

Senate Bill No. 186--Senators Copening, Parks; Amodei, Coffin,
Hardy, Lee, Rhoads and Woodhouse

Joint Sponsors: Assemblymen Pierce, Segerblom; Goedhart,
Manendo and Mastroluca

CHAPTER.....

AN ACT relating to solid waste management; providing for the issuance of permits for the operation of facilities for the management of waste tires; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this bill requires the district board of health in certain counties to adopt regulations for the issuance of permits to operate facilities for the management of waste tires. **Section 4** authorizes the State Environmental Commission to adopt similar regulations for other counties. If a permit for the operation of a facility for the management of waste tires is issued, the district board of health or the State Environmental Commission must adopt regulations prohibiting the disposal of waste tires in any municipal solid waste landfill in the health district or county in which the facility is operated. **Section 5** of this bill prohibits a person from operating a facility for the management of waste tires unless the operator holds a permit to operate the facility and complies with the terms and conditions of the permit. A person who operates a facility in violation of the provisions of **section 5** is guilty of a misdemeanor and, in addition, is subject to civil penalties and injunctive relief. (NRS 444.600)

Existing law prohibits the disposal of used or waste motor vehicle tires other than disposal at a site, landfill or incinerator which has been issued a permit by the Division of Environmental Protection of the State Department of Conservation and Natural Resources or a district board of health. (NRS 444.583) **Section 6** of this bill prohibits the disposal of waste tires generated in a health district or county in which a facility for the management of waste tires has been issued a permit at any municipal solid waste landfill in the State. A person who violates **section 6** is guilty of a misdemeanor punishable by a fine of not less than \$100 per violation and is also subject to civil penalties and injunctive relief. (NRS 444.600, 444.635) **Section 6** provides exceptions for the inadvertent or unintentional disposal of a waste tire in a municipal solid waste landfill or if the unavailability of a facility for the management of waste tires makes compliance impracticable.

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

Section 1. NRS 439.200 is hereby amended to read as follows:

439.200 1. The State Board of Health may by affirmative vote of a majority of its members adopt, amend and enforce reasonable regulations consistent with law:

- (a) To define and control dangerous communicable diseases.
- (b) To prevent and control nuisances.

- (c) To regulate sanitation and sanitary practices in the interests of the public health.
- (d) To provide for the sanitary protection of water and food supplies.
- (e) To govern and define the powers and duties of local boards of health and health officers, except with respect to the provisions of NRS 444.440 to 444.620, inclusive, *and sections 3 to 6, inclusive, of this act*, 444.650, 445A.170 to 445A.955, inclusive, and chapter 445B of NRS.
- (f) To protect and promote the public health generally.
- (g) To carry out all other purposes of this chapter.

2. Except as otherwise provided in NRS 444.650, those regulations have the effect of law and supersede all local ordinances and regulations inconsistent therewith, except those local ordinances and regulations which are more stringent than the regulations provided for in this section.

3. The State Board of Health may grant a variance from the requirements of a regulation if it finds that:

- (a) Strict application of that regulation would result in exceptional and undue hardship to the person requesting the variance; and
- (b) The variance, if granted, would not:
 - (1) Cause substantial detriment to the public welfare; or
 - (2) Impair substantially the purpose of that regulation.

4. Each regulation adopted by the State Board of Health must be published immediately after adoption and issued in pamphlet form for distribution to local health officers and the residents of the State.

Sec. 2. Chapter 444 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 6, inclusive, of this act.

Sec. 3. *“Facility for the management of waste tires” means a site at which waste tires are deposited for processing, recycling or use as a fuel and which has been issued a permit for that purpose pursuant to the regulations adopted pursuant to section 4 of this act.*

Sec. 3.3. *“Passenger car” has the meaning ascribed to it in NRS 482.087.*

Sec. 3.7. *“Waste tire” means a passenger car tire that is not suitable for its intended purpose because of wear, damage or defect.*

Sec. 4. 1. *The district board of health of a health district created pursuant to NRS 439.362 or 439.370 shall, in a timely manner, adopt regulations:*

- (a) *For the issuance of a permit to operate a facility for the management of waste tires in the health district and in any area over which the board has authority pursuant to an interlocal agreement;*

(b) If the district board of health issues a permit to operate a facility for the management of waste tires, prohibiting the disposal of waste tires in any municipal solid waste landfill in the health district and in any area over which the board has authority pursuant to an interlocal agreement by a retail seller of new motor vehicles tires or a wholesale seller of new motor vehicle tires; and

(c) To establish and carry out a program for the recycling and reuse of waste tires in the health district and in any area over which the board has authority pursuant to an interlocal agreement.

2. The regulations adopted pursuant to subsection 1 must:

(a) Provide for acceptable alternatives to the disposal of a waste tire in a municipal solid waste landfill;

(b) Provide for the inspection of a facility for the management of waste tires to ensure that the operator of the facility complies with those regulations;

(c) Prohibit a facility for the management of waste tires from refusing to accept a waste tire offered for disposal, except in accordance with the provisions of the permit issued to the operator of the facility;

(d) Establish requirements concerning the transportation and storage of waste tires prior to disposal;

(e) Establish a procedure for applications for exemptions or waivers from any of those regulations;

(f) Provide for an exemption from any penalty imposed pursuant to those regulations for any person who inadvertently or unintentionally disposes of a waste tire in a municipal solid waste landfill in violation of those regulations;

(g) Not prohibit the lawful disposal of a waste tire outside of the health district; and

(h) In addition to the penalties described in sections 5 and 6 of this act, provide for a penalty for a violation of any of those regulations.

3. In a county in which a health district has not been created pursuant to NRS 439.362 or 439.370, the State Environmental Commission may adopt regulations:

(a) Authorizing the Division of Environmental Protection of the State Department of Conservation and Natural Resources to issue a permit for the operation of a facility for the management of waste tires in the county;

(b) If a facility for the management of waste tires has been issued a permit in the county, prohibiting the disposal of waste tires in a municipal solid waste landfill in the county; and

(c) To establish and carry out a program for the recycling and reuse of waste tires in the county.

4. Any regulation adopted pursuant to this section which prohibits the disposal of a waste tire in a municipal solid waste landfill does not apply to the disposal of a waste tire if the unavailability of a facility for the management of waste tires

makes disposal at such a facility impracticable. The provisions of this subsection do not exempt a person from any other regulation adopted pursuant to this section.

5. The regulations adopted by a district board of health pursuant to this section must not conflict with regulations adopted by the State Environmental Commission.

Sec. 5. *1. A person shall not operate a facility for the management of waste tires unless the operator:*

(a) Holds a permit to operate the facility for the management of waste tires issued by the district board of health or the Division of Environmental Protection of the State Department of Conservation and Natural Resources in accordance with the regulations adopted pursuant to section 4 of this act; and

(b) Complies with the terms and conditions of the permit.

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. Each day or part of a day during which the violation is continued or repeated constitutes a separate offense.

4. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive:

(a) A person convicted of violating subsection 1 is, in addition to any criminal penalty imposed, liable for a civil penalty upon each such conviction; and

(b) A court before whom a defendant is convicted of a violation of subsection 1 shall, for each violation, order the defendant to pay a civil penalty of at least \$500 but not more than \$5,000.

Sec. 6. *1. Except as otherwise provided in subsection 2, in any health district created pursuant to NRS 439.362 or 439.370 and any area over which the district board of health has authority pursuant to an interlocal agreement or any county in which a permit for the operation of a facility for the management of waste tires has been issued pursuant to section 4 of this act, a person who willfully disposes of a waste tire generated in that health district or county in any municipal solid waste landfill in this State is guilty of a misdemeanor and, except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, shall be punished by a fine of not less than \$100 per violation. Each waste tire disposed of in violation of the provisions of this section constitutes a separate violation.*

2. The provisions of subsection 1 do not apply:

(a) To a person who inadvertently or unintentionally disposes of a waste tire in a municipal solid waste landfill in violation of the provisions of subsection 1; or

(b) If the unavailability of a facility for the management of waste tires makes disposal of a waste tire at a site other than a municipal solid waste landfill impracticable.

Sec. 7. *NRS 444.450 is hereby amended to read as follows: 444.450 As used in NRS 444.440 to 444.620, inclusive, and*

sections 3 to 6, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 444.460 to 444.500, inclusive, and sections 3, 3.3 and 3.7 of this act have the meanings ascribed to them in those sections.

Sec. 8. NRS 444.495 is hereby amended to read as follows:

444.495 "Solid waste management authority" means:

1. The district board of health in any area in which a health district has been created pursuant to NRS 439.362 or 439.370 and in any area over which the board has authority pursuant to an interlocal agreement, if the board has adopted all regulations that are necessary to carry out the provisions of NRS 444.440 to 444.620, inclusive [.] , *and sections 3 to 6, inclusive, of this act.*

2. In all other areas of the State, the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

Sec. 9. NRS 444.570 is hereby amended to read as follows:

444.570 1. The State Department of Conservation and Natural Resources shall:

(a) Advise, consult and cooperate with other agencies and commissions of the State, other states, the Federal Government, municipalities and persons in the formulation of plans for and the establishment of any solid waste management system.

(b) Accept and administer loans and grants from any person that may be available for the planning, construction and operation of solid waste management systems.

(c) Enforce the provisions of NRS 444.440 to 444.560, *inclusive, and sections 3 to 6, inclusive, of this act,* and any regulation adopted by the State Environmental Commission pursuant thereto.

(d) Periodically review the programs of other solid waste management authorities in the State for issuing permits pursuant to NRS 444.553 and 444.556 *and section 4 of this act* and ensuring compliance with the terms and conditions of such permits, the regulations of the State Environmental Commission, the laws of this State and the provisions of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6941 et seq., and the regulations adopted pursuant thereto. The Director of the State Department of Conservation and Natural Resources shall review the adequacy of such programs in accordance with the standards adopted by the United States Environmental Protection Agency to review the adequacy of the state program. If the Director determines that a program is inadequate, the Department shall act as the solid waste management authority until the deficiency is corrected. A finding by the Director that a program is inadequate is not final until reviewed by the State Environmental Commission. This paragraph does not limit the authority or responsibility of a district board of health to issue permits for disposal sites and enforce the laws of this State regarding solid waste management systems.

(e) Make such investigations and inspections and conduct such

monitoring and testing as may be necessary to require compliance with NRS 444.450 to 444.560, inclusive, *and sections 3 to 6, inclusive, of this act* and any regulation adopted by the State Environmental Commission.

2. The State Environmental Commission shall:

(a) In cooperation with governing bodies of municipalities, develop a statewide solid waste management system plan, and review and revise the plan every 5 years.

(b) Examine and approve or disapprove plans for solid waste management systems.

(c) Review any determination by the Director of the State Department of Conservation and Natural Resources that a program for issuing permits administered by a solid waste management authority is inadequate. The Commission may affirm, modify or reverse the findings of the Director.

3. Employees of the State Department of Conservation and Natural Resources or its authorized representatives may, during the normal hours of operation of a facility subject to the provisions of NRS 444.440 to 444.620, inclusive, *and sections 3 to 6, inclusive, of this act* enter and inspect areas of the facility where:

(a) Solid waste may have been generated, stored, transported, treated or disposed; or

(b) Records are kept, and may inspect and copy any records, reports, information or test results relating to the management of the solid waste.

Sec. 10. NRS 444.580 is hereby amended to read as follows:
444.580 1. Any district board of health created pursuant to NRS 439.362 or 439.370 and any governing body of a municipality may adopt standards and regulations for the location, design, construction, operation and maintenance of solid waste disposal sites and solid waste management systems or any part thereof more restrictive than those adopted by the State Environmental Commission, and any district board of health may issue permits thereunder.

2. Any district board of health created pursuant to NRS 439.362 or 439.370 may adopt such other regulations as are necessary to carry out the provisions of NRS 444.440 to 444.620, inclusive [.] , *and sections 3 to 6, inclusive, of this act*. Such regulations must not conflict with regulations adopted by the State Environmental Commission.

Sec. 11. NRS 444.583 is hereby amended to read as follows:

444.583 1. Except as otherwise provided in subsection 5 [.] *and section 6 of this act*, it is unlawful willfully to:

(a) Dispose of, abandon or dump a motor vehicle battery, motor vehicle tire or motor oil at any site which has not been issued a permit for that purpose by the solid waste management authority;

(b) Dispose of, abandon or dump a motor vehicle battery, motor vehicle tire or motor oil at a sanitary landfill or other disposal site established by a municipality which has not been issued a permit for

that purpose by the solid waste management authority; or

(c) Incinerate a motor vehicle battery or motor vehicle tire as a means of ultimate disposal, unless the incineration is approved by the solid waste management authority for the recovery of energy or other appropriate use.

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor and except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, shall be punished by a fine of not less than \$100 per violation.

3. The State Department of Conservation and Natural Resources shall establish a plan for the appropriate disposal of used or waste motor vehicle batteries, motor vehicle tires and motor oil. The plan must include the issuance of permits to approved sites or facilities for the disposal of those items by the public. The plan may include education of the public regarding the necessity of disposing of these items properly and recycling them.

4. The State Department of Conservation and Natural Resources shall encourage the voluntary establishment of authorized sites which are open to the public for the deposit of used or waste motor vehicle batteries, motor vehicle tires and motor oil.

5. The provisions of subsections 1 and 2 do not apply to the disposal of used or waste motor vehicle batteries or motor vehicle tires if the unavailability of a site that has been issued a permit by the solid waste management authority makes disposal at such a site impracticable. The provisions of this subsection do not exempt a person from any other regulation of the solid waste management authority concerning the disposal of used or waste motor vehicle batteries or motor vehicle tires.

Sec. 12. NRS 444.592 is hereby amended to read as follows:

444.592 If the solid waste management authority receives information that the handling, storage, recycling, transportation, treatment or disposal of any solid waste presents or may present a threat to human health, public safety or the environment, or is in violation of a term or condition of a permit issued pursuant to NRS 444.553 or 444.556, or *section 4 of this act*, a statute, a regulation or an order issued pursuant to NRS 444.594, the authority may, in addition to any other remedy provided in NRS 444.440 to 444.620, inclusive [:], *and sections 3 to 6, inclusive, of this act*:

1. Issue an order directing the owner or operator of the disposal site or any other site where the handling, storage, recycling, transportation, treatment or disposal has occurred or may occur, or any other person who has custody of the solid waste, to take such steps as are necessary to prevent the act or eliminate the practice which constitutes the threat or violation.

2. Commence an action in a court of competent jurisdiction to enjoin the act or practice which constitutes the threat or violation in accordance with the provisions of NRS 444.600.

3. Take any other action designed to reduce or eliminate the threat or violation.

Sec. 13. NRS 444.594 is hereby amended to read as follows:
444.594 1. An order issued by a solid waste management authority must:

(a) Specify the term or condition of a permit issued pursuant to NRS 444.553 or 444.556, *or section 4 of this act*, or the statute or regulation, which is alleged to have been violated or which is about to be violated, or the threat to human health, public safety or the environment;

(b) Set forth the facts alleged to constitute the violation or threat; and

(c) Prescribe any corrective action which must be taken and a reasonable time within which it must be taken.

2. The order may require the person to whom the order is directed to appear before the solid waste management authority, its authorized representative [,] or a hearing officer appointed by the authority, to show cause why an action should not be commenced against the person in a court of competent jurisdiction requesting appropriate relief.

Sec. 14. NRS 444.596 is hereby amended to read as follows:

444.596 The solid waste management authority may bring an action in a court of competent jurisdiction to recover from a person or municipality which violates any statute or regulation, any term or condition of a permit issued pursuant to NRS 444.553 or 444.556, *or section 4 of this act*, or any order issued pursuant to NRS 444.592, a civil penalty of not more than \$5,000 for each day on which the violation occurs. This penalty is in addition to any other penalty provided in NRS 444.440 to 444.620, inclusive [,] , *and sections 3 to 6, inclusive, of this act.*

Sec. 15. NRS 444.598 is hereby amended to read as follows:

444.598 The solid waste management authority may bring an action in a court of competent jurisdiction to recover actual damages which result from a violation of a statute or regulation, any term or condition of a permit issued pursuant to NRS 444.553 or 444.556, *or section 4 of this act*, or any order issued pursuant to NRS 444.592. The damages may include expenses incurred by the authority in testing for and removing, correcting or terminating any adverse effects which resulted from the violation and costs and attorney's fees, including those incurred in administrative proceedings. This remedy is in addition to any other remedy provided in NRS 444.440 to 444.620, inclusive [,] , *and sections 3 to 6, inclusive, of this act.*

Sec. 16. NRS 444.600 is hereby amended to read as follows:

444.600 In addition to any other remedies provided in NRS 444.450 to 444.590, inclusive, *and sections 3 to 6, inclusive, of this act*, the State Department of Conservation and Natural Resources or a solid waste management authority may bring an action in a court of competent jurisdiction to enjoin a violation of NRS 444.450 to 444.560, inclusive, *and sections 3 to 6, inclusive, of this act*, any term or condition of a permit issued pursuant to NRS 444.553 or

444.556, or section 4 of this act, any order issued pursuant to NRS 444.592, or any regulation adopted by the State Environmental Commission or solid waste management authority.

Sec. 17. NRS 444.605 is hereby amended to read as follows:

444.605 1. In carrying out the provisions of NRS 444.440 to 444.620, inclusive, and sections 3 to 6, inclusive, of this act, the State Environmental Commission, a district board of health of a health district created pursuant to NRS 439.362 or 439.370, and a solid waste management authority may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents and other evidence which they deem necessary.

2. If any person to whom a subpoena has been directed pursuant to subsection 1 refuses to attend, testify or produce any evidence specified in the subpoena, the person who issued the subpoena may present a petition, to a court of competent jurisdiction where the person to whom the subpoena was directed is subject to service of process, setting forth that:

(a) Notice has been given of the time and place at which the person was required to attend, testify or produce evidence;

(b) A subpoena has been mailed to or personally served on the witness or custodian of the evidence in sufficient time to enable him to comply with its provisions; and

(c) The person has failed or refused to attend, answer questions or produce evidence specified in the subpoena, "and asking that the court issue an order compelling the person to attend and to testify or produce the evidence specified in the subpoena.

3. When a court receives a petition pursuant to subsection 2, it shall order the person to whom the subpoena was directed to appear at a time and place fixed by the court in its order, which must be not more than 10 days after the date of the order, and show cause why he should not be held in contempt. A certified copy of the order must be mailed to or personally served on the person to whom the subpoena was directed.

4. If it appears to the court that the subpoena was properly issued and that the person's failure or refusal to appear, answer questions or produce evidence was without sufficient reason, the court shall order the person to appear at a time and place fixed by the court and to testify or produce the specified evidence. If the person fails to comply with the order of the court, he may be punished as for a contempt of court.

Sec. 18. NRS 444.629 is hereby amended to read as follows:

444.629 1. The solid waste management authority in each county whose population is 400,000 or more may establish a program for the control of unlawful dumping and administer the program within its jurisdiction unless superseded.

2. The program established pursuant to subsection 1 must:

(a) Include standards and procedures for the control of unlawful dumping which are equivalent to or stricter than those established

by statute or state regulation; and

(b) Provide for adequate administration and enforcement.

3. In a county whose population is 400,000 or more, the solid waste management authority may delegate to an independent hearing officer or hearing board the authority to determine violations and levy administrative penalties for violations of the provisions of NRS 444.440 to 444.645, inclusive, *and sections 3 to 6, inclusive, of this act* or any regulation adopted pursuant to those sections.

Sec. 19. NRS 444.635 is hereby amended to read as follows:

444.635 1. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, a person convicted of violating NRS 444.555 and, in addition to the penalty imposed pursuant to NRS 444.583 or 444.630, *or section 6 of this act*, any person convicted of violating NRS 444.583 or 444.630 *or section 6 of this act* is liable for a civil penalty upon each such conviction.

2. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, a court before whom a defendant is convicted of a violation of the provisions of NRS 444.555, 444.583 or 444.630, *or section 6 of this act*, shall order the defendant:

(a) For a first offense, to pay a civil penalty which is at least \$500 but not more than \$5,000.

(b) For a second offense, to pay a civil penalty which is at least \$1,000 but not more than \$5,500.

(c) For a third offense, to pay a civil penalty which is at least \$1,500 but not more than \$6,000.

(d) For any subsequent offense, to pay a civil penalty which is at least \$500 more than the most recent previous civil penalty that the defendant was ordered to pay pursuant to this subsection.

3. If so provided by the court, a penalty imposed pursuant to this section may be paid in installments.

4. The solid waste management authority may attempt to collect all such penalties and installments which are in default in any manner provided by law for the enforcement of a judgment.

5. Each court which receives money pursuant to the provisions of this section shall forthwith remit the money to the Division of Environmental Protection of the State Department of Conservation and Natural Resources or, if the health authority initiated the action, the district health department which shall deposit the money with the State Treasurer for credit in a separate account in the State General Fund or with the county treasurer for deposit in an account for the district health department, as the case may be. Money so deposited must be:

(a) Used only to pay:

(1) Rewards pursuant to NRS 444.640;

(2) For education regarding the unlawful disposal of solid waste;

(3) For the cleaning up of dump sites; and

(4) For the management of solid waste; and

(b) Paid as other claims against the State or local governments are paid.

Sec. 20. NRS 444A.020 is hereby amended to read as follows:

444A.020 1. The State Environmental Commission shall adopt regulations establishing minimum standards for:

(a) Separating at the source recyclable material from other solid waste originating from residential premises and public buildings where services for the collection of solid waste are provided.

(b) Establishing recycling centers for the collection and disposal of recyclable material.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested.

2. The regulations adopted pursuant to subsection 1 must be adopted with the goal of recycling at least 25 percent of the total solid waste generated within a municipality after the second full year following the adoption of such standards.

3. The State Environmental Commission shall, by regulation, establish acceptable methods for disposing of used or waste tires [.] *consistent with the provisions of sections 4, 5 and 6 of this act.*

Sec. 21. NRS 445C.030 is hereby amended to read as follows:

445C.030 "Environmental requirement" means a requirement contained in NRS 444.440 to 444.645, inclusive, *and sections 3 to 6, inclusive, of this act*, 445A.300 to 445A.730, inclusive, 445B.100 to 445B.640, inclusive, 459.400 to 459.600, inclusive, 459.700 to 459.856, inclusive, or 519A.010 to 519A.280, inclusive, or in a regulation adopted pursuant to any of those sections.

Sec. 22. NRS 445C.060 is hereby amended to read as follows:

445C.060 "Regulatory agency" means:

1. The State Environmental Commission;

2. The State Department of Conservation and Natural Resources or the Division of Environmental Protection of that Department;

3. A district board of health acting as a solid waste management authority pursuant to NRS 444.440 to 444.620, inclusive [;], *and sections 3 to 6, inclusive, of this act*; or

4. A district board of health, county board of health or board of county commissioners administering a program for the control of air pollution pursuant to paragraph (a) of subsection 1 of NRS 445B.500.

Sec. 23. This act becomes effective upon passage and approval for the purpose of adopting regulations, and on October 1, 2009, for all other purposes.