

THE ONE HUNDRED AND FIRST DAY

CARSON CITY (Wednesday), May 16, 2007

Assembly called to order at 11:18 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Marie Hanson.

Compassion. Compassion opens us up gently and calmly. It allows us to suspend judgment, replace fear, and answer another's call for love. May we be compassionate and may we extend compassion to ourselves and one another, for compassion is limitless, provided effortlessly. We need only ask and receive this holiest gift from Spirit. Let us hold in prayer and light Sergeant Anthony J. Schober and his family and his fellow comrades. May Your divine safety and protection surround them. For this, we give thanks. Knowing and accepting Your compassion flows through us in all things. And so it is.

AMEN.

Pledge of allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Education, to which were referred Senate Bills Nos. 264, 400, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Education, to which was referred Senate Bill No. 535, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Bill No. 495, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

ELLEN KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 139, 145, 500, 508, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 7, 72, 420, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 608, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which were referred Senate Bills Nos. 330, 457, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 15, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 432.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 88, Senate Amendment No. 678; Assembly Bill No. 279, Senate Amendment No. 672, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 6.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 404.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 650 to Senate Bill No. 87.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that the reading of the Histories for all bills and resolutions be dispensed with for this legislative day.

Motion carried.

NOTICE OF EXEMPTION

May 16, 2007

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bills Nos. 610, 611, 612, 613, 614, 615, 616, 617, 618 and 619.

MARK STEVENS

Fiscal Analysis Division

Senate Concurrent Resolution No. 18.

Assemblywoman Parnell moved the adoption of the resolution.

Remarks by Assemblywoman Parnell.

Resolution adopted, as amended.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 404.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bill No. 246 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 580.

Bill read second time and ordered to third reading.

Senate Bill No. 18.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 709.

SUMMARY—~~Authorizes the imposition of a fine for engaging in a certain~~ **Revises provisions governing deceptive trade practices.** (BDR 52-587)

AN ACT relating to deceptive trade practices; providing that the conducting of certain businesses or occupations without registering with the Consumer Affairs Division of the Department of Business and Industry is a deceptive trade practice; authorizing the Commissioner of Consumer Affairs to impose a fine on persons who engage in such a deceptive trade practice; **providing that the rental, lease or sale of certain goods or services for an unconscionable price within a certain period before or during a state of emergency is a deceptive trade practice;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines a number of actions as deceptive trade practices that are punishable by the imposition of civil penalties. (NRS 598.0915-598.0925, 598.0971-598.0974) Section 2 of this bill provides that conducting a business or occupation that is required to be registered with the Consumer Affairs Division of the Department of Business and Industry without being so registered is a deceptive trade practice, and section 4 of this bill authorizes the Commissioner of Consumer Affairs to impose a fine on a person who engages in such a deceptive trade practice. **Section 4.7 of this bill provides that renting, leasing or selling a consumer good or service that is vital to the public health, safety or welfare for an unconscionable price within 24 hours before or at any time during a state of emergency is a deceptive trade practice.**

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~[, 3 and 4]~~ to 4.7, inclusive, of this act.

Sec. 2. *A person engages in a “deceptive trade practice” if, in the course of his business or occupation, he is required to be registered with the Division pursuant to any provision of this chapter or NRS 599B.080 and he fails to be registered with the Division.*

Sec. 3. *“Division” means the Consumer Affairs Division of the Department of Business and Industry.*

Sec. 4. 1. *In addition to any other remedy or penalty, if a person engages in a deceptive trade practice, as defined in section 2 of this act, the Commissioner may impose a fine of:*

- (a) For the first violation, \$100;*
- (b) For the second violation, \$250; and*
- (c) For each subsequent violation, \$500.*

2. *All money collected from fines imposed pursuant to this section must be deposited in the State General Fund.*

Sec. 4.5. *The Legislature finds and declares that:*

1. Protecting the public from the economic practice commonly known as “price gouging” is a vital function of state government in providing for the public health, safety and welfare;

2. The pricing of consumer goods and services is generally best left to the marketplace in ordinary conditions, but when a state of emergency results in abnormal disruptions of the market, the public interest requires that excessive and unjustified increases in the prices of consumer goods and services be prohibited;

3. It is the intent of the Legislature in enacting section 4.7 of this act to protect consumers from excessive and unjustified increases in the prices charged within 24 hours before or at any time during a state of emergency for consumer goods and services that are vital to the public health, safety or welfare; and

4. As the provisions of this chapter are necessary to protect the public welfare, it is also the intent of the Legislature that the provisions of this chapter be liberally construed to effectuate its purposes.

Sec. 4.7. 1. *Except as otherwise provided in subsection 2, a person engages in a “deceptive trade practice” if he rents, leases or sells or offers to rent, lease or sell a consumer good or service for an unconscionable price within 24 hours before or at any time during a state of emergency.*

2. *A person does not engage in a “deceptive trade practice” pursuant to subsection 1 if he rents, leases or sells or offers to rent, lease or sell a consumer good or service for a price that is approved by an appropriate government or governmental entity.*

3. For the purposes of this section and except as otherwise provided in subsection 4, it is prima facie evidence that a price for a consumer good or service is an unconscionable price if the price exceeds, by an amount equal to or greater than 25 percent:

(a) The average price at which the consumer good or service was rented, leased or sold or offered for rent, lease or sale in the usual course of business during the 30 days immediately preceding the state of emergency;
or

(b) The average price at which the consumer good or service was rented, leased or sold or offered for rent, lease or sale in the usual course of business in the immediately preceding calendar year during the same period to which the state of emergency applies.

4. For the purposes of this section, it is prima facie evidence that a price for a consumer good or service is not an unconscionable price if the net profit margin for the consumer good or service does not exceed, by an amount equal to or greater than 25 percent:

(a) The net profit margin for the consumer good or service during the 30 days immediately preceding the state of emergency; or

(b) The net profit margin for the consumer good or service in the immediately preceding calendar year during the same period to which the state of emergency applies.

5. The provisions of this section do not preempt the authority of a local government to adopt an ordinance relating to the price of a consumer good or service during a state of emergency.

6. As used in this section:

(a) "Consumer good or service" means a good or service used, purchased or rendered primarily for personal, family or household purposes that is vital to the public health, safety or welfare. The term includes, without limitation, food for human consumption, food for domestic animals, clothing, shoes, ice, water, gas, electricity, heat, fuel of all kinds and building materials.

(b) "State of emergency" means the period:

(1) Beginning when the Governor or the Legislature proclaims a state of emergency or declaration of disaster pursuant to NRS 414.070 or the President of the United States declares a state of emergency in this State or any other state; and

(2) Ending when the Governor or the Legislature terminates the proclamation of a state of emergency or declaration of disaster or the President of the United States terminates the declaration of a state of emergency.

Sec. 5. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, **and sections 2, ~~3 and 4~~ to 4.7, inclusive, of this act**, unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947,

inclusive, *and sections 2, ~~and~~ 3 and 4.7 of this act* have the meanings ascribed to them in those sections.

Sec. 5.5. NRS 598.0953 is hereby amended to read as follows:

598.0953 1. Evidence that a person has engaged in a deceptive trade practice is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

2. The deceptive trade practices listed in NRS 598.0915 to 598.0925, inclusive, *and sections 2 and 4.7 of this act* are in addition to and do not limit the types of unfair trade practices actionable at common law or defined as such in other statutes of this State.

Sec. 5.7. NRS 598.0955 is hereby amended to read as follows:

598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, *and sections 2 to 4.7, inclusive, of this act* do not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.

(c) Actions or appeals pending on July 1, 1973.

2. The provisions of NRS 598.0903 to 598.0999, inclusive, *and sections 2 to 4.7, inclusive, of this act* do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive ~~of~~, *and sections 2 to 4.7, inclusive, of this act*.

Sec. 6. NRS 598.096 is hereby amended to read as follows:

598.096 When the Commissioner, Director or Attorney General has cause to believe that any person has engaged or is engaging in any deceptive trade practice, he may:

1. Request the person to file a statement or report in writing under oath or otherwise, on such forms as may be prescribed by the Commissioner, Director or Attorney General, as to all facts and circumstances concerning the sale or advertisement of property by the person, and such other data and information as the Commissioner, Director or Attorney General may deem necessary.

2. Examine under oath any person in connection with the sale or advertisement of any property.

3. Examine any property or sample thereof, record, book, document, account or paper as he may deem necessary.

4. Make true copies, at the expense of the ~~{Consumer Affairs Division of the Department of Business and Industry,}~~ *Division*, of any record, book, document, account or paper examined pursuant to subsection 3, which copies

may be offered into evidence in lieu of the originals thereof in actions brought pursuant to NRS 598.097 and 598.0979.

5. Pursuant to an order of any district court, impound any sample of property which is material to the deceptive trade practice and retain the property in his possession until completion of all proceedings as provided in NRS 598.0903 to 598.0999, inclusive ~~1-4~~, **and sections 2 ~~1, 3 and 4~~ to 4.7, inclusive, of this act.** An order may not be issued pursuant to this subsection unless:

(a) The Commissioner, Director or Attorney General, and the court give the accused full opportunity to be heard; and

(b) The Commissioner, Director or Attorney General proves by clear and convincing evidence that the business activities of the accused will not be impaired thereby.

Sec. 6.5. NRS 598.0963 is hereby amended to read as follows:

598.0963 1. Whenever the Attorney General is requested in writing by the Commissioner or the Director to represent him in instituting a legal proceeding against a person who has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person on behalf of the Commissioner or Director.

2. The Attorney General may institute criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive ~~1-4~~, **and sections 2 to 4.7, inclusive, of this act.** The Attorney General is not required to obtain leave of the court before instituting criminal proceedings pursuant to this subsection.

3. If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.

4. If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail with return receipt requested. An employee of the Attorney General may personally serve the subpoena.

Sec. 7. NRS 598.0966 is hereby amended to read as follows:

598.0966 1. There is hereby created a Revolving Account for the ~~{Consumer Affairs Division of the Department of Business and Industry}~~ **Division** in the sum of \$7,500, which must be used for the payment of expenses related to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice.

2. The Commissioner shall deposit the money in the Revolving Account in a bank or credit union qualified to receive deposits of public money as provided by law, and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.

3. The Commissioner or his designee may:

- (a) Sign all checks drawn upon the Revolving Account; and
- (b) Make withdrawals of cash from the Revolving Account.

4. Payments made from the Revolving Account must be promptly reimbursed from the legislative appropriation, if any, to the ~~Consumer Affairs~~ Division for the expenses related to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice. The claim for reimbursement must be processed and paid as other claims against the State are paid.

5. The Commissioner shall:

- (a) Approve any disbursement from the Revolving Account; and
- (b) Maintain records of any such disbursement.

Sec. 7.5. NRS 598.0967 is hereby amended to read as follows:

598.0967 1. The Commissioner and the Director, in addition to other powers conferred upon them by NRS 598.0903 to 598.0999, inclusive, and sections 2 to 4.7, inclusive, of this act, may issue subpoenas to require the attendance of witnesses or the production of documents, conduct hearings in aid of any investigation or inquiry and prescribe such forms and adopt such regulations as may be necessary to administer the provisions of NRS 598.0903 to 598.0999, inclusive, ~~and~~ and sections 2 to 4.7, inclusive, of this act. Such regulations may include, without limitation, provisions concerning the applicability of the provisions of NRS 598.0903 to 598.0999, inclusive, and sections 2 to 4.7, inclusive, of this act to particular persons or circumstances.

2. Service of any notice or subpoena must be made as provided in N.R.C.P. 45(c).

Sec. 7.7. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, and sections 2 to 4.7, inclusive, of this act, the Commissioner may issue an order directed to the person to show cause why the Commissioner should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. If, after conducting a hearing pursuant to the provisions of subsection 1, the Commissioner determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, and sections 2 to 4.7, inclusive, of this act, or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing,

the Commissioner may make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Commissioner determines in the report that such a violation has occurred, he may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Commissioner free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive ~~to~~, **and sections 2 to 4.7, inclusive, of this act;** and

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation.

↪ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

3. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 2 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.

4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, the Commissioner may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

5. If the court finds that:

(a) The violation complained of is a deceptive trade practice;

(b) The proceedings by the Commissioner concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and

(c) The findings of the Commissioner are supported by the weight of the evidence,

↪ the court shall issue an order enforcing the provisions of the order of the Commissioner.

6. Except as otherwise provided in NRS 598.0974, an order issued pursuant to subsection 5 may include:

(a) A provision requiring the payment to the Commissioner of a penalty of not more than \$5,000 for each act amounting to a failure to comply with the Commissioner's order; or

(b) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.

7. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

8. Upon the violation of any judgment, order or decree issued pursuant to subsection 5 or 6, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 8. NRS 598.0975 is hereby amended to read as follows:

598.0975 1. Except as otherwise provided in subsection 1 of NRS 598.0999 and subsection 3, all fees, civil penalties and any other money collected pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive ~~{,}~~, **and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act:**

(a) In an action brought by the Attorney General, Commissioner or Director, must be deposited in the State General Fund and may only be used to offset the costs of administering and enforcing the provisions of NRS 598.0903 to 598.0999, inclusive ~~{,}~~, **and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act.**

(b) In an action brought by the district attorney of a county, must be deposited with the county treasurer of that county and accounted for separately in the county general fund.

2. Money in the account created pursuant to paragraph (b) of subsection 1 must be used by the district attorney of the county for:

(a) The investigation and prosecution of deceptive trade practices against elderly or disabled persons; and

(b) Programs for the education of consumers which are directed toward elderly or disabled persons, law enforcement officers, members of the judicial system, persons who provide social services and the general public.

3. The provisions of this section do not apply to:

(a) Criminal fines imposed pursuant to NRS 598.0903 to 598.0999, inclusive ~~{,}~~, **and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act;** or

(b) Restitution ordered pursuant to NRS 598.0903 to 598.0999, inclusive, **and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act** in an action brought by the Attorney General. Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of the ~~{Consumer Affairs Division of the Department of Business and Industry}~~ **Division** or the Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 9. NRS 598.0985 is hereby amended to read as follows:

598.0985 Notwithstanding the requirement of knowledge as an element of a deceptive trade practice, and notwithstanding the enforcement powers granted to the Commissioner or Director pursuant to NRS 598.0903 to 598.0999, inclusive, **and sections 2 to 4.7, inclusive, of this act,** whenever the district attorney of any county has reason to believe that any person is using, has used or is about to use any deceptive trade practice, knowingly or otherwise, he may bring an action in the name of the State of Nevada against

that person to obtain a temporary or permanent injunction against the deceptive trade practice.

Sec. 10. NRS 598.0993 is hereby amended to read as follows:

598.0993 The court in which an action is brought pursuant to NRS 598.0979 and 598.0985 to 598.099, inclusive, may make such additional orders or judgments as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any deceptive trade practice which violates any of the provisions of NRS 598.0903 to 598.0999, inclusive, and sections 2 to 4.7, inclusive, of this act, but such additional orders or judgments may be entered only after a final determination has been made that a deceptive trade practice has occurred.

Sec. 11. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, and sections 2 to 4.7, inclusive, of this act upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than \$10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive, ~~+~~, and sections 2 to 4.7, inclusive, of this act.

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, and sections 2 to 4.7, inclusive, of this act, if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed \$5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

↪ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, and sections 2 to 4.7, inclusive, of this act, 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

↪ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

↪ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 12. NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 125B.050 and 217.007, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, **and sections 2 to 4.7, inclusive, of this act,** but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without his fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall be deemed to accrue upon the discovery by the financial institution of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his official capacity and in virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating

to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

Sec. 13. NRS 41.600 is hereby amended to read as follows:

41.600 1. An action may be brought by any person who is a victim of consumer fraud.

2. As used in this section, "consumer fraud" means:

(a) An unlawful act as defined in NRS 119.330;
 (b) An unlawful act as defined in NRS 205.2747;
 (c) An act prohibited by NRS 482.36655 to 482.36667, inclusive;
 (d) An act prohibited by NRS 482.351; or
 (e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925, inclusive ~~1-4~~, **and sections 2 and 4.7 of this act.**

3. If the claimant is the prevailing party, the court shall award him:

(a) Any damages that he has sustained; and
 (b) His costs in the action and reasonable attorney's fees.

4. Any action brought pursuant to this section is not an action upon any contract underlying the original transaction.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 66.

Bill read second time and ordered to third reading.

Senate Bill No. 99.

Bill read second time and ordered to third reading.

Senate Bill No. 137.

Bill read second time and ordered to third reading.

Senate Bill No. 183.

Bill read second time and ordered to third reading.

Senate Bill No. 198.

Bill read second time and ordered to third reading.

Senate Bill No. 210.

Bill read second time and ordered to third reading.

Senate Bill No. 244.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 699.

AN ACT relating to emergency medical services; requiring the State Board of Health to develop a system of collecting data relating to waiting times at hospitals; requiring hospitals and providers of emergency medical services in certain counties to participate in the collection of data; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that hospitals and providers of emergency medical services are required to transfer a person who arrives at the hospital by an ambulance, air ambulance or vehicle of a fire-fighting agency to an appropriate place in the hospital to receive emergency services and care within 30 minutes after the time at which the person arrives at the hospital. Existing law also requires the Health Division of the Department of Health and Human Services to adopt regulations concerning the manner in which hospitals and providers of emergency medical care shall track the time elapsed from when a person arrives at the hospital to the time the person is transferred to an appropriate place to receive care. (NRS 450B.790) Senate Bill No. 458 of the 2005 Legislative Session enacted the statutory requirement for tracking wait times and also required the Health Division to conduct a study to identify both the causes of excessive waiting times and any corrective actions that might eliminate excessive waiting times. The provisions requiring the study expired by limitation on December 31, 2006. (Chapter 382, Statutes of Nevada 2005, pp. 1475-77)

Section 1 of this bill requires the State Board of Health to develop a system of collecting data concerning the waiting times. Section 1 also requires hospitals and providers of emergency medical services in each county whose population is 400,000 or more to collect certain data relating to waiting times. In counties whose population is 100,000 or more but less than 400,000, the Board may require the collection of data if there are excessive waiting times at one or more hospitals in the county. Section 2 of this bill eliminates the requirement that the Health Division adopt regulations relating to the tracking of waiting times.

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

Section 1. Chapter 450B of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The State Board of Health shall collect data, in accordance with the system that is developed by the Board pursuant to subsection 5, concerning the waiting times for the provision of emergency services and care to each person who is in need of such services and care and who is transported to a hospital by a provider of emergency medical services.*

2. *Each hospital and each provider of emergency medical services in a county whose population is 400,000 or more shall participate in the collection of data pursuant to this section by collecting data, in accordance with the system that is developed by the State Board of Health pursuant to subsection 5, concerning the waiting times for the provision of emergency services and care to each person who is in need of such services and care and who is transported to a hospital by a provider of emergency medical services.*

3. *Except as otherwise provided in subsection 4, the hospitals and the providers of emergency medical services in a county whose population is less than 400,000 are not required to participate in the collection of data pursuant to this section unless the county health officer, each hospital and each provider of emergency medical services in the county agree in writing that the county will participate in the collection of data. The county health officer shall submit the written agreement to the State Board of Health.*

4. *If the State Board of Health determines, in a county whose population is 100,000 or more but less than 400,000, that there are excessive waiting times at one or more hospitals in the county for the provision of emergency services and care to persons who are in need of such services and care and who have been transported to the hospital by a provider of emergency medical services, the State Board of Health may require the county to implement a system of collecting data pursuant to subsection 5 concerning the extent of waiting times and the circumstances surrounding such waiting times.*

5. *For the purpose of collecting data pursuant to this section, the State Board of Health shall develop a system of collecting data concerning the waiting times of persons for the provision of emergency services and care at a hospital and the surrounding circumstances for such waiting times each time a person is transported to a hospital by a provider of emergency medical services. The system must include, without limitation, an electronic method of recording and collecting the following information:*

(a) *The time at which a person arrives at the hospital, which is the time that the person is presented to the emergency room of the hospital;*

(b) *The time at which the person is transferred to an appropriate place in the hospital to receive emergency services and care, which is the time that the person is physically present in the appropriate place and the staff of the emergency room of the hospital have received a report concerning the transfer of the person;*

(c) *If a person is not transferred to an appropriate place in the hospital to receive emergency services and care within 30 minutes after arriving at*

the hospital, information detailing the reason for such delay, which may be selected from a predetermined list of possible reasons that are available for selection in the electronic system;

(d) A unique identifier that is assigned to each transfer of a person to a hospital by a provider of emergency medical services which allows the transfer to be identified and reviewed; and

(e) The names of the personnel of the provider of emergency medical services who transported the person to the hospital and of the personnel of the hospital who are responsible for the care of the person after the person arrives at the hospital.

6. The State Board of Health shall ensure that:

(a) The data collected pursuant to subsection 5 is reported to the Health Division on a quarterly basis;

(b) The data collected pursuant to subsection 5 is available to any person or entity participating in the collection of data pursuant to this section; and

(c) The system of collecting data developed pursuant to subsection 5 and all other aspects of the collection comply with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

7. The State Board of Health shall appoint for each county in which hospitals and providers of emergency medical services are participating in the collection of data pursuant to this section an advisory committee consisting of the health officer of the county, a representative of each hospital in the county and a representative of each provider of emergency medical services in the county. Each member of the advisory committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses for his service on the advisory committee. Each advisory committee shall:

(a) Meet not less than once each calendar quarter;

(b) Review the data that is collected for the county and submitted to the State Board of Health concerning the waiting times for the provision of emergency services and care, the manner in which such data was collected and any circumstances surrounding such waiting times;

~~+(b)+~~ *(c) Review each incident in which a person was transferred to an appropriate place in a hospital to receive emergency services and care more than 30 minutes after arriving at the hospital; and*

~~+(c)+~~ *(d) Submit a report of its findings to the State Board of Health.*

8. The State Board of Health may delegate its duties set forth in this section to:

(a) The district board of health in a county whose population is 400,000 or more.

(b) The county or district board of health in a county whose population is less than 400,000.

9. The State Board of Health or any county or district board of health that is performing the duties of the State Board of Health pursuant to

subsection 8 shall submit a quarterly report to the Legislative Committee on Health Care, which must include a written compilation of the data collected pursuant to this section.

10. The State Board of Health may require each hospital and provider of emergency medical services located in a county that participates in the collection of data pursuant to this section to share in the expense of purchasing hardware ~~and~~, software, equipment and other resources necessary to carry out the collection of data pursuant to this section.

11. The State Board of Health shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations prescribing the duties and responsibilities of each:

(a) County or district board of health that is performing the duties of the State Board of Health pursuant to subsection 8;

(b) Hospital located in a county that participates in the collection of data pursuant to this section; and

(c) Provider of emergency medical services located in a county whose population is less than 400,000 that participates in the collection of data pursuant to this section.

12. The district board of health in each county whose population is 400,000 or more shall adopt regulations consistent with subsection 11 for providers of emergency medical services located in the county to carry out the provisions of this section.

13. The State Board of Health may, in consultation with each hospital and provider of emergency medical services located in a county that participates in the collection of data pursuant to this section, submit a written request to the Director of the Legislative Counsel Bureau for transmission to a regular session of the Legislature for the repeal of this section. Such a written request must include the justifications and reasons for requesting the termination of the collection of data pursuant to this section.

~~12.~~ 14. As used in this section:

(a) "Emergency services and care" has the meaning ascribed to it in NRS 439B.410.

(b) "Hospital" has the meaning ascribed to it in NRS 449.012.

(c) "Provider of emergency medical services" means each operator of an ambulance and each fire-fighting agency which has a permit to operate pursuant to this chapter and which provides transportation for persons in need of emergency services and care to hospitals.

Sec. 2. NRS 450B.790 is hereby amended to read as follows:

450B.790 1. Each hospital in this State which receives a person in need of emergency services and care who has been transported to the hospital by ~~an ambulance, air ambulance or vehicle of a fire-fighting agency that has a permit to operate pursuant to this chapter~~ a provider of emergency medical services shall ensure that the person is transferred to a bed, chair, gurney or other appropriate place in the hospital to receive emergency services and care

as soon as practicable, but not later than 30 minutes after the time at which the person arrives at the hospital.

~~2. [The Health Division shall adopt regulations concerning the manner in which a hospital and an attendant responsible for the care of a person in need of emergency services and care during transport to the hospital shall determine and track the time at which a person arrives at a hospital and the time at which the person is transferred to an appropriate place in the hospital to receive emergency services and care for the purposes of this section. The regulations must provide that:~~

~~(a) The time at which a person arrives at a hospital is the time at which he is presented to the emergency room of the hospital; and~~

~~(b) The time at which the person is transferred to an appropriate place in the hospital to receive emergency services and care is the time at which the person is physically in that place and the staff of the emergency room of the hospital have received a report concerning the person.~~

~~3.] This section does not create a duty of care and is not a ground for civil or criminal liability.~~

~~{4.} 3. As used in this section:~~

~~(a) "Emergency services and care" has the meaning ascribed to it in NRS 439B.410.~~

~~(b) "Hospital" has the meaning ascribed to it in NRS 449.012.~~

~~(c) **"Provider of emergency medical services" means each operator of an ambulance and each fire-fighting agency which has a permit to operate pursuant to this chapter and which provides transportation for persons in need of emergency services and care to hospitals.**~~

Sec. 3. This act becomes effective on July 1, 2007.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 337.

Bill read second time and ordered to third reading.

Senate Bill No. 338.

Bill read second time and ordered to third reading.

Senate Bill No. 391.

Bill read second time and ordered to third reading.

Senate Bill No. 403.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 725.

AN ACT relating to insurance; providing requirements relating to coverage for group health insurance to certain associations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides requirements concerning group health insurance. (Chapter 689B of NRS) This bill provides requirements for the provision of coverage for group health insurance to members, employees of members and employees of a guaranteed association.

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

Section 1. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. An insurer may offer a policy of group health insurance to a guaranteed association if the policy provides coverage for ~~500~~ 200 or more members, employees of members or employees of the guaranteed association or their dependents.

2. When an insurer offers coverage to a guaranteed association pursuant to subsection 1, the insurer shall offer coverage to all members, employees of members and employees of the guaranteed association and all dependents thereof without regard to the actual or expected health status of any such member or employee or dependent thereof. The provisions of this subsection apply only for the purpose of requiring coverage to be offered to all such members, employees and dependents.

3. An insurer offering coverage to a guaranteed association pursuant to subsection 1 shall establish rates for premiums as follows:

(a) For the initial 12-month period of coverage, the insurer shall submit to the Commissioner the opinion of a qualified actuary that the rates charged by the guaranteed association for premiums are actuarially sound. The opinion must certify the accuracy of the rating methodology as established by the American Academy of Actuaries or a successor organization approved by the Commissioner. The Commissioner by regulation may further define or enlarge the scope of this opinion.

(b) For any subsequent 12-month period of coverage, according to a rating methodology as established by the American Academy of Actuaries or a successor organization approved by the Commissioner.

4. Except as otherwise provided in subsection 5, a member, employee of a member or employee of a guaranteed association may apply for coverage offered pursuant to subsection 1 only:

(a) If, as applicable, the person has been an active member of the association or employed by a member or the guaranteed association for not less than 30 days;

(b) During an annual open enrollment period offered by the guaranteed association; and

(c) After meeting any additional eligibility requirements agreed upon by the guaranteed association and the insurer.

5. If a member, employee of a member or employee of a guaranteed association or a dependent thereof terminates coverage offered pursuant to subsection 1, the member, employee or dependent must be excluded from such coverage until the beginning of the next annual enrollment period. During the next annual enrollment period or any annual enrollment period thereafter, such a member or employee may enroll for coverage of the member or employee or dependent thereof pursuant to subsection 4.

6. The provisions of this section do not apply to or affect the status of a person, including, without limitation, whether the person is an employee, self-employed or an independent contractor, for the purposes of industrial insurance or any other law relating to labor or employment.

7. As used in this section:

(a) "Guaranteed association" means an association which:

(1) Has a constitution and bylaws;

(2) Is determined by the Commissioner to be a bona fide association which was organized and is maintained in good faith for purposes other than that of obtaining insurance; and

(3) Has been in existence for at least 5 years.

(b) "Qualified actuary" means a member in good standing of the American Academy of Actuaries, or a successor organization approved by the Commissioner.

Sec. 2. The provisions of subparagraph 3 of paragraph (a) of subsection 7 of section 1 of this act do not apply to an association which was in existence on January 1, 2007.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 419.

Bill read second time and ordered to third reading.

Senate Bill No. 515.

Bill read second time and ordered to third reading.

Senate Bill No. 534.

Bill read second time and ordered to third reading.

Senate Bill No. 549.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 687.

AN ACT relating to elections; providing a procedure for a petition proposing a statute, an amendment to statute or an amendment to the

Constitution to be placed on a ballot; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that an initiative petition be signed by at least 10 percent of the voters who voted at the last preceding general election in at least 75 percent of the counties in the State. (Nev. Const. Art. 19, § 2) The United States District Court for the District of Nevada declared that the above portion of Section 2 of Article 19 of the Nevada Constitution **concerning 75 percent of the counties in the State** violates the Equal Protection Clause of the United States Constitution because it applies the same formula to counties of varying population. Such application results in the signatures of voters from small, rural counties carrying more weight than the signatures of voters from larger counties. (*Committee to Regulate and Control Marijuana v. Heller*, No. CV-S-04-01035 (D. Nev. Aug. 20, 2004)) The United States Court of Appeals for the Ninth Circuit affirmed the decision of the United States District Court. (*American Civil Liberties Union of Nevada v. Lomax*, 471 F.3d 1010 (9th Cir. Nev. 2006))

Section 8 of this bill requires a petition for initiative that proposes a statute, an amendment to statute or an amendment to the Constitution **of this State** to be signed by a number of registered voters from each county in the State determined by applying a flexible formula which is based on the percentage of population of each county in the State so that each signature carries relatively equal weight. Section 1 of this bill requires the Secretary of State to determine the number of signatures required to be gathered from each county for a petition for initiative proposing a statute, an amendment to statute or an amendment to the Constitution as soon as practicable after each statewide general election. Section 6 of this bill amends the procedure for the verification of signatures on a petition for initiative proposing a statute, an amendment to statute or an amendment to the Constitution.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:

1. As soon as practicable after each general election, the Secretary of State shall determine the number of signatures required to be gathered from each county within the State for a petition for initiative that proposes a statute, an amendment to statute or an amendment to the Constitution ~~of this State.~~

2. To determine the number of signatures required to be gathered from a county, the Secretary of State shall multiply the amount that equals ~~4 percent of the total population of the State or the amount that equals~~ 10 percent of the voters who voted in the entire State at the last preceding general election ~~[, whichever is less,]~~ by the population percentage for that county. ~~If the calculation results in a fraction of a signature being required~~

~~for a particular county, the Secretary of State shall round up the number of signatures required for the county to the next whole number.~~

3. As used in this section:

(a) *"Total population of the State" means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c).*

(b) *"Population percentage for that county" means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c), by the total population of the State.*

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 293.1279 is hereby amended to read as follows:

293.1279 1. If the statistical sampling shows that the number of valid signatures filed is 90 percent or more, but less than the sum of 100 percent of the number of signatures of registered voters needed to declare the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015, the Secretary of State shall order the county clerks to examine the signatures for verification. The county clerks shall examine the signatures for verification until they determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid. If the county clerks received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerks may not determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid until they have removed each name as requested pursuant to NRS 295.055 or 306.015.

2. ~~¶¶~~ *Except as otherwise provided in this subsection, if* the statistical sampling shows that the number of valid signatures filed in any county is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county plus the total number of requests to remove a name received by the county clerk in that county pursuant to NRS 295.055 or 306.015, the Secretary of State may order the county clerk in that county to examine every signature for verification. If the county clerk received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerk may not determine that 100

percent or more of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county are valid until he has removed each name as requested pursuant to NRS 295.055 or 306.015. ***In the case of a petition for initiative that proposes a statute, an amendment to statute or an amendment to the Constitution ~~of~~ of this State, if the statistical sampling shows that the number of valid signatures in any county is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters required for that county pursuant to section 8 of this act plus the total number of requests to remove a name received by the county clerk in that county pursuant to NRS 295.055, the Secretary of State may order the county clerk to examine every signature for verification.***

3. Within 12 days, excluding Saturdays, Sundays and holidays, after receipt of such an order, the county clerk shall determine from the records of registration what number of registered voters have signed the petition. If necessary, the board of county commissioners shall allow the county clerk additional assistants for examining the signatures and provide for their compensation. In determining from the records of registration what number of registered voters have signed the petition, the county clerk must use the statewide voter registration list. The county clerk may rely on the appearance of the signature and the address and date included with each signature in determining the number of registered voters that signed the petition.

4. Except as otherwise provided in subsection 5, upon completing the examination, the county clerk shall immediately attach to the documents of the petition an amended certificate, properly dated, showing the result of the examination and shall immediately forward the documents with the amended certificate to the Secretary of State. A copy of the amended certificate must be filed in the county clerk's office.

5. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not forward to the Secretary of State the documents containing the signatures of the registered voters.

6. Except for a petition to recall a county, district or municipal officer, the petition shall be deemed filed with the Secretary of State as of the date on which he receives certificates from the county clerks showing the petition to be signed by the requisite number of voters of the State.

7. If the amended certificates received from all county clerks by the Secretary of State establish that the petition is still insufficient, he shall immediately so notify the petitioners and the county clerks. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

Sec. 7. Chapter 295 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

Sec. 8. 1. ~~[Except as otherwise provided in subsection 2, a]~~ A petition for initiative that proposes a statute, an amendment to statute or an amendment to the Constitution must be proposed by a number of registered voters from each county in the State that is at least equal to ~~+~~

~~(a) Four percent of the total population of the State multiplied by the population percentage for that county; or~~

~~(b) Ten] 10 percent of the voters who voted in the entire State at the last preceding general election multiplied by the population percentage for that county. ~~+~~~~

~~whichever is less.]~~

2. ~~[At least one registered voter who resides in each county must sign the petition.~~

~~3.] As used in this section:~~

(a) "Total population of the State" means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c).

(b) "Population percentage for that county" means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c), by the total population of the State.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. This act becomes effective on July 1, 2007.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Senate Bill No. 19 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 150.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 718.

AN ACT relating to controlled substances; ~~requiring the Office of Court Administrator to apply for federal grants for drug courts;~~ making various ~~other~~ changes pertaining to crimes related to the use or manufacturing of methamphetamine and other controlled substances; revising various provisions pertaining to nuisances; making various changes relating to lithium metal, sodium metal and anhydrous ammonia; enacting provisions relating to the sale or transfer of certain precursors to methamphetamine; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes various changes pertaining to methamphetamine and other controlled substances.

Section 40 of this bill prohibits a person from: (1) selling or transferring in the course of business a product that is a precursor to methamphetamine; or (2) engaging in the business of selling at retail a product that is a precursor to methamphetamine, unless the person is a pharmacy or the holder of a permit which allows the person to sell or transfer products that are precursors to methamphetamine. A person who violates these prohibitions is guilty of a category C felony. To obtain a permit to sell or transfer products that are precursors to methamphetamine, a person must submit an application to the State Board of Pharmacy and pay a fee of \$200. The Board must issue a permit to a person if the Board determines, after considering certain factors, that the person will safely and lawfully sell products that are precursors to methamphetamine.

Section 41 of this bill requires a pharmacy or the holder of a permit to: (1) comply with state and federal law concerning the sale and transfer of products that are precursors to methamphetamine; and (2) submit to the Department of Public Safety a quarterly report of the quantity of each purchase and sale or transfer of a product that is a precursor to methamphetamine. If a pharmacy or permit holder does not comply with either of these requirements, section 45 allows the State Board of Pharmacy to take certain disciplinary action against the pharmacy or permit holder.

Section 2 of this bill prohibits the possession or disposition of chemical waste or debris resulting from the manufacture of methamphetamine. Section 3 of this bill prohibits the possession of lithium metal or sodium metal under certain circumstances.

Existing law prohibits a person from possessing certain chemicals with the intent to manufacture or compound a controlled substance other than marijuana. (NRS 453.322) Section 7 of this bill adds lithium metal and sodium metal to the list of prohibited chemicals. Section 7 also prohibits a person from providing such a chemical to another person with the intent that it be used in the manufacturing or compounding of a controlled substance other than marijuana.

~~f Existing law creates the Office of Court Administrator and prescribes the duties of the Court Administrator. (NRS 1.320, 1.360) Section 9 of this bill requires the Court Administrator to apply for any federal grants for the~~

~~establishment, support or expansion of drug courts and to allocate to the courts any money received.~~

Existing law provides that a building or place used to unlawfully manufacture a controlled substance is a nuisance, which creates civil liability, and a public nuisance, which is punishable criminally. (NRS 40.140, 202.450, 202.470) Sections 10 and 11 of this bill provide that a building or place that was used to unlawfully manufacture a controlled substance is both a nuisance and a public nuisance if certain activities relating to the decontamination of the building or place have not occurred within a certain period.

Section 12 of this bill provides that a person commits first degree arson if, by knowingly engaging in the manufacture of methamphetamine, the person sets fire to or causes an explosion that damages a dwelling house or personal property that is occupied by one or more persons. Section 13 of this bill provides that a person commits second degree arson if, by knowingly engaging in the manufacture of methamphetamine, the person sets fire to or causes an explosion that damages any abandoned building or structure. Section 14 of this bill provides that a person is guilty of a category B felony if the person commits the theft of certain chemicals that are precursors to controlled substances, regardless of the value of those chemicals.

Sections 21-32 of this bill require the State Department of Agriculture, in consultation with the Department of Public Safety, to certify substances that are added to anhydrous ammonia for the purpose of rendering the anhydrous ammonia unusable or undesirable for the manufacture of methamphetamine. To assist in advising the State Department of Agriculture on the certification of such substances, sections 32 and 33 of this bill create the Anhydrous Ammonia Advisory Committee.

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

Section 1. Chapter 453 of NRS is hereby amended by adding thereto the provisions set forth as section 2 and 3 of this act.

Sec. 2. **1. *Except as otherwise provided in subsection 2, a person who knowingly possesses or disposes of methamphetamine manufacturing waste is guilty of a category C felony and shall be punished as provided in NRS 193.130.***

2. *A person does not violate subsection 1 if the person:*

(a) *Possesses or disposes of the methamphetamine manufacturing waste pursuant to state or federal laws regulating the storage, cleanup or disposal of waste products from unlawful methamphetamine manufacturing;*

(b) *Has notified a law enforcement agency of the existence of the methamphetamine manufacturing waste; or*

(c) *Possesses or disposes of methamphetamine manufacturing waste that had previously been disposed of by another person on the person's property in violation of subsection 1.*

3. *As used in this section:*

(a) *"Disposes of" means to discharge, deposit, inject, spill, leak or place methamphetamine manufacturing waste into or onto land or water.*

(b) *"Methamphetamine manufacturing waste" means chemical waste or debris, used in or resulting from:*

(1) *The manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or*

(2) *The grinding, soaking or otherwise breaking down of a substance that is a precursor for the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine.*

Sec. 3. 1. *Except as otherwise provided in this subsection, it is unlawful for a person to knowingly or intentionally possess lithium metal or sodium metal. A person does not violate this subsection if the person:*

(a) *Is conducting a lawful manufacturing operation that involves the use of lithium metal or sodium metal;*

(b) *Possesses lithium metal or sodium metal in conjunction with experiments conducted in a chemistry or chemistry-related laboratory maintained by a:*

(1) *Regularly established public or private secondary school; or*

(2) *Public or private institution of higher education that is accredited by a national or regional accrediting agency recognized by the United States Department of Education;*

(c) *Is a retail distributor, wholesaler, manufacturer, warehouseman or common carrier, or an agent of any of those persons, who possesses lithium metal or sodium metal in the regular course of lawful business activities; or*

(d) *Possesses lithium metal or sodium metal as a component of a commercially produced product, including, without limitation, rechargeable batteries.*

2. *A person who violates this section is guilty of a gross misdemeanor.*

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 453.322 is hereby amended to read as follows:

453.322 1. Except as authorized by the provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for a person to knowingly or intentionally:

(a) *Manufacture or compound a controlled substance other than marijuana.*

(b) *Possess, with the intent to manufacture or compound a controlled substance other than marijuana ~~[-]~~, or sell, exchange, barter, supply, prescribe, dispense or give away, with the intent that the chemical be used to manufacture or compound a controlled substance other than marijuana:*

(1) *Any chemical identified in subsection 4; or*

(2) *Any other chemical which is proven by expert testimony to be commonly used in manufacturing or compounding a controlled substance*

other than marijuana. The district attorney may present expert testimony to provide a prima facie case that any chemical, whether or not it is a chemical identified in subsection 4, is commonly used in manufacturing or compounding such a controlled substance.

↪ The provisions of this paragraph do not apply to a person who, without the intent to commit an unlawful act, possesses any chemical at a laboratory that is licensed to store the chemical.

(c) Offer or attempt to do any act set forth in paragraph (a) or (b).

2. Unless a greater penalty is provided in NRS 453.3385 or 453.3395, a person who violates any provision of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$100,000.

3. The court shall not grant probation to a person convicted pursuant to this section.

4. The following chemicals are identified for the purposes of subsection 1:

- (a) Acetic anhydride.
- (b) Acetone.
- (c) N-Acetylanthranilic acid, its esters and its salts.
- (d) Anthranilic acid, its esters and its salts.
- (e) Benzaldehyde, its salts, isomers and salts of isomers.
- (f) Benzyl chloride.
- (g) Benzyl cyanide.
- (h) 1,4-Butanediol.
- (i) 2-Butanone (or methyl ethyl ketone or MEK).
- (j) Ephedrine, its salts, isomers and salts of isomers.
- (k) Ergonovine and its salts.
- (l) Ergotamine and its salts.
- (m) Ethylamine, its salts, isomers and salts of isomers.
- (n) Ethyl ether.
- (o) Gamma butyrolactone.
- (p) Hydriodic acid, its salts, isomers and salts of isomers.
- (q) Hydrochloric gas.
- (r) Iodine.
- (s) Isosafrole, its salts, isomers and salts of isomers.
- (t) ***Lithium metal.***
- (u) Methylamine, its salts, isomers and salts of isomers.
- ~~{(u)}~~ (v) 3,4-Methylenedioxy-phenyl-2-propanone.
- ~~{(v)}~~ (w) N-Methylephedrine, its salts, isomers and salts of isomers.
- ~~{(w)}~~ (x) Methyl isobutyl ketone (MIBK).
- ~~{(x)}~~ (y) N-Methylpseudoephedrine, its salts, isomers and salts of isomers.
- ~~{(y)}~~ (z) Nitroethane, its salts, isomers and salts of isomers.
- ~~{(z)}~~ (aa) Norpseudoephedrine, its salts, isomers and salts of isomers.
- ~~{(aa)}~~ (bb) Phenylacetic acid, its esters and its salts.

- ~~{(bb)}~~ (cc) Phenylpropanolamine, its salts, isomers and salts of isomers.
- ~~{(ee)}~~ (dd) Piperidine and its salts.
- ~~{(dd)}~~ (ee) Piperonal, its salts, isomers and salts of isomers.
- ~~{(ee)}~~ (ff) Potassium permanganate.
- ~~{(ff)}~~ (gg) Propionic anhydride, its salts, isomers and salts of isomers.
- ~~{(gg)}~~ (hh) Pseudoephedrine, its salts, isomers and salts of isomers.
- ~~{(hh)}~~ (ii) Red phosphorous.
- ~~{(ii)}~~ (jj) Safrole, its salts, isomers and salts of isomers.
- ~~{(jj)}~~ (kk) *Sodium metal*.
- (ll) Sulfuric acid.
- ~~{(kk)}~~ (mm) Toluene.

Sec. 8. NRS 453.553 is hereby amended to read as follows:

453.553 1. In addition to any criminal penalty imposed for a violation of the provisions of NRS 453.011 to 453.552, inclusive, **and sections 2 and 3 of this act**, any person who unlawfully sells, manufactures, delivers or brings into this State, possesses for sale or participates in any way in a sale of a controlled substance listed in schedule I, II or III or who engages in any act or transaction in violation of the provisions of NRS 453.3611 to 453.3648, inclusive, is subject to a civil penalty for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General or by any district attorney in a court of competent jurisdiction.

2. As used in ~~{this section and}~~ NRS ~~{453.5531, 453.5532 and}~~ **453.553 to 453.5533** ~~{-}~~, **inclusive:**

(a) "Each violation" includes a continuous or repetitive violation arising out of the same act.

(b) "Sell" includes exchange, barter, solicitation or receipt of an order, transfer to another for sale or resale and any other transfer for any consideration or a promise obtained directly or indirectly.

(c) "Substitute" means a substance which:

(1) Was manufactured by a person who at the time was not currently registered with the Secretary of Health and Human Services; and

(2) Is an imitation of or intended for use as a substitute for a substance listed in schedule I, II or III.

Sec. 9. ~~NRS 1.360 is hereby amended to read as follows:~~

~~1.360 — Under the direction of the Supreme Court, the Court Administrator shall:~~

~~1. — Examine the administrative procedures employed in the offices of the judges, clerks, court reporters and employees of all courts of this State and make recommendations, through the Chief Justice, for the improvement of those procedures;~~

~~2. — Examine the condition of the dockets of the courts and determine the need for assistance by any court;~~

~~3. Make recommendations to and carry out the directions of the Chief Justice relating to the assignment of district judges where district courts are in need of assistance;~~

~~4. Develop a uniform system for collecting and compiling statistics and other data regarding the operation of the State Court System and transmit that information to the Supreme Court so that proper action may be taken in respect thereto;~~

~~5. Prepare and submit a budget of state appropriations necessary for the maintenance and operation of the State Court System and make recommendations in respect thereto;~~

~~6. Develop procedures for accounting, internal auditing, procurement and disbursement for the State Court System;~~

~~7. Collect statistical and other data and make reports relating to the expenditure of all public money for the maintenance and operation of the State Court System and the offices connected therewith;~~

~~8. Compile statistics from the information required to be maintained by the clerks of the district courts pursuant to NRS 3.275 and make reports as to the cases filed in the district courts;~~

~~9. Formulate and submit to the Supreme Court recommendations of policies or proposed legislation for the improvement of the State Court System;~~

~~10. On or before January 1 of each year, submit to the Director of the Legislative Counsel Bureau a written report compiling the information submitted to the Court Administrator pursuant to NRS 3.243, 4.175 and 5.045 during the immediately preceding fiscal year;~~

~~11. On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau a written report concerning:~~

~~(a) The distribution of money deposited in the special account created pursuant to NRS 176.0613 to assist with funding and establishing specialty court programs;~~

~~(b) The current status of any specialty court programs to which money from the account was allocated since the last report; and~~

~~(c) Such other related information as the Court Administrator deems appropriate;~~

~~12. On or before February 15 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling the information submitted by clerks of courts to the Court Administrator pursuant to NRS 630.307 and 633.533 which includes only aggregate information for statistical purposes and excludes any identifying information related to a particular person;~~

~~13. On or before February 15 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the effectiveness of participation in counseling sessions in a program for the treatment of persons~~

~~who commit domestic violence ordered by a court pursuant to NRS 200.485 and the effect of such counseling sessions on recidivism of the offenders who commit battery which constitutes domestic violence pursuant to NRS 33.018; [and]~~

~~14. Apply for and accept any money appropriated and made available by any act of Congress for the establishment, support or expansion of specialty court programs that facilitate the testing, treatment and oversight of persons who abuse alcohol or drugs;~~

~~15. Allocate the money received pursuant to subsection 14 to courts to assist with the establishment, support or expansion of specialty court programs that facilitate the testing, treatment and oversight of persons who abuse alcohol or drugs; and~~

~~16. Attend to such other matters as may be assigned by the Supreme Court or prescribed by law.~~ **(Deleted by amendment.)**

Sec. 10. NRS 40.140 is hereby amended to read as follows:

40.140 1. Except as otherwise provided in this section ~~[- anything]~~ :

(a) **Anything** which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property ~~[- including, without limitation, a]~~ ;

(b) A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor ~~[as defined in NRS 453.086]~~ or controlled substance analog ~~[as defined in NRS 453.043,]~~ ; or

(c) **A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:**

(1) Which has not been deemed safe for habitation by a governmental entity; or

(2) From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog,

↪ is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

2. It is presumed:

(a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997.

↪ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. As used in this section [~~“shooting”~~]:

(a) *“Controlled substance analog” has the meaning ascribed to it in NRS 453.043;*

(b) *“Immediate precursor” has the meaning ascribed to it in NRS 453.086; and*

(c) *“Shooting range” means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.*

Sec. 11. NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor [~~as defined in NRS 453.086~~] or controlled substance analog [~~as defined in NRS 453.043~~] is unlawfully sold, served, stored, kept, manufactured, used or given away; or

(f) Where vagrants resort,

↪ is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal,

ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property,

↪ is a public nuisance.

4. *A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog is a public nuisance if the building or place has not been deemed safe for habitation by a governmental entity and:*

(a) *The owner of the building or place allows the building or place to be used for any purpose before all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have been removed from or remediated on the building or place by an entity certified or licensed to do so; or*

(b) *The owner of the building or place fails to have all materials or substances involving the controlled substance, immediate precursor or controlled substance analog removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.*

5. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on the public health or safety. It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

~~{5-}~~ 6. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

↪ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

~~{6-}~~ 7. As used in this section [~~-, "shooting"~~]:

(a) *"Controlled substance analog" has the meaning ascribed to it in NRS 453.043;*

(b) *"Immediate precursor" has the meaning ascribed to it in NRS 453.086; and*

(c) *"Shooting range" has the meaning ascribed to it in NRS 40.140.*

Sec. 12. NRS 205.010 is hereby amended to read as follows:

205.010 A person who ~~[willfully]~~:

1. **Willfully** and maliciously sets fire to or burns or causes to be burned ~~[-~~
~~or who aids,]~~;

2. **Aids**, counsels or procures the burning of ~~[any:~~

~~1.—Dwelling]~~; **or**

3. **By knowingly engaging in the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine, sets fire to or causes an explosion that damages,**

↳ **any dwelling** house or other structure or mobile home, whether occupied or vacant ~~[-or~~

~~2.—Personal]~~ **and whether the property of himself or another, or personal** property which is occupied by one or more persons, ~~[-~~

↳] whether the property of himself or of another, is guilty of arson in the first degree which is a category B felony and shall be punished by imprisonment for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$15,000.

Sec. 13. NRS 205.015 is hereby amended to read as follows:

205.015 A person who ~~[willfully]~~:

1. **Willfully** and maliciously sets fire to or burns or causes to be burned ~~[-~~
~~or who aids,]~~;

2. **Aids**, counsels or procures the burning of; **or**

3. **By knowingly engaging in the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine, sets fire to or causes an explosion that damages,**

↳ any abandoned building or structure, whether the property of himself or of another, is guilty of arson in the second degree which is a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

Sec. 14. NRS 205.0835 is hereby amended to read as follows:

205.0835 1. Unless a greater penalty is imposed by a specific statute, a person who commits theft in violation of any provision of NRS 205.0821 to 205.0835, inclusive, shall be punished pursuant to the provisions of this section.

2. ~~[[If]]~~ **Except as otherwise provided in subsection 3, if** the value of the property or services involved in the theft ~~[is]~~:

(a) **Is** less than \$250, the person who committed the theft is guilty of a misdemeanor.

~~[3.—If the value of the property or services involved in the theft is]~~

(b) **Is** \$250 or more but less than \$2,500, the person who committed the theft is guilty of a category C felony and shall be punished as provided in NRS 193.130.

~~{4}~~ 3. If the value of the property or services involved in the theft is \$2,500 or more ~~{3}~~ ***or if the property involved in the theft is a chemical identified in subsection 4 of NRS 453.322***, the person who committed the theft is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

~~{5}~~ 4. In addition to any other penalty, the court shall order the person who committed the theft to pay restitution.

Sec. 15. NRS 244.3603 is hereby amended to read as follows:

244.3603 1. Each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the unincorporated area of the county;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the unincorporated area of the county and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, by the sheriff or other person authorized to issue a citation of the existence on his property of nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the district attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and action is necessary to avoid serious threat to the public welfare or the safety or health of the occupants of the property, the court may order the county to secure and close the property until the nuisance is abated and may:

(a) Impose a civil penalty of not more than \$500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the county for the cost incurred by the county in abating the condition; and

(c) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the county to abate the chronic nuisance, the board may make the expense a special assessment against the property upon which the chronic nuisance is located or occurring. The special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section:

(a) A "chronic nuisance" exists:

(1) When three or more nuisance activities exist or have occurred during any 90-day period on the property. ~~{;}~~

(2) When a person associated with the property has engaged in three or more nuisance activities during any 90-day period on the property or within 100 feet of the property. ~~{;}~~

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS. ~~{; or}~~

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor ~~{as defined in NRS 453.086}~~ or controlled substance analog. ~~{as defined in NRS 453.043.}~~

(5) *When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:*

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(d) "Nuisance activity" means:

(1) Criminal activity;

(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;

(3) Violations of building codes, housing codes or any other codes regulating the health or safety of occupants of real property;

(4) Excessive noise and violations of curfew; or

(5) Any other activity, behavior or conduct defined by the board to constitute a public nuisance.

~~{(e)}~~ ***(e) "Person associated with the property" means:***

- (1) The owner of the property;
- (2) The manager or assistant manager of the property;
- (3) The tenant of the property; or
- (4) A person who, on the occasion of a nuisance activity, has:
 - (I) Entered, patronized or visited;
 - (II) Attempted to enter, patronize or visit; or
 - (III) Waited to enter, patronize or visit,

↳ the property or a person present on the property.

Sec. 16. NRS 244.363 is hereby amended to read as follows:

244.363 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~5~~ 6 of NRS 202.450, the boards of county commissioners in their respective counties may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the county.

Sec. 17. NRS 266.335 is hereby amended to read as follows:

266.335 The city council may:

1. Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~5~~ 6 of NRS 202.450, determine by ordinance what shall be deemed nuisances.

2. Provide for the abatement, prevention and removal of the nuisances at the expense of the person creating, causing or committing the nuisances.

3. Provide that the expense of removal is a lien upon the property upon which the nuisance is located. The lien must:

(a) Be perfected by recording with the county recorder a statement by the city clerk of the amount of expenses due and unpaid and describing the property subject to the lien.

(b) Be coequal with the latest lien thereon to secure the payment of general taxes.

(c) Not be subject to extinguishment by the sale of any property because of the nonpayment of general taxes.

(d) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

4. Provide any other penalty or punishment of persons responsible for the nuisances.

Sec. 18. NRS 268.412 is hereby amended to read as follows:

268.412 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~5~~ 6 of NRS 202.450, the city council or other governing body of a city may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the city.

Sec. 19. NRS 268.4124 is hereby amended to read as follows:

268.4124 1. The governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt

procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the city;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the city and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, by the city police or other person authorized to issue a citation, of the existence on his property of two or more nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the city attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and emergency action is necessary to avoid immediate threat to the public health, welfare or safety, the court shall order the city to secure and close the property for a period not to exceed 1 year or until the nuisance is abated, whichever occurs first, and may:

(a) Impose a civil penalty of not more than \$500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the city for the cost incurred by the city in abating the condition;

(c) If applicable, order the owner to pay reasonable expenses for the relocation of any tenants who are affected by the chronic nuisance; and

(d) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the chronic nuisance, the governing body may make the expense a special assessment against the property upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. As used in this section:

(a) A “chronic nuisance” exists:

(1) When three or more nuisance activities exist or have occurred during any 30-day period on the property . ~~{}~~

(2) When a person associated with the property has engaged in three or more nuisance activities during any 30-day period on the property or within 100 feet of the property . ~~{}~~

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS . ~~{-or}~~

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor ~~{as defined in NRS 453.086}~~ or controlled substance analog . ~~{as defined in NRS 453.043.}~~

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) “Controlled substance analog” has the meaning ascribed to it in NRS 453.043.

(c) “Immediate precursor” has the meaning ascribed to it in NRS 453.086.

(d) “Nuisance activity” means:

(1) Criminal activity;

(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;

(3) Excessive noise and violations of curfew; or

(4) Any other activity, behavior or conduct defined by the governing body to constitute a public nuisance.

~~{(e)}~~ **(e) “Person associated with the property” means a person who, on the occasion of a nuisance activity, has:**

(1) Entered, patronized or visited;

(2) Attempted to enter, patronize or visit; or

(3) Waited to enter, patronize or visit,

↳ a property or a person present on the property.

Sec. 20. Title 51 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 21 to 33, inclusive, of this act.

Sec. 21. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 22 to 30, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 22. *"Advisory Committee" means the Anhydrous Ammonia Additive Advisory Committee created by section 32 of this act.*

Sec. 23. *"Anhydrous ammonia" means a liquid or gaseous inorganic compound that is formed by the chemical combination of nitrogen and hydrogen in the molar proportion of one part nitrogen to three parts hydrogen. The term does not include ammonium hydroxide.*

Sec. 24. *"Board" means the State Board of Agriculture.*

Sec. 25. *"Department" means the State Department of Agriculture.*

Sec. 26. *"Director" means the Director of the Department.*

Sec. 27. *"Distributor" means a person that imports, consigns, sells, offers for sale, barter, exchanges or otherwise facilitates the supply of anhydrous ammonia to a user in this State.*

Sec. 28. *"Nontoxic dye" means a biodegradable, clear liquid product that causes staining when exposed to air.*

Sec. 29. *"Other additive" means a product other than a nontoxic dye that, when put in tanks containing anhydrous ammonia, renders the anhydrous ammonia nonreactive, unusable or undesirable for use in the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine.*

Sec. 30. *"User" means a person that uses anhydrous ammonia in the course of engaging in agricultural activity in this State to promote or stimulate the growth of plants, increase the productiveness of plants, improve the quality of crops or produce any chemical or physical change in the soil.*

Sec. 31. 1. *The Department, in consultation with the Department of Public Safety, shall certify each brand of nontoxic dye or other additive that a distributor of anhydrous ammonia or user may add to anhydrous ammonia.*

2. *The Board, in consultation with the Advisory Committee, shall adopt regulations establishing standards to be used in making certifications pursuant to subsection 1 and for the administration of this chapter.*

Sec. 32. 1. *The Anhydrous Ammonia Additive Advisory Committee is hereby created within the Department.*

2. *The Advisory Committee consists of one representative of each of the following:*

(a) *The Department.*

(b) *The Department of Public Safety.*

(c) *Manufacturers of anhydrous ammonia fertilizers.*

(d) *The Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education.*

(e) *Retail distributors of anhydrous ammonia.*

(f) *Users who are growers of agricultural products.*

3. *The Director, in consultation with the Director of the Department of Public Safety, shall appoint the members of the Advisory Committee.*

4. *After the initial term, each member of the Advisory Committee shall serve for a term of 4 years.*

5. *Each member of the Advisory Committee serves without compensation. If sufficient money is available to the Department, members are entitled to travel allowances provided for state officers and employees generally while attending meetings of the Advisory Committee.*

6. *Each member of the Advisory Committee who is an officer or employee of the State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Advisory Committee.*

Sec. 33. *The Advisory Committee:*

1. *May review all relevant scientific and economic data on nontoxic dyes or other additives for anhydrous ammonia that are submitted to the Department for certification.*

2. *Shall require the manufacturer of any nontoxic dye or other additive submitted to the Department for certification to provide sufficient scientifically valid data for each submitted nontoxic dye or other additive to allow the Department to determine the:*

(a) *Impact of the nontoxic dye or other additive on crop yield;*

(b) *Specific food crop residue analysis of the nontoxic dye or other additive; and*

(c) *Impact of the nontoxic dye or other additive on the environment.*

3. *May issue recommendations to the Department regarding whether the Department should certify a nontoxic dye or other additive.*

Sec. 34. (Deleted by amendment.)

Sec. 35. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 36 to 42, inclusive, of this act.

Sec. 36. *As used in sections 36 to 42, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 37, 38 and 39 of this act have the meanings ascribed to them in those sections.*

Sec. 37. *"Department" means the Department of Public Safety.*

Sec. 38. *"Permit" means a permit to sell or transfer a product that is a precursor to methamphetamine issued by the Board pursuant to sections 36 to 42, inclusive, of this act.*

Sec. 39. *"Product that is a precursor to methamphetamine" means a product which contains ephedrine, pseudoephedrine or phenylpropanolamine or the salts, optical isomers or salts of optical isomers of such chemicals and may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq., as a nonprescription drug.*

Sec. 40. 1. *A person shall not sell or transfer to an ultimate user in the course of any business, or engage in the business of selling to ultimate*

users, a product that is a precursor to methamphetamine, unless the person:

(a) Is a pharmacy; or

(b) Holds a valid permit issued by the Board pursuant to this section.

2. A person who violates subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. To obtain or renew a permit, a person must:

(a) Submit an application to the Executive Secretary of the Board on a form furnished by the Board;

(b) Pay the fee required by NRS 639.170; and

(c) Submit any other documentation that the Board may require by regulation.

4. The Board shall issue or renew a permit if the person applying for the permit has complied with subsection 2 and the Board determines that the person will safely and lawfully sell or transfer a product that is a precursor to methamphetamine. To determine whether a person will safely and lawfully sell or transfer a product that is a precursor to methamphetamine, the Board shall consider the following factors:

(a) Whether the business operated by the person contains a pharmacy which is not open to the public at all times.

(b) The proximity of the business operated by the person to a pharmacy that is open to the public at all times.

(c) Whether an owner, partner, member, manager, stockholder who owns more than 10 percent of the outstanding stock, director or officer of the person, or an employee of the person who will sell or transfer a product that is a precursor to methamphetamine, has been arrested for, charged with or convicted of:

(1) A felony;

(2) Any crime involving moral turpitude; or

(3) Any crime related to the unlawful possession, sale or use of a controlled substance or dangerous drug.

(d) Whether the business operated by the person is the type of business at which a reasonable person purchases a product that is a precursor to methamphetamine.

(e) The previous experience of the person with the sale of a product that is a precursor to methamphetamine.

Sec. 41. A pharmacy or a person who holds a permit shall:

1. Comply with the law of this State and federal law concerning the sale or transfer of a product that is a precursor to methamphetamine.

2. Submit to the Department a report of the quantity of each purchase and sale or transfer of a product that is a precursor to methamphetamine not later than:

(a) April 30, for the period from January 1 through March 31;

(b) July 31, for the period from April 1 through June 30;

(c) October 31, for the period from July 1 through September 30; and

(d) January 31, for the period from October 1 of the previous year through December 31 of the previous year.

↪ *The Department shall adopt regulations governing the form of the report and the manner in which the report is submitted to the Department.*

Sec. 42. *At any time that a pharmacy or a business operated by a holder of a permit is open to the public, an agent of the Board, the Department or a local law enforcement agency may examine, copy, seize or impound any records of the pharmacy or the holder of a permit concerning the purchase, sale or transfer of a product that is a precursor to methamphetamine.*

Sec. 43. NRS 639.129 is hereby amended to read as follows:

639.129 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for the issuance of a certificate of registration as a pharmacist, intern pharmacist, pharmaceutical technician or pharmaceutical technician in training, ~~or~~ a license issued pursuant to NRS 639.233 *or a permit issued pursuant to sections 36 to 42, inclusive, of this act* shall include the social security number of the applicant in the application submitted to the Board.

(b) A natural person who applies for the issuance or renewal of a certificate of registration as a pharmacist, intern pharmacist, pharmaceutical technician or pharmaceutical technician in training, ~~or~~ a license issued pursuant to NRS 639.233 *or a permit issued pursuant to sections 36 to 42, inclusive, of this act* shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the certificate, ~~or~~ license *or permit*; or

(b) A separate form prescribed by the Board.

3. A certificate of registration as a pharmacist, intern pharmacist, pharmaceutical technician or pharmaceutical technician in training, ~~or~~ a license issued pursuant to NRS 639.233 *or a permit issued pursuant to sections 36 to 42, inclusive, of this act* may not be issued or renewed by the Board if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is

not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 44. NRS 639.170 is hereby amended to read as follows:

639.170 1. The Board shall charge and collect not more than the following fees for the following services:

	Actual cost
For the examination of an applicant registration for as a pharmacist.....	of the examination
For the investigation or registration of an applicant as a registered pharmacist	\$200
For the investigation, examination or registration of an applicant as a registered pharmacist by reciprocity	300
For the investigation or issuance of an original license to conduct a retail pharmacy.....	600
For the biennial renewal of a license to conduct a retail pharmacy	500
For the investigation or issuance of an original license to conduct an institutional pharmacy	600
For the biennial renewal of a license to conduct an institutional pharmacy	500
For the issuance of an original or duplicate certificate of registration as a registered pharmacist	50
For the biennial renewal of registration as a registered pharmacist.....	200
For the reinstatement of a lapsed registration (in addition to the fees for renewal for the period of lapse)	100
For the initial registration of a pharmaceutical technician or pharmaceutical technician in training	50
For the biennial renewal of registration of a pharmaceutical technician or pharmaceutical technician in training	50
For the investigation or registration of an intern pharmacist.....	50
For the biennial renewal of registration as an intern pharmacist.....	40
For investigation or issuance of an original license to a manufacturer or wholesaler	500
For the biennial renewal of a license for a manufacturer or wholesaler	500

For the reissuance of a license issued to a pharmacy,
 when no change of ownership is involved, but the
 license must be reissued because of a change in the
 information required thereon 100

For authorization of a practitioner to dispense
 controlled substances or dangerous drugs, or both 300

For the biennial renewal of authorization of a
 practitioner to dispense controlled substances or
 dangerous drugs, or both 300

***For the issuance or renewal of a permit to sell or
 transfer a product that is a precursor to
 methamphetamine issued by the Board pursuant
 to sections 36 to 42, inclusive, of this act..... \$200***

2. If a person requests a special service from the Board or requests the Board to convene a special meeting, he must pay the actual costs to the Board as a condition precedent to the rendition of the special service or the convening of the special meeting.

3. All fees are payable in advance and are not refundable.

4. The Board may, by regulation, set the penalty for failure to pay the fee for renewal for any license, permit, authorization or certificate within the statutory period, at an amount not to exceed 100 percent of the fee for renewal for each year of delinquency in addition to the fees for renewal for each year of delinquency.

Sec. 45. NRS 639.210 is hereby amended to read as follows:

639.210 The Board may suspend or revoke any certificate, license, registration or permit issued pursuant to this chapter, and deny the application of any person for a certificate, license, registration or permit, if the holder or applicant:

1. Is not of good moral character;
2. Is guilty of habitual intemperance;
3. Becomes or is intoxicated or under the influence of liquor, any depressant drug or a controlled substance, unless taken pursuant to a lawfully issued prescription, while on duty in any establishment licensed by the Board;
4. Is guilty of unprofessional conduct or conduct contrary to the public interest;
5. Is addicted to the use of any controlled substance;
6. Has been convicted of a violation of any law or regulation of the Federal Government or of this or any other state related to controlled substances, dangerous drugs, drug samples, or the wholesale or retail distribution of drugs;
7. Has been convicted of:
 - (a) A felony relating to holding a certificate, license, registration or permit pursuant to this chapter;
 - (b) A felony pursuant to NRS 639.550 or 639.555; or

(c) Other crime involving moral turpitude, dishonesty or corruption;

8. Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

9. Has willfully made to the Board or its authorized representative any false statement which is material to the administration or enforcement of any of the provisions of this chapter;

10. Has obtained any certificate, certification, license or permit by the filing of an application, or any record, affidavit or other information in support thereof, which is false or fraudulent;

11. Has violated any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs;

12. Has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy, or has knowingly permitted, allowed, condoned or failed to report a violation of any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy committed by the holder of a certificate, license, registration or permit;

13. Has failed to renew his certificate, license or permit by failing to submit the application for renewal or pay the renewal fee therefor;

14. Has had his certificate, license or permit suspended or revoked in another state on grounds which would cause suspension or revocation of a certificate, license or permit in this State;

15. Has, as a managing pharmacist, violated any provision of law or regulation concerning recordkeeping or inventory in a store over which he presides, or has knowingly allowed a violation of any provision of this chapter or other state or federal laws or regulations relating to the practice of pharmacy by personnel of the pharmacy under his supervision;

16. Has repeatedly been negligent, which may be evidenced by claims of malpractice settled against him;

17. Has failed to maintain and make available to a state or federal officer any records in accordance with the provisions of this chapter or chapter 453 or 454 of NRS; or

18. Has failed to file or maintain a bond or other security if required by NRS 639.515.

19. Has violated any provision of section 41 of this act or any regulations adopted pursuant thereto.

Sec. 46. 1. The State Board of Pharmacy shall, during the 2007-2009 interim, conduct a study to identify computer software that will create an electronic database which:

(a) Identifies each sale or transfer of a product that is a precursor to methamphetamine immediately after the sale or transfer has occurred; and

(b) A pharmacy or person who holds a permit issued by the Board pursuant to sections 36 to 42, inclusive, of this act may access for the purpose

of determining whether a sale or transfer of a product that is a precursor to methamphetamine would violate state or federal law.

2. The State Board of Pharmacy shall submit a report of the results of the study and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.

Sec. 47. As soon as practicable after October 1, 2007, the Director of the State Department of Agriculture shall appoint to the Anhydrous Ammonia Additive Advisory Committee created by section 32 of this act:

1. Three members whose terms expire on September 30, 2009; and
2. Three members whose terms expire on September 30, 2011.

Sec. 48. 1. This section and section 46 of this act become effective upon passage and approval.

2. Sections 4, 5, 6 and 35 to 45, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the amendatory provisions of sections 4, 5, 6 and 35 to 45, inclusive, of this act; and

(b) On October 1, 2007, for all other purposes.

3. Sections 1, 2, 3, 7 to 34, inclusive, and 47 of this act become effective on October 1, 2007.

4. Section 43 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 202.

Bill read third time.

Roll call on Assembly Bill No. 202:

YEAS—42.

NAYS—None.

Assembly Bill No. 202 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 212.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Assembly Bill No. 212:

YEAS—42.

NAYS—None.

Assembly Bill No. 212 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 226.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 730.

AN ACT relating to older persons; creating the Unit for the Investigation and Prosecution of Crimes Against Older Persons within the Office of the Attorney General; authorizing the Unit to investigate, prosecute and commence certain legal proceedings to prevent certain crimes against older persons; providing for a civil penalty to be imposed against a person who commits certain crimes against an older person; creating the Repository for Information Concerning Crimes Against Older Persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 5 of this bill creates the Unit for the Investigation and Prosecution of Crimes Against Older Persons within the Office of the Attorney General. Section 12 of this bill authorizes the Unit to investigate and prosecute alleged incidences of abuse, neglect, exploitation or isolation of an older person in certain circumstances. ~~Section 13 of this bill requires the Unit, to the extent of legislative appropriation, to provide training to persons who have regular contact with older persons in their professions and occupations.~~ Section 14 of this bill authorizes the Unit to bring an action to enjoin or obtain other equitable relief to prevent abuse, neglect, exploitation or isolation of an older person.

Section 15 of this bill provides for the imposition of a civil penalty against a person who engages in such acts. Any money collected from such civil penalties will be divided between the Fund for the Compensation of Victims of Crime and the Account for the Unit.

Section 16 of this bill creates in the State General Fund an account for the Unit to pay expenses relating to the duties of the Unit. Section 17 of this bill allows the Unit to apply for grants and accept gifts, grants, appropriations or donations to assist in carrying out its duties.

Section 18 of this bill creates the Repository for Information Concerning Crimes Against Older Persons in the Central Repository for Nevada Records of Criminal History.

Section 19 of this bill requires certain reports concerning the abuse, neglect, exploitation or isolation of an older person to be forwarded to the Unit. (NRS 200.5093)

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

Section 1. Chapter 228 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in sections 2 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Older person" means a person who is 60 years of age or older.*

Sec. 4. *"Unit" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons created pursuant to section 5 of this act.*

Sec. 5. ~~##~~ *There is hereby created in the Office of the Attorney General the Unit for the Investigation and Prosecution of Crimes Against Older Persons.*

~~2. The Attorney General shall appoint to the Unit one attorney, at least one investigator and at least one other person to provide outreach services to older persons concerning the duties of the Unit and to provide administrative support to the Unit.~~

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. *The Unit may investigate and prosecute any alleged abuse, neglect, exploitation or isolation of an older person in violation of NRS 200.5099 or 200.50995 and any failure to report such a violation pursuant to NRS 200.5093:*

1. At the request of the district attorney of the county in which the violation occurred;

2. If the district attorney of the county in which the violation occurred fails, neglects or refuses to prosecute the violation; or

3. Jointly with the district attorney of the county in which the violation occurred.

Sec. 13. ~~[To the extent of legislative appropriation, the Unit shall provide training concerning the manner in which to recognize, prevent and intervene in cases of abuse, neglect, exploitation and isolation of older persons to persons who are likely to have regular contact with older persons in their professions or occupations, including, without limitation, persons described in subsection 4 of NRS 200.5093, attorneys, bankers, investment brokers and administrators of health care facilities.] (Deleted by amendment.)~~

Sec. 14. *The Unit may bring an action to enjoin or obtain any other equitable relief to prevent the abuse, neglect, exploitation or isolation of an older person. The court may award reasonable attorney's fees and costs if the Unit prevails in such an action.*

Sec. 15. 1. *In addition to any criminal penalty, a person who is found guilty of abuse, neglect, exploitation or isolation of an older person pursuant to NRS 200.5099 or 200.50995 is liable for a civil penalty to be recovered by the Attorney General in a civil action brought in the name of the State of Nevada:*

(a) *For the first offense, in an amount which is not less than \$5,000 and not more than \$20,000.*

(b) *For a second or subsequent offense, in an amount which is not less than \$10,000 and not more than \$30,000.*

2. *The Attorney General shall deposit any money collected for civil penalties pursuant to subsection 1 in equal amounts to:*

(a) *A separate account in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 to provide compensation to older persons who are abused, neglected, exploited or isolated in violation of NRS 200.5099 and 200.50995; and*

(b) *The Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons created pursuant to section 16 of this act.*

Sec. 16. 1. *The Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons is hereby created in the State General Fund. The Attorney General shall administer the Account.*

2. *The money in the Account must only be used to carry out the provisions of sections 2 to 17, inclusive, of this act and to pay the expenses incurred by the Unit in the discharge of its duties, including, without limitation, expenses relating to the provision of training and salaries and benefits for employees of the Unit.*

3. *Money in the Account must remain in the Account and must not revert to the State General Fund at the end of any fiscal year.*

Sec. 17. 1. *The Unit may apply for any available grants and accept gifts, grants, appropriations or donations to assist the Unit in carrying out its duties pursuant to the provisions of this chapter.*

2. *Any money received by the Unit must be deposited in the Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons created pursuant to section 16 of this act.*

Sec. 18. Chapter 179A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Repository for Information Concerning Crimes Against Older Persons is hereby created within the Central Repository.*

2. *The Repository for Information Concerning Crimes Against Older Persons must contain a complete and systematic record of all reports of crimes against older persons committed in this State that must be prepared in a manner approved by the Director of the Department.*

3. *The Director of the Department shall compile and analyze the data collected pursuant to this section to assess the incidence of crimes against older persons.*

4. *On or before July 1 of each year, the Director of the Department shall prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature that sets forth statistical data on crimes against older persons.*

5. *The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of an individual victim of a crime.*

6. *As used in this section, "older person" means a person who is 60 years of age or older.*

Sec. 19. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

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

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

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

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services [-] **and the Unit for the Investigation and Prosecution of Crimes.**

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and

family therapist, alcohol or drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(j) Every social worker.

(k) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, ~~and~~ the Aging Services Division of the Department of Health and Human Services *and the Unit for the Investigation and Prosecution of Crimes* his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report ~~[-]~~ *and a copy of any final report of an investigation must be forwarded to the Unit*

for the Investigation and Prosecution of Crimes within 90 days after completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to section 5 of this act.

Sec. 20. NRS 217.050 is hereby amended to read as follows:

217.050 "Personal injury" means:

1. Actual bodily harm or threat of bodily harm which results in a need for medical treatment;

2. In the case of a minor who was involved in the production of pornography in violation of NRS 200.710, 200.720, 200.725 or 200.730, any harm which results in a need for medical treatment or any psychological or psychiatric counseling, or both; ~~or~~

3. Any harm which results from sexual abuse ~~or~~ **or**

4. Any harm which results from a violation of NRS 200.5099 or 200.50995.

Sec. 21. NRS 217.070 is hereby amended to read as follows:

217.070 "Victim" means:

1. A person who is physically injured or killed as the direct result of a criminal act;

2. A minor who was involved in the production of pornography in violation of NRS 200.710, 200.720, 200.725 or 200.730;

3. A minor who was sexually abused, as "sexual abuse" is defined in NRS 432B.100;

4. A person who is physically injured or killed as the direct result of a violation of NRS 484.379 or any act or neglect of duty punishable pursuant to NRS 484.3795 or 484.37955;

5. A pedestrian who is physically injured or killed as the direct result of a driver of a motor vehicle who failed to stop at the scene of an accident involving the driver and the pedestrian in violation of NRS 484.219; ~~or~~

6. An older person who is abused, neglected, exploited or isolated in violation of NRS 200.5099 or 200.50995; or

7. A resident who is physically injured or killed as the direct result of an act of international terrorism as defined in 18 U.S.C. § 2331(1).

➔ The term includes a person who was harmed by any of these acts whether the act was committed by an adult or a minor.

Sec. 22. This act becomes effective on July 1, 2007.

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 393.

Bill read third time.

Remarks by Assemblyman Hogan.

Roll call on Assembly Bill No. 393:

YEAS—42.

NAYS—None.

Assembly Bill No. 393 having received a constitutional majority,

Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 539.

Bill read third time.

Remarks by Assemblyman Grady.

Roll call on Assembly Bill No. 539:

YEAS—42.

NAYS—None.

Assembly Bill No. 539 having received a constitutional majority,

Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 551.

Bill read third time.

Roll call on Assembly Bill No. 551:

YEAS—42.

NAYS—None.

Assembly Bill No. 551 having received a constitutional majority,

Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 594.

Bill read third time.

Remarks by Assemblymen Atkinson and Settlemeyer.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Assembly Bill No. 594 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 596.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 731.

AN ACT relating to child support; revising certain provisions concerning the right of a physical custodian of a child to recover support for a child from the noncustodial parent in certain circumstances; requiring every court order for the support of a child to include a provision to provide ~~coverage~~ for the medical support of the child; requiring the Chief of the Program established to locate absent parents, establish paternity and obtain child support to ~~charge and collect certain fees;~~ **retain a fee in certain cases;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, when the parents of a child are separated, the physical custodian of the child may recover from the parent without physical custody of the child a reasonable portion of certain costs provided by the physical custodian. In the absence of a court order for support of the child, the parent who has physical custody of the child may not recover more than 4 years of support furnished before the bringing of the action. (NRS 125B.030) Section 1 of this bill revises this provision to authorize the physical custodian to recover such support in any situation in which the parents of the child do not reside together.

Section 2 of this bill revises provisions of existing law concerning orders for the support of a child to require that every court order for the support of a child issued or modified in this State on or after the effective date of this act must include a provision specifying that one or both of the parents are required to provide ~~coverage~~ for the medical support of the child. (NRS 125B.085)

Existing federal law requires the State to charge certain fees relating to the collection of child support through the Program established to locate absent parents, establish paternity and obtain child support pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq. To comply with the federal law, section 3 of this bill requires the Chief of the Program to ~~charge and collect from the noncustodial parent of a child;~~ **retain** a fee of up to \$25 each year in each case in which the State has collected more than \$500 and in which the ~~person~~ **child** for whom the collection is made ~~has~~ **and the person who has physical custody of the child have** never received Temporary Assistance for Needy Families pursuant to Title IV of the Social Security Act. ~~The fee must be retained from the support collected for the child which exceeds \$500. The Chief may collect the fees from the noncustodial parent of a child in the same manner as the Chief collects support from the noncustodial parent.~~ The fees collected by the Chief must be deposited in the State Child Support Disbursement Fund for use in carrying out the Program. **(NRS 425.363)**

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

Section 1. NRS 125B.030 is hereby amended to read as follows:

125B.030 Where the parents of a child ~~are separated,~~ **do not reside together**, the physical custodian of the child may recover from the parent without physical custody a reasonable portion of the cost of care, support, education and maintenance provided by the physical custodian. In the absence of a court order ~~for the support of a child,~~ the parent who has physical custody may recover not more than 4 years' support furnished before the bringing of the action ~~to establish an obligation for the support of the child.~~

Sec. 2. NRS 125B.085 is hereby amended to read as follows:

125B.085 **1.** Except as otherwise provided in NRS 125B.012, every court order for the support of a child issued or modified in this State on or after ~~October 1, 1997,~~ **the effective date of this act**, must include a provision specifying ~~whether the parent required to pay support is~~ **that one or both parents are** required to provide ~~coverage~~ **medical support** for ~~the health care of~~ the child and ~~if so,~~ any details relating to that requirement.

2. As used in this section, "medical support" ~~means payment for any medical expenses or~~ includes, without limitation, coverage for health care under a plan of insurance, including, without limitation, the payment of any premium, copayment or deductible ~~and~~ and the payment of medical expenses.

Sec. 3. Chapter 425 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Chief shall ~~collect from the noncustodial parent of a child~~ retain an annual fee of up to \$25 in each case for which the Chief provides services from any amount collected in the case during the year in excess of \$500, but only if the ~~person~~ child for whom the collection is made ~~is~~ and the person who has physical custody of the child in the case are not and ~~has~~ have never been a recipient of Temporary Assistance for Needy Families pursuant to Title IV of the Social Security Act, 42 U.S.C. §§ 601 et seq.

2. ~~The Chief may collect from the noncustodial parent of a child any fee pursuant to this section in the same manner as he collects support for the child from the noncustodial parent of the child.~~

~~3.~~ Any fee collected pursuant to subsection 1 must be used to carry out the Program.

Sec. 4. NRS 425.382 is hereby amended to read as follows:

425.382 **1.** Except as otherwise provided in NRS 425.346, the Chief may proceed pursuant to NRS 425.3822 to 425.3852, inclusive, **and section 3 of this act**, after:

- (a) Payment of public assistance by the Division; or
- (b) Receipt of a request for services to carry out the Program.

2. Subject to approval by the district court, a master may:

- (a) Take any action authorized pursuant to chapter 130 of NRS, including any of the actions described in subsection 2 of NRS 130.305.

(b) Except as otherwise provided in chapter 130 of NRS and NRS 425.346:

- (1) Issue and enforce an order for the support of a dependent child, and modify or adjust such an order in accordance with NRS 125B.145;
- (2) Require coverage for health care of a dependent child;
- (3) Establish paternity;
- (4) Order a responsible parent to comply with an order for the support of a dependent child, specifying the amount and the manner of compliance;
- (5) Order the withholding of income;
- (6) Determine the amount of any arrearages and specify a method of payment;
- (7) Enforce orders by civil or criminal contempt, or both;
- (8) Set aside property for satisfaction of an order for the support of a dependent child;
- (9) Place liens and order execution on the property of the responsible parent;
- (10) Order a responsible parent to keep the master informed of his current residential address, telephone number, employer, address of employment and telephone number at the place of employment;
- (11) Issue a bench warrant for a responsible parent who has failed after proper notice to appear at a hearing ordered by the master and enter the bench warrant in any local and state computer system for criminal warrants;
- (12) Order the responsible parent to seek appropriate employment by specified methods;
- (13) Upon the request of the Division, require a responsible parent to:
 - (I) Pay any support owed in accordance with a plan approved by the Division; or
 - (II) Participate in such work activities, as that term is defined in 42 U.S.C. § 607(d), as the Division deems appropriate;
- (14) Award reasonable attorney's fees and other fees and costs; and
- (15) Grant any other available remedy.

Sec. 5. 1. This act becomes effective upon passage and approval.

2. Section 3 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 654 requiring each state to impose an annual fee of \$25 in the case of a person who has never received assistance pursuant to Title IV of the Social Security Act, 42 U.S.C. §§ 601 et seq., and for whom the State has collected \$500 or more of support are repealed by the Congress of the United States.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 16, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 44.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 44.

Assemblyman Parks moved the adoption of the resolution.

Remarks by Assemblymen Parks and Weber.

Resolution adopted.

Assemblyman Anderson moved that Senate Bill No. 277 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Assemblyman Anderson.

Motion carried.

In compliance with a notice given on a previous day, Assemblyman Anderson moved that the vote whereby Senate Bill No. 217 was passed be reconsidered.

Remarks by Assemblyman Anderson.

Motion carried.

Assemblyman Anderson moved that Senate Bill No. 217 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Assemblyman Anderson.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 20.

Bill read third time.

Remarks by Assemblyman Mabey.

Roll call on Senate Bill No. 20:

YEAS—42.

NAYS—None.

Senate Bill No. 20 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 35.

Bill read third time.

Remarks by Assemblyman Ocegueda.

Roll call on Senate Bill No. 35:

YEAS—42.

NAYS—None.

Senate Bill No. 35 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 86.

Bill read third time.

Remarks by Assemblyman Christensen.

Roll call on Senate Bill No. 86:

YEAS—42.

NAYS—None.

Senate Bill No. 86 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 100.

Bill read third time.

Remarks by Assemblyman Parks.

Roll call on Senate Bill No. 100:

YEAS—42.

NAYS—None.

Senate Bill No. 100 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 129.

Bill read third time.

Remarks by Assemblymen Gerhardt and Anderson.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Assemblyman Anderson requested that his remarks be entered in the Journal.

I want to make sure the floor statement becomes part of the record, relative to Senate Bill No. 129. Deletion of the language regarding committing a ward to a mental health facility is a clarification of current law. A guardian is not authorized to authorize or deny an involuntary admission into a mental health facility though a guardian may petition for an involuntary commitment. Also, a guardian is not authorized to “involuntarily commit” a ward under the voluntary admission provisions in Chapter 433A of NRS.

Roll call on Senate Bill No. 129:

YEAS—42.

NAYS—None.

Senate Bill No. 129 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 148.

Bill read third time.

Remarks by Assemblywoman Allen.

Roll call on Senate Bill No. 148:

YEAS—42.

NAYS—None.

Senate Bill No. 148 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 227.

Bill read third time.

Remarks by Assemblywoman Gansert.

Roll call on Senate Bill No. 227:

YEAS—42.

NAYS—None.

Senate Bill No. 227 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 265.

Bill read third time.

Remarks by Assemblyman Mabey.

Roll call on Senate Bill No. 265:

YEAS—42.

NAYS—None.

Senate Bill No. 265 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 269.

Bill read third time.

Remarks by Assemblymen Christensen, Horne, Kirkpatrick, Goicoechea,
and Anderson.

Roll call on Senate Bill No. 269:

YEAS—41.

NAYS—Goedhart.

Senate Bill No. 269 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 282.

Bill read third time.

Remarks by Assemblyman Marvel.

Roll call on Senate Bill No. 282:

YEAS—42.

NAYS—None.

Senate Bill No. 282 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 302.

Bill read third time.

Remarks by Assemblyman Conklin.

Roll call on Senate Bill No. 302:

YEAS—42.

NAYS—None.

Senate Bill No. 302 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 306.

Bill read third time.

Remarks by Assemblymen Kihuen, Parks, and Carpenter.

Roll call on Senate Bill No. 306:

YEAS—42.

NAYS—None.

Senate Bill No. 306 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegueda moved that Senate Bills Nos. 336, 357, 367, 369, 384, 389, 396, 399, 401, 417, 430, 456, 470, 486, 491, 504, 511, 519; Senate Joint Resolutions Nos. 6, 10, 11, 12, 13, 15, 16, 17 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 279.

The following Senate amendment was read:

Amendment No. 672.

SUMMARY—Requires **a certain portion of** the unused value of certain gift certificates to escheat to the State. (BDR 52-961)

AN ACT relating to gift certificates; prohibiting an issuer from charging a service fee on the basis of inactivity if the inactivity is for less than 3 continuous years; requiring **a certain portion of** the unused value of certain gift certificates to escheat to the State; providing for the use of the proceeds from abandoned gift certificates for educational purposes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill prohibits the issuer of a gift certificate from charging a service fee on the basis of inactivity if the inactivity is for less than 3 continuous years.

Section 2 of this bill provides that **a certain portion of** the unredeemed or uncharged value remaining on a gift certificate ~~that~~ **which** is issued or sold in this State and **which** has an expiration date is presumed abandoned on the expiration date. Section 3 of this bill requires that all proceeds received from

abandoned gift certificates by the State Treasurer in his capacity as the Administrator of Unclaimed Property be accounted for separately and may be used only for educational purposes.

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

Section 1. NRS 598.0921 is hereby amended to read as follows:

598.0921 1. A person engages in a “deceptive trade practice” if, in the course of his business or occupation:

(a) He issues a gift certificate that expires on a certain date, unless either of the following is printed plainly and conspicuously on the front or back of the gift certificate in at least 10-point font and in such a manner that the print is readily visible to the buyer of the gift certificate before the buyer purchases the gift certificate:

(1) The expiration date of the gift certificate; or

(2) A toll-free telephone number accompanied by a statement setting forth that the buyer or holder of the gift certificate may call the telephone number to obtain the balance of the gift certificate and the expiration date of the gift certificate;

(b) He imposes upon the buyer or holder of a gift certificate a service fee, unless each of the following is printed plainly and conspicuously on the front or back of the gift certificate in at least 10-point font and in such a manner that the print is readily visible to the buyer of the gift certificate before the buyer purchases the gift certificate:

(1) The amount of the service fee;

(2) The event or events that will cause the service fee to be imposed;

(3) The frequency with which the service fee will be imposed; and

(4) If the service fee will be imposed on the basis of inactivity, the duration of inactivity, ***which must not be less than 3 continuous years of nonuse***, that will cause the service fee to be imposed; or

(c) Regardless of the notice provided, he imposes upon the buyer or holder of a gift certificate:

(1) A service fee or a combination of service fees that exceed a total of \$1 per month; or

(2) A service fee that commences or is imposed within the first 12 months after the issuance of the gift certificate.

2. The provisions of this section do not apply to:

(a) A gift certificate that is issued as part of an award, loyalty, promotional, rebate, incentive or reward program and for which issuance the issuer does not receive money or any other thing of value;

(b) A gift certificate that is sold at a reduced price to an employer or nonprofit or charitable organization, if the expiration date of the gift certificate is not more than 30 days after the date of sale; and

(c) A gift certificate that is issued by an establishment licensed pursuant to the provisions of chapter 463 of NRS.

3. As used in this section:

(a) "Gift certificate" means an instrument or a record evidencing a promise by the seller or issuer of the instrument or record to provide goods or services to the holder of the gift certificate for the value shown in, upon or ascribed to the instrument or record and for which the value shown in, upon or ascribed to the instrument or record is decreased in an amount equal to the value of goods or services provided by the issuer or seller to the holder. The term includes, without limitation, a gift card, certificate or similar instrument. The term does not include:

(1) An instrument or record for prepaid telecommunications or technology services, including, without limitation, a card for prepaid telephone services, a card for prepaid technical support services and an instrument for prepaid Internet service purchased or otherwise distributed to a consumer of such services, including, without limitation, as part of an award, loyalty, promotional or reward program; or

(2) An instrument or record, by whatever name called, that may be used to obtain goods or services from more than one person or business entity, if the expiration date is printed plainly and conspicuously on the front or back of the instrument or record.

(b) "Issue" means to sell or otherwise provide a gift certificate to any person and includes, without limitation, adding value to an existing gift certificate.

(c) "Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium, including, without limitation, information stored on a microprocessor chip or magnetic strip, and is retrievable in perceivable form.

(d) "Service fee" means any charge or fee other than the charge or fee imposed for the issuance of the gift certificate, including, without limitation, a service fee imposed on the basis of inactivity or any other type of charge or fee imposed after the sale of the gift certificate.

Sec. 2. Chapter 120A of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Any~~ **Sixty percent of the unredeemed or uncharged value remaining on a gift certificate ~~that~~ which is issued or sold in this State and which has an expiration date is presumed abandoned and subject to the provisions of this chapter on the expiration date.**

2. ***If a gift certificate is issued or sold in this State and the seller or issuer does not obtain and maintain in his records the name and address of the owner of the gift certificate, the address of the owner of the gift certificate shall be deemed to be the address of the Office of the State Treasurer in Carson City.***

3. ***This section does not create a cause of action against a person who issues or sells a gift certificate.***

4. ***As used in this section, "gift certificate" has the meaning ascribed to it in NRS 598.0921.***

Sec. 3. NRS 120A.360 is hereby amended to read as follows:

120A.360 1. Except as otherwise provided in subsections 4 ~~[-5 and 6,]~~ **to 7, inclusive**, all abandoned property other than money delivered to the Administrator under this chapter must, within 2 years after the delivery, be sold by the Administrator to the highest bidder at public sale in whatever manner affords in his judgment the most favorable market for the property involved. The Administrator may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient.

2. Any sale held under this section must be preceded by a single publication of notice thereof at least 2 weeks in advance of the sale in a newspaper of general circulation in the county where the property is to be sold.

3. The purchaser at any sale conducted by the Administrator pursuant to this chapter is vested with title to the property purchased, free from all claims of the owner or prior holder and of all persons claiming through or under them. The Administrator shall execute all documents necessary to complete the transfer of title.

4. The Administrator need not offer any property for sale if, in his opinion, the probable cost of the sale exceeds the value of the property. The Administrator may destroy or otherwise dispose of such property or may transfer it to:

(a) The Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society, upon its written request, if the property has, in the opinion of the requesting institution, historical, artistic or literary value and is worthy of preservation;

(b) A genealogical library, upon its written request, if the property has genealogical value and is not wanted by the Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society; or

(c) A veterans' or military museum, upon its written request, if the property has military or military historical value and is not wanted by the Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society.

↪ An action may not be maintained by any person against the holder of the property because of that transfer, disposal or destruction.

5. Securities listed on an established stock exchange must be sold at the prevailing price for that security on the exchange at the time of sale. Other securities not listed on an established stock exchange may be sold:

(a) Over the counter at the prevailing price for that security at the time of sale; or

(b) By any other method the Administrator deems acceptable.

6. The Administrator shall hold property that was removed from a safe-deposit box or other safekeeping repository for 1 year after the date of the delivery of the property to the Administrator, unless that property is a will or a codicil to a will, in which case the Administrator shall hold the property for

10 years after the date of the delivery of the property to the Administrator. If no claims are filed for the property within that period, it may be destroyed.

7. All proceeds received by the Administrator from abandoned gift certificates must be accounted for separately in the Abandoned Property Trust Fund in the State Treasury. At the end of each fiscal year, before any other money in the Abandoned Property Trust Fund is transferred pursuant to NRS 120A.370, the balance in the account created pursuant to this subsection, less any costs, service charges or claims chargeable to the account, must be transferred to the Educational Trust Fund which is hereby created in the State Treasury. The money in the Educational Trust Fund may be expended only as authorized by the Legislature for educational purposes.

Sec. 4. This act applies to gift certificates issued on or after October 1, 2007.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 279.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 102.

The following Senate amendment was read:

Amendment No. 660.

AN ACT relating to eminent domain; prohibiting the use of eminent domain to acquire property for the purpose of transferring an interest in the property to a private person or entity except in certain circumstances; making various other changes relating to eminent domain; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law lists the purposes for which the power of eminent domain may be exercised. (NRS 37.010) In *Kelo v. City of New London*, 125 S.Ct. 2655 (2005), the United States Supreme Court ruled that private property may be acquired by eminent domain and transferred to a private party for the purpose of obtaining the benefits of economic development. Assembly Joint Resolution No. 3 proposes an amendment to the Nevada Constitution concerning eminent domain. This bill enacts into statute the provisions of Assembly Joint Resolution No. 3.

Section 4 of this bill prohibits, except in certain circumstances, the exercise of eminent domain to acquire property if the entity acquiring the property will transfer any interest in the property to a private person or entity. In addition, section 4 ~~of this bill~~ provides that the entity that is taking the property has the burden of proving that the taking is for a public use.

Existing law allows an entity which is taking property by the exercise of eminent domain to move the court for an order allowing the entity to occupy the property, pending a final judgment in the action. (NRS 37.100) Section 5

of this bill requires an entity which is taking property by the exercise of eminent domain to provide the owner of the property with all appraisals of the property obtained by the entity before the entity is allowed to occupy the property. Furthermore, section 5 ~~of this bill~~ requires the court to determine at the occupancy hearing whether the taking is for a public use, if the owner of the property that is the subject of the action requests such a determination.

Sections 2, 6 and 7 of this bill provide for the manner of computing the just compensation owed to the person whose property is taken by the exercise of eminent domain. Section 1 of this bill provides that neither the property owner nor an entity which is taking property by the exercise of eminent domain is liable for the attorney's fees of the other party, except in certain circumstances. Section 9 of this bill provides that the owner of property taken by the exercise of eminent domain, or his successor in interest, has the right to reacquire the property for the price paid by the entity which took the property under certain circumstances.

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

Section 1. Chapter 37 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in this section, in all actions in eminent domain, neither the entity that is taking property nor the owner of the property is liable for the attorney's fees of the other party. This section does not apply in an inverse condemnation action if the owner of the property that is the subject of the action makes a request for attorney's fees from the other party to the action.

Sec. 2. NRS 37.009 is hereby amended to read as follows:

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

1. "Date of valuation" means the date on which the value of the property actually taken, and the damages, if any, to the remaining property, must be determined.

2. "Final judgment" means a judgment which cannot be directly attacked by appeal, motion for new trial or motion to vacate the judgment.

3. "Judgment" means the judgment determining the right to condemn property and fixing the amount of compensation to be paid by the plaintiff.

4. "Partnership" includes a limited partnership.

5. "Person" includes a government, governmental agency or political subdivision of a government.

6. "Value" means the ~~most probable price which a property would bring in a competitive and open market under the conditions of a fair sale, without the price being affected by undue stimulus, whereby the sale is consummated on a specified date and the title to the property is passed from the seller to the buyer under the following conditions:~~

- ~~(a) The buyer and seller are acting prudently and knowledgeably;~~
- ~~(b) The buyer and seller are typically motivated;~~

~~(c) The buyer and seller are well informed or well advised and acting in what they consider are their own best interests;~~

~~(d) A reasonable time is allowed to expose the property for sale on the open market;~~

~~(e) Payment is made with United States dollars in cash or pursuant to another financial arrangement comparable thereto; and~~

~~(f) The sale price represents the normal consideration for the property and is unaffected by special or creative financing or sales concessions granted by any person associated with the sale.]~~ **highest price, on the date of valuation, that would be agreed to by a seller, who is willing to sell on the open market and has reasonable time to find a purchaser, and a buyer, who is ready, willing and able to buy, if both the seller and the buyer had full knowledge of all the uses and purposes for which the property is reasonably adaptable and available. In determining value, except as otherwise provided in this subsection, the property sought to be condemned must be valued at its highest and best use without considering any future dedication requirements imposed by the entity that is taking the property. If the property is condemned primarily for a profit-making purpose, the property sought to be condemned must be valued at the use to which the entity that is condemning the property intends to put the property, if such use results in a higher value for the property.**

Sec. 3. NRS 37.0095 is hereby amended to read as follows:

37.0095 1. Except as otherwise provided in subsection 2, only a public agency may exercise the power of eminent domain pursuant to the provisions of this chapter.

2. Except as otherwise provided in NRS 37.0097, the power of eminent domain may be exercised by a person who is not a public agency pursuant to NRS 37.230 and ~~subsections 6, 8, 10, 13 and 16]~~ **paragraphs (f), (h), (j), (m) and (p) of subsection 1** of NRS 37.010.

3. As used in this section, “public agency” means an agency or political subdivision of this State or the United States.

Sec. 4. NRS 37.010 is hereby amended to read as follows:

37.010 **1.** Subject to the provisions of this chapter ~~††~~ **and the limitations in subsections 2 and 3**, the right of eminent domain may be exercised in behalf of the following public ~~purposes:]~~ **uses:**

~~††~~ **(a)** Federal activities. All public purposes authorized by the Government of the United States.

~~††~~ **(b)** State activities. Public buildings and grounds for the use of the State, the Nevada System of Higher Education and all other public purposes authorized by the Legislature.

~~††~~ **(c)** County, city, town and school district activities. Public buildings and grounds for the use of any county, incorporated city or town, or school district, reservoirs, water rights, canals, aqueducts, flumes, ditches or pipes for conducting water for the use of the inhabitants of any county, incorporated city or town, for draining any county, incorporated city or town,

for raising the banks of streams, removing obstructions therefrom, and widening, deepening or straightening their channels, for roads, streets and alleys, and all other public purposes for the benefit of any county, incorporated city or town, or the inhabitants thereof.

~~{4.}~~ (d) Bridges, toll roads, railroads, street railways and similar uses. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation.

~~{5.}~~ (e) Ditches, canals, aqueducts for smelting, domestic uses, irrigation and reclamation. Reservoirs, dams, water gates, canals, ditches, flumes, tunnels, aqueducts and pipes for supplying persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic and other uses, for irrigating purposes, for draining and reclaiming lands, or for floating logs and lumber on streams not navigable.

~~{6.}~~ (f) Mining, smelting and related activities. Mining, smelting and related activities as follows:

~~{(a)}~~ (1) Mining and related activities, which are recognized as the paramount interest of this State.

~~{(b)}~~ (2) Roads, railroads, tramways, tunnels, ditches, flumes, pipes, reservoirs, dams, water gates, canals, aqueducts and dumping places to facilitate the milling, smelting or other reduction of ores, the working, reclamation or dewatering of mines, and for all mining purposes, outlets, natural or otherwise, for the deposit or conduct of tailings, refuse, or water from mills, smelters, or other work for the reduction of ores from mines, mill dams, pipelines, tanks or reservoirs for natural gas or oil, an occupancy in common by the owners or possessors of different mines, mills, smelters or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter and the necessary land upon which to erect smelters and to operate them successfully, including the deposit of fine flue dust, fumes and smoke.

~~{7.}~~ (g) Byroads. Byroads leading from highways to residences and farms.

~~{8.}~~ (h) Public utilities. Lines for telegraph, telephone, electric light and electric power and sites for plants for electric light and power.

~~{9.}~~ (i) Sewerage. Sewerage of any city, town, settlement of not less than 10 families or any public building belonging to the State or college or university.

~~{10.}~~ (j) Water for generation and transmission of electricity. Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying and storing water for the operation of machinery to generate and transmit electricity for power, light or heat.

~~{11.}~~ (k) Cemeteries, public parks. Cemeteries or public parks.

~~{12.}~~ (l) Pipelines of beet sugar industry. Pipelines to conduct any liquids connected with the manufacture of beet sugar.

~~{13}~~ (m) Pipelines for petroleum products, natural gas. Pipelines for the transportation of crude petroleum, petroleum products or natural gas, whether interstate or intrastate.

~~{14}~~ (n) Aviation. Airports, facilities for air navigation and aerial rights-of-way.

~~{15}~~ (o) Monorails. Monorails and any other overhead or underground system used for public transportation.

~~{16}~~ (p) Community antenna television companies. Community antenna television companies which have been granted a franchise from the governing body of the jurisdictions in which they provide services. The exercise of the power of eminent domain may include the right to use the wires, conduits, cables or poles of any public utility if:

~~{a}~~ (1) It creates no substantial detriment to the service provided by the utility;

~~{b}~~ (2) It causes no irreparable injury to the utility; and

~~{c}~~ (3) The Public Utilities Commission of Nevada, after giving notice and affording a hearing to all persons affected by the proposed use of the wires, conduits, cables or poles, has found that it is in the public interest.

~~{17}~~ (q) Redevelopment. The acquisition of property pursuant to NRS 279.382 to 279.685, inclusive.

2. Notwithstanding any other provision of law and except as otherwise provided in this subsection, the public uses for which private property may be taken by the exercise of eminent domain do not include the direct or indirect transfer of any interest in the property to another private person or entity. Property taken by the exercise of eminent domain may be transferred to another private person or entity in the following circumstances:

(a) The entity that took the property transfers the property to a private person or entity and the private person or entity uses the property primarily to benefit a public service, including, without limitation, a utility, railroad, public transportation project, pipeline, road, bridge, airport or facility that is owned by a governmental entity.

(b) The entity that took the property leases the property to a private person or entity that occupies an incidental part of an airport or a facility that is owned by a governmental entity and, before leasing the property:

(1) Uses its best efforts to notify the person from whom the property was taken that the property will be leased to a private person or entity that will occupy an incidental part of an airport or facility that is owned by a governmental entity; and

(2) Provides the person from whom the property was taken with an opportunity to bid or propose on ~~an equal basis with others~~ any such lease.

(c) The entity that took the property:

(1) Took the property in order to acquire property that was abandoned by the owner, abate an immediate threat to the safety of the public or remediate hazardous waste; and

(2) Grants a right of first refusal to the person from whom the property was taken that allows that person to reacquire the property on the same terms and conditions that are offered to the other private person or entity.

(d) ~~The entity that took the property [transfers an interest in the property to a private person or entity in exchange for an interest in the property that was taken, or is being taken,]~~ exchanges it for other property acquired or being acquired by [the exercise of] eminent domain or under the threat of [the exercise of] eminent domain for [the purpose of a road or] roadway or highway [the relocation of] purposes, to relocate public or private structures or to [facilitate or] avoid payment of excessive compensation or damages.

(e) The person from whom the property is taken consents to the taking.

3. The entity that is taking property by the exercise of eminent domain has the burden of proving that the taking is for a public use.

4. For the purposes of this section, an airport authority or any public airport is not a private person or entity.

Sec. 5. NRS 37.100 is hereby amended to read as follows:

37.100 1. *Before the plaintiff obtains possession of the property, the plaintiff shall give to the owner of the property a copy of all appraisals of the property obtained by the plaintiff.*

2. The plaintiff may move the court or a judge thereof at any time after the commencement of suit, on notice for such time as the court or judge may direct to the defendant if he is a resident of the county or has appeared in the action, otherwise by serving a notice directed to him on the clerk of the court, for an order permitting the plaintiff to occupy the premises sought to be condemned, pending the entry of judgment, and to do such work thereon as may be required for the easement, fee, or property rights sought, according to its nature.

~~{2.—The}~~

3. *At the occupancy hearing, the court shall make a separate and distinct determination as to whether the property is being taken for a public use pursuant to NRS 37.010, if the defendant requests such a determination.*

4. *If the defendant does not request a determination pursuant to subsection 3 or if the court determines that the property is being taken for a public use pursuant to NRS 37.010, the court or judge shall take proof, by affidavit or otherwise, of the value of the premises sought to be condemned, the damages which will accrue from the condemnation and the reasons for requiring a speedy occupation, and shall grant or refuse the motion according to the equity of the case and the relative damages which may accrue to the parties.*

~~{3-}~~ 5. If the motion is granted, the court or judge shall require the plaintiff to execute and file in court a bond to the defendant, with sureties, to be approved by the court or judge in a penal sum to be fixed by the court or judge, not less than double the value of the premises sought to be condemned and the damages which will ensue from condemnation and occupation, as the value and damages may appear to the court or judge on the hearing, and conditioned to pay the adjudged value of the premises and all damages if the property is condemned, and to pay all damages arising from occupation before judgment if the premises are not condemned, and all costs adjudged to the defendant in the action. The sureties shall justify before the court or judge, after a reasonable notice to the defendant of the time and place of justification.

~~{4-}~~ 6. In lieu of a bond the plaintiff, with the consent of the court, may deposit with the clerk of the court a sum equal to the value of the premises plus damages, as appraised by the plaintiff. Upon application of the defendant and upon notice to all parties, the court or judge may order the money deposited with the clerk of the court or any part thereof to be paid to the defendant. If the amount of the compensation awarded upon judgment is less than the sum deposited and paid to the defendant, the court shall enter judgment in favor of the plaintiff and against the defendant for the amount of the excess. Application by the defendant to the court for withdrawal of part or all of the money deposited and the payment of that money to the defendant does not prejudice the right of the defendant to contest the amount of compensation to be finally awarded. The receipt by the defendant of a part or all of the money deposited must be conditioned upon the waiver of all defenses except those relating to the amount of compensation.

~~{5-}~~ 7. The amount of the penal bond or the deposit is for the purpose of the motion only and is not admissible in evidence on final hearing.

~~{6-}~~ 8. The court or judge may also restrain the defendant from hindering or interfering with the occupation of the premises and the doing thereon of the work required for the easement, fee, or property rights.

~~{7-}~~ 9. The provisions of this section requiring the execution and filing of a bond do not apply in any action or proceeding in which the State of Nevada is the plaintiff, but the public faith and credit of the State of Nevada, is hereby pledged as security in lieu of the bond. The provisions of this subsection do not prevent the State of Nevada from depositing, in lieu of a pledge of the public faith and credit, with the clerk of the court a sum equal to the value of the premises plus any damages as appraised by the State.

Sec. 6. NRS 37.120 is hereby amended to read as follows:

37.120 1. To assess compensation and damages as provided in NRS 37.110, the date of the first service of the summons is the date of valuation, except that, if the action is not tried within 2 years after the date of the first service of the summons, and the court makes a written finding that the delay is caused primarily by the plaintiff or is caused by congestion or backlog in the calendar of the court, the date of valuation is the date of the actual

commencement of the trial. If a new trial is ordered by a court, the date of valuation used in the new trial must be the date of valuation used in the original trial.

2. No improvements put upon the property after the date of the service of the summons may be included in the assessment of compensation or damages, regardless of the date of valuation.

3. *In all actions in eminent domain, the court shall award just compensation to the owner of the property that is being taken. Just compensation is that sum of money necessary to place the property owner in the same position monetarily as if the property had never been taken, excluding any governmental offsets except special benefits. Special benefits may only offset severance damages and may not offset the value for the property. Just compensation for the property taken by the exercise of eminent domain must include, without limitation, interest computed pursuant to NRS 37.175 and reasonable costs and expenses, except attorney's fees, incurred by the owner of the property that is the subject of the action.*

4. As used in this section, "primarily" means the greater amount, quantity or quality of acts of the plaintiff or the defendant or, if there is more than one defendant, the total delay caused by all the defendants, that would cause the date of the trial to be continued past 2 years after the date of the first service of the summons.

Sec. 7. NRS 37.175 is hereby amended to read as follows:

37.175 1. Except as otherwise provided in this section, the plaintiff shall pay interest on the final judgment on the difference between the amount deposited pursuant to NRS 37.100 or 37.170 and the sum of the amount awarded for the taking and any damages awarded for the severance of the property, excluding costs and attorney's fees, from the date [of the first service of the summons] ordered by the district court pursuant to paragraph (a) of subsection ~~2~~ 4 until the date the judgment is satisfied, at the rate provided in ~~[NRS 17.130.]~~ paragraph (b) of subsection ~~2~~ 4.

2. The plaintiff is not required to pay interest on any amount deposited pursuant to the provisions of NRS 37.100 or 37.170.

3. No interest is required to be paid for the period from the date of a trial which is continued past 2 years after the date of the first service of the summons, until the date of entry of judgment, if the continuance was caused primarily by the defendant or, if there is more than one defendant, the total delay caused by all the defendants. As used in this subsection, "primarily" means the greater amount, quantity or quality of acts of the plaintiff or the defendant or, if there is more than one defendant, the total delay caused by all defendants, that would cause the trial to be continued past 2 years after the date of the first service of the summons.

4. The court shall determine, in a posttrial hearing, the award of interest and award as interest the amount of money which will put the person from whom the property is taken in as good a position monetarily as

if the property had not been taken. The district court shall enter an order concerning:

- (a) The date on which the computation of interest will commence;*
- (b) The rate of interest to be used to compute the award of interest, which must not be less than the prime rate of interest plus 2 percent; and*
- (c) Whether the interest will be compounded annually.*

Sec. 8. NRS 37.260 is hereby amended to read as follows:

37.260 1. ~~Any~~ **Except as otherwise provided in NRS 37.270, any** real property, interest therein or improvement thereon which has been acquired in accordance with the provisions of this chapter or purchased under the threat of eminent domain proceedings by an association, commission, corporation, partnership or political subdivision other than a county or incorporated city may be disposed of as surplus by that entity only in accordance with the provisions of this section.

2. The governing body of the entity desiring to dispose of the property **pursuant to this section** must first adopt a resolution declaring that the property is no longer required for the purposes for which it was acquired or for other reasonable public use.

3. The property, interest or improvement **disposed of pursuant to this section** must be sold by the entity to the highest bidder bidding for the property, either at public auction or by sealed bids, the notice and terms of which must be published in a newspaper of general circulation in the county where the property is situated at least once not less than 15 nor more than 45 days before the sale. When, in the opinion of the governing body of the entity, the property cannot be sold by means of public auction or sealed bids without working an undue hardship upon a property owner either as a result of a severance of that owner's property or a denial of access to a public street or highway, the governing body may first offer the property to that owner at a price determined by the governing body to be in the best interest of the corporation, partnership, association, commission or political subdivision.

4. ~~If~~ **If property is disposed of pursuant to this section, it** is conclusively presumed in favor of any purchaser for value and without notice of any such real property, interest therein or improvement thereon conveyed pursuant to this section that the entity disposing of it acted within its lawful authority in acquiring and disposing of the property, and that the officers thereof acted within their lawful authority in executing any conveyance vesting title in the purchaser. All such conveyances must be quitclaim in nature and must not carry any warranty of title.

Sec. 9. NRS 37.270 is hereby amended to read as follows:

37.270 Notwithstanding any other provision of law, ~~if the State of Nevada, any political subdivision of the State or other governmental entity that has acquired property~~ **property taken** pursuant to the provisions of this chapter ~~it~~ **must be offered to and reverts to the person from whom the property was taken upon repayment of the original purchase price if,**

within 15 years after obtaining possession of the property, the entity that took the property:

1. Fails to use the property for the public ~~purpose for which it was acquired; and~~ *use for which the property was taken or for any public use reasonably related to the public use for which the property was taken; or*

2. Seeks to convey the right, title or interest in all or part of that property to any person ~~;~~

~~↪ within 15 years after the property is acquired, the person from whom the property was acquired or his successor in interest must be granted the right of first refusal to purchase the right, title or interest in the property sought to be conveyed for fair market value which shall be deemed to be an amount which does not exceed the proportional amount paid by the State, political subdivision or other governmental entity for the acquisition of the property.] and the conveyance is not occurring pursuant to subsection 2 of NRS 37.010.~~

~~↪ The entity that has taken the property does not fail to use the property under subsection 1 if the entity has begun active planning for or design of the public use, the assembling of land in furtherance of planning for or design of the public use or construction related to the public use.~~

Sec. 10. NRS 279.471 is hereby amended to read as follows:

279.471 1. Except as otherwise provided in this subsection, an agency may exercise the power of eminent domain to acquire property for a redevelopment project only if the agency adopts a resolution that includes a written finding by the agency that a condition of blight exists for each individual parcel of property to be acquired by eminent domain. An agency may exercise the power of eminent domain to acquire a parcel of property that is not blighted for a redevelopment project if the agency adopts a resolution that includes a written finding by the agency that a condition of blight exists for at least two-thirds of the property within the redevelopment area at the time the redevelopment area was created.

2. In addition to the requirement set forth in subsection 1, an agency may exercise the power of eminent domain to acquire property for a redevelopment project only if:

(a) The property sought to be acquired is necessary to carry out the redevelopment plan;

(b) The agency has adopted a resolution of necessity that complies with the requirements set forth in subsection 3; and

(c) The agency has complied with the provisions of NRS 279.4712.

3. A resolution of necessity required pursuant to paragraph (b) of subsection 2 must set forth:

(a) A statement that the property will be acquired for purposes of redevelopment as authorized pursuant to ~~subsection 17]~~ **paragraph (q) of subsection 1** of NRS 37.010 and subsection 2 of NRS 279.470;

(b) A reasonably detailed description of the property to be acquired;

(c) A finding by the agency that the public interest and necessity require the acquisition of the property;

(d) A finding by the agency that acquisition of the property will be the option for redevelopment that is most compatible with the greatest public good and the least private injury; and

(e) A finding by the agency that acquisition of the property is necessary for purposes of redevelopment.

4. After an agency adopts a resolution pursuant to subsection 1 or 2, the resolution so adopted and the findings set forth in the resolution are final and conclusive and are not subject to judicial review unless credible evidence is adduced to suggest that the resolution or the findings set forth therein were procured through bribery or fraud.

Sec. 11. NRS ~~{37.112 and}~~ 37.190 ~~{are}~~ is hereby repealed.

Sec. 12. The amendatory provisions of this act apply to an action in eminent domain that is filed on or after ~~{October 1, 2007}~~ **the effective date of this act.**

Sec. 13. This act becomes effective upon passage and approval.

TEXT OF REPEALED ~~{SECTIONS}~~ SECTION

~~{ 37.112—Valuation of property subject to condemnation as result of public work or project.~~

~~1. Except as otherwise provided in subsection 2, if the property is subject to condemnation as a result of a public work or public improvement, any decrease or increase in the fair market value of the property before the date of valuation which is caused by:~~

~~(a) The public work or public improvement for which the property is acquired; or~~

~~(b) The likelihood that the property would be acquired for such a purpose, must be disregarded when assessing the value of the property pursuant to NRS 37.110.~~

~~2. Any decrease or increase in the fair market value of the property before the date of valuation resulting from physical deterioration within the reasonable control of the owner is not required to be disregarded pursuant to subsection 1.~~

37.190 Costs: Allowance and apportionment. Costs may be allowed or not, and if allowed may include a maximum of \$350 for appraisal reports used at the trial and \$150 for fees of expert witnesses who testify at the trial, and may be apportioned between the parties on the same or adverse sides, in the discretion of the court.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 102.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

REPORTS OF COMMITTEES

Madam Speaker:

Your Concurrent Committee on Ways and Means, to which was referred Assembly Bill No. 460, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 14.

The following Senate amendment was read:

Amendment No. 663.

AN ACT relating to crimes; making it unlawful to carry a graffiti implement ~~[in plain view]~~ in certain places and in certain circumstances; providing that a governmental entity which incurs costs in cleaning up or removing graffiti may receive restitution if the graffiti was on public property; revising penalties for unlawfully placing graffiti on the property of another; revising provisions governing the suspension of or delay in issuing a driver's license when a person is convicted for placing graffiti on or defacing property; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill creates a new crime for unlawfully possessing certain graffiti implements in certain public places. Specifically, section 2 provides that it is a misdemeanor for a person to carry on his person ~~[and in plain view of the public]~~ with the intent to vandalize, place graffiti on or otherwise deface property a graffiti implement on certain public and private property or in a public transportation vehicle without valid authorization from the appropriate governmental entity or person. Sections 6-8 of this bill amend existing law to provide that persons who unlawfully possess a graffiti implement in violation of section 2 are treated similarly to persons who unlawfully place graffiti on the property of another in violation of NRS 206.125 or 206.330. Section 6 requires a person who violates section 2 to pay, in addition to any other fine or penalty, an administrative assessment of \$250 which must be credited to the Graffiti Reward Fund. (NRS 206.340) Section 7 amends existing law which provides that, under certain circumstances, a person may not sue a public employee, officer or agency for any injury, wrongful death or other damage incurred by a person while committing certain crimes to include the new crime created pursuant to section 2. (NRS 41.0334) Section 8 amends existing law which authorizes a court to suspend the driver's license of a child or to delay the issuance of a driver's license to the child if he does not yet possess a driver's license when the child is adjudicated delinquent for engaging in certain acts involving graffiti or defacing property to allow such actions when a child engages in an act prohibited by section 2. (NRS 62E.690)

Section 3 of this bill requires a person who is ordered to pay restitution for damaging the property of another to pay the restitution to either the owner of the property or, if the damage involves the placement of graffiti on certain property, to the governmental entity that incurred the costs of cleaning up or removing the graffiti.

Section 4 of this bill revises the penalty for placing graffiti on, vandalizing, defacing or otherwise damaging: (1) a place of religious worship; (2) a facility used for the purpose of burial or memorializing the dead; or (3) a school, educational facility or community center to provide for mandatory fines and community service. Section 4 also adds transportation facilities and public transportation vehicles to the list of entities covered by this section. (NRS 206.125)

Section 5 of this bill amends the threshold amount used to determine the penalty for a person who places graffiti on or otherwise defaces public or private property without the permission of the owner. Section 5 also revises the penalties for such an offense to include a mandatory fine and community service, revises the period for the suspension of a driver's license, defines the manner for determining the "value of the loss" and allows for aggregating the amount of damage to determine the value of the loss, but only if the value of the loss when aggregated is \$5,000 or more. (NRS 206.330)

Existing law provides for the suspension or delay in the issuance of a driver's license to a person who commits certain graffiti offenses. Section 8 of this bill adds to the crimes for which a license may be suspended or delayed the new crime of carrying a graffiti implement in certain places and increases the minimum period of the suspension or delay to 1 year. (NRS 62E.690)

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

Section 1. Chapter 206 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. **1. Any person who carries on his person ~~and in plain view to the public~~ a graffiti implement with the intent to vandalize, place graffiti on or otherwise deface public or private property, real or personal, of another:**

- (a) While on or under any overpass or bridge or in any flood channel;**
- (b) At any public facility, community center, park, playground, swimming pool, transportation facility, beach or recreational area whereon a sign is posted in a location reasonably expected to be viewed by the public which states that it is a misdemeanor to possess a graffiti implement at that public location without valid authorization; or**
- (c) In a public transportation vehicle wherein a sign is posted that is easily viewed by passengers which states that it is a misdemeanor to possess a graffiti implement in the vehicle without valid authorization,**

↪ is guilty of a misdemeanor unless he has first received valid authorization from the governmental entity which has jurisdiction over the public area or other person who is designated to provide such authorization.

2. As used in this section:

(a) "Broad-tipped indelible marker" means any felt-tipped marker or similar implement which contains a fluid that is not soluble in water and which has a flat or angled writing surface of a width of one-half inch or greater.

(b) "Graffiti implement" means any broad-tipped indelible marker or aerosol paint container or other item that may be used to propel or apply fluid that is not soluble in water.

(c) "Public transportation vehicle" means a bus, train or other vehicle or instrumentality used to transport persons from a transportation facility to another location.

(d) "Transportation facility" means an airport, marina, bus terminal, train station, bus stop or other facility where a person may go to obtain transportation.

Sec. 3. If a court orders a person who violates the provisions of NRS 206.125 or 206.330 to pay restitution, the person shall pay the restitution to:

1. The owner of the property which was affected by the violation; or

2. If the violation involved the placing of graffiti on any public property, the governmental entity that incurred expenses for removing, covering or cleaning up the graffiti.

Sec. 4. NRS 206.125 is hereby amended to read as follows:

206.125 1. Unless a greater penalty is provided by law, a person who knowingly vandalizes, places graffiti on, defaces or otherwise damages:

(a) Any church, synagogue or other building, structure or place used for religious worship or other religious purpose;

(b) Any cemetery, mortuary or other facility used for the purpose of burial or memorializing the dead;

(c) Any school, educational facility, *transportation facility, public transportation vehicle* or community center;

(d) The grounds adjacent to, and owned or rented by, any institution, facility, building, structure or place described in paragraph (a), (b) or (c); or

(e) Any personal property contained in any institution, facility, building, structure or place described in paragraph (a), (b) or (c),

↪ is guilty of a gross misdemeanor.

2. In addition to any other penalty, the court shall order ~~the~~ a person found guilty of a gross misdemeanor pursuant to subsection 1 to pay restitution for the damage ~~to~~ and:

(a) For the first offense, to pay a fine of not less than \$400 but not more than \$1,000, and to perform 100 hours of community service.

(b) For the second offense, to pay a fine of not less than \$750, but not more than \$1,000, and to perform 200 hours of community service.

(c) For a third or subsequent offense, to pay a fine of \$1,000, and to perform 200 hours of community service.

~~{2.}~~ 3. A person who is paid money for restitution pursuant to subsection 1 shall use the money to repair or restore the property that was damaged.

4. As used in this section:

(a) "Public transportation vehicle" has the meaning ascribed to it in section 2 of this act.

(b) "Transportation facility" has the meaning ascribed to it in section 2 of this act.

Sec. 5. NRS 206.330 is hereby amended to read as follows:

206.330 1. Unless a greater criminal penalty is provided by a specific statute, a person who places graffiti on or otherwise defaces the public or private property, real or personal, of another, without the permission of the owner:

(a) Where the value of the loss is less than ~~[\$250,]~~ **\$1,000** is guilty of a misdemeanor.

(b) Where the value of the loss is ~~[\$250]~~ **\$1,000** or more but less than \$5,000, is guilty of a gross misdemeanor.

(c) Where the value of the loss is \$5,000 or more or where the damage results in the impairment of public communication, transportation or police and fire protection, is guilty of a category E felony and shall be punished as provided in NRS 193.130. ***If the court grants probation to such a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.***

2. If a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of all property damaged or destroyed by that person in the commission of those offenses ~~may~~ **must** be aggregated for the purpose of determining the penalty prescribed in subsection 1 ~~{-}~~, **but only if the value of the loss when aggregated is \$5,000 or more.**

3. A person who violates subsection 1 shall, in addition to any other fine or penalty imposed:

(a) For the first offense, ***pay a fine of not less than \$400 but not more than \$1,000 and perform*** ~~{not less than 50 hours, but not more than 99 hours,}~~ ***100 hours*** of community service.

(b) For the second offense, ***pay a fine of not less than \$750 but not more than \$1,000 and perform*** ~~{not less than 100 hours, but not more than 199 hours,}~~ ***200 hours*** of community service.

(c) For the third and each subsequent offense, ***pay a fine of \$1,000 and perform*** ~~{not less than}~~ ***200 hours*** of community service.

↪ The community service assigned pursuant to this subsection must, if possible, be related to the abatement of graffiti.

4. The parent or legal guardian of a person under the age of 18 years who violates this section is liable for all fines and penalties imposed against the

person. If the parent or legal guardian is unable to pay the fine and penalties resulting from a violation of this section because of financial hardship, the court may require the parent or legal guardian to perform community service.

5. If a person who is 18 years of age or older is found guilty of violating this section, the court ~~may~~ **shall, in addition to any other penalty imposed,** issue an order suspending the driver's license of the person for ~~a period not to exceed~~ **not less than** 6 months ~~in addition to any other penalty imposed.~~ ~~If such an order is issued, the~~ **but not more than 2 years.** **The** court shall require the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court ~~may~~ **shall** issue an order prohibiting the person from applying for a driver's license ~~within the~~ **for not less than** 6 months ~~immediately following the date of the order.~~ **but not more than 2 years.** The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles any licenses together with a copy of the order.

6. The Department of Motor Vehicles:

(a) Shall not treat a violation of this section in the manner statutorily required for a moving traffic violation.

(b) Shall report the suspension of a driver's license pursuant to this section to an insurance company or its agent inquiring about the person's driving record. An insurance company shall not use any information obtained pursuant to this paragraph for purposes related to establishing premium rates or determining whether to underwrite the insurance.

7. A criminal penalty imposed pursuant to this section is in addition to any civil penalty or other remedy available pursuant to another statute for the same conduct.

8. As used in this section ~~["impairment"]~~ :

(a) **"Impairment"** means the disruption of ordinary and incidental services, the temporary loss of use or the removal of the property from service for repair of damage.

(b) **"Value of the loss"** means the cost of repairing, restoring or replacing the property, including, without limitation, the cost of any materials and labor necessary to repair, restore or replace the item.

Sec. 6. NRS 206.340 is hereby amended to read as follows:

206.340 1. The Graffiti Reward Fund is hereby created in the State General Fund.

2. When a defendant pleads or is found guilty of violating NRS 206.125 or 206.330 ~~or~~ **or section 2 of this act,** the court shall include an administrative assessment of \$250 for each violation in addition to any other fine or penalty. The money collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Graffiti Reward Fund.

3. All money received pursuant to subsection 2 must be deposited with the State Controller for credit to the Graffiti Reward Fund. The money in the Fund must be used to pay a reward to a person who, in response to the offer

of a reward, provides information which results in the identification, apprehension and conviction of a person who violates NRS 206.125 or 206.330 ~~{ }~~ **or section 2 of this act.**

4. If sufficient money is available in the Graffiti Reward Fund, a state law enforcement agency may offer a reward, not to exceed \$1,000, for information leading to the identification, apprehension and conviction of a person who violates NRS 206.125 or 206.330 ~~{ }~~ **or section 2 of this act.** The reward must be paid out of the Graffiti Reward Fund upon approval by the State Board of Examiners.

Sec. 7. NRS 41.0334 is hereby amended to read as follows:

41.0334 1. Except as otherwise provided in subsection 2, no action may be brought under NRS 41.031 or against an officer or employee of the State or any of its agencies or political subdivisions for injury, wrongful death or other damage sustained in or on a public building or public vehicle by a person who was engaged in any criminal act proscribed in NRS 202.810, 205.005 to 205.080, inclusive, 205.220, 205.226, 205.228, 205.240, 205.271 to 205.2741, inclusive, 206.310, 206.330, 207.210, 331.200 or 393.410 ~~{ }~~ **or section 2 of this act**, at the time the injury, wrongful death or damage was caused.

2. Subsection 1 does not apply to any action for injury, wrongful death or other damage:

(a) Intentionally caused or contributed to by an officer or employee of the State or any of its agencies or political subdivisions; or

(b) Resulting from the deprivation of any rights, privileges or immunities secured by the United States Constitution or the Constitution of the State of Nevada.

3. As used in this section:

(a) "Public building" includes every house, shed, tent or booth, whether or not completed, suitable for affording shelter for any human being or as a place where any property is or will be kept for use, sale or deposit, and the grounds appurtenant thereto; and

(b) "Public vehicle" includes every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, waterway or airway,

↳ owned, in whole or in part, possessed, used by or leased to the State or any of its agencies or political subdivisions.

Sec. 8. NRS 62E.690 is hereby amended to read as follows:

62E.690 1. Except as otherwise provided in this section, if a child is adjudicated delinquent for the unlawful act of placing graffiti on or otherwise defacing public or private property owned or possessed by another person in violation of NRS 206.125 or 206.330 ~~{ }~~ **or for the unlawful act of carrying a graffiti implement in certain places without valid authorization in violation of section 2 of this act**, the juvenile court ~~{ may }~~ **shall:**

(a) If the child possesses a driver's license, issue an order suspending the driver's license of the child for at least ~~[90 days]~~ **1 year** but not more than 2 years; or

(b) If the child does not possess a driver's license and the child is or will be eligible to receive a driver's license within the 2 years immediately following the date of the order, issue an order prohibiting the child from receiving a driver's license for a period specified by the juvenile court which must be at least ~~[90 days]~~ **1 year** but not more than 2 years:

(1) Immediately following the date of the order, if the child is eligible to receive a driver's license; or

(2) After the date the child will be eligible to receive a driver's license, if the child is not eligible to receive a license on the date of the order.

2. If the child is already the subject of a court order suspending or delaying the issuance of his driver's license, the juvenile court shall order the additional suspension or delay, as appropriate, to apply consecutively with the previous order.

Sec. 9. NRS 483.250 is hereby amended to read as follows:

483.250 The Department shall not issue any license pursuant to the provisions of NRS 483.010 to 483.630, inclusive:

1. To any person who is under the age of 18 years, except that the Department may issue:

(a) A restricted license to a person between the ages of 14 and 18 years pursuant to the provisions of NRS 483.267 and 483.270.

(b) An instruction permit to a person who is at least 15 1/2 years of age pursuant to the provisions of subsection 1 of NRS 483.280.

(c) A restricted instruction permit to a person under the age of 18 years pursuant to the provisions of subsection 3 of NRS 483.280.

(d) A driver's license to a person who is 16 or 17 years of age pursuant to NRS 483.2521.

2. To any person whose license has been revoked until the expiration of the period during which he is not eligible for a license.

3. To any person whose license has been suspended, but upon good cause shown to the Administrator, the Department may issue a restricted license to him or shorten any period of suspension.

4. To any person who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to legal capacity.

5. To any person who is required by NRS 483.010 to 483.630, inclusive, to take an examination, unless he has successfully passed the examination.

6. To any person when the Administrator has good cause to believe that by reason of physical or mental disability that person would not be able to operate a motor vehicle safely.

7. To any person who is not a resident of this State.

8. To any child who is the subject of a court order issued pursuant to title 5 of NRS which delays his privilege to drive.

9. To any person who is the subject of a court order issued pursuant to NRS 206.330 which ~~suspends or~~ delays his privilege to drive until the expiration of the period of ~~suspension or~~ delay.

10. To any person who is not eligible for the issuance of a license pursuant to NRS 483.283.

Assemblyman Anderson moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 14.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered to the Senate.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 2, 15, 16, 22, 28, 39, 43, 118, 135, 198, 220, 266, 278, 283, 299, 303, 329, 348, 504, 520, 536, 548, 556; Assembly Concurrent Resolution No. 29; Senate Bills Nos. 9, 30, 31, 44, 46, 56, 81, 168, 190; Senate Concurrent Resolution No. 3.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Beers, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from David M. Cox Elementary School: Mariam Arakelian, Blue Baker, Mason Barnes, Sydney Bieber, Miranda Brown, Destiny Burns, Caroline Chamber, Elizabeth Cleghorn, Everett Dampier, Travis Dickens, Amber Garcia, Venita Gurell, Austin Hailpern, Jyselle Harford, Adam Horowitz, Patrick Messimer, Sarah Morley, Michaela Morris, Anthony Saavedra, Miki Takiguchi, Zachary Tarangul, Travis West, Josiah Wynn, Tala Abu-shami, Mark Bergmann, Liz Casis, Kevin Chen, Jamie Franco, Nicholas Leone, Lauren MacDonald, Jordan May, Whitney Meinders, Anthony Mollinedo, Philip Perelman, Seth Salinas, Alexxis Scott, Eli Thompson, Olivia Vanostrand, McKenzie Washington, Joshua Wride, Zach Lapidus, Katie Cleghorn, Evan Gong, Noa Arbeli, Ali Beydoun, April Carithers-Arellano, Amber Casey, Ashlyn Darang, Emily Griffiths, Bruno Hyderkan, Michael King, Gillian Martinez, Devin Matelski, Madison McCabe, Breanna Morales, Lourdes Osman, Shelbie Petrelli, Trista Turnbeaugh, Brady Wainio, Brady Williams, and Aaron Torres; teachers Laura Papalardo, Anita Henson, and Abbie Spoor; chaperones Gregg Barnes, Steven Messimer, Sandra Dickens, Heather Morley, Piyada West, Christopher Tarangul, Ann Horowitz, Adriana Diaz, Lisa Lapidus, Louis Bergmann, Margie Hyderkhan David Westendorf,

On request of Assemblywoman Gerhardt, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Green Valley Christian School: Torre Amerson, Katrina Arjona, Javlin Baloca, Matthew Cavanaugh, Taylor Chadwick, Caitlyn Chamberlin, Dylan DeFrank, Tyler Dewey, Maggie Dillon, Bridgette Dwyer, Adriana Gillinta,

Jacob Gonzales, Deja Harris, Celine Ho, Eden Janeway, Shiloh Johnston, Lorraina Jordan, James Kitral, Joseph Koh, Jackie Levesque, Leah Lychock, Arianna Mendiola, Cody Mooers Bowman, Camille Morria, Aubree Roper, Helanina Russo, Brendan Shaw, Ryan Terwilliger, Tristan Tratos, Sage Troxel, Dominic Turner; teachers Theresa Baker and Sami Freedman; chaperones Patty Dewey, Michael Kitral, Michael Cavanaugh, Pam Demos, Michael Johnston, Jeni Terwilliger, Laura Lychock, and Maria Fernandez.

On request of Assemblyman Parks, the privilege of the floor of the Assembly Chamber for this day was extended to Caroline Ciocca and Russell Rowe.

Assemblyman Ocegüera moved that the Assembly adjourn until Thursday, May 17, 2007, at 11 a.m.

Motion carried.

Assembly adjourned at 12:47 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL

Chief Clerk of the Assembly