at variance with the child's birth certificate, the judgment or order must direct that a new birth certificate be issued as provided in NRS 440.270 to 440.340, inclusive ~~to~~, ***and section 4 of this act.***



3. If the child is a minor, such a judgment or order of this State must provide for the child's support as required by chapter 125B of NRS and must include an order directing the withholding or assignment of income for the payment of the support unless:

(a) One of the parties demonstrates and good cause is found by the court, or pursuant to the expedited process, for the postponement of the withholding or assignment; or

(b) All parties otherwise agree in writing.

4. Such a judgment or order of this State may:

(a) Contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the custody and guardianship of the child, visitation with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child.

(b) Direct the father to pay the reasonable expenses of the mother's pregnancy and confinement. The court may limit the father's liability for past support of the child to the proportion of the expenses already incurred which the court deems just.

5. A court that enters such a judgment or order shall ensure that the social security numbers of the mother and father are:

(a) Provided to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

(b) Placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.

6. As used in this section, "expedited process" means a voluntary acknowledgment of paternity, judicial procedure or an administrative procedure established by this or another state, as that term is defined in NRS 130.10179, to facilitate the collection of an obligation for the support of a child.

**Sec. 2.** NRS 126.221 is hereby amended to read as follows:

126.221 Upon order of a court of this state or *except as otherwise provided in section 4 of this act*, upon request of a court of another state, the State Registrar of Vital Statistics shall prepare a new certificate of birth consistent with the findings of the court and substitute the new certificate for the original certificate of birth as provided in NRS 440.270 to 440.340, inclusive ~~[-],~~ ***and section 4 of this act.***

**Sec. 3.** NRS 126.720 is hereby amended to read as follows:

126.720 1. If a gestational carrier arrangement satisfies the requirements of NRS 126.740 and 126.750:

(a) The intended parent or parents shall be considered the parent or parents of the resulting child immediately upon the birth of the child;

(b) The resulting child shall be considered the child of the intended parent or parents immediately upon the birth of the child;

(c) Parental rights vest in the intended parent or parents immediately upon the birth of the resulting child;

(d) Sole legal and physical custody of the resulting child vest with the intended parent or parents immediately upon the birth of the child; and

(e) Neither the gestational carrier nor her legal spouse or domestic partner, if any, shall be considered the parent of the resulting child.

2. If a gestational carrier arrangement satisfies the requirements of NRS 126.740 and 126.750 and if, because of a laboratory error, the resulting child is not genetically related to the intended parent or either of the intended parents or any donor who donated to the intended parent or parents, the intended parent or parents shall be considered the parent or parents of the child, unless a determination to the contrary is made by a court of competent jurisdiction in an action which may only be brought by one or more genetic parents of the resulting child within 60 days after the birth of the child.

3. The parties to a gestational carrier arrangement shall assume the rights and obligations of subsections 1 and 2 if:

(a) The gestational carrier satisfies the eligibility requirements set forth in subsection 1 of NRS 126.740;

(b) The intended parent or parents satisfy the requirement set forth in subsection 2 of NRS 126.740; and

(c) The gestational carrier arrangement occurs pursuant to a gestational agreement which meets the requirements set forth in NRS 126.750.

4. Before or after the birth of the resulting child, the intended parent or parents or the prospective gestational carrier or gestational carrier may commence a proceeding in any district court in this State to obtain an order designating the content of the birth certificate issued as provided in NRS 440.270 to 440.340, inclusive ~~[-]~~, **and section 4 of this act.** If:

(a) The resulting child is to be born in this State;

(b) A copy of the gestational agreement is attached to the petition; and

(c) The requirements of NRS 126.740 and 126.750 are satisfied,

↪ the court may issue an order validating the gestational agreement and declaring the intended parent or parents to be the parent or parents of the resulting child.

**Sec. 4.** Chapter 440 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. *Whenever the State Registrar receives an order issued by a district court in this State pursuant to subsection 4 of NRS 126.720 validating a gestational agreement and declaring the intended parent or parents to be the parent or parents of the resulting child, the State Registrar shall prepare and file a certificate of birth in the name of the child which shows the intended parent or parents as the parent or parents of the child and seal and file the order and the original certificate of birth, if any. Unless the court order is issued by a district court in this State for an action which was originally commenced in this State, a court order concerning a gestational agreement is not valid for any purpose in this State as it relates to a child born in this State, including, without limitation, the preparation and filing of a certificate of birth by the State Registrar.***

**2. As used in this section:**

(a) *“Gestational agreement” has the meaning ascribed to it in NRS 126.570.*

(b) *“Intended parent” has the meaning ascribed to it in NRS 126.590.*

Assemblyman Hansen moved the adoption of the amendment.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

This amendment clarifies that only an order validating a gestational agreement which is issued by a district court in Nevada for an action originally commenced in this state is valid in Nevada as it relates to a child born in this state.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 97.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 231.

AN ACT relating to wills; providing that a will which is delivered or presented to the clerk of a district court becomes part of the permanent record maintained by the clerk; providing that such wills become public records open to inspection ~~if~~ **unless sealed pursuant to certain provisions of the Nevada Supreme Court Rules;** and providing other matters properly relating thereto.  
**Legislative Counsel’s Digest:**

Existing law requires, under certain circumstances, certain persons in possession of a will to deliver or present the will to the clerk of the district court having jurisdiction over the case. (NRS 136.050) This bill provides that a will which is delivered or presented to the clerk of a court becomes part of the permanent record maintained by the clerk of the court, whether or not a petition for the probate of the will is filed. This bill also provides that a will which is part of the permanent record maintained by the clerk of a court becomes a public record open to inspection ~~if~~ **unless the will is sealed pursuant to Part VII of the Nevada Supreme Court Rules.**

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

**Section 1.** NRS 136.050 is hereby amended to read as follows:

136.050 1. Any person having possession of a will shall, within 30 days after knowledge of the death of the person who executed the will, deliver it to the clerk of the district court which has jurisdiction of the case or to the personal representative named in the will.

2. Any person named as personal representative in a will shall, within 30 days after the death of the testator, or within 30 days after knowledge of being named, present the will, if in possession of it, to the clerk of the court.

3. Every person who neglects to perform any of the duties required in subsections 1 and 2 without reasonable cause is liable to every person interested in the will for the damages the interested person may sustain by reason of the neglect.

**4. *A will that is delivered or presented pursuant to subsection 1 or 2 becomes part of the permanent record maintained by the clerk of the court, whether or not a petition for the probate of the will is filed.***

**5. *A will that is part of the permanent record maintained by the clerk of the court becomes a public record open to inspection in accordance with NRS 239.010 ~~if~~ unless the will is sealed pursuant to Part VII of the Nevada Supreme Court Rules.***

**Sec. 2.** NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, **136.050**, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866,

459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

**Sec. 3. This act becomes effective upon passage and approval.**

Assemblyman Hansen moved the adoption of the amendment.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

This amendment allows a will of a deceased person to become part of the permanent record maintained by the clerk of the court, unless the will has been sealed pursuant to the Supreme Court Rules. The amendment changes the effective date to upon passage and approval.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 100.

Bill read second time and ordered to third reading.

Assembly Bill No. 112.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 103.

AN ACT relating to education; revising the policy for all school districts and public schools to provide a safe and respectful learning environment; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

The Department of Education is required to prescribe a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying, cyber-bullying and violence. (NRS 388.121-388.145) **Section 1** of this bill expands the goals to establish a safe and respectful learning environment in public schools in this State to include ensuring that the quality of instruction is not negatively impacted by poor attitudes or interactions among administrators, principals, teachers or other personnel of a school district. **Section 2** of this bill requires the policy prescribed by the Department for all school districts and public schools to provide a safe and respectful learning environment to include methods to promote ~~fecollegiality among teachers and between teachers and administrators, principals and other personnel of a school district.~~ **a positive learning environment.**

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

**Section 1.** NRS 388.132 is hereby amended to read as follows:

388.132 The Legislature declares that:

1. A learning environment that is safe and respectful is essential for the pupils enrolled in the public schools in this State to achieve academic success and meet this State's high academic standards;

2. Any form of bullying or cyber-bullying seriously interferes with the ability of teachers to teach in the classroom and the ability of pupils to learn;

3. The use of the Internet by pupils in a manner that is ethical, safe and secure is essential to a safe and respectful learning environment and is essential for the successful use of technology;

4. The intended goal of the Legislature is to ensure that:

(a) The public schools in this State provide a safe and respectful learning environment in which persons of differing beliefs, characteristics and backgrounds can realize their full academic and personal potential;

(b) All administrators, principals, teachers and other personnel of the school districts and public schools in this State demonstrate appropriate behavior on the premises of any public school by treating other persons, including, without limitation, pupils, with civility and respect and by refusing to tolerate bullying and cyber-bullying; ~~and~~

(c) *The quality of instruction is not negatively impacted by poor attitudes or interactions among administrators, principals, teachers or other personnel of a school district; and*

(d) All persons in public schools are entitled to maintain their own beliefs and to respectfully disagree without resorting to bullying, cyber-bullying or violence; and

5. By declaring its goal that the public schools in this State provide a safe and respectful learning environment, the Legislature is not advocating or requiring the acceptance of differing beliefs in a manner that would inhibit the freedom of expression, but is requiring that pupils with differing beliefs be free from abuse.

**Sec. 2.** NRS 388.133 is hereby amended to read as follows:

388.133 1. The Department shall, in consultation with the boards of trustees of school districts, educational personnel, local associations and organizations of parents whose children are enrolled in public schools throughout this State, and individual parents and legal guardians whose children are enrolled in public schools throughout this State, prescribe by regulation a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying and cyber-bullying.

2. The policy must include, without limitation:

(a) Requirements and methods for reporting violations of NRS 388.135, ~~and~~ , including, without limitation, violations among teachers and violations

between teachers and administrators, principals and other educational personnel; and

(b) A policy for use by school districts to train members of the board of trustees and all administrators, principals, teachers and all other personnel employed by the board of trustees of a school district. The policy must include, without limitation:

(1) Training in the appropriate methods to facilitate positive human relations among pupils by eliminating the use of bullying and cyber-bullying so that pupils may realize their full academic and personal potential;

(2) Training in methods to prevent, identify and report incidents of bullying and cyber-bullying;

(3) ~~Methods to promote collegiality among teachers and between teachers and administrators, principals and other personnel of a school district to facilitate~~ a positive learning environment;

(4) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and

~~[(4)]~~ (5) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

Assemblywoman Woodbury moved the adoption of the amendment.

Remarks by Assemblywoman Woodbury.

ASSEMBLYWOMAN WOODBURY:

Amendment 103 makes two changes to the bill: First, it requires the policy to provide a safe and respectful learning environment prescribed by the Department of Education to include methods for reporting violations among teachers and violations between teachers and administrators, principals, and other educational personnel. Second, it simplifies new language in the bill as a whole to require that the existing school policy now include methods to promote a positive learning environment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 124.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 232.

SUMMARY—Revises provisions governing ~~juvenile justice.~~  
**punishment for crimes.** (BDR ~~[5-182]~~ **4-182**)

AN ACT relating to ~~juveniles;~~ **punishment for crimes;** revising the minimum age at which a child may be ~~adjudicated and~~ punished ~~as a delinquent child;~~ **under certain circumstances;** and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

~~Existing law provides that a juvenile court may adjudicate a child to be a delinquent child if the child has committed certain acts designated as criminal offenses. (NRS 62A.070, 62B.230.)~~ Under existing law, the minimum age at which a child may be ~~adjudicated and~~ punished ~~as a delinquent child~~ **for a**



crime is 8 years of age. (NRS ~~[62E. 520, 63. 440,]~~ 194.010) This bill raises the minimum age at which a child may be ~~[adjudicated and]~~ punished ~~[as a delinquent child]~~ to 10 years of age ~~[ ] unless the child is charged with murder or certain sexual offenses.~~

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

Section 1. ~~[NRS 62A.070 is hereby amended to read as follows:]~~  
~~62A.070 “Delinquent child” means a child who is at least 10 years of age and who is adjudicated delinquent pursuant to the provisions of this title.]~~  
(Deleted by amendment.)

Sec. 2. ~~[NRS 62E.520 is hereby amended to read as follows:]~~  
~~62E.520 1. The juvenile court may commit a delinquent child to the custody of the Division of Child and Family Services for suitable placement if:~~  
~~—(a) The child is at least [8] 10 years of age but less than 12 years of age, and the juvenile court finds that the child is in need of placement in a correctional or institutional facility; or~~  
~~—(b) The child is at least 12 years of age but less than 18 years of age, and the juvenile court finds that the child:~~  
~~—(1) Is in need of placement in a correctional or institutional facility; and~~  
~~—(2) Is in need of residential psychiatric services or other residential services for the mental health of the child.~~  
~~2. Before the juvenile court commits a delinquent child to the custody of the Division of Child and Family Services, the juvenile court shall:~~  
~~—(a) Notify the Division at least 3 working days before the juvenile court holds a hearing to consider such a commitment; and~~  
~~—(b) At the request of the Division, provide the Division with not more than 10 working days within which to:~~  
~~—(1) Investigate the child and the circumstances of the child; and~~  
~~—(2) Recommend a suitable placement to the juvenile court.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 63.440 is hereby amended to read as follows:]~~  
~~63.440 1. Except as otherwise provided in chapter 62E of NRS, if the juvenile court commits a delinquent child to the custody of the Division of Child and Family Services, the Division may, within the limits of legislative appropriation:~~  
~~—(a)~~  
~~If the child is at least [8] 10 years of age but less than 12 years of age, place the child in any public or private institution or agency which is located within or outside this state and which is authorized to care for children. The child must not be placed in a facility.~~  
~~—(b) If the child is at least 12 years of age but less than 18 years of age, place the child in a facility or in any public or private institution or agency which is located within or outside this state and which is authorized to care for children.~~

~~2. The Division of Child and Family Services may change the placement of the child from any public or private institution or agency that is authorized to care for the child pursuant to this section to another public or private institution or agency that is authorized to care for the child pursuant to this section.~~

~~3. Before the Division of Child and Family Services may change any placement authorized by this section, the Division shall:~~

~~(a) Notify the parent or guardian of the child; and~~

~~(b) Obtain the approval of the juvenile court.} (Deleted by amendment.)~~

**Sec. 3.5. NRS 48.061 is hereby amended to read as follows:**

48.061 1. Except as otherwise provided in subsection 2, evidence of domestic violence and expert testimony concerning the effect of domestic violence, including, without limitation, the effect of physical, emotional or mental abuse, on the beliefs, behavior and perception of the alleged victim of the domestic violence that is offered by the prosecution or defense is admissible in a criminal proceeding for any relevant purpose, including, without limitation, when determining:

(a) Whether a defendant is excepted from criminal liability pursuant to subsection ~~7~~ **8** of NRS 194.010, to show the state of mind of the defendant.

(b) Whether a defendant in accordance with NRS 200.200 has killed another in self-defense, toward the establishment of the legal defense.

2. Expert testimony concerning the effect of domestic violence may not be offered against a defendant pursuant to subsection 1 to prove the occurrence of an act which forms the basis of a criminal charge against the defendant.

3. As used in this section, "domestic violence" means the commission of any act described in NRS 33.018.

**Sec. 4. NRS 194.010 is hereby amended to read as follows:**

194.010 All persons are liable to punishment except those belonging to the following classes:

1. Children under the age of ~~8~~ **10** years.

2. **Children between the ages of 8 years and 10 years, unless the child is charged with murder or a sexual offense as defined in NRS 62F.100.**

3. Children between the ages of ~~8~~ **10** years and 14 years, in the absence of clear proof that at the time of committing the act charged against them they knew its wrongfulness.

~~3~~ **4.** Persons who committed the act charged or made the omission charged in a state of insanity.

~~4~~ **5.** Persons who committed the act or made the omission charged under an ignorance or mistake of fact, which disproves any criminal intent, where a specific intent is required to constitute the offense.

~~5~~ **6.** Persons who committed the act charged without being conscious thereof.

~~6~~ **7.** Persons who committed the act or made the omission charged, through misfortune or by accident, when it appears that there was no evil design, intention or culpable negligence.

~~{7}~~ 8. Persons, unless the crime is punishable with death, who committed the act or made the omission charged under threats or menaces sufficient to show that they had reasonable cause to believe, and did believe, their lives would be endangered if they refused, or that they would suffer great bodily harm.

Assemblyman Hansen moved the adoption of the amendment.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

This amendment deletes sections 1, 2, and 3 of the bill and maintains the age of 8 for a child charged with murder or certain sexual offenses may be adjudicated and punished.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 138.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 100.

AN ACT relating to juvenile justice; requiring the juvenile court to suspend a case if doubt arises as to whether a child is competent; requiring the juvenile court to appoint certain experts to evaluate a child and provide a written report on the competence of the child if the juvenile court suspends a case to determine whether the child is competent; requiring the juvenile court to hold an expedited hearing to determine whether a child is competent upon receipt of the written reports of all appointed experts; requiring the juvenile court to conduct a periodic review of a child determined to be incompetent; authorizing the juvenile court to terminate its jurisdiction in certain circumstances if a child has not attained competence and will be unable to attain competence in the foreseeable future; providing that a child determined to be incompetent may not be adjudicated a delinquent child or a child in need of supervision or placed under the supervision of the juvenile court during the period that the child remains incompetent; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

This bill enacts a juvenile competency standard. **Section 3** of this bill provides that any time after a petition is filed and before the final disposition of a case, if doubt arises as to whether a child is competent, the juvenile court is required to suspend the case until the question of competence is determined.

**Section 4** of this bill requires a person who makes a motion for the evaluation of a child for the purpose of determining whether the child is competent to: (1) certify that the motion is being made in good faith and is based on reasonable grounds to believe that the child is incompetent; and (2) specify facts that support the motion. **Section 5** of this bill provides that if the juvenile court suspends a case to determine whether a child is competent, the juvenile court must appoint one or more able and qualified experts, at least one of whom is a psychologist or psychiatrist, to evaluate the child and provide a written report

on the competence of the child. **Section 6** of this bill sets forth certain considerations an expert must take into account as part of his or her evaluation, **as well as certain other considerations an expert must take into account if appropriate,** and **section 7** of this bill sets forth certain requirements relating to the written report of an expert.

**Section 8** of this bill requires the juvenile court to hold an expedited hearing to determine whether a child is competent upon receipt of the required written reports from all experts appointed by the juvenile court. **Section 9** of this bill authorizes the juvenile court to consider information relevant to the determination of the competence of a child and information elicited from the child only for certain purposes. Under **section 10** of this bill, after the juvenile court considers the written reports of the appointed experts, any additional written reports, and testimony and other evidence presented at the hearing, the juvenile court must determine whether the child is competent. If the juvenile court determines that the child is incompetent, the juvenile court is required to make certain additional determinations and issue all necessary and appropriate recommendations and orders.

**Section 11** of this bill requires that if the juvenile court determines that a child is incompetent, the juvenile court must conduct a periodic review to determine whether the child has attained competence. After a periodic review is conducted, if the juvenile court determines that the child: (1) has attained competence, the juvenile court is required to proceed with the case; (2) has not attained competence, the juvenile court is required to order appropriate treatment; and (3) has not attained competence and will be unable to attain competence in the foreseeable future, the juvenile court is required to hold a hearing to consider the best interests of the child and the safety of the community and determine whether to dismiss any petitions pending before the juvenile court and terminate its jurisdiction.

**Section 12** of this bill provides that if the juvenile court determines that a child is incompetent, the child may not, during the period that the child remains incompetent, be: (1) adjudicated a delinquent child or a child in need of supervision; or (2) placed under the supervision of the juvenile court.

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

**Section 1.** Chapter 62D of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, “incompetent” means a child does not have the present ability to:*

- 1. Understand the nature of the allegations of delinquency or, if the child is a child in need of supervision, the allegations against the child;*
- 2. Understand the nature and purpose of the court proceedings; or*
- 3. Aid and assist the child’s counsel in the defense at any time during the proceedings with a reasonable degree of rational understanding.*

*Sec. 3. 1. Any time after a petition is filed and before the final disposition of a case, if doubt arises as to the competence of a child, the juvenile court shall suspend the case until the question of competence is determined.*

*2. During the period when the competence of a child is being determined, the juvenile court shall consider the appropriate placement of the child and any services or other care to be provided to the child that are necessary for the well-being of the child or for public safety, and may issue any necessary orders.*

*3. The period in which the juvenile court is required to make its final disposition of a case, as set forth in NRS 62D.310, is tolled during the period when the competence of a child is being determined.*

*Sec. 4. A person who makes a motion for the evaluation of a child for the purpose of determining whether the child is incompetent shall:*

*1. Certify that the motion is being made in good faith and is based on reasonable grounds to believe that the child is incompetent and cannot proceed in the case; and*

*2. Specify facts that support the motion, including, without limitation, any nonprivileged observations of or statements made by the child.*

*Sec. 5. 1. If the juvenile court suspends a case pursuant to section 3 of this act, the juvenile court shall appoint one or more experts, at least one of whom is a psychologist or psychiatrist, to evaluate the child and report on the competence of the child.*

*2. Before appointing an expert to evaluate and report on the competence of the child, the juvenile court shall consider the following factors to determine the ability and qualification of the expert to provide such an evaluation and report:*

*(a) The training and experience of the expert in child psychology, child and adolescent psychiatry or child forensic psychiatry;*

*(b) The licensure or professional certification of the expert; and*

*(c) Any other factor the juvenile court deems appropriate in making the appointment.*

*3. An expert appointed by the juvenile court to evaluate and report on the competence of a child must:*

*(a) Be deemed by the juvenile court to be able and qualified to evaluate and report on the competence of the child pursuant to subsection 2; and*

*(b) Prepare and provide a written report to the juvenile court and the parties not later than 14 days after the juvenile court enters an order appointing the expert, unless the juvenile court provides an extension for good cause shown.*

*4. The appointment of an expert pursuant to this section does not preclude the district attorney or the child from calling any other expert witness to testify concerning the competence of the child at an adjudicatory hearing, a hearing on a violation of juvenile probation or parole or a hearing to determine whether the child is incompetent. Any such expert witness must*

*be allowed to evaluate the child and examine all relevant records and documents.*

*Sec. 6. 1. An expert who is appointed by the juvenile court pursuant to section 5 of this act shall evaluate the child as specified in the court order appointing the expert.*

*2. An expert shall consider as part of his or her evaluation the child's ability to:*

- (a) Appreciate the allegations against the child;*
- (b) Appreciate the range and nature of possible penalties that may be imposed upon the child, if applicable;*
- (c) Understand the adversary nature of the legal process;*
- (d) Disclose to the child's counsel facts pertinent to the case;*
- (e) Display appropriate courtroom behavior; and*
- (f) Testify regarding relevant issues.*

*3. An expert shall also consider as part of his or her evaluation, if appropriate, the following circumstances of a child:*

- (a) The age and developmental maturity of the child;*
- (b) Whether the child has a mental illness or disability or a developmental disorder;*
- (c) Whether the child has any other disability that affects the competence of the child; and*
- (d) Any other factor that affects the competence of the child.*

*Sec. 7. 1. A written report submitted by an expert pursuant to subsection 3 of section 5 of this act must:*

- (a) Identify the specific matters referred to the expert by the juvenile court for evaluation;*
- (b) Describe the procedures, techniques and tests used in the evaluation of the child and the purposes of each;*
- (c) Describe the considerations taken into account by the expert pursuant to section 6 of this act;*
- (d) State any clinical observations, findings and opinions of the expert on each issue referred to the expert for evaluation by the juvenile court and specifically indicate any issues on which the expert was unable to give an opinion;*
- (e) Identify the sources of information used by the expert and present the factual basis for any clinical observations, findings and opinions of the expert; and*
- (f) State any recommended counseling, treatment, education or therapy to assist the child with behavioral, emotional, psychological or psychiatric issues, if ordered by the juvenile court to provide such recommendations.*

*2. In addition to the requirements set forth in subsection 1, if an expert believes that a child is incompetent, the expert shall also include in the report:*

- (a) Any recommended treatment or education for the child to attain competence;*

(b) *The likelihood that the child will attain competence under the recommended treatment or education;*

(c) *An assessment of the probable duration of the treatment or education required to attain competence;*

(d) *The probability that the child will attain competence in the foreseeable future; and*

(e) *If the expert recommends treatment for the child to attain competence, a recommendation as to whether services can best be provided to the child as an outpatient or inpatient, or by commitment to an institution for persons with intellectual disabilities or mental illness pursuant to NRS 62E.160.*

Sec. 8. 1. *Upon receipt of the required written reports from all experts appointed by the juvenile court, the juvenile court shall hold an expedited hearing to determine whether the child is incompetent.*

2. *The parties may waive the presence of witnesses and submit the issue of competence to the juvenile court on the written reports of the experts who evaluated the child.*

3. *The party who made the motion to determine whether the child is competent has the burden of proof to rebut the presumption of competence by a preponderance of the evidence.*

4. *Unless the parties stipulate or the juvenile court orders otherwise, the parties shall disclose all witnesses, reports and documents at least 10 days before the scheduled day of the hearing.*

5. *During the hearing, the parties may:*

(a) *Introduce other evidence, including, without limitation, evidence related to treatment, competence and the possibility of ordering the involuntary administration of medicine; and*

(b) *Cross-examine witnesses.*

Sec. 9. 1. *Except as otherwise provided in subsection 2, the juvenile court may consider any information that is relevant to the determination of the competence of the child and any information elicited from the child pursuant to sections 2 to 12, inclusive, of this act only for the purpose of:*

(a) *Determining whether the child is incompetent; and*

(b) *Making a ~~final~~ disposition of the case ~~in~~ in juvenile court.*

2. *The provisions of subsection 1 do not apply if a child whose competence is being determined presents any information to the juvenile court for a purpose other than those set forth in subsection 1.*

Sec. 10. 1. *After the juvenile court considers the written reports of all the experts appointed by the juvenile court, any additional written reports, and testimony and other evidence presented at the hearing, the juvenile court shall determine whether the child is incompetent.*

2. *If the juvenile court determines that the child is competent, the juvenile court shall proceed with the case.*

3. *If the juvenile court determines that the child is incompetent, the juvenile court shall determine whether:*

(a) *The child is a danger to himself or herself or society;*

*(b) Providing services to the child will assist the child in attaining competence and further the policy goals set forth in NRS 62A.360; and*

*(c) Any services provided to the child can best be provided to the child as an outpatient or inpatient, by commitment to an institution for persons with intellectual disabilities or mental illness pursuant to NRS 62E.160, or as otherwise allowed by law.*

*4. After the juvenile court makes the determinations set forth in subsection 3, the juvenile court shall issue all necessary and appropriate recommendations and orders.*

*5. Any treatment ordered by the juvenile court must provide the level of care, guidance and control that will be conducive to the child's welfare and the best interests of this State.*

**Sec. 11. 1.** *If the juvenile court determines that a child is incompetent pursuant to section 10 of this act, the juvenile court shall conduct a periodic review to determine whether the child has attained competence. Unless the juvenile court terminates its jurisdiction pursuant to paragraph (c) of subsection 3, such a periodic review must be conducted:*

*(a) Not later than 6 months after the date of commitment to an institution for persons with intellectual disabilities or mental illness pursuant to NRS 62E.160 or the date treatment ordered by the court commenced, whichever is earlier;*

*(b) After any period of extended treatment;*

*(c) After the child completes any treatment ordered by the juvenile court;*

*(d) After a person ordered by the juvenile court to provide services to the child pursuant to section 10 of this act determines that the child has attained competence or will never attain competence; or*

*(e) At shorter intervals as ordered by the juvenile court.*

**2.** *Before a periodic review is conducted pursuant to subsection 1, any person ordered by the juvenile court to provide services to a child pursuant to section 10 of this act must provide a written report to the juvenile court, the parties, and the department of juvenile services or Youth Parole Bureau, as applicable.*

**3.** *After a periodic review is conducted pursuant to subsection 1, if the juvenile court determines that the child:*

*(a) Is competent, the juvenile court shall enter an order accordingly and proceed with the case.*

*(b) Has not attained competence, the juvenile court shall order appropriate treatment, including, without limitation, residential or nonresidential placement in accordance with sections 2 to 12, inclusive, of this act, commitment to an institution for persons with intellectual disabilities or mental illness pursuant to NRS 62E.160, or as otherwise allowed by law.*

*(c) Has not attained competence and will be unable to attain competence in the foreseeable future, the juvenile court shall hold a hearing to consider the best interests of the child and the safety of the community and determine*



*whether to dismiss any petitions pending before the juvenile court and terminate the jurisdiction of the juvenile court. In determining whether to dismiss a petition and terminate its jurisdiction pursuant to this paragraph, the juvenile court shall consider:*

*(1) The nature and gravity of the act allegedly committed by the child, including, without limitation, whether the act involved violence, the infliction of serious bodily injury or the use of a weapon;*

*(2) The date the act was allegedly committed by the child;*

*(3) The number of times the child has allegedly committed the act;*

*(4) The extent to which the child has received counseling, therapy or treatment, and the response of the child to any such counseling, therapy or treatment;*

*(5) The extent to which the child has received education, services or treatment relating to remediating, restoring or attaining competence and the response of the child to any such education, services or treatment;*

*(6) Whether any psychological or psychiatric profiles of the child indicate a risk of recidivism;*

*(7) The behavior of the child while he or she is subject to the jurisdiction of the juvenile court, including, without limitation, during any period of confinement;*

*(8) The extent to which counseling, therapy or treatment will be available to the child in the absence of continued juvenile court jurisdiction;*

*(9) Any physical conditions that minimize the risk of recidivism, including, without limitation, physical disability or illness;*

*(10) The age, mental attitude, maturity level and emotional stability of the child;*

*(11) The extent of family support available to the child;*

*(12) Whether the child has had positive psychological and social evaluations; and*

*(13) Any other factor the juvenile court deems relevant to the determination of whether continued juvenile court jurisdiction will be conducive to the welfare of the child and the safety of the community.*

**Sec. 12.** *If the juvenile court determines that a child is incompetent pursuant to section 10 of this act, during the period that the child remains incompetent, the child may not be:*

*1. Adjudicated a delinquent child or a child in need of supervision; or*

*2. Placed under the supervision of the juvenile court pursuant to a supervision and consent decree pursuant to NRS 62C.230.*

Assemblyman Hansen moved the adoption of the amendment.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

This amendment clarifies that the delinquency is an allegation of delinquency. It includes parole when the district attorney or the child can call any other expert witness to testify concerning the child's competence. It clarifies certain considerations, if appropriate, an expert must take into

account as part of his or her evaluation and clarifies that the exceptions for the limited use of the child's statements apply only in juvenile court and would not apply in criminal court.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 139.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 144.

AN ACT relating to concealed firearms; authorizing ~~to a person~~ **certain persons** who ~~possesses~~ **possess** a permit to carry a concealed firearm issued by another state to carry a concealed firearm in this State in accordance with the laws of this State; repealing certain other provisions concerning reciprocity of permits to carry concealed firearms; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Department of Public Safety to prepare annually a list of states that have: (1) requirements for the issuance of a permit to carry a concealed firearm that are substantially similar to or more stringent than the requirements set forth in this State; and (2) an electronic database which identifies each individual who possesses a valid permit to carry a concealed firearm by that state and which a law enforcement officer in this State may access at all times. Additionally, a state may only be included in the list if the Nevada Sheriffs' and Chiefs' Association agrees with the Department's inclusion of the state. (NRS 202.3689) Existing law also authorizes a person who possesses a permit to carry a concealed firearm that was issued by a state included in the list to carry a concealed firearm in this State in accordance with the laws of this State unless the person: (1) becomes a resident of this State; and (2) has not been issued a permit from the sheriff of the county in which he or she resides within 60 days after becoming a resident of this State. (NRS 202.3688) **Section 2** of this bill repeals all provisions of existing law relating to the list prepared by the Department.

**Existing law additionally requires that a person who is a resident of this State must be at least 21 years of age to be eligible for a permit to carry a concealed firearm. (NRS 202.3657) Section 1 of this bill authorizes a person who possesses a permit to carry a concealed firearm that was issued by another state to carry a concealed firearm in this State in accordance with the laws of this State ~~unless~~ if the person: (1) is at least 21 years of age; or (2) is less than 21 years of age and is a law enforcement officer or a member of the Armed Forces of the United States, a reserve component thereof or the National Guard, or was discharged or released from service therein under honorable conditions. A person who meets either such requirement is prohibited from carrying a concealed firearm in this State if the person ~~if~~ ~~(1)~~ becomes a resident of this State ~~if~~ and ~~(2)~~, if the person is at least 21**

**years of age**, has not been issued a permit from the sheriff of the county in which he or she resides within 60 days after becoming a resident of this State.

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

**Section 1.** NRS 202.3688 is hereby amended to read as follows:

202.3688 1. Except as otherwise provided in subsection ~~(2)~~ **3**, a person who ***is at least 21 years of age and*** possesses a permit to carry a concealed firearm that was issued by ~~(a) another~~ state ~~[included in the list prepared pursuant to NRS 202.3689]~~ may carry a concealed firearm in this State in accordance with the requirements set forth in NRS 202.3653 to 202.369, inclusive.

2. *Notwithstanding the provisions of subsection 1, and except as otherwise provided in subsection 3, a person who is less than 21 years of age and possesses a permit to carry a concealed firearm that was issued by another state may carry a concealed firearm in this State in accordance with the requirements set forth in NRS 202.3653 to 202.369, inclusive, if the person:*

*(a) Is a law enforcement officer;*

*(b) Is a member of the Armed Forces of the United States, a reserve component thereof or the National Guard; or*

*(c) Was discharged or released from service in the Armed Forces of the United States, a reserve component thereof or the National Guard under honorable conditions.*

*↪ A person who is authorized to carry a concealed firearm pursuant to this subsection is not exempt from any age requirements imposed by law which govern the purchase of firearms or ammunition.*

3. A person who ~~[possesses a permit to carry a concealed firearm that was issued by a **another** state included in the list prepared pursuant to NRS 202.3689]~~ ***meets the requirements of:***

*(a) Subsection 1* may not carry a concealed firearm in this State if the person:

~~[(a)]~~ *(1) Becomes a resident of this State; and*

~~[(b)]~~ *(2) Has not been issued a permit from the sheriff of the county in which he or she resides within 60 days after becoming a resident of this State.*

~~[3.— A person who carries a concealed firearm pursuant to this section is subject to the same legal restrictions and requirements imposed upon a person who has been issued a permit by a sheriff in this State.]~~

*(b) Subsection 2 may not carry a concealed firearm in this State if the person becomes a resident of this State.*

Sec. 2. NRS 202.3689 is hereby repealed.

Sec. 3. **This act becomes effective upon passage and approval.**

**TEXT OF REPEALED SECTION**

**202.3689 Department to prepare list of states that meet certain requirements concerning permits; Department to provide copy of list to law enforcement agencies in this State; Department to make list available to public.**

1. On or before July 1 of each year, the Department shall:

(a) Examine the requirements for the issuance of a permit to carry a concealed firearm in each state and determine whether the requirements of each state are substantially similar to or more stringent than the requirements set forth in NRS 202.3653 to 202.369, inclusive.

(b) Determine whether each state has an electronic database which identifies each individual who possesses a valid permit to carry a concealed firearm issued by that state and which a law enforcement officer in this State may access at all times through a national law enforcement telecommunications system.

(c) Prepare a list of states that meet the requirements of paragraphs (a) and (b). A state must not be included in the list unless the Nevada Sheriffs' and Chiefs' Association agrees with the Department that the state should be included in the list.

(d) Provide a copy of the list prepared pursuant to paragraph (c) to each law enforcement agency in this State.

2. The Department shall, upon request, make the list prepared pursuant to subsection 1 available to the public.

Assemblyman Hansen moved the adoption of the amendment.

Remarks by Assemblymen Hansen, Kirkpatrick, and Wheeler.

ASSEMBLYMAN HANSEN:

Amendment 144 to Assembly Bill 139 allows a member of the military or an honorably discharged member of the military or a current law enforcement officer who is under 21 years of age and has a CCW issued by another state to carry a concealed firearm in Nevada. It changes the effective date to upon passage and approval.

ASSEMBLYWOMAN KIRKPATRICK:

To the Chairman of the Committee on Judiciary, as a CCW carrier—and knowing all the hard work I had to go through to get that CCW—I just want to have some clarity on this amendment. What happens if the other state has just on online provision to get a CCW and you do not have to go out and shoot? I want to understand how that works. I am proud of my CCW, and I earned every bit of it and I had to practice.

ASSEMBLYMAN HANSEN:

This is limited very specifically to law enforcement officers and members of the Armed Forces who have been honorably discharged or current members. It is for people who have extensive experience with weapons and high levels of training. So if you have a CCW in another state and you are a member of one of those three groups, then you would be allowed to carry a concealed weapon in Nevada.

ASSEMBLYWOMAN KIRKPATRICK:

I am assuming that if that does happen, they would have to produce their police card or their service card.

ASSEMBLYMAN WHEELER:

I believe that the Chairman of Judiciary is correct about the amendment. I think the misunderstanding is that the Minority Leader is asking about the bill. The bill actually allows any CCW from any of the 50 states to carry in Nevada. The amendment adds these people as well.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 157.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 127.

AN ACT relating to service animals; making certain provisions relating to service animals and service animals in training applicable only when the animal is a dog or a miniature horse; **revising provisions governing the use of a service animal by a person with a disability**; allowing an employer to determine whether it is reasonable to allow an employee to keep a service animal that is a miniature horse at the place of employment; allowing a place of public accommodation or common carrier to determine whether it is reasonable to admit a service animal or service animal in training that is a miniature horse; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law defines: (1) "service animal" as an animal that has been trained to assist or accommodate a person with a disability; and (2) "service animal in training" as an animal that is being trained to assist or accommodate a person with a disability. (NRS 426.097, 426.099) Federal regulations: (1) define "service animal" as a dog that is individually trained to do work or perform tasks for the benefit of a person with a disability; and (2) require a place of public accommodation to make reasonable modifications to allow the use of a miniature horse that is individually trained to do work or perform tasks for the benefit of a person with a disability. (28 C.F.R. §§ 35.104, 35.136, 36.104, 36.302) **Sections 1 and 2** of this bill revise the definition of the terms "service animal" and "service animal in training" to include only dogs and miniature horses trained or being trained to do work or perform tasks for the benefit of a person with a disability. Because those terms are incorporated in other provisions of existing law, only dogs and miniature horses will be considered service animals for the purposes of provisions of existing law that: (1) require certain emergency management plans and plans for emergency operations to address the needs of persons with service animals; (2) authorize only a blind, deaf or physically disabled person to use a service animal; (3) require persons to take precautions to avoid accident or injury to a person using a service animal; (4) prohibit interfering with, beating or killing a service animal; (5) prohibit fraudulently misrepresenting an animal as a service animal; (6) require sterilization of certain pets that are not service animals; (7) require an employer to allow an employee to keep a service animal with him or her; and (8) require

a place of public accommodation or a common carrier to admit a service animal or a service animal in training. (NRS 414.095, 414.097, 426.510, 426.515, 426.695, 426.790, 426.805, 426.810, 484B.290, 574.600-574.660, 613.330, 651.075, 704.145, 706.366)

**Existing federal regulations require a public entity or a place of public accommodation to make accommodations to permit the use of a service animal by a person with any disability. (28 C.F.R. §§ 35.136, 36.302)**  
**Existing law in Nevada: (1) authorizes a person who is blind, deaf or has a physical disability to use a service animal; and (2) provides that the failure of such a person to use a service animal may be admissible as evidence of contributory negligence in certain personal injury actions. (NRS 426.510, 426.515) Sections 2.3 and 2.7 of this bill revise those provisions of existing law to include a person with any type of disability.**

Sections 3-6 of this bill provide that an employer is not required to allow an employee to keep a service animal that is a miniature horse with him or her, and a place of public accommodation or common carrier is not required to admit a service animal or service animal in training that is a miniature horse, if it would be unreasonable to comply, using criteria for determining reasonableness set forth in federal regulations.

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

**Section 1.** NRS 426.097 is hereby amended to read as follows:

426.097 “Service animal” ~~[means an animal that has been trained to assist or accommodate a person with a disability.]~~ *has the meaning ascribed to it in 28 C.F.R. § 36.104 and includes a miniature horse that has been trained to do work or perform tasks for the benefit of a person with a disability.*

**Sec. 2.** NRS 426.099 is hereby amended to read as follows:

426.099 “Service animal in training” means ~~[an animal]~~ *a dog or a miniature horse* that is being trained ~~[to assist or accommodate a person with a disability.]~~ *as a service animal.*

**Sec. 2.3.** **NRS 426.510 is hereby amended to read as follows:**

426.510 1. Except as otherwise provided in subsections 2, 3 and 4, a person shall not:

- (a) Use a service animal; or
  - (b) Carry or use on any street or highway or in any other public place a cane or walking stick which is white or metallic in color, or white tipped with red.
2. A person who is blind may use a service animal and a cane or walking stick which is white or metallic in color, or white tipped with red.
  3. A person who is deaf may use a service animal.
  4. A person with a ~~[physical]~~ disability **not described in subsection 2 or 3** may use a service animal.

5. Any pedestrian who approaches or encounters a person who is blind using a service animal or carrying a cane or walking stick, white or metallic in color, or white tipped with red, shall immediately come to a full stop and take

such precautions before proceeding as may be necessary to avoid accident or injury to the person who is blind.

6. Any person other than a person who is blind who:

(a) Uses a service animal or carries a cane or walking stick such as is described in this section, contrary to the provisions of this section;

(b) Fails to heed the approach of a person using a service animal or carrying such a cane as is described by this section;

(c) Fails to come to a stop upon approaching or coming in contact with a person so using a service animal or so carrying such a cane or walking stick; or

(d) Fails to take precaution against accident or injury to such a person after coming to a stop as provided for in this section,

↪ is guilty of a misdemeanor.

7. This section does not apply to any person who is instructing a person who is blind, person who is deaf or person with ~~[-a physical]~~ **any other** disability or training a service animal.

**Sec. 2.7. NRS 426.515 is hereby amended to read as follows:**

426.515 The failure of a:

1. Person who is blind to carry a white or metallic colored cane or to use a service animal;

2. Person who is deaf to use a service animal; or

3. Person with a ~~[-physical]~~ disability **not described in subsection 1 or 2** to use a service animal,

↪ does not constitute contributory negligence per se, but may be admissible as evidence of contributory negligence in a personal injury action by that person against a common carrier or any other means of public conveyance or transportation or a place of public accommodation as defined by NRS 651.050 when the injury arises from the person who is blind, person who is deaf or person with ~~[-a physical disability]~~ **any other disability** making use of the facilities or services offered by the carrier or place of public accommodation.

**Sec. 3. NRS 613.330 is hereby amended to read as follows:**

613.330 1. Except as otherwise provided in NRS 613.350, it is an unlawful employment practice for an employer:

(a) To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or

(b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive the employee of employment opportunities or otherwise adversely affect his or her status as an employee, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin.

2. It is an unlawful employment practice for an employment agency to:

(a) Fail or refuse to refer for employment, or otherwise to discriminate against, any person because of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person; or

(b) Classify or refer for employment any person on the basis of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person.

3. It is an unlawful employment practice for a labor organization:

(a) To exclude or to expel from its membership, or otherwise to discriminate against, any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin;

(b) To limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any person, in any way which would deprive or tend to deprive the person of employment opportunities, or would limit the person's employment opportunities or otherwise adversely affect the person's status as an employee or as an applicant for employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or

(c) To cause or attempt to cause an employer to discriminate against any person in violation of this section.

4. It is an unlawful employment practice for any employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including, without limitation, on-the-job training programs, to discriminate against any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

5. ~~It is~~ ***Except as otherwise provided in subsection 6, it*** is an unlawful employment practice for any employer, employment agency, labor organization or joint labor-management committee to discriminate against a person with a disability by interfering, directly or indirectly, with the use of an aid or appliance, including, without limitation, a service animal, by such a person.

6. It is an unlawful employment practice for an employer, directly or indirectly, to refuse to permit an employee with a disability to keep the employee's service animal with him or her at all times in his or her place of employment ~~[-]~~, ***except that an employer may refuse to permit an employee to keep a service animal that is a miniature horse with him or her if the employer determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.***

7. As used in this section, "service animal" has the meaning ascribed to it in NRS 426.097.

**Sec. 4.** NRS 651.075 is hereby amended to read as follows:



651.075 1. ~~[[4]]~~ *Except as otherwise provided in subsection 5*, is unlawful for a place of public accommodation to:

(a) Refuse admittance or service to a person with a disability because the person is accompanied by a service animal.

(b) Refuse admittance or service to a person who is training ~~who~~ a service animal because the person is accompanied by a service animal ~~in training~~.

(c) Refuse to permit an employee of the place of public accommodation who is training ~~accompanied by~~ a service animal ~~in training~~ to bring the service animal *in training* into:

(1) The place of public accommodation; or

(2) Any area within the place of public accommodation to which employees of the place of public accommodation have access, regardless of whether the area is open to the public.

(d) Refuse admittance or service to a person because the person is accompanied by a police dog.

(e) Charge an additional fee or deposit for a service animal, service animal in training or a police dog as a condition of access to the place of public accommodation.

(f) Require proof that an animal is a service animal or service animal in training.

2. A place of public accommodation may:

(a) Ask a person accompanied by an animal:

(1) If the animal is a service animal or service animal in training; and

(2) What tasks the animal is trained to perform or is being trained to perform.

(b) Ask a person to remove a service animal or service animal in training if the animal:

(1) Is out of control and the person accompanying the animal fails to take effective action to control it; or

(2) Poses a direct threat to the health or safety of others.

3. A service animal may not be presumed dangerous by reason of the fact it is not muzzled.

4. This section does not relieve:

(a) A person with a disability who is accompanied by a service animal or a person who ~~trains~~ *is accompanied by* a service animal *in training* from liability for damage caused by the service animal ~~in training~~ *or service animal in training*.

(b) A person who is accompanied by a police dog from liability for damage caused by the police dog.

5. *A place of public accommodation is not required to comply with the provisions of subsection 1 with regard to a service animal or service animal in training that is a miniature horse if the place of public accommodation determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.*

6. Persons with disabilities who are accompanied by service animals are subject to the same conditions and limitations that apply to persons who are not so disabled and accompanied.

~~{6-}~~ 7. Persons who are accompanied by police dogs are subject to the same conditions and limitations that apply to persons who are not so accompanied.

~~{7-}~~ 8. A person who violates paragraph (e) of subsection 1 is civilly liable to the person against whom the violation was committed for:

- (a) Actual damages;
- (b) Such punitive damages as may be determined by a jury, or by a court sitting without a jury, which must not be more than three times the amount of actual damages, except that in no case may the punitive damages be less than \$750; and

- (c) Reasonable attorney's fees as determined by the court.

~~{8-}~~ 9. The remedies provided in this section are nonexclusive and are in addition to any other remedy provided by law, including, without limitation, any action for injunctive or other equitable relief available to the aggrieved person or brought in the name of the people of this State or the United States.

~~{9-}~~ 10. As used in this section:

- (a) "Police dog" means a dog which is owned by a state or local governmental agency and which is used by a peace officer in performing his or her duties as a peace officer.

- (b) "Service animal" has the meaning ascribed to it in NRS 426.097.

- (c) "Service animal in training" has the meaning ascribed to it in NRS 426.099.

**Sec. 5.** NRS 704.145 is hereby amended to read as follows:

704.145 1. ~~{H}~~ ***Except as otherwise provided in subsection 2, it is unlawful for a common carrier or other means of public conveyance or transportation operating in this State to:***

- (a) Refuse service to a person with a disability because the person is accompanied by a service animal;

- (b) Refuse service to a person who is training a service animal because the person is accompanied by the service animal in training; or

- (c) Charge an additional fee or a deposit for a service animal or service animal in training.

2. ***A common carrier or other means of public conveyance or transportation is not required to comply with the provisions of subsection 1 with regard to a service animal or service animal in training that is a miniature horse if it determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.***

3. This section does not relieve a person with a disability who is accompanied by a service animal or a person who ~~{trains}~~ ***is accompanied by a service animal in training*** from liability for damage which may be caused by the service animal or service animal in training.

~~{3-}~~ 4. Persons with disabilities accompanied by service animals on common carriers or other means of public conveyance or transportation operating in this State are subject to the same conditions and limitations that apply to persons without disabilities who are not so accompanied.

~~{4-}~~ 5. A common carrier or other means of public conveyance or transportation operating in this State that violates any of the provisions of subsection 1 is civilly liable to the person against whom the violation was committed for:

- (a) Actual damages;
- (b) Such punitive damages as may be determined by a jury, or by a court sitting without a jury, which must not be more than three times the amount of actual damages, except that in no case may the punitive damages be less than \$750; and
- (c) Reasonable attorney's fees as determined by the court.

~~{5-}~~ 6. The remedies provided in this section are nonexclusive and are in addition to any other remedy provided by law, including, without limitation, any action for injunctive or other equitable relief available to the aggrieved person or brought in the name of the people of this State or the United States.

~~{6-}~~ 7. As used in this section:

- (a) "Service animal" has the meaning ascribed to it in NRS 426.097.
- (b) "Service animal in training" has the meaning ascribed to it in NRS 426.099.

**Sec. 6.** NRS 706.366 is hereby amended to read as follows:

706.366 1. ~~{4-}~~ ***Except as otherwise provided in subsection 2, it is unlawful for a common motor carrier of passengers or other means of public conveyance or transportation operating in this State to:***

- (a) Refuse service to a person with a disability because the person is accompanied by a service animal;
- (b) Refuse service to a person who is training a service animal because the person is accompanied by the service animal in training; or
- (c) Charge an additional fee or a deposit for a service animal or service animal in training.

2. ***A common motor carrier of passengers or other means of public conveyance or transportation is not required to comply with the provisions of subsection 1 with regard to a service animal or service animal in training that is a miniature horse if it determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.***

3. This section does not relieve a person with a disability who is accompanied by a service animal or a person who ~~{trains}~~ ***is accompanied by a service animal in training*** from liability for damage which may be caused by the service animal or service animal in training.

~~{3-}~~ 4. Persons with disabilities accompanied by service animals on common motor carriers of passengers or other means of public conveyance or transportation operating in this State are subject to the same conditions and

limitations that apply to persons without disabilities who are not so accompanied.

~~{4-}~~ 5. A common motor carrier of passengers or other means of public conveyance or transportation operating in this State that violates any of the provisions of subsection 1 is civilly liable to the person against whom the violation was committed for:

- (a) Actual damages;
- (b) Such punitive damages as may be determined by a jury, or by a court sitting without a jury, which must not be more than three times the amount of actual damages, except that in no case may the punitive damages be less than \$750; and
- (c) Reasonable attorney's fees as determined by the court.

~~{5-}~~ 6. The remedies provided in this section are nonexclusive and are in addition to any other remedy provided by law, including, without limitation, any action for injunctive or other equitable relief available to the aggrieved person or brought in the name of the people of this State or the United States.

~~{6-}~~ 7. As used in this section:

- (a) "Service animal" has the meaning ascribed to it in NRS 426.097.
- (b) "Service animal in training" has the meaning ascribed to it in NRS 426.099.

Assemblyman Oscarson moved the adoption of the amendment.

Remarks by Assemblyman Oscarson.

ASSEMBLYMAN OSCARSON:

This amendment clarifies that a service animal may be used by a person with any type of disability and makes a technical correction that a public accommodation may not refuse admittance or service to a person who is accompanied by a service animal which that person is training.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 159.

Bill read second time and ordered to third reading.

Assembly Bill No. 160.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 151.

AN ACT relating to courts; revising provisions concerning the locations in which justice courts and municipal courts must be held; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires justice courts to be held in their respective townships, precincts or cities, and municipal courts in their respective cities. (NRS 1.050) This bill provides that justice courts and municipal courts may also be held in various other locations under certain circumstances.

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

**Section 1.** NRS 1.050 is hereby amended to read as follows:

1.050 1. Except as otherwise provided in NRS 3.100, the District Court in and for Carson City shall sit at Carson City.

2. Except as provided in subsection ~~[4] 5~~ or NRS 3.100, every other court of justice, except justice or municipal court, shall sit at the county seat of the county in which it is held.

3. Justice courts ~~[shall]~~ **must** be held in their respective townships, precincts or cities, ~~[and municipal courts in their respective cities.]~~ **except that a justice court may also be held:**

(a) *In a court or other facility used by any other justice court located within the same county, with the consent of the justice of the peace who presides over that court or other facility.*

(b) ~~[In]~~ **With the approval of the court, in any county or city jail or detention facility where a person whose offense or alleged offense which is subject to the jurisdiction of the court is customarily held in custody.**

(c) *At any other place located within the same county, with the consent of the parties to an action or proceeding pending before the court and the approval of the court.*

4. *Municipal courts must be held in their respective cities, except that a municipal court may also be held , with the approval of the court, in any county or city jail or detention facility where a person whose offense or alleged offense which is subject to the jurisdiction of the court is customarily held in custody.*

5. The parties to an action in a district court may stipulate, with the approval of the court, that the action may be tried, or any proceeding related to the action may be had, before that court at any other place in this State where a ~~[district]~~ court is regularly held.

**Sec. 2.** NRS 4.360 is hereby amended to read as follows:

4.360 The courts held by justices of the peace are denominated justice courts. ~~[They shall]~~ **Justice courts** have no terms ~~[, but shall]~~ **and must** always be open. ~~[Justice]~~ **Except as otherwise provided in subsection 3 of NRS 1.050, justice courts [shall] must** be held in their respective townships.

**Sec. 3.** NRS 5.010 is hereby amended to read as follows:

5.010 There must be in each city a municipal court presided over by a municipal judge. The municipal court:

1. ~~[Must]~~ **Except as otherwise provided in subsection 4 of NRS 1.050, must** be held at such place in the city within which it is established as the governing body of that city may by ordinance direct.

2. May by ordinance be designated as a court of record.

Assemblyman Hansen moved the adoption of the amendment.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

This amendment clarifies that justice courts and municipal courts may be held in certain other locations upon the approval of the court. It also allows the parties to an action to stipulate, with the approval of the court, that an action or proceeding related to the action may be held at any other court that is regularly held.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 192.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 236.

AN ACT relating to common-interest communities; revising certain provisions concerning a period of declarant's control of a unit-owners' association; revising certain provisions relating to elections of the members of the executive board of a unit-owners' association; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law establishes provisions governing common-interest communities. (Chapter 116 of NRS) Under existing law, the declaration of a common-interest community may provide for a period of declarant's control of the unit-owners' association, during which a declarant may appoint and remove the officers and members of the executive board of the association. (NRS 116.31032) This bill revises the provisions governing the period of time in which a period of declarant's control must terminate. This bill also revises certain provisions concerning the election of unit owners to the executive board during the period of declarant's control.

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

**Section 1.** NRS 116.31032 is hereby amended to read as follows:

116.31032 1. Except as otherwise provided in this section, the declaration may provide for a period of declarant's control of the association, during which a declarant, or persons designated by a declarant, may appoint and remove the officers of the association and members of the executive board. A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period and, in that event, the declarant may require, for the duration of the period of declarant's control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective. Regardless of the period provided in the declaration, a period of declarant's control terminates no later than the earliest of:

(a) ~~{Sixty}~~ *For a common-interest community with less than 1,000 units, 60 days after conveyance of 75 percent of the units that may be created to units' owners other than a declarant ~~for, if~~;*

(b) *For a common-interest community with 1,000 units or more, 60 days after conveyance of 90 percent of the units that may be created to units' owners other than a declarant;*

(c) *If the association exercises powers over a common-interest community pursuant to this chapter and a time-share plan pursuant to chapter 119A of NRS, 120 days after conveyance of 80 percent of the units that may be created to units' owners other than a declarant;*

~~{(b)}~~ (d) Five years after all declarants have ceased to offer units for sale in the ordinary course of business;

~~{(c)}~~ (e) Five years after any right to add new units was last exercised; or

~~{(d)}~~ (f) The day the declarant, after giving notice to units' owners, records an instrument voluntarily surrendering all rights to control activities of the association.

2. ~~{Not}~~ *For a common-interest community with:*

(a) *Less than 1,000 units, not later than 60 days after conveyance of 25 ~~{15}~~ percent of the units that may be created to units' owners other than a declarant, at least one member and not less than 25 percent of the members of the executive board must be elected by units' owners other than the declarant.*

(b) *One thousand units or more, not later than 60 days after conveyance of 15 percent of the units that may be created to units' owners other than a declarant, at least one member and not less than 25 percent of the members of the executive board must be elected by units' owners other than the declarant.*

3. Not later than 60 days after conveyance of 50 percent of the units that may be created to units' owners other than a declarant, not less than one-third of the members of the executive board must be elected by units' owners other than the declarant.

Assemblyman Hansen moved the adoption of the amendment.

Remarks by Assemblymen Hansen, Kirkpatrick, and Woodbury.

ASSEMBLYMAN HANSEN:

This amendment revises the period of time in which a period of declarant's control may terminate depending on the size: for a common-interest community with less than 1,000 units, 60 days after conveyance of 75 percent of the units and for 1,000 units or more, 60 days after conveyance of 90 percent of the units. It revises the election of unit owners to the executive board during the period of declarant's control depending on the size: for a common-interest community with less than 1,000 units, not later than 60 days after conveyance of 25 percent of the units and for 1,000 units or more, not later than 60 days after conveyance of 15 percent of the units.

ASSEMBLYWOMAN KIRKPATRICK:

Would the Chairman of the Committee on Judiciary allow the bill's sponsor, my colleague from District 23, to give me some legislative intent? I live in North Las Vegas where there are a lot of unfinished subdivisions, so I would like to know what the legislative intent was. If I get asked, I will know the answer.

ASSEMBLYWOMAN WOODBURY:

This bill allows a declarant to remain on the board longer than is currently in statute, until 90 percent of the units are sold within a large master planned community of 1,000 units or more. This extended time will allow the completion of major infrastructure such as utilities, parks, and trails and allow for a smoother transition to the homeowner board. It also allows the homeowner on the board sooner, which allows for more education of the homeowner.

Many of these master planned communities have multi-million dollar annual operating budgets, and this is a large operating budget for someone without the experience to oversee. With the homeowner and the declarant on the board, in addition to completing the necessary infrastructure, the declarant can educate the homeowners on the board, which ultimately allows for a smoother transition to the homeowner-controlled board once the declarant is off.

ASSEMBLYWOMAN KIRKPATRICK:

That brings a lot of relief to the homeowners who want to be on the board sooner.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 203.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 263.

AN ACT relating to short-term lessors of vehicles; revising provisions governing the charging and collection of governmental services fees required upon the short-term leasing of passenger cars; ~~revising provisions relating to the imposition of certain charges on a short-term lease of certain vehicles;~~ and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, a person licensed as a short-term lessor of vehicles must charge and collect from each short-term lessee of a passenger car a governmental services fee of 10 percent of the total amount for which the passenger car was leased, excluding some deductions. (NRS 482.313) **Section 1** of this bill adds to the list of permissible deductions the amount of any fee or charge that is imposed by a governmental entity, ~~and is paid by the short-term lessor: (1) as a concession fee; (2) for the privilege of operating at an airport or a related facility; or (3) on behalf of a short-term lessee for the privilege of using the airport or a related facility.~~

~~Existing law authorizes a short-term lessor of a passenger car to impose on a short-term lessee certain additional charges, including the short-term lessor's vehicle licensing costs. (NRS 482.31527, 482.3158) The term "passenger car," for the purposes of authorizing the charging of vehicle licensing costs, is defined as a motor vehicle designed for carrying 10 persons or less, except a motorcycle or motor-driven cycle. (NRS 482.087) Sections 2 and 3 of this bill replace the term "passenger car" with the term "vehicle" in the statutory sections related to the charging of vehicle licensing costs by a short-term lessor. **Section 1 also provides an exemption from the imposition of the governmental services fee for any passenger car leased by or on behalf of**~~



**this State, its unincorporated agencies and instrumentalities and any county, city, district or other political subdivision of this State.**

Section 4 of this bill replaces the term “passenger car” with the term “vehicle” for the purposes of allowing an employee of a short-term lessor who holds a limited license as a producer of insurance to solicit and sell insurance requested by a short-term lessee. (NRS 683A.221)

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

**Section 1.** NRS 482.313 is hereby amended to read as follows:

482.313 1. ~~Upon~~ **Except as otherwise provided in subsection 8, upon** the lease of a passenger car by a short-term lessor in this State, the short-term lessor shall charge and collect from the short-term lessee:

(a) A governmental services fee of 10 percent of the total amount for which the passenger car was leased, excluding **any taxes or other fees imposed by a governmental entity and** the items described in subsection 7; and

(b) Any fee required pursuant to NRS 244A.810 or 244A.860.

↪ The amount of each fee charged pursuant to this subsection must be indicated in the lease agreement.

2. The fees due from a short-term lessor to the Department of Taxation pursuant to subsection 1 are due on the last day of each calendar quarter. On or before the last day of the month following each calendar quarter, the short-term lessor shall:

(a) File with the Department of Taxation, on a form prescribed by the Department of Taxation, a report indicating the total amount of each of the fees collected by the short-term lessor pursuant to subsection 1 during the immediately preceding calendar quarter; and

(b) Remit to the Department of Taxation the fees collected by the short-term lessor pursuant to subsection 1 during the immediately preceding calendar quarter.

3. Except as otherwise provided in a contract made pursuant to NRS 244A.820 or 244A.870, the Department of Taxation shall deposit all money received from short-term lessors pursuant to the provisions of subsection 1 with the State Treasurer for credit to the State General Fund.

4. To ensure compliance with this section, the Department of Taxation may audit the records of a short-term lessor.

5. The provisions of this section do not limit or affect the payment of any taxes or fees imposed pursuant to the provisions of this chapter.

6. The Department of Motor Vehicles shall, upon request, provide to the Department of Taxation any information in its records relating to a short-term lessor that the Department of Taxation considers necessary to collect the fees described in subsection 1.

7. For the purposes of charging and collecting the governmental services fee described in paragraph (a) of subsection 1, the following items must not be included in the total amount for which the passenger car was leased:

(a) The amount of any fee charged and collected pursuant to paragraph (b) of subsection 1;

(b) The amount of any charge for fuel used to operate the passenger car;

(c) The amount of any fee or charge for the delivery, transportation or other handling of the passenger car;

(d) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property; and

(e) The amount of any charges assessed against a short-term lessee for damages for which the short-term lessee is held responsible. ~~— — and —~~

~~— (f) The amount of any fee or charge that is imposed by a governmental entity and paid by the short-term lessor. —~~

~~— (1) As a concession fee; —~~

~~— (2) For the privilege of operating at an airport or a related facility; or —~~

~~— (3) On behalf of a short-term lessee for the privilege of using an airport or a related facility. —~~

8. The fee required pursuant to subsection 1 does not apply with respect to any passenger car leased by or on behalf of this State, its unincorporated agencies and instrumentalities or any county, city, district or other political subdivision of this State.

9. The Executive Director of the Department of Taxation shall:

(a) Adopt such regulations as the Executive Director determines are necessary to carry out the provisions of this section; and

(b) Upon the request of the Director of the Department of Motor Vehicles, provide to the Director of the Department of Motor Vehicles a copy of any record or report described in this section.

Sec. 2. ~~[NRS 482.31527 is hereby amended to read as follows:~~

~~482.31527 “Vehicle licensing costs” means:~~

~~1. The fees paid by a short-term lessor for the registration of, and the issuance of certificates of title for, the [passenger cars] vehicles leased by the short-term lessor, including, without limitation, fees for license plates and license plate decals, stickers and tabs, and inspection fees; and~~

~~2. The basic and supplemental governmental services taxes paid by the short-term lessor with regard to those [passenger cars] vehicles.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 482.3158 is hereby amended to read as follows:~~

~~482.3158 1. The short-term lessor of a [passenger car] vehicle may impose an additional charge:~~

~~(a) Based on reasonable age criteria established by the lessor;~~

~~(b) For any item or a service provided if the short-term lessee could have avoided incurring the charge by choosing not to obtain or utilize the optional item or service;~~

~~(c) For insurance and accessories requested by the lessee.~~

~~—(d) For service incident to the lessee's optional return of the [passenger car] vehicle to a location other than the location where the [passenger car] vehicle was leased.~~

~~—(e) For refueling the [passenger car] vehicle at the conclusion of the lease if the lessee did not return the [passenger car] vehicle with as much fuel as was in the fuel tank at the beginning of the lease.~~

~~—(f) For any authorized driver in addition to the short term lessee but shall not, except as otherwise provided in this paragraph, charge more than \$10 per full or partial 24 hour period for such an additional authorized driver. The monetary amount set forth in this paragraph must be adjusted for each fiscal year that begins on or after July 1, 2008, by adding to that amount the product of that amount multiplied by the percentage increase in the Consumer Price Index West Urban for All Urban Consumers (All Items) between the calendar year ending on December 31, 2005, and the calendar year immediately preceding the fiscal year for which the adjustment is made. The Department shall, on or before March 1 of each year, publish the adjusted amount for the next fiscal year on its website or otherwise make that information available to short term lessors.~~

~~—(g) To recover costs incurred by the short term lessor as a condition of doing business, including, without limitation:~~

~~——(1) The short term lessor's vehicle licensing costs; and~~

~~——(2) Concession, access and other fees imposed on the short term lessor by an airport or other facility for the privilege of operating at the facility.~~

~~—(h) To recover any fees paid by the short term lessor on behalf of the short term lessee, including, without limitation, a customer facility charge imposed on the short term lessee by an airport or other facility for the privilege of using the facility.~~

~~2. The short term lessor of a [passenger car] vehicle that wishes to impose an additional charge pursuant to paragraph (g) or (h) of subsection 1:~~

~~—(a) Must, at the time the lease commences, provide the short term lessee with a lease agreement which clearly discloses all charges for the entire lease, excluding charges that cannot be determined at the time the lease commences; and~~

~~—(b) Must:~~

~~——(1) At the time the short term lessee makes the reservation for the short term lease of the [passenger car,] vehicle, provide a good faith estimate of the total of all charges for the entire lease, excluding mileage charges and charges for optional items that cannot be determined based upon the information provided by the short term lessee; or~~

~~——(2) At the time the short term lessor provides a price quote or estimate for the short term lease of the [passenger car,] vehicle, disclose the existence of any vehicle licensing costs and any other separately stated additional charge.~~

~~3. A short term lessor shall not charge a short term lessee, as a condition of leasing a [passenger car,] vehicle, an additional fee for:~~

~~—(a) Any surcharges required for fuel.~~

~~— (b) Transporting the lessee to the location where the [passenger car] vehicle will be delivered to the lessee.~~

~~— 4. If a short term lessor:~~

~~— (a) Delivers a [passenger car] vehicle to a short term lessee at a location other than the location where the lessor normally carries on its business, the lessor shall not charge the lessee any amount for the period before the delivery of the [passenger car] vehicle.~~

~~— (b) Takes possession of a [passenger car] vehicle from a short term lessee at a location other than the location where the lessor normally carries on its business, the lessor shall not charge the lessee any amount for the period after the lessee notifies the lessor to take possession of the [passenger car] vehicle.~~  
**(Deleted by amendment.)**

**Sec. 4.** NRS 683A.221 is hereby amended to read as follows:

683A.221 If a short-term lessor of ~~[passenger]~~ vehicles licensed pursuant to NRS 482.363 holds a limited license as a producer of insurance issued pursuant to NRS 683A.271, an employee of the short-term lessor may engage in the solicitation and sale of insurance requested by a lessee pursuant to NRS 482.3158 without a license issued pursuant to this chapter if the solicitation and sale of such insurance is done on behalf of, and under the supervision of, the short-term lessor.

**Sec. 5.** This act becomes effective on July 1, 2015.

Assemblyman Wheeler moved the adoption of the amendment.

Remarks by Assemblyman Wheeler.

ASSEMBLYMAN WHEELER:

Amendment 263 makes the following three changes to Assembly Bill 203:

One, it removes three new permissible deductions from the governmental services fee that were proposed in the bill: (a) a concession fee, (b) a privilege of operating at the airport or a related facility, or (c) on behalf of a short-term lessee, the privilege of using the airport or a related facility, and instead provides language to exclude any taxes or other fees imposed by a government entity.

Two, it exempts from the government services fee of the state of Nevada, its agencies and instrumentalities, any county, city, district, or other political subdivision of this state.

Three, it removes the proposed changes in the bill concerning replacing the term “passenger car” with the term “vehicle” in relation to the charging of vehicle licensing costs by a short-term lessor.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 287.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 239.

SUMMARY—Prohibits a person from making or causing to be made ~~to~~ **311] certain** nonemergency telephone ~~call] calls~~ under certain circumstances. (BDR 15-922)

AN ACT relating to crimes; prohibiting a person from making or causing to be made ~~to~~ **311] certain** nonemergency telephone ~~call] calls~~ under certain

circumstances; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law makes it a gross misdemeanor for a person to knowingly or willfully make or cause to be made any telephonic access to a system established to provide a telephone number to be used in an emergency if no actual or perceived emergency exists. (NRS 207.245) This bill similarly makes it a gross misdemeanor for a person to knowingly or willfully make or cause to be made a ~~[311]~~ nonemergency telephone call to report an emergency on any nonemergency telephone line maintained by a governmental entity if no actual or perceived emergency exists. This bill also makes it a category E felony for a person to commit either offense if the person ~~knew or reasonably should have known that his or her conduct would create a risk which is likely to and actually~~ intended to initiate an emergency response and the emergency response initiated by that person results in the death or serious bodily injury of another. This bill further provides that a person who is convicted of a category E felony for such an offense is liable for any costs incurred by any governmental entity as a result of his or her conduct. **Finally, this bill provides that it is an affirmative defense to a violation charged pursuant to the provisions of this bill if it is proven by a preponderance of the evidence that the defendant suffers from a mental illness or is intellectually disabled.**

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

**Section 1.** NRS 207.245 is hereby amended to read as follows:

207.245 1. ~~[As used in this section, "system" means a system established to provide a telephone number to be used in an emergency.~~

~~—2.]~~ It is unlawful for any person knowingly or willfully to make or cause to be made ~~[any]~~ :

(a) Any telephonic access to a system ; or

(b) A ~~[311]~~ nonemergency telephone call to report an emergency ~~[.]~~ on any nonemergency telephone line maintained by a governmental entity.

↪ if no actual or perceived emergency exists.

~~[3.—Any]~~

2. *Except as otherwise provided in subsection 3, a person who violates any provision of this section is guilty of a gross misdemeanor.*

3. *A person who violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130 if : ~~the person knew or reasonably should have known that his or her conduct would create a risk which:~~*

(a) ~~Is likely to result in the death or serious bodily injury of another;~~  
The person intended to initiate an emergency response by law enforcement, firefighting, emergency medical care or public safety personnel when no actual emergency exists; and

(b) ~~[Actually]~~ The emergency response initiated by the person results in the death or serious bodily injury of another.

4. A person who is convicted of a category E felony pursuant to subsection 3 is liable for any costs incurred by any governmental entity as a result of his or her conduct.

5. It is an affirmative defense to a violation charged pursuant to this section if it is proven by a preponderance of the evidence that the defendant suffers from a mental illness or is intellectually disabled. A court may, if appropriate, take any action authorized by law for the purpose of having the defendant assigned to a program of treatment established pursuant to NRS 176A.250.

6. As used in this section:

(a) “Emergency” means a situation in which immediate intervention is necessary to protect the physical safety of a person or others from an immediate threat of physical injury or to protect against an immediate threat of severe property damage, or any other situation which is likely to cause a governmental entity to provide services related to law enforcement, firefighting, emergency medical care or public safety.

(b) “Governmental entity” means an institution, board, commission, bureau, council, department, division, authority or other unit of government of this State, including, without limitation, an agency of this State or of a political subdivision.

(c) “System” means a system established to provide a telephone number to be used in an emergency.

Assemblyman Hansen moved the adoption of the amendment.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

This amendment changes the language of the bill from a 311 nonemergency telephone call to any nonemergency telephone call. It clarifies that a person is guilty of a category E felony if the person calling intended to initiate an emergency response when no actual emergency existed and the emergency response initiated by the person results in the death or serious bodily injury of another. Finally, this amendment provides that it is an affirmative defense if it is proven by a preponderance of the evidence that the defendant suffers from a mental illness or is intellectually disabled.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 288.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 240.

AN ACT relating to real property; revising exceptions to certain requirements related to the servicing of residential mortgage loans and the foreclosure of owner-occupied housing securing a residential mortgage loan; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that a signatory to the consent judgment entered in the case entitled *United States of America et al. v. Bank of America Corporation et al.*, who complies with the Settlement Term Sheet under that judgment is deemed to be in compliance with certain provisions of state law governing the servicing of residential mortgage loans. However, if that consent judgment is modified or amended to permit compliance with the Final Servicing Rules issued by the federal Consumer Financial Protection Bureau to supersede the terms of the Settlement Term Sheet of the consent judgment: (1) a signatory to the consent judgment who is in compliance with the modified or amended Settlement Term Sheet is deemed to be in compliance with certain provisions of state law governing the servicing of residential mortgage loans; and (2) any other person who complies with the Final Servicing Rules is deemed to be in compliance with those provisions of state law. This bill amends this provision to specifically state that any mortgage servicer, mortgagee, beneficiary of a deed of trust or an authorized agent of such a person is deemed to be in compliance with existing state law if the servicer, mortgagee, beneficiary or authorized agent complies with the Final Servicing Rules. This bill further provides that if the Final Servicing Rules are repealed or held invalid, or otherwise lapse, the servicer, mortgagee, beneficiary or authorized agent is subject to the provisions of state law.

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

**Section 1.** NRS 107.560 is hereby amended to read as follows:

107.560 1. If a trustee's deed upon sale has not been recorded, a borrower may bring an action for injunctive relief to enjoin a material violation of NRS 107.400 to 107.560, inclusive. If a sheriff has not recorded the certificate of the sale of the property, a borrower may obtain an injunction to enjoin a material violation of NRS 107.400 to 107.560, inclusive. An injunction issued pursuant to this subsection remains in place and any foreclosure sale must be enjoined until the court determines that the mortgage servicer, mortgagee, beneficiary of the deed of trust or an authorized agent of such a person has corrected and remedied the violation giving rise to the action for injunctive relief. An enjoined person may move to dissolve an injunction based on a showing that the material violation has been corrected and remedied.

2. After a trustee's deed upon sale has been recorded or after a sheriff has recorded the certificate of the sale of the property, a borrower may bring a civil action in the district court in the county in which the property is located to recover his or her actual economic damages resulting from a material violation of NRS 107.400 to 107.560, inclusive, by the mortgage servicer, mortgagee, beneficiary of the deed of trust or an authorized agent of such a person, if the material violation was not corrected and remedied before the recording of the trustee's deed upon sale or the recording of the certificate of sale of the

property pursuant to NRS 40.430. If the court finds that the material violation was intentional or reckless, or resulted from willful misconduct by a mortgage servicer, mortgagee, beneficiary of the deed of trust or an authorized agent of such a person, the court may award the borrower the greater of treble actual damages or statutory damages of \$50,000.

3. A mortgage servicer, mortgagee, beneficiary of the deed of trust or an authorized agent of such a person is not liable for any violation of NRS 107.400 to 107.560, inclusive, that it has corrected and remedied, or that has been corrected and remedied on its behalf by a third party, before the recording of the trustee's deed upon sale or the recording of the certificate of sale of the property pursuant to NRS 40.430.

4. A violation of NRS 107.400 to 107.560, inclusive, does not affect the validity of a sale to a bona fide purchaser for value and any of its encumbrancers for value without notice.

5. A signatory to a consent judgment entered in the case entitled United States of America et al. v. Bank of America Corporation et al., filed in the United States District Court for the District of Columbia, case number 1:12-cv-00361 RMC, that is in compliance with the relevant terms of the Settlement Term Sheet of that consent judgment with respect to the borrower while the consent judgment is in effect is deemed to be in compliance with NRS 107.400 to 107.560, inclusive, and is not liable for a violation of NRS 107.400 to 107.560, inclusive. If, on or after October 1, 2013, the consent judgment is modified or amended to permit compliance with the relevant provisions of 12 C.F.R. Part 1024, commonly known as Regulation X, and 12 C.F.R. Part 1026, commonly known as Regulation Z, as those regulations are amended by the Final Servicing Rules issued by the Consumer Financial Protection Bureau in 78 Federal Register 10,696 **and 10,902** on February 14, 2013, and any amendments thereto, to supersede some or all of the relevant terms of the Settlement Term Sheet of the consent judgment ~~is~~:

~~—(a) A~~, a signatory who is in compliance with the modified or amended Settlement Term Sheet of the consent judgment while the consent judgment is in effect is deemed to be in compliance with NRS 107.400 to 107.560, inclusive, and is not liable for a violation of NRS 107.400 to 107.560, inclusive.

~~{(b)}~~ 6. Any mortgage servicer, mortgagee or beneficiary of the deed of trust or an authorized agent of such a person who complies with the relevant provisions of 12 C.F.R. Part 1024, commonly known as Regulation X, and 12 C.F.R. Part 1026, commonly known as Regulation Z, as those regulations are amended by the Final Servicing Rules issued by the Consumer Financial Protection Bureau in 78 Federal Register 10,696 **and 10,902** on February 14, 2013, and any amendments thereto, is deemed to be in compliance with NRS 107.400 to 107.560, inclusive, and is not liable for a violation of NRS 107.400 to 107.560, inclusive.

~~{6}~~ ***If the Final Servicing Rules issued by the Consumer Financial Protection Bureau are repealed or held invalid, or if there is otherwise any***



*lapse of those rules, any mortgage servicer, mortgagee or beneficiary of the deed of trust or an authorized agent of such a person is subject to the provisions of NRS 107.400 to 107.560, inclusive ~~and~~, but for a foreclosure that is already pending at the time that the Final Servicing Rules are repealed or held invalid or at the time there is a lapse of those rules, the mortgage servicer, mortgagee or beneficiary of the deed of trust or the authorized agent is only subject to the provisions of NRS 107.400 to 107.560, inclusive, with respect to any remaining requirements for a foreclosure of owner-occupied housing securing a residential mortgage loan.*

7. A court may award a prevailing borrower costs and reasonable attorney's fees in an action brought pursuant to this section.

~~{7.}~~ 8. The rights, remedies and procedures provided by this section are in addition to and independent of any other rights, remedies or procedures provided by law.

Assemblyman Hansen moved the adoption of the amendment.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

This amendment allows for the remaining steps in the foreclosure process to continue if the Final Servicing Rules issued by the Consumer Financial Protection Bureau are repealed or held invalid.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 297.

Bill read second time and ordered to third reading.

Assembly Bill No. 351.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 247.

AN ACT relating to charter schools; revising the requirements for a project that is financed through bonds to benefit a charter school; ~~{removing the requirement that such a project pay a prevailing wage;}~~ and providing other matters properly relating thereto.

#### **Legislative Counsel's Digest:**

Existing law authorizes the Director of the Department of Business and Industry to issue bonds and other obligations to finance the acquisition, construction, improvement, restoration or rehabilitation of property, buildings and facilities for charter schools if certain criteria are met. Existing law requires a charter school for whose benefit a project is being financed to have received, within the immediately preceding 3 consecutive school years, one of the two highest ratings of performance pursuant to the statewide system of accountability for public schools. (NRS 386.630, 386.632, 386.634) ~~{Section 4 of this}~~ **This** bill instead requires a charter school for whose benefit a project is being financed to have received, within the immediately preceding 2

consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools.

~~[ Existing law requires any contract for new construction, repair or reconstruction for a project financed by the Department for the acquisition, construction, improvement, restoration or rehabilitation of property, buildings and facilities for charter schools to comply with the requirement that the hourly and daily rate of wages must not be less than the prevailing rate of wages in the county in which the project is located. (NRS 338.013-338.090, 386.647) Section 2 of this bill removes this requirement.]~~

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

**Section 1.** NRS 386.632 is hereby amended to read as follows:

386.632 Except as otherwise provided in NRS 386.639, the Director of the Department of Business and Industry shall not finance a project unless, before financing the project, the Director finds and the State Board of Finance approves the findings of the Director that:

1. The project consists of any land, building or other improvement, and all real and personal properties necessary in connection therewith, which is suitable for new construction, improvement, restoration or rehabilitation of charter school facilities;

2. The charter school for whose benefit the project is being financed is not in default under the written charter or charter contract, as applicable, granted by its sponsor, as determined by the sponsor;

3. The charter school for whose benefit the project is being financed has received, within the immediately preceding ~~[3]~~ 2 consecutive school years, one of the ~~[two]~~ **three** highest ratings of performance pursuant to the statewide system of accountability for public schools, or has received equivalent ratings in another state, as determined by the Department of Education;

4. There are sufficient safeguards to ensure that all money provided by the Director of the Department of Business and Industry will be expended solely for the purposes of the project;

5. There are sufficient safeguards to ensure that the Director of the Department of Business and Industry will have the ability to monitor compliance with the provisions of NRS 386.612 to 386.649, inclusive, on an ongoing basis with respect to the project;

6. Through the advice of counsel or other reliable source, the project has received all approvals by the local, state and federal governments which may be necessary to proceed with construction, improvement, rehabilitation or redevelopment of the project; and

7. There has been a request by a charter school, lessee, purchaser or other obligor to have the Director of the Department of Business and Industry issue bonds to finance the project.

**Sec. 2.** ~~[NRS 386.647 is hereby amended to read as follows:]~~

~~386.647 1. NRS 386.612 to 386.649, inclusive, without reference to other statutes of this State, constitute full authority for the exercise of powers granted in those sections, including, without limitation, the authorization and issuance of bonds.~~

~~2. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized by NRS 386.612 to 386.649, inclusive, to be done, applies to any proceedings taken or acts done pursuant to those sections, except for laws to which reference is expressly made in those sections or by necessary implication of those sections.~~

~~3. The provisions of no other law, either general or local, except as provided in NRS 386.612 to 386.649, inclusive, apply to the doing of the things authorized in those sections to be done, and no board, agency, bureau, commission or official not designated in those sections has any authority or jurisdiction over the doing of any of the acts authorized in those sections to be done, except as otherwise provided in those sections.~~

~~4. A project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this State or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property is not applicable to any action taken pursuant to NRS 386.612 to 386.649, inclusive. [, except that the provisions of NRS 338.013 to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after July 1, 2013, by the Director of the Department of Business and Industry for work to be done on a project.]~~

~~5. Any bank or trust company located within or without this State may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to NRS 386.612 to 386.649, inclusive, without the necessity of associating with any other person or entity as cofiduciary, but such an association is not prohibited.~~

~~6. The powers conferred by NRS 386.612 to 386.649, inclusive, are in addition and supplemental to, and not in substitution for, and the limitations imposed by those sections do not affect, the powers conferred by any other law.~~

~~7. No part of NRS 386.612 to 386.649, inclusive, repeals or affects any other law or part thereof, except to the extent that those sections are inconsistent with any other law, it being intended that those sections provide a separate method of accomplishing its objectives, and not an exclusive one.~~

~~8. The Director of the Department of Business and Industry or a person designated by the Director may take any actions and execute and deliver any instruments, contracts, certificates and other documents, including the bonds, necessary or appropriate for the sale and issuance of the bonds or~~

~~accomplishing the purposes of NRS 386.612 to 386.649, inclusive, without the assistance or intervention of any other officer.] (Deleted by amendment.)~~

~~Sec. 3. [The provisions of this act do not apply to any contract entered into before July 1, 2015, until renewed.] (Deleted by amendment.)~~

Sec. 4. This act becomes effective on July 1, 2015.

Assemblywoman Woodbury moved the adoption of the amendment.

Remarks by Assemblywoman Woodbury.

ASSEMBLYWOMAN WOODBURY:

Amendment 247 deletes sections 2 and 3 of the bill concerning prevailing wage.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 353.

Bill read second time and ordered to third reading.

Assembly Bill No. 391.

Bill read second time and ordered to third reading.

Assembly Bill No. 392.

Bill read second time and ordered to third reading.

Assembly Bill No. 393.

Bill read second time and ordered to third reading.

Assembly Bill No. 424.

Bill read second time and ordered to third reading.

Assembly Bill No. 425.

Bill read second time and ordered to third reading.

Assembly Bill No. 429.

Bill read second time and ordered to third reading.

Assembly Bill No. 430.

Bill read second time and ordered to third reading.

Assembly Bill No. 444.

Bill read second time and ordered to third reading.

Assembly Bill No. 464.

Bill read second time and ordered to third reading.

Assembly Joint Resolution No. 1.

Resolution read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 101.

Assembly Joint Resolution No. 1.—Assemblyman Ellison; **Elliot Anderson, Paul Anderson, Araujo, Armstrong, Benitez-Thompson,**

**Bustamante Adams, Carrillo, Diaz, Dickman, Dooling, Edwards, Fiore, Gardner, Hambrick, Hansen, Hickey, Joiner, Jones, Kirkpatrick, Kirner, Moore, Munford, Neal, Nelson, O'Neill, Ohrenschall, Oscarson, Seaman, Shelton, Silberkraus, Spiegel, Stewart, Thompson, Titus, Trowbridge, Wheeler and Woodbury:**

ASSEMBLY JOINT RESOLUTION—Recognizing the strategic partnership and bond of friendship with, and expressing the Nevada Legislature's support for, the State of Israel.

WHEREAS, The United States of America, having been the first country to recognize the State of Israel as an independent nation and as the principal ally of the State of Israel, has enjoyed a close and mutually beneficial relationship with the State of Israel and her people; and

WHEREAS, The State of Israel is the United States of America's closest ally in the Middle East; and

WHEREAS, The State of Israel is currently facing significant threats, including the possibility of Iran developing nuclear weapons; and

WHEREAS, These threats pose a substantial risk to the United States of America and the other democratic countries of the world; and

WHEREAS, The State of Nevada and the State of Israel enjoy a cordial and mutually beneficial relationship; and

WHEREAS, The partnership and bond of friendship between the State of Nevada and the State of Israel were further strengthened by Governor Brian Sandoval's trade mission to the State of Israel, which resulted in several Israeli companies considering establishing businesses and other partnerships in the State of Nevada; and

WHEREAS, The Governor has appointed an official trade representative to Israel to continue to promote bilateral economic development between the State of Nevada and the State of Israel; and

WHEREAS, The Jewish community in the State of Nevada continues to make important contributions to the history and culture of the State of Nevada and supports the State of Israel; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the members of the 78th Session of the Nevada Legislature hereby recognize the strategic partnership and bond of friendship between the State of Nevada and the State of Israel; and be it further

RESOLVED, That the Nevada Legislature hereby expresses its support for the State of Israel; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Ambassador of Israel to the United States, the Consul General of Israel in Los Angeles, each member of the Nevada Congressional Delegation and the President of the Jewish Federation of Las Vegas; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Assemblyman Stewart moved the adoption of the amendment.

Remarks by Assemblyman Stewart.

ASSEMBLYMAN STEWART:

Assembly Joint Resolution 1 recognizes Nevada's longstanding relationship with the State of Israel. Amendment 101 simply adds names to the list of sponsors of the bill.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

##### NOTICE OF EXEMPTION

April 10, 2015

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 203.

CINDY JONES

*Fiscal Analysis Division*

Assemblyman Paul Anderson moved that upon return from the printer, Assembly Bills Nos. 77 and 203 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Paul Anderson moved that Assembly Bills Nos. 353, 392, 393, 430, and 464 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 8.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

ASSEMBLYMAN OHRENSCHALL:

Assembly Bill 8 specifically prohibits a person or organization other than a child welfare agency or a licensed child-placing agency from using various computerized communication systems, such as electronic mail and websites, to advertise the availability or placement of children for adoption. A violation of these provisions would be a misdemeanor.

During a court proceeding, instruments of restraint on a child are prohibited unless the restraint is necessary to prevent the child from harming himself or herself or another person or to prevent the child from escaping the courtroom and there is not a less restrictive alternative to prevent such harm or potential escape. In determining whether to use restraints on a child, the court must consider certain factors in making its determination and make specific findings of fact and conclusions of law to support its determination.

The measure provides that certain placements of a child are not prohibited, including the placement of a child with a relative or stepparent, the placement of a child with or by a licensed child-placing agency or an agency that provides child welfare services, and the placement of a child with a person who is approved by a court. The bill prohibits the trafficking of children, including selling, transferring, or arranging for the sale, transfer, or receiving of a child to another person or entity for money or anything of value. A parent, individual, or entity with custody of a child who traffics the child with the intention of permanently divesting themselves of responsibility for the child would be guilty of a category C felony pursuant to this measure and also may be ordered by a court to pay restitution to the victim of child trafficking.

During the interim, I had the privilege of serving on the Legislative Committee on Child Welfare and Juvenile Justice. It was chaired by our former colleague from Assembly District 8 who worked tirelessly on this issue. During the hearings we heard a lot of testimony about a process called re-homing, where ads are put on Craig's List trying to move adopted children—children that the parents have decided they do not want anymore. Assembly Bill 8 will really address that issue and make sure that does not happen in Nevada.

Roll call on Assembly Bill No. 8:

YEAS—41.

NAYS—None.

EXCUSED—Thompson.

Assembly Bill No. 8 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 14.

Bill read third time.

Remarks by Assemblyman Silberkraus.

ASSEMBLYMAN SILBERKRAUS:

Assembly Bill 14 transfers to the State Board of Examiners the authority to designate debts of the Division of Industrial Relations, Department of Business and Industry, and the State Gaming Control Board as bad debts and to cause the removal of those debts from the books of account of the state.

Roll call on Assembly Bill No. 14:

YEAS—41.

NAYS—None.

EXCUSED—Thompson.

Assembly Bill No. 14 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:33 p.m.

#### ASSEMBLY IN SESSION

At 1:39 p.m.

Mr. Speaker presiding.

Quorum present.

Assembly Bill No. 19.

Bill read third time.

Remarks by Assemblywoman Shelton.

ASSEMBLYWOMAN SHELTON:

Assembly Bill 19 replaces the specified dates that local governments must hold public hearings to consider tentative budgets with a range of dates starting on the third Monday in May and ending on the last day in May.

Roll call on Assembly Bill No. 19:

YEAS—41.

NAYS—None.

EXCUSED—Thompson.

Assembly Bill No. 19 having received a constitutional majority,  
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 23.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

ASSEMBLYMAN OHRENSCHALL:

Assembly Bill 23 revises provisions relating to the conduct of elections, including removing the requirement that certain topics be the subject of regulations to be adopted by the Secretary of State. The bill changes the date of certain general city elections to the second Tuesday after the first Monday in June and makes conforming changes to the charters of Boulder City, Caliente, Henderson, Las Vegas, North Las Vegas, and Yerington.

The bill also revises a provision in current law to require that only voters who voted at the relevant preceding election may sign a recall petition. That is to conform to recent Nevada Supreme Court opinion. The bill provides that a committee for the recall of a public officer must file contribution and expenditure reports, regardless of the outcome of the efforts to circulate the recall petition. The bill incorporates the definition of the term “independent expenditure,” which we clarified last session into the definition of “committee for political action.” Contribution limits currently tied to the dates for convening and adjourning the legislative session are changed to calendar years.

There were some questions about changing the date of the municipal elections. The reason provided during your hearings was the local registrars and the city clerks were having difficulty getting the schools to be available. Moving this will push this out, school will have ended, and hopefully they will not have those difficulties in terms of these municipal elections.

Roll call on Assembly Bill No. 23:

YEAS—41.

NAYS—None.

EXCUSED—Thompson.

Assembly Bill No. 23 having received a constitutional majority,  
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 53.

Bill read third time.

Remarks by Assemblyman Moore.

ASSEMBLYMAN MOORE:

Assembly Bill 53 revises the standard of proof for administrative hearings in existing law to conform to the preponderance-of-the-evidence standard set by a recent Nevada Supreme Court decision. This bill also codifies into statute the definition of “substantial evidence” in case law for purposes of the standard for judicial review.

Among other provisions, A.B. 53 also provides that the voluntary surrender of a license in a contested case will constitute disciplinary action against the licensee. It also requires a party who requests the transcription of oral proceedings to pay for the costs of the transcription. It clarifies that to be a contested case, the provision of notice and opportunity for hearing must be required by statute or regulation. Finally, it makes it discretionary instead of mandatory for a regulatory



body that initiates disciplinary proceedings against a licensee to require the licensee to submit his or her fingerprints.

Roll call on Assembly Bill No. 53:

YEAS—41.

NAYS—None.

EXCUSED—Thompson.

Assembly Bill No. 53 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 83.

Bill read third time.

Remarks by Assemblywoman Diaz.

ASSEMBLYWOMAN DIAZ:

Assembly Bill 83 expands the definition of “manufacturer” for the purposes of the regulation of cigarettes and other tobacco products to include certain persons who produce, fill, roll, dispense, or otherwise manufacture cigarettes using certain commercial-grade cigarette rolling machines. The bill requires that a manufacturer must obtain a license from the Department of Taxation in order to operate a rolling machine for commercial purposes, and additionally provides for the seizure and destruction of a rolling machine that is operated illegally.

Assembly Bill 83 also removes a provision requiring certain tobacco manufacturers who are required to maintain a registered agent in Nevada solely to comply with the provisions of NRS 370.680 from the requirement to obtain a state business license from the Secretary of State’s Office. This act becomes effective upon passage and approval.

Roll call on Assembly Bill No. 83:

YEAS—34.

NAYS—Ellison, Fiore, Jones, Moore, Shelton, Titus, Wheeler—7.

EXCUSED—Thompson.

Assembly Bill No. 83 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 103.

Bill read third time.

Remarks by Assemblyman O’Neill.

ASSEMBLYMAN O’NEILL:

Assembly Bill 103 requires the Department of Motor Vehicles to design, prepare, and issue special license plates honoring veterans who have received the Silver Star or the Bronze Star Medal with “V” device, Combat V, or Combat Distinguishing Device. A veteran who is eligible for these plates and has suffered a 100-percent, service-connected disability may have the international symbol of access inscribed on the license plates.

The bill specifies that no fee, in addition to applicable registration and license fees and government services taxes, may be charged for the issuance or renewal of these special license plates. Finally, a vehicle on which such plates are displayed is exempt from the payment of parking fees charged by the state or any political subdivision or other public body within the state, other than the federal government. This bill is effective on July 1, 2015.

Roll call on Assembly Bill No. 103:

YEAS—41.

NAYS—None.

EXCUSED—Thompson.

Assembly Bill No. 103 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 116.

Bill read third time.

Remarks by Assemblywoman Bustamante Adams.

Roll call on Assembly Bill No. 116:

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Assembly Bill 116 revises provisions governing the Clark County Regional Business Development Advisory Council, which was originally enacted by the Legislature pursuant to Assembly Bill 7 of the 20th Special Session. The changes include revising the membership of the Council, changing the information which must be reported from certain public entities, and requiring that the Council submit a report every two years to the Legislature.

YEAS—41.

NAYS—None.

EXCUSED—Thompson.

Assembly Bill No. 116 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 117.

Bill read third time.

Remarks by Assemblyman Elliot Anderson.

ASSEMBLYMAN ELLIOT ANDERSON:

Assembly Bill 117 allows a school district permissive authority to enter into written agreements to lease school buses or vehicles for special events that are not part of any school program as long as the agreement does not interfere with the regular transport of the district's pupils. The provisions of a lease agreement must include several requirements to ensure our school district is protected and we do not have any damage to our property.

Roll call on Assembly Bill No. 117:

YEAS—40.

NAYS—Armstrong.

EXCUSED—Thompson.

Assembly Bill No. 117 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

#### UNFINISHED BUSINESS

#### SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 82 and 165.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Assembly Bills Nos. 24, 48, 57, 121, 126, 131, 132, 141, 143, 151, 153, 164, 169, 183, 194, 201, 204, 206, 231, 250, 252, 273, 301, 384, 420, 422, 451, 456, 457; Senate Bill No. 109 be taken

from the General File and placed on the General File for the next legislative day.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Elliot Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to the following students, chaperones, and teachers from American Heritage Academy: Taya Brown, Dora Chatterjee, Lance Pendleton, Liam Pham, Lexi Sielaw, Regina Vasquez, Kyle Hedden, Kevin Hedden, Brooklyn Wirig, Seth Webster, Emmalee Grantham, Tabitha Boardman, Gage Grimes, Markis Lloyd, Noah McCormack, Harry Reid, Morgan Strganac, August Shoopman, and Clara Shoopman.

On request of Assemblywoman Dooling, the privilege of the floor of the Assembly Chamber for this day was extended to Richard Dooling.

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to Kevin L. Child.

On request of Assemblywoman O'Neill, the privilege of the floor of the Assembly Chamber for this day was extended to Ashelyn Lee.

On request of Assemblywoman Seaman, the privilege of the floor of the Assembly Chamber for this day was extended to Tatiana Kohanzad.

On request of Assemblywoman Woodbury, the privilege of the floor of the Assembly Chamber for this day was extended to the following students, chaperones and teachers from Jack and Terry Mannion Middle School: Abbey Flinders, Alexis Martin, Gabe Kristof, Joel Benavidez, Emma Grant, Jessica Koontzs, Gabe Ordonez, Shaina Day, and Dominic Gonzales.

The Assembly observed a moment of silence in memory of Gary Gray.

Assemblyman Paul Anderson moved that the Assembly adjourn until Tuesday, April 14, 2015, at 11:30 a.m., and that it do so in memory of Gary Gray.

Motion carried.

Assembly adjourned at 2:08 p.m.

Approved:

JOHN HAMBRICK  
*Speaker of the Assembly*

Attest: SUSAN FURLONG  
*Chief Clerk of the Assembly*