

Assembly Bill No. 77—Committee on Natural
Resources, Agriculture, and Mining

CHAPTER.....

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; 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 civil penalties for 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; 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 delete 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. **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. **Section 136** of this bill requires the State Sealer of Consumer Equitability to conduct random inspections of point-of-sale systems and cash registers 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 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. **Section 96.5** of this bill reenacts in chapter 446 of NRS, without substantive change, a provision currently in chapter 583 of NRS which relates to the sale of diseased animal flesh or a container containing shellfish which has not been stamped as approved and which is repealed by **section 210** of this bill. The purpose of repealing and reenacting these 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.

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

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 ~~{a}~~ 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.

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~~ **the**:

1. *The* Director may:

~~1-1~~ (a) Investigate the prevalence of; and

~~1-2~~ (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~~

~~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 ~~the~~ ~~treat or eradicate~~ the pest, *noxious weed* or plant disease in the manner and within the period specified in the notice.

~~1-2~~ 3. A notice issued pursuant to the provisions of subsection ~~1-1~~ 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 ~~eradicated 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 ~~eradicated 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 ~~eradicated 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 ~~eradicate~~ *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 ~~it~~ **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. (Deleted by amendment.)

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 ~~land 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 ~~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. (Deleted by amendment.)

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 ~~H~~ 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. (Deleted by amendment.)

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 ~~10 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. (Deleted by amendment.)

Sec. 107. (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.~~

~~—3.1~~ 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.~~

~~—2.1~~ 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; and*
- 3. The agricultural product is grown, produced or processed in this State.*

Sec. 125. *1. Except as otherwise provided in subsection 2, the Department shall adopt regulations pursuant to which a person must register as a produce vendor.*

2. 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 ~~H~~ *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~~ and price representations , ~~and point-of-sale systems,~~ 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~~

~~(e)~~ 22. Conduct investigations to ensure compliance with ~~those standards,~~ the regulations adopted pursuant to subsection 21.

Sec. 137. (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 ~~fish~~

~~—(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. (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 ~~on 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 ~~{a 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 unviscerated 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~~ **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 ~~is~~

~~(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~~ 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~~ 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.

Secs. 167-174. (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.

~~5.5~~ 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.



~~16.1~~ 7. Each person registered pursuant to this section shall, on or before the date specified for each reporting period established pursuant to subsection ~~17.1~~ 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.

~~17.1~~ 8. The Director shall adopt regulations establishing reporting periods and dates for filing reports pursuant to subsection ~~16.1~~ 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.~~



Viscosity	Minimum Flash	Universal 210 Degrees	Viscosity Sayboldt Seconds
Classification	Degrees Fahrenheit	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 ~~:~~

~~(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.



