

ASSEMBLY BILL NO. 537—COMMITTEE ON WAYS AND MEANS

MAY 21, 2019

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Revises provisions relating to certain penalties imposed by the State Department of Conservation and Natural Resources. (BDR 40-1270)

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

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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 the State Department of Conservation and Natural Resources; providing that the State Department of Conservation and Natural Resources and the Division of Environmental Protection of the Department are authorized to impose remedies other than civil penalties for violations of certain environmental laws; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Department of Conservation and Natural Resources and the Division of Environmental Protection of the Department to impose civil penalties for violations of certain environmental laws, including laws relating to water pollution control, public water systems, the disposal of hazardous waste, storage tanks and the reclamation of land. (NRS 445A.700, 445A.950, 445A.952, 459.585, 459.856, 519A.280) **Sections 1.5-6** of this bill provide that in addition to any other remedy provided, the Department or the Division, respectively, are authorized to impose any other appropriate remedy. **Section 1** of this bill makes conforming changes.

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

Section 1. NRS 445A.680 is hereby amended to read as follows:
445A.680 Except as otherwise provided in NRS 445A.707, if the Director finds that any person is engaged or about to engage in



any act or practice which violates any provision of NRS 445A.565 and 445A.570, or any standard or other regulation adopted pursuant thereto, with respect to a diffuse source : ~~[; the Director may:]~~

1. ~~[Issue]~~ *The Director may issue* an order:

(a) Specifying the provision or provisions of NRS 445A.300 to 445A.730, inclusive, or the regulation or order alleged to be violated or about to be violated;

(b) Indicating the facts alleged which constitute a violation thereof; and

(c) Prescribing the necessary corrective action to be taken and a reasonable period for completing that corrective action,

➡ but no civil or criminal penalty may be imposed for failure to obey the order.

2. If the corrective action is not taken or completed, or without *the Director* first issuing an order ~~[;]~~ :

(a) *The Director may* commence a civil action pursuant to NRS 445A.695 ~~[;]~~ ; or

(b) *The Department may compel compliance by injunction or other appropriate remedy pursuant to subsection 4 of NRS 445A.700.*

Sec. 1.5. NRS 445A.700 is hereby amended to read as follows:

445A.700 1. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, a person who violates or aids or abets in the violation of any provision of NRS 445A.300 to 445A.730, inclusive, or of any permit, regulation, standard or final order issued thereunder, except a provision concerning a diffuse source, shall pay a civil penalty of not more than \$25,000 for each day of the violation. The civil penalty imposed by this subsection is in addition to any other penalties provided pursuant to NRS 445A.300 to 445A.730, inclusive.

2. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, in addition to the penalty provided in subsection 1, the Department may recover from the person actual damages to the State resulting from the violation of NRS 445A.300 to 445A.730, inclusive, any regulation or standard adopted by the Commission, or permit or final order issued by the Department, except the violation of a provision concerning a diffuse source.

3. Damages may include:

(a) Any expenses incurred in removing, correcting and terminating any adverse effects resulting from a discharge or the injection of contaminants through a well; and

(b) Compensation for any loss or destruction of wildlife, fish or aquatic life.



4. *In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of NRS 445A.300 to 445A.730, inclusive, or of any permit, regulation, standard or final order adopted or issued thereto, by injunction or other appropriate remedy. The Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.*

Sec. 2. NRS 445A.950 is hereby amended to read as follows:

445A.950 1. Any supplier of water who:

(a) Violates any standard established pursuant to NRS 445A.855;

(b) Violates or fails to comply with an order issued pursuant to NRS 445A.930 or subsection 1 or 2 of NRS 445A.943;

(c) Violates any condition imposed by the Commission upon granting a variance or exemption under NRS 445A.935;

(d) Violates a regulation adopted by the Commission pursuant to NRS 445A.860 or 445A.880; or

(e) Fails to give a notice as required by NRS 445A.940, ➤ is liable for a civil penalty, to be recovered by the Attorney General in the name of the Division, of not more than \$25,000 for each day of the violation.

2. In addition to the civil penalty prescribed in subsection 1, the Division may impose an administrative fine against a supplier of water who commits any violation enumerated in subsection 1. The administrative fine imposed may not be more than \$5,000 per day for each such violation.

3. The civil penalty and administrative fine prescribed in this section may be imposed in addition to any other penalties or relief prescribed in NRS 445A.800 to 445A.955, inclusive.

4. *In addition to any other remedy provided by this chapter, the Division may compel compliance with any provision of NRS 445A.800 to 445A.955, inclusive, or of any permit, certificate, standard, regulation or final order adopted or issued thereto, by injunction or other appropriate remedy. The Division may institute and maintain in the name of the State of Nevada any such enforcement proceedings.*

Sec. 3. NRS 445A.952 is hereby amended to read as follows:

445A.952 1. A laboratory for the analysis of water that:

(a) Violates any regulation adopted by the Commission pursuant to NRS 445A.863; or

(b) Violates or fails to comply with an order issued pursuant to subsection 1 or 2 of NRS 445A.943,

➤ is liable for a civil penalty, to be recovered by the Attorney General in the name of the Division, of not more than \$5,000 for each day of the violation.



2. In addition to the civil penalty described in subsection 1, the Division may impose an administrative fine of not more than \$2,500 per day for each violation described in subsection 1.

3. The civil penalty and administrative fine authorized by this section are in addition to any other penalties or relief prescribed by NRS 445A.800 to 445A.955, inclusive.

4. In addition to any other remedy provided by this chapter, the Division may compel compliance with any provision of NRS 445A.800 to 445A.955, inclusive, or of any permit, certificate, standard, regulation or final order adopted or issued thereto, by injunction or other appropriate remedy. The Division may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 4. NRS 459.585 is hereby amended to read as follows:

459.585 1. Any person who violates or contributes to a violation of any provision of NRS 459.400 to 459.560, inclusive, 459.590 or of any regulation adopted or permit or order issued pursuant to those sections, or who does not take action to correct a violation within the time specified in an order, is liable to the Department for a civil penalty of not more than \$25,000 for each day on which the violation occurs. This penalty is in addition to any other penalty provided by NRS 459.400 to 459.600, inclusive.

2. The Department may recover, in the name of the State of Nevada, actual damages which result from a violation, in addition to the civil penalty provided in this section. The damages may include expenses incurred by the Department in removing, correcting or terminating any adverse effects which resulted from the violation and compensation for any fish, aquatic life or other wildlife destroyed as a result of the violation.

3. In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of NRS 459.400 to 459.560, inclusive, 459.590 or of any regulation adopted or permit or order issued pursuant to those sections, by injunction or other appropriate remedy. The Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 5. NRS 459.856 is hereby amended to read as follows:

459.856 1. Any person who violates or contributes to a violation of any provision of NRS 459.800 to 459.856, inclusive, or of any regulation adopted or permit or order issued pursuant to those sections, or who does not take action to correct a violation within the time specified in an order, is liable to the Department for a civil penalty of not more than \$5,000 for each day on which the violation occurs. This penalty is in addition to any other penalty provided by NRS 459.800 to 459.856, inclusive.



2. The Department may recover, in the name of the State of Nevada, actual damages which result from a violation, in addition to the civil penalty provided in this section. The damages may include expenses incurred by the Department in removing, correcting or terminating any adverse effects which resulted from the violation and compensation for any damages incurred as a result of the violation.

3. In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of NRS 459.800 to 459.856, inclusive, or of any regulation adopted or permit or order issued pursuant to those sections, by injunction or other appropriate remedy. The Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 6. NRS 519A.280 is hereby amended to read as follows:

519A.280 1. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, a person who violates any provision of NRS 519A.010 to 519A.280, inclusive, or any regulation adopted by the Commission pursuant to NRS 519A.160, is guilty of a misdemeanor and, in addition to any criminal penalty, is subject to a civil penalty imposed by the Division at a hearing for which notice has been given, in an amount determined pursuant to the schedule adopted by the Commission pursuant to NRS 519A.160.

2. Any money received by the Division pursuant to subsection 1 must be deposited with the State Treasurer for credit to the appropriate account of the Division. All interest earned on the money credited pursuant to this section must be credited to the account to which the money was credited.

3. In addition to any other remedy provided by this chapter, the Division may compel compliance with any provision of NRS 519A.010 to 519A.280, inclusive, or of any regulation adopted or permit or order issued pursuant to those sections, by injunction or other appropriate remedy. The Division may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 7. This act becomes effective on July 1, 2019.

