

SENATE BILL NO. 349—SENATOR OHRENSCHALL

MARCH 24, 2021

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to public health.
(BDR 40-90)

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

~

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

AN ACT relating to public health; excluding certain materials from the provisions governing the disposal of solid waste; providing that an ordinance for the licensing and regulating of farmers' markets may not prohibit the sale of unpackaged produce at a licensed farmers' market; providing that the State Board of Health or a local board of health may not adopt regulations that prohibit the sale of unpackaged produce at a licensed farmers' market; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a county, a city or a district board of health, if created, to develop a plan to provide for a solid waste management system that adequately provides for the management and disposal of solid waste within the area of the system. (NRS 444.510) Existing law sets forth penalties for a person who is found guilty of illegally disposing of solid waste. (NRS 444.630, 444.635) Existing law also provides restrictions on the rules adopted by an association in certain planned communities relating to the location of containers for the collection of solid waste or recyclable materials. (NRS 116.332) **Section 1** of this bill excludes from the applicability of such provisions compostable materials that are: (1) inoculated with an effective microorganism and placed in sealed containers for a length of time sufficient for fermentation to occur under anaerobic conditions and promote acidification of the materials; and (2) delivered promptly to a person who holds a certificate as an actual producer of farm products issued by the State Department of Agriculture or who is approved to receive the materials by a person or governmental entity that has been accredited as a certifying agent pursuant to the National Organic Program of the United States Department of Agriculture. (7 C.F.R. Part 205)

Existing law authorizes counties and cities to grant exclusive franchises to any person or entity to provide services for the collection and disposal of garbage and



* S B 3 4 9 *

other waste. (NRS 244.187, 244.188, 268.081) **Sections 3, 4 and 6** of this bill clarify that such other waste does not include the compostable materials described in **section 1**.

Existing law sets forth provisions governing the regulation of food establishments. (Chapter 446 of NRS) Existing law also requires that such provisions be enforced by the health authority, in accordance with regulations adopted by the State Board of Health or a local board of health. (NRS 446.940) Existing law defines "food establishment" to mean any place, structure, premises, vehicle or vessel in which any food intended for ultimate human consumption is manufactured or prepared, or in which any food is sold, offered or displayed. (NRS 446.020) Because a farmers' market is a place in which food is sold, existing law requires a farmers' market to comply with provisions of law governing food establishments. **Section 2** of this bill provides that the State Board of Health or a local board of health may not adopt regulations that prohibit the sale of unpackaged produce at a licensed farmers' market.

Existing law authorizes local governments, city councils or other governing bodies to provide by ordinance for the licensing and regulating of farmers' markets. (NRS 244.337, 268.092) **Sections 5 and 7** of this bill provide that such an ordinance may not prohibit the sale of unpackaged produce at a licensed farmers' market.

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

Section 1. NRS 444.490 is hereby amended to read as follows:
444.490 1. "Solid waste" means all putrescible and nonputrescible refuse in solid or semisolid form, including, but not limited to, garbage, rubbish, junk vehicles, ashes or incinerator residue, street refuse, dead animals, demolition waste, construction waste, solid or semisolid commercial and industrial waste.

2. The term does not include:

(a) Hazardous waste managed pursuant to NRS 459.400 to 459.600, inclusive.

(b) A vehicle described in subparagraph (2) of paragraph (b) of subsection 1 of NRS 444.620.

(c) Compostable materials which are:

(1) Inoculated with an effective microorganism and placed in sealed containers for a length of time sufficient for fermentation to occur under anaerobic conditions and promote acidification of the materials; and

(2) Delivered promptly to a person who holds a certificate as an actual producer of farm products issued pursuant to NRS 576.128 or who is approved to receive the materials by a person or governmental entity that has been accredited as a certifying agent pursuant to 7 C.F.R. Part 205.

Sec. 2. NRS 446.940 is hereby amended to read as follows:

446.940 1. Except as provided in ~~[subsection]~~ *subsections 2 and 3*, this chapter must be enforced by the health authority in



1 accordance with regulations hereby authorized to be adopted by the
2 State Board of Health to carry out the requirements of this chapter.

3 2. ~~[A]~~ *Except as otherwise provided in subsection 3, a* local
4 board of health may adopt such regulations as it may deem
5 necessary to carry out the requirements of this chapter. Such
6 regulations:

7 (a) Become effective when approved by the State Board of
8 Health;

9 (b) Must be enforced by the health authority; and

10 (c) Supersede the regulations adopted by the State Board of
11 Health pursuant to subsection 1.

12 3. *The State Board of Health or a local board of health shall*
13 *not adopt regulations that prohibit the sale of unpackaged produce*
14 *at a farmers' market licensed pursuant to NRS 244.337 or*
15 *268.092.*

16 4. All sheriffs, constables, police officers, marshals and other
17 peace officers shall render such services and assistance to the health
18 authority in regard to enforcement as the health authority may
19 request.

20 **Sec. 3.** NRS 244.187 is hereby amended to read as follows:

21 244.187 1. A board of county commissioners may, to provide
22 adequate, economical and efficient services to the inhabitants of the
23 county and to promote the general welfare of those inhabitants,
24 displace or limit competition in any of the following areas:

25 ~~[1-]~~ (a) Ambulance service.

26 ~~[2-]~~ (b) Taxicabs and other public transportation, unless
27 regulated in that county by an agency of the State.

28 ~~[3-]~~ (c) Collection and disposal of garbage and other waste.

29 ~~[4-]~~ (d) Operations at an airport, including, but not limited to,
30 the leasing of motor vehicles and the licensing of concession stands,
31 but excluding police protection and fire protection.

32 ~~[5-]~~ (e) Water and sewage treatment, unless regulated in that
33 county by an agency of the State.

34 ~~[6-]~~ (f) Concessions on, over or under property owned or leased
35 by the county.

36 ~~[7-]~~ (g) Operation of landfills.

37 ~~[8-]~~ (h) Except as otherwise provided in NRS 277A.330,
38 construction and maintenance of benches and shelters for passengers
39 of public mass transportation.

40 2. *As used in this section, "waste" does not include*
41 *compostable materials which are:*

42 (a) *Inoculated with an effective microorganism and placed in*
43 *sealed containers for a length of time sufficient for fermentation*
44 *to occur under anaerobic conditions and promote acidification of*
45 *the materials; and*



(b) Delivered promptly to a person who holds a certificate as an actual producer of farm products issued pursuant to NRS 576.128 or who is approved to receive the materials by a person or governmental entity that has been accredited as a certifying agent pursuant to 7 C.F.R. Part 205.

Sec. 4. NRS 244.188 is hereby amended to read as follows:

244.188 1. Except as otherwise provided in subsection 3 and NRS 269.128 and 269.129, a board of county commissioners may, outside the boundaries of incorporated cities and general improvement districts:

(a) Provide those services set forth in NRS 244.187 on an exclusive basis or, by ordinance, adopt a regulatory scheme for controlling the provision of those services or controlling development in those areas on an exclusive basis; or

(b) Grant an exclusive franchise to any person to provide those services.

2. If services for the collection and disposal of garbage are provided pursuant to subsection 1, the board of county commissioners may, except as otherwise provided in subsection 3, require owners of real property outside the boundaries of incorporated cities and general improvement districts to receive and pay for those services.

3. The board of county commissioners may exercise the authority provided in subsections 1 and 2 within the boundaries of a general improvement district if that district:

(a) Is not authorized to provide those services; and

(b) Includes any real property within 7 miles from the boundary of an incorporated city.

4. If an exclusive franchise is granted or a regulatory scheme is adopted for the mandatory collection and disposal of garbage and other waste, the initial boundaries of the collection area must be the same as the boundaries of an existing collection area under an exclusive franchise or regulatory scheme.

5. The board of county commissioners may expand the boundaries of a collection area established pursuant to subsection 4 after the board has:

(a) Conducted preliminary studies and determined that the proposed collection area is economically sound and feasible and promotes the health, safety and general welfare of the inhabitants of the county; and

(b) Held a public hearing on the proposed collection area after giving notice of the time and the place of the hearing in a newspaper of general circulation in that county. The notice must include the purpose of the hearing and describe the boundaries of the proposed collection area.



1 **6. As used in this section, "waste" has the meaning ascribed**
2 **to it in NRS 244.187.**

3 **Sec. 5.** NRS 244.337 is hereby amended to read as follows:

4 244.337 1. The board of county commissioners of any county
5 may provide by ordinance for the licensing and regulating of
6 farmers' markets located outside of an incorporated city. **Any such**
7 **ordinance must not prohibit the sale of unpackaged produce at a**
8 **licensed farmers' market.**

9 2. Every person who establishes a farmers' market shall make
10 application to the board of county commissioners of the county in
11 which the farmers' market is to be located. The application must be
12 in a form and manner prescribed by the board of county
13 commissioners.

14 3. The board of county commissioners may:

15 (a) Fix, impose and collect license fees upon the market.

16 (b) Grant or deny applications for licenses or impose conditions,
17 limitations and restrictions upon the license.

18 (c) Adopt, amend and repeal regulations relating to the licenses
19 and licensees of farmers' markets.

20 **Sec. 6.** NRS 268.081 is hereby amended to read as follows:

21 268.081 **1.** The governing body of an incorporated city may,
22 to provide adequate, economical and efficient services to the
23 inhabitants of the city and to promote the general welfare of those
24 inhabitants, displace or limit competition in any of the following
25 areas:

26 ~~{1-}~~ (a) Ambulance service.

27 ~~{2-}~~ (b) Taxicabs and other public transportation, unless
28 regulated in that city by an agency of the State.

29 ~~{3-}~~ (c) Collection and disposal of garbage and other waste.

30 ~~{4-}~~ (d) Operations at an airport, including, but not limited to,
31 the leasing of motor vehicles and the licensing of concession stands,
32 but excluding police protection and fire protection.

33 ~~{5-}~~ (e) Water and sewage treatment, unless regulated in that
34 city by an agency of the State.

35 ~~{6-}~~ (f) Concessions on, over or under property owned or leased
36 by the city.

37 ~~{7-}~~ (g) Operation of landfills.

38 ~~{8-}~~ (h) Search and rescue.

39 ~~{9-}~~ (i) Inspection required by any city ordinance otherwise
40 authorized by law.

41 ~~{10-}~~ (j) Except as otherwise provided in NRS 277A.330,
42 construction and maintenance of benches and shelters for passengers
43 of public mass transportation.

44 ~~{11-}~~ (k) Any other service demanded by the inhabitants of the
45 city which the city itself is otherwise authorized by law to provide.



1 **2. As used in this section, “waste” has the meaning ascribed**
2 **to it in NRS 244.187.**

3 **Sec. 7.** NRS 268.092 is hereby amended to read as follows:

4 268.092 1. The city council or other governing body of any
5 incorporated city in the State of Nevada, whether organized under
6 general law or special charter, may provide by ordinance for the
7 licensing and regulating of farmers’ markets. ***Any such ordinance***
8 ***must not prohibit the sale of unpackaged produce at a licensed***
9 ***farmers’ market.***

10 2. Every person who establishes a farmers’ market shall make
11 application to the city council or other governing body of the
12 incorporated city in which the farmers’ market is to be located. The
13 application must be in a form and manner prescribed by the city
14 council or other governing body.

15 3. The city council or other governing body may:

16 (a) Fix, impose and collect license fees upon the market.

17 (b) Grant or deny applications for licenses or impose conditions,
18 limitations and restrictions upon the license.

19 (c) Adopt, amend and repeal regulations relating to the licenses
20 and licensees of farmers’ markets.

21 **Sec. 8.** The amendatory provisions of sections 3, 4 and 6 of
22 this act do not apply to any contract for the exclusive franchise to
23 provide the services described in paragraph (c) of subsection 1 of
24 NRS 244.187, as amended by section 3 of this act, or paragraph (c)
25 of subsection 1 of NRS 268.081, as amended by section 6 of this
26 act, that is that is awarded before October 1, 2021, unless the
27 contract is amended, extended or renewed on or after
28 October 1, 2021.

