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## Environmental Protection; hazardous waste permits-financial responsibility

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**Environmental Protection; hazardous waste permits—financial responsibility**

NEV. REV. STAT. § 459.495 (repealed); §§ 459.520, 459.525 (amended).

AB 349 (Schofield); 1987 STAT. Ch 631

Under existing law, the Environmental Commission (Commission) must adopt regulations for granting, renewing, modifying, suspending, revoking or denying permits to operate a facility for the treatment,<sup>1</sup> storage,<sup>2</sup> or disposal<sup>3</sup> of hazardous waste.<sup>4</sup> Furthermore, the Department of Conservation and Natural Resources (Department) may suspend or revoke a permit if the holder fails or refuses to comply with terms or regulations of the Commission relating to hazardous waste.<sup>5</sup> Under Chapter 631, a permit may not be granted or renewed if the director of the Department determines that to do so would be inconsistent with any regulation or plan relating to hazardous waste adopted by the Commission.<sup>6</sup>

Under existing law, the Commission must adopt regulations requiring any owner or operator of a facility for the treatment, storage or disposal of hazardous waste to provide specific evidence of financial responsibility.<sup>7</sup> Under certain circumstances Chapter 631 provides that any claim arising from conduct that requires evidence of financial responsibility may be asserted directly against the insurer, guarantor, surety or other person.<sup>8</sup> In order to bring a direct claim, Chapter 631 requires that the owner or operator (1) has filed a petition in bankruptcy, (2) cannot pay damages in the event of a judgment, or (3) is not subject to the personal jurisdiction of any court or cannot

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1. See NEV. REV. STAT. § 459.455 (definition of treatment).

2. See *id.* § 459.450 (definition of storage).

3. See *id.* § 459.425 (definition of disposal).

4. *Id.* § 459.520 1. See *id.* § 459.430 (definition of hazardous waste).

5. *Id.* § 459.520 1.

6. 1987 Nev. Stat. ch. 631, sec. 1, at \_\_\_ (amending NEV. REV. STAT. § 459.520).

7. NEV. REV. STAT. § 459.525 1 (amended by 1987 Nev. Stat. ch. 631, sec. 2, at \_\_\_).

Evidence showing financial responsibility for the undertaking includes: (a) Liability insurance; (b) security to ensure all appropriate measures will be taken to prevent damage to human health, public safety and the environment; and (c) any other security that the commission finds necessary. *Id.* See *id.* § 459.525 2 (requirements for this section may not exceed requirements for financial responsibility established pursuant to the Resource Conservation and Recovery Act of 1976). See generally Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901-6987 (1976 & Supp. 1984)).

8. 1987 Nev. Stat. ch. 631, sec. 2, at \_\_\_ (enacting NEV. REV. STAT. § 459.525 3).

be served with process.<sup>9</sup> Furthermore, if a claim is directly asserted against the person providing evidence of financial responsibility, that person may assert any right or defense available in any action against that person by the owner or operator, or any right or defense the owner or operator might have asserted in response to a claim against themselves.<sup>10</sup>

Under prior law, the generation of hazardous waste was regulated by requiring: (1) record keeping; (2) appropriate containers and labelling; (3) information of the general chemical composition of hazardous waste; (4) use of a manifest system for shipments; and (5) specified reports to the department.<sup>11</sup> Chapter 631 deletes these limitations.<sup>12</sup>

*EAW*

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9. *Id.*

10. 1987 NEV. REV. STAT. ch. 631, sec. 2, at \_\_\_ (enacting NEV. REV. STAT. § 459.525 4).

11. 1981 Nev. Stat. ch. 457, sec. 14.3, at 882 (enacting NEV. REV. STAT. § 459.495 1-5).

12. 1987 Nev. Stat. ch. 631, sec. 3, at \_\_\_ (repealing NEV. REV. STAT. § 459.495 1-5).

### **Environmental protection; disposal of solid waste.**

NEV. REV. STAT. § 444.\_\_\_\_ (new); § 444.450 (amended).  
AB 785 (Callister); 1987 STAT. Ch 636.

Existing law provides that any person<sup>1</sup> who dumps or causes to be dumped any solid waste<sup>2</sup> in or upon any public property<sup>3</sup> or upon any private property to which the public is admitted<sup>4</sup> is guilty of a misdemeanor and may also have a civil penalty imposed.<sup>5</sup> Chapter 636 adds to existing law by restricting the use of disposal sites to residents of the municipality or tourists in the area for noncommercial reasons.<sup>6</sup> In addition, Chapter 636 requires the Division of Environ-

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1. NEV. REV. STAT. § 444.480 (definition of person).

2. *Id.* § 444.490 (definition of solid waste).

3. *Id.* § 444.630 (includes any street, alley, public highway or road in common).

4. *Id.* § 444.630 (admitted by easement, license or otherwise).

5. *Id.* § 193.120(3) (definition of a misdemeanor).

6. 1987 Nev. Stat. ch. 636, sec. 5, at \_\_\_ (enacting NEV. REV. STAT. § 444.\_\_\_\_).