

**THE ONE HUNDRED AND FOURTEENTH DAY**

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CARSON CITY (Tuesday), May 31, 2011

Senate called to order at 12:06 p.m.

President Pro Tempore Schneider presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

God of grace, breathe on this assembled company Your gracious power. As we have witnessed the coming of spring that rouses nature from winter, so may You revive us, giving us new hope and a livelier faith.

If we have never before been conscious of our need, make our souls hungry for Your presence, that we may no longer be content to be half alive, which is half dead.

Give us fullness of life, set free from fear and doubt that we may find new joy in our labor.

Thank You for hearing our prayer today.

AMEN.

Pledge of Allegiance to the Flag.

Senator Horsford moved that further reading of the Journal be dispensed with, and the President Pro Tempore and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

## MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bill No.164 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Wiener moved that Senate Bills Nos. 77, 125, 223, 236, 259, 292, 323, 339, 414, be taken from Unfinished Business and placed on Unfinished Business for the next legislative day.

Motion carried.

## GENERAL FILE AND THIRD READING

Senate Bill No. 421.

Bill read third time.

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal.

Senate Bill No. 421, as amended, eliminates the Trust Fund for Public Health, and in so doing increases the share of Tobacco Settlement Funds allocated to the Fund for a Healthy Nevada from 50 percent to 60 percent. Under current law, the Tobacco Master Settlement Agreement allocates 10 percent of the Tobacco Settlement Funds to the Trust Fund for Public Health, 50 percent to the Fund for a Healthy Nevada, and 40 percent to the Guinn Millennium Scholarship Account. The bill also removes the provisions in current law that require certain percentages from the Fund for a Healthy Nevada be allocated for specific purposes and instead requires tobacco funds be distributed in accordance with policies and procedures developed by the Director of the Health and Human Services Department.

Roll call on Senate Bill No. 421:

YEAS—21.

NAYS—None.

Senate Bill No. 421 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

SECOND READING AND AMENDMENT

Assembly Bill No. 528.

Bill read second time and ordered to third reading.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 257.

The following Assembly amendment was read:

Amendment No. 794.

"SUMMARY—Revises various provisions governing graffiti offenses. (BDR 15-616)"

"AN ACT relating to crimes; revising various provisions governing graffiti offenses; providing a penalty; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Existing law generally provides that a person who unlawfully places graffiti on or otherwise defaces public or private property is guilty of a misdemeanor, gross misdemeanor or felony, depending on the value of the loss of the property. Additionally, if a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of the loss of all the property must be aggregated for the purposes of determining a penalty if the value of the loss is \$5,000 or more. (NRS 206.330) **Section 1** of this bill revises this provision and requires aggregation when the value of the loss is \$500 or more. **Section 1** also provides that a person who commits an offense on any protected site in this State is guilty of a category C felony.

Existing law also requires a person who unlawfully places graffiti on or otherwise defaces public or private property to pay a monetary fine and perform community service. (NRS 206.330) **Section 1** specifies that in addition to any other fine or penalty imposed, a court may order such a person to pay restitution. **Section 1** also provides that a person convicted of a third offense must perform up to 300 hours of community service for up to a year cleaning up, repairing, replacing or keeping clean of graffiti the property damaged or destroyed by the person or another specified property.

**Section 2** of this bill also authorizes a court to order a person who unlawfully places graffiti on or otherwise defaces public or private property to participate in counseling, and if the person is less than 18 years of age, order the parent or legal guardian of the person to attend or participate in counseling. **Section 2** further authorizes the owner of public or private property that has been damaged by graffiti to bring a civil action against the

person who damaged the property. The property owner may be awarded damages in an amount up to three times **the amount of any loss in value to the property and up to three times** the cost of restoring the property, in addition to attorney's fees and costs.

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

**Section 1.** 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, is guilty of a misdemeanor.

(b) Where the value of the loss is \$250 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.

*(d) Where the offense is committed on any protected site in this State, is guilty of a category C 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 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+~~ **\$500** 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 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 200 hours of community service.

(c) For the third and each subsequent offense ~~to pay~~ :

*(1) Pay a fine of \$1,000 ; and ~~perform 200 hours of~~*

*(2) Perform up to 300 hours of community service ~~for up to 1 year,~~ as determined by the court. The court may order the person to repair, replace, clean up or keep free of graffiti the property damaged or destroyed by the person or, if it is not practicable for the person to repair, replace, clean up or keep free of graffiti that specific property, the court may order*

*the person to repair, replace, clean up or keep free of graffiti another specified property.*

↪ The community service assigned pursuant to this subsection must, if possible, be related to the abatement of graffiti.

4. *The court may, in addition to any other fine or penalty imposed, order a person who violates subsection 1 to pay restitution.*

5. The parent or legal guardian of a person under ~~the age of~~ 18 years *of age* 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.

~~5.1~~ 6. If a person who is 18 years of age or older is found guilty of violating this section, the court shall, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for not less than 6 months 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 shall issue an order prohibiting the person from applying for a driver's license for not less than 6 months 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.

~~6.1~~ 7. 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.

~~7.1~~ 8. A criminal penalty imposed pursuant to this section is in addition to any civil penalty or other remedy available pursuant to *this section or* another statute for the same conduct.

~~8.1~~ 9. As used in this section:

(a) ~~"Historic site" means a site, landmark or monument of historical significance pertaining to the history of the settlement of Nevada, or Indian campgrounds, shelters, petroglyphs, pictographs and burials.~~

~~(b)~~ "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) *"Protected site" means:*

(1) *A site, landmark, monument, building or structure of historical significance pertaining to the history of the settlement of Nevada;*

(2) *Any Indian campgrounds, shelters, petroglyphs, pictographs and burials; or*

**(3) Any archeological or paleontological site, ruin, deposit, fossilized footprints and other impressions, petroglyphs and pictographs, habitation caves, rock shelters, natural caves, burial ground or sites of religious or cultural importance to an Indian tribe.**

(c) "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. 2. NRS 206.345 is hereby amended to read as follows:

**206.345 1. A court may, in addition to any other fine or penalty imposed, order a person who places graffiti on or otherwise defaces public or private property in violation of NRS 206.125 or 206.330 to participate in counseling, and if the person is less than 18 years of age, order the parent or legal guardian of the person to attend or participate in counseling pursuant to NRS 62E.290.**

2. 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:

~~1-1~~ (a) The owner of the property which was affected by the violation; or  
~~1-2~~ (b) 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.

**3. The owner of public or private property that has been damaged by graffiti may bring a civil action against the person who placed the graffiti on such property. The court may award to the property owner damages in an amount up to three times the amount of any loss in value to the property and up to three times the cost of restoring the property plus attorney's fees and costs, which may be recovered from the offender or, if the offender is less than 18 years of age, from the parent or legal guardian of the offender.**

Sec. 3. NRS 381.225 is hereby amended to read as follows:

381.225 1. It is unlawful for any person to commit vandalism upon any historic or prehistoric sites, natural monuments, speleological sites and objects of antiquity, or to write or paint or carve initials or words, or in any other way deface, any of those objects, Indian paintings or historic buildings.

2. Unless a greater penalty is provided in NRS 206.125 ~~1-1~~ or **206.330**, a person violating the provisions of subsection 1 is guilty of a public offense proportionate to the value of the property damaged or destroyed as set forth in NRS 193.155.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 257.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Amendment No. 794 makes changes related to the award of damages in a civil action against a person who placed graffiti. It authorizes the court to award damages up to three times the loss in value to the property, in addition to up to three times the costs of restoration and attorney's fees.

Motion carried by a constitutional majority.  
Bill ordered enrolled.

Senate Bill No. 101.

The following Assembly amendment was read:

Amendment No. 659.

"SUMMARY—Revises ~~certain~~ provisions relating to ~~certificates of marriage and the solemnization of~~ marriage. (BDR 11-635)"

"AN ACT relating to marriage; revising certain provisions relating to certificates of marriage and the solemnization of marriage; **revising provisions governing deputy commissioners of civil marriages**; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Under existing law, the county clerk may place an affidavit of application for a marriage license, a certificate of marriage and a marriage license on a single form, on the reverse of which the county clerk must have printed or stamped instructions for obtaining a certified copy or certified abstract of the certificate of marriage. (NRS 122.055) **Section 2** of this bill requires the county clerk to include on the reverse of such a form: (1) instructions for obtaining a certified copy or certified abstract of the certificate of marriage; (2) certain language explaining that the certificate is not a certified copy and that a certified copy will need to be obtained for certain legal matters; and (3) a time stamp used by the clerk to signify that the form has been filed.

Existing law also provides that a certificate of permission to perform marriages expires when a minister or other person who is authorized to solemnize a marriage, to whom the certificate has been issued, moves from the county in which his or her certificate was issued. (NRS 122.066) **Section 3** of this bill specifies that a certificate of permission remains valid when a minister or other person who is authorized to solemnize a marriage, who is retired and who has been issued the certificate, moves to another county in this State.

**Existing law authorizes, under certain circumstances, the commissioner of civil marriages in certain counties to appoint deputy commissioners of civil marriages and provides that deputy commissioners of civil marriages are employees of the county clerk's office. (NRS 122.175) Section 5 of this bill: (1) removes the prohibition against deputy commissioners of civil marriages solemnizing marriages at any time other than the working hours or shift during which the deputy commissioners of civil marriages are employed; (2) sets forth certain prerequisites that must be satisfied before a person who will be retained as an independent contractor by the county clerk's office may be appointed as a deputy commissioner of civil marriages; and (3) authorizes the compensation of a deputy commissioner of civil marriages who is retained as an independent contractor by the county**

**clerk's office to be based upon the number or volume of marriages that the deputy commissioner solemnizes.**

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** NRS 122.055 is hereby amended to read as follows:

122.055 1. The county clerk may place the affidavit of application for a marriage license, the certificate of marriage and the marriage license on a single form.

2. The county clerk shall have printed or stamped on the reverse of the form ~~instructions~~ :

*(a) Instructions for obtaining a certified copy or certified abstract of the certificate of marriage.*

*(b) Language in black ink and at least 16-point bold type in a font that is easy to read and that is in substantially the following form:*

*This is your certificate. This is not a certified copy. For name changes and other legal matters, you will need to obtain a certified copy.*

3. *Nothing may be printed, stamped or written on the reverse of the form other than the instructions and language described in subsection 2 and a time stamp used by the county clerk to signify that the form has been filed.*

**Sec. 3.** NRS 122.066 is hereby amended to read as follows:

122.066 1. The Secretary of State shall establish and maintain a statewide database of ministers or other persons authorized to solemnize a marriage. The database must:

(a) Serve as the official list of ministers or other persons authorized to solemnize a marriage approved in this State;

(b) Provide for a single method of storing and managing the official list;

(c) Be a uniform, centralized and interactive database;

(d) Be electronically secure and accessible to each county clerk in this State;

(e) Contain the name, mailing address and other pertinent information of each minister or other person authorized to solemnize a marriage as prescribed by the Secretary of State; and

(f) Include a unique identifier assigned by the Secretary of State to each minister or other person authorized to solemnize a marriage.

2. If the county clerk approves an application for a certificate of permission to perform marriages, the county clerk shall:

(a) Enter all information contained in the application into the electronic statewide database of ministers or other persons authorized to solemnize a marriage maintained by the Secretary of State not later than 10 days after the certificate of permission to perform marriages is approved by the county clerk; and

(b) Provide to the Secretary of State all information related to the minister or other person authorized to solemnize a marriage pursuant to paragraph (e) of subsection 1.

3. Upon approval of an application pursuant to subsection 2, the minister or other person authorized to solemnize a marriage:

(a) Shall comply with the laws of this State governing the solemnization of marriage and conduct of ministers or other persons authorized to solemnize a marriage;

(b) Is subject to further review or investigation by the county clerk to ensure that he or she continues to meet the statutory requirements for a person authorized to solemnize a marriage; and

(c) Shall provide the county clerk with any changes to his or her status or information, including, without limitation, the address or telephone number of the church or religious organization or any other information pertaining to certification.

4. A certificate of permission is valid until the county clerk has received an affidavit of revocation of authority to solemnize marriages pursuant to NRS 122.0665.

5. An affidavit of revocation of authority to solemnize marriages that is received pursuant to subsection 4 must be sent to the county clerk within 5 days after the minister or other person authorized to solemnize a marriage ceased to be a member of the church or religious organization in good standing or ceased to be a minister or other person authorized to solemnize a marriage for the church or religious organization.

6. If the county clerk in the county where the certificate of permission was issued has reason to believe that the minister or other person authorized to solemnize a marriage is no longer in good standing within his or her church or religious organization, or that he or she is no longer a minister or other person authorized to solemnize a marriage, or that such church or religious organization no longer exists, the county clerk may require satisfactory proof of the good standing of the minister or other person authorized to solemnize a marriage. If such proof is not presented within 15 days, the county clerk shall revoke the certificate of permission by amending the electronic record of the minister or other person authorized to solemnize a marriage in the statewide database pursuant to subsection 1.

7. ~~¶¶~~ ***Except as otherwise provided in subsection 8, if*** any minister or other person authorized to solemnize a marriage to whom a certificate of permission has been issued severs ties with his or her church or religious organization or moves from the county in which his or her certificate was issued, the certificate shall expire immediately upon such severance or move, and the church or religious organization shall, within 5 days after the severance or move, file an affidavit of revocation of authority to solemnize marriages pursuant to NRS 122.0665. If the minister or other person authorized to solemnize a marriage voluntarily advises the county clerk of the county in which his or her certificate was issued of his or her severance



with his or her church or religious organization, or that he or she has moved from the county, the certificate shall expire immediately upon such severance or move without any notification to the county clerk by the church or religious organization.

8. *If any minister or other person authorized to solemnize a marriage, who is retired and to whom a certificate of permission has been issued, moves from the county in which his or her certificate was issued to another county in this State, the certificate remains valid until such time as the certificate otherwise expires or is revoked as prescribed by law. The minister or other person authorized to solemnize a marriage must provide his or her new address to the county clerk in the county to which the minister or other person authorized to solemnize a marriage has moved.*

9. The Secretary of State may adopt regulations concerning the creation and administration of the statewide database. This section does not prohibit the Secretary of State from making the database publicly accessible for the purpose of viewing ministers or other persons who are authorized to solemnize a marriage in this State.

Sec. 4. (Deleted by amendment.)

Sec. 5. **NRS 122.175 is hereby amended to read as follows:**

122.175 1. In a county whose population is 400,000 or more, the commissioner of civil marriages may appoint deputy commissioners of civil marriages. Such deputies shall:

(a) Solemnize marriages in commissioner townships under the direction of the commissioner; and

(b) Perform such other duties as the commissioner may direct.

2. In a county whose population is less than 400,000 and in which the board of county commissioners has appointed the county clerk to act as the commissioner of civil marriages, the board may, by ordinance, establish the number of deputy commissioners of civil marriages which may be appointed by the commissioner of civil marriages to carry out the duties set forth in subsection 1.

3. ~~No deputy commissioner of civil marriages may solemnize marriages at any time other than during the working hours or shift during which the deputy commissioner is employed.~~

~~4.~~ The deputy commissioners of civil marriages *who* are employees of the county clerk's office ~~and~~ are entitled to be compensated by a salary and by such other benefits as are available to other county personnel regularly employed in the same county clerk's office. The compensation of any deputy commissioner of civil marriages **who is an employee of the county clerk's office** must not be based in any manner upon the number or volume of marriages that the deputy commissioner may solemnize in the performance of his or her duties.

**4. Before the commissioner of civil marriages may appoint a person who will be retained as an independent contractor by the county clerk's office as a deputy commissioner of civil marriages:**

(a) The person must submit to the commissioner of civil marriages for the purposes of a background check:

(1) The person's name and social security number; and

(2) Any other information required by the commissioner of civil marriages.

(b) The commissioner of civil marriages:

(1) May require the district attorney and the sheriff to conduct an investigation of the background and present activities of the person; and

(2) Shall satisfy himself or herself that:

(I) No certificate of permission to perform marriages previously issued to the person has been cancelled for a knowing violation of the laws of this State or of the United States; and

(II) The person has not been convicted of a felony, released from confinement or completed his or her parole or probation, whichever occurs later, within 10 years before the date of submission of the information required pursuant to paragraph (a).

5. The compensation of a deputy commissioner of civil marriages who is retained as an independent contractor by the county clerk's office may be based upon the number or volume of marriages that the deputy commissioner solemnizes in the performance of his or her duties.

6. In counties in which deputy commissioners of civil marriages are ~~employed,~~ appointed, no more than two deputy commissioners may be on duty within the courthouse of such a county for the purpose of solemnizing marriages at any one time.

~~Sec. 5.~~ *Sec. 6.* This act becomes effective on July 1, 2011.

Senator Wiener moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 101.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Amendment No. 659 adds a new Section 5, which deletes the existing provision that deputy commissioners of civil marriage may not perform marriages at any time other than the hour or shift during which they are employed. It allows the appointment of deputy commissioners who are independent contractors and not employees of the county clerk's office, if they submit to a background check and meet the requirements set forth in the amendment.

Motion carried.

Bill ordered transmitted to the Assembly.

#### SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President Pro Tempore and Secretary signed Senate Bills` Nos. 59, 89, 96, 111, 134, 142, 225, 322, 337, 436; Assembly Bills Nos. 179, 198, 238, 283, 289, 304, 309, 393, 398, 419, 545.

Senator Horsford moved that the Senate adjourn until Wednesday, June 1, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 12:17 p.m.

Approved:

MICHAEL A. SCHNEIDER  
*President Pro Tempore of the Senate*

Attest: DAVID A. BYERMAN  
*Secretary of the Senate*