

SENATE BILL NO. 219—SENATORS WOODHOUSE; AND DENIS

FEBRUARY 27, 2017

Referred to Committee on Natural Resources

SUMMARY—Provides for the regulation of certain sources of non-ionizing radiation. (BDR 40-889)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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

AN ACT relating to radiation; providing for the Division of Public and Behavioral Health of the Department of Health and Human Services and the State Board of Health to regulate tanning equipment and certain other sources of non-ionizing radiation; authorizing the Division to suspend, revoke or amend the license or registration of a person who violates certain provisions; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Health to adopt regulations for the control of sources of ionizing radiation. (NRS 459.201) Existing law also authorizes the Division of Public and Behavioral Health of the Department of Health and Human Services to require the registration and inspection of sources of ionizing radiation and impound a source of ionizing radiation in an emergency. (NRS 459.260) **Sections 3-5** of this bill make these provisions applicable to potentially hazardous non-ionizing radiation as well. **Section 1** of this bill defines "potentially hazardous non-ionizing radiation" to mean: (1) ultraviolet light emitted from tanning equipment; (2) visible, infrared or ultraviolet light emitted from an industrial or medical laser; and (3) other non-ionizing radiation determined by the State Board to be potentially hazardous. **Section 8** of this bill makes it a misdemeanor to use, manufacture, produce or knowingly transport, transfer, receive, acquire, own or possess an unregistered source of potentially hazardous non-ionizing radiation for which registration is required.

Existing law prohibits the owner or operator of a tanning establishment or tanning equipment from allowing a person who is less than 18 years of age from using the tanning equipment of the tanning establishment. (NRS 597.7617) Existing law also imposes certain other duties on the owner or operator of a tanning



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19 establishment or tanning equipment. (NRS 597.7617-597.762) **Sections 3, 4, 6 and**
20 **7** of this bill authorize the State Board and the Division to enforce these provisions.
21 **Section 8** makes the failure to perform these duties a misdemeanor.

22 Existing law requires the State Board to adopt regulations for the licensing of
23 persons to: (1) receive, possess or transfer radioactive materials and devices; and
24 (2) engage in certain other activities relating to radioactive materials. (NRS
25 459.201) **Section 6** of this bill authorizes the Division to suspend, revoke or amend
26 the license or registration of any person who violates any provision of statute or
27 regulations governing radioactive materials, radiation or tanning establishments.

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

1 **Section 1.** NRS 459.010 is hereby amended to read as follows:

2 459.010 As used in NRS 459.010 to 459.290, inclusive, unless
3 the context requires otherwise:

4 1. "By-product material" means:

5 (a) Any radioactive material, except special nuclear material,
6 yielded in or made radioactive by exposure to the radiation incident
7 to the process of producing or making use of special nuclear
8 material; and

9 (b) The tailings or wastes produced by the extraction or
10 concentration of uranium or thorium from any ore which is
11 processed primarily for the extraction of the uranium or thorium.

12 2. "Division" means the Division of Public and Behavioral
13 Health of the Department of Health and Human Services.

14 3. "General license" means a license effective pursuant to
15 regulations adopted by the State Board of Health without the filing
16 of an application to transfer, acquire, own, possess or use quantities
17 of, or devices or equipment for utilizing, by-product material, source
18 material, special nuclear material or other radioactive material
19 occurring naturally or produced artificially.

20 4. "Ionizing radiation" means gamma rays and X-rays, alpha
21 and beta particles, high-speed electrons, neutrons, protons and other
22 nuclear particles, but not sound or radio waves, or visible, infrared
23 or ultraviolet light.

24 5. "Person" includes any agency or political subdivision of this
25 State, any other state or the United States, but not the Nuclear
26 Regulatory Commission or its successor, or any federal agency
27 licensed by the Nuclear Regulatory Commission or any successor to
28 such a federal agency.

29 6. *"Potentially hazardous non-ionizing radiation" means:*

30 (a) *Ultraviolet light emitted from tanning equipment as defined*
31 *in NRS 597.7615;*

32 (b) *Visible, infrared or ultraviolet light emitted from an*
33 *industrial or medical laser; and*



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(c) Other sound or radio waves or visible, infrared or ultraviolet light that the State Board of Health determines by regulation may pose a significant hazard to the health of a person who comes in contact with the radiation.

7. "Source material" means:

(a) Uranium, thorium or any other material which the Governor declares by order to be source material after the Nuclear Regulatory Commission or any successor thereto has determined that material to be source material.

(b) Any ore containing one or more of the materials enumerated in paragraph (a) in such concentration as the Governor declares by order to be source material after the Nuclear Regulatory Commission or any successor thereto has determined the material in the concentration to be source material.

~~7-1~~ 8. "Special nuclear material" means:

(a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235 and any other material which the Governor declares by order to be special nuclear material after the Nuclear Regulatory Commission or any successor thereto has determined such material to be special nuclear material, but does not include source material.

(b) Any material artificially enriched by any of the materials enumerated in paragraph (a), but does not include source material.

~~8-1~~ 9. "Specific license" means a license issued pursuant to the filing of an application to use, manufacture, produce, transfer, receive, acquire, own or possess quantities of, or devices or equipment for utilizing, by-product material, source material, special nuclear material or other radioactive material occurring naturally or produced artificially.

Sec. 2. NRS 459.020 is hereby amended to read as follows:

459.020 The Division is hereby designated as the state radiation control agency, and is authorized to take all action necessary or appropriate to carry out the provisions of NRS 459.010 to 459.290, inclusive ~~H~~, and *597.761 to 597.7622, inclusive.*

Sec. 3. NRS 459.030 is hereby amended to read as follows:

459.030 For the protection of public health and safety, the Division shall:

1. Develop and conduct programs for the evaluation of and response to hazards associated with the use of sources of ionizing radiation ~~H~~ and *potentially hazardous non-ionizing radiation.*

2. Develop programs and formulate, with due regard for compatibility with federal programs, regulations for adoption by the State Board of Health regarding:



(a) Licensing and regulation of by-product materials, source materials, special nuclear materials and other radioactive materials, including radioactive waste.

(b) Control of other sources of ionizing radiation ~~H~~ and *potentially hazardous non-ionizing radiation*.

3. Adopt such regulations as may be necessary to administer the provisions of NRS 459.010 to 459.290, inclusive ~~H~~ , and *597.761 to 597.7622, inclusive*.

4. Collect and disseminate information relating to control of sources of ionizing radiation ~~H~~ and *potentially hazardous non-ionizing radiation*, including:

(a) Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions and revocations.

(b) Maintenance of a file of registrants possessing sources of ionizing radiation and *potentially hazardous non-ionizing radiation* which require registration pursuant to the provisions of NRS 459.010 to 459.290, inclusive. The file must include a record of any administrative or judicial action pertaining to such registrants.

(c) Maintenance of a file of all regulations, pending or promulgated, relating to the regulation of sources of ionizing radiation and *potentially hazardous non-ionizing radiation*, and any proceedings pertaining to the regulations.

Sec. 4. NRS 459.050 is hereby amended to read as follows:

459.050 1. Any authorized representative of the Division may enter at any reasonable time upon any private or public property for the purpose of determining whether there is compliance with or violation of the provisions of NRS 459.010 to 459.290, inclusive, *or 597.761 to 597.7622, inclusive*, or of the rules and regulations promulgated ~~under NRS 459.010 to 459.290, inclusive,~~ *pursuant thereto*, and the owner, occupant or person in charge of such property shall permit such entry and inspection.

2. Entry into areas under the jurisdiction of the Federal Government shall be effected only with the concurrence of the Federal Government or its duly designated representative.

3. Any report of investigation or inspection, or any information concerning trade secrets or secret industrial processes obtained under NRS 459.010 to 459.290, inclusive, *and 597.761 to 597.7622, inclusive*, shall not be disclosed or opened to public inspection except as otherwise provided in NRS 239.0115 or as may be necessary for the performance of the functions of the State Board of Health.



1 **Sec. 5.** NRS 459.201 is hereby amended to read as follows:

2 459.201 1. The State Board of Health shall, with due regard
3 for compatibility with federal programs, adopt regulations for:

4 (a) General or specific licensing of persons to receive, possess or
5 transfer radioactive materials, or devices or equipment utilizing such
6 materials. Every such regulation shall provide for amendment,
7 suspension or revocation of licenses.

8 (b) Licensing and regulation of by-product materials, source
9 materials, special nuclear materials and other radioactive materials,
10 including radioactive waste.

11 (c) Control of other sources of ionizing radiation ~~†~~ *and*
12 *potentially hazardous non-ionizing radiation.*

13 2. The Division may require:

14 (a) Registration and inspection of sources of ionizing radiation
15 *and potentially hazardous non-ionizing radiation* which do not
16 require specific licensing.

17 (b) Compliance with specific standards to be promulgated by the
18 State Board of Health.

19 3. The State Board of Health may exempt certain sources of
20 ionizing radiation ~~†~~ *and potentially hazardous non-ionizing*
21 *radiation*, or kinds of uses or users of such sources, from the
22 licensing or registration requirements set forth in this section if the
23 Board makes a finding that the exemption of such sources of
24 ionizing radiation ~~†~~ *and potentially hazardous non-ionizing*
25 *radiation*, or kinds of uses or users of such sources, will not
26 constitute a significant risk to the health and safety of the public.

27 4. Regulations promulgated pursuant to NRS 459.010 to
28 459.290, inclusive, may provide for recognition of such other state
29 or federal licenses as the State Board of Health may consider
30 desirable, subject to such registration requirements as the State
31 Board of Health may prescribe.

32 **Sec. 6.** NRS 459.260 is hereby amended to read as follows:

33 459.260 1. *The Division may suspend, revoke or amend a*
34 *license or registration issued pursuant to NRS 459.201 to a person*
35 *who has violated any provision of NRS 459.010 to 459.290,*
36 *inclusive, or 597.761 to 597.7622, inclusive, or any rule,*
37 *regulation or order issued pursuant thereto.*

38 2. In the event of an emergency, the Division may impound, or
39 order the impounding of, sources of ionizing radiation *and*
40 *potentially hazardous non-ionizing radiation* in the possession of
41 any person who is not equipped to observe, or who fails to observe,
42 any provision of NRS 459.010 to 459.290, inclusive, *or 597.761 to*
43 *597.7622, inclusive,* or any rules or regulations issued ~~under NRS~~
44 ~~459.010 to 459.290, inclusive.~~ *pursuant thereto.*



Sec. 7. NRS 459.270 is hereby amended to read as follows:

459.270 1. If, in the judgment of the Division, any person is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of NRS 459.010 to 459.290, inclusive, *or 597.761 to 597.7622, inclusive,* or any rule, regulation or order issued ~~under NRS 459.010 to 459.290, inclusive,~~ *pursuant thereto,* the Division may request the Attorney General to apply to the district court for an order enjoining such act or practice, or for an order directing compliance with any provision of NRS 459.010 to 459.290, inclusive, *and 597.761 to 597.7622, inclusive,* or any rule, regulation or order issued ~~under NRS 459.010 to 459.290, inclusive,~~ *pursuant thereto.*

2. Upon a showing by the Division that such person has engaged in or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order or other appropriate order may be granted by the court.

Sec. 8. NRS 459.290 is hereby amended to read as follows:

459.290 Every person is guilty of a misdemeanor who:

1. Uses, manufactures, produces, or knowingly transports, transfers, receives, acquires, owns or possesses any source of ionizing radiation *or potentially hazardous non-ionizing radiation* which has not been licensed or registered in accordance with the provisions of NRS 459.010 to 459.290, inclusive, and the regulations adopted under them.

2. Violates any of the provisions of NRS 459.010 to 459.290, inclusive, *or 597.761 to 597.7622, inclusive,* or any regulation or order adopted or issued under them.

Sec. 9. NRS 597.762 is hereby amended to read as follows:

597.762 An owner or operator shall ensure that:

1. A person who is qualified to operate the tanning equipment and who is able to inform users about, and assist such users in, the proper use of tanning equipment is present at the tanning establishment during operating hours.

2. Tanning equipment is properly sanitized after each use.

3. Each user, before he or she begins to use tanning equipment, is provided with properly sanitized and securely fitting protective eyewear that protects the wearer's eyes from ultraviolet radiation and allows enough vision to maintain balance.

4. Users wear the protective eyewear described in subsection 3 when using tanning equipment.

5. Each user is shown how to maintain the proper exposure distance from the tanning equipment as recommended by the manufacturer.

6. A timing device which is accurate within 10 percent of any selected time interval is used and is remotely located so a user



1 cannot set his or her own exposure time when using tanning
2 equipment.

3 7. Tanning equipment is equipped with a mechanism that
4 allows the user to turn off the tanning equipment.

5 8. Each user is limited to the maximum exposure time
6 recommended by the manufacturer for his or her skin type.

7 9. A user is not allowed to use the tanning equipment more
8 than once in any 24-hour period.

9 10. The interior temperature of the tanning equipment does not
10 exceed 100 degrees Fahrenheit.

11 11. Acknowledgments signed by each user indicating that he or
12 she understands the notices and warnings prescribed by NRS
13 597.7618 and 597.7619, and that he or she agrees to use protective
14 eyewear, are retained for at least 1 year or until the user signs a new
15 acknowledgment.

16 *12. Tanning equipment is used and operated in accordance*
17 *with any applicable regulations adopted by the State Board of*
18 *Health or the Division of Public and Behavioral Health of the*
19 *Department of Health and Human Services pursuant to NRS*
20 *459.010 to 459.290, inclusive.*

21 **Sec. 10.** This act becomes effective upon passage and approval
22 for the purpose of adopting regulations and performing any other
23 administrative tasks that are necessary to carry out the provisions of
24 this act and on January 1, 2018, for all other purposes.

