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Torts; anatomical gifts

The University of the Pacific, McGeorge School of Law

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Torts

Torts; abandoned mines

NEV. REV. STAT. § 141.____ (new); §§ 445.010, 455.060, 513.094, (amended).

SB 469 (Committee on Natural Resources); 1989 STAT. Ch. 670.

Under existing law, the Commission on Mineral Resources¹ is responsible for providing standards for the abatement of dangers commonly found around open excavations.² Chapter 670 grants civil immunity to a person, the State of Nevada, any political subdivision³ of the state, or any agency of state political subdivisions, for damages resulting from an act or omission in the construction of a fence around an abandoned⁴ mine,⁵ provided the construction is done in accordance with the standards⁶ prescribed by the Commission.⁷

AWF

1. See NEV. REV. STAT. § 513.023 (1987) (describing the creation of the Commission on Mineral Resources).

2. *Id.* § 513.094 (1987) (amended by 1989 Nev. Stat. ch. 670, sec. 1, at 1576) (requiring the Commission on Mineral Resources to provide regulations for the abatement of dangers found near former mines).

3. See NEV. REV. STAT. § 41.0305 (1987) (defining political subdivision).

4. See *id.* § 517.115 (1987) (describing evidence of abandonment).

5. See *id.* § 512.006 (defining mine).

6. See *id.* § 513.094 (stating that the violation of a federal or state statute intended to protect public health constitutes a danger). The administrator of the Division of Mine Inspection of the Department of Industrial Relations may adopt regulations consistent with the Federal Mine Safety and Health Act (30 U.S.C. §§ 801 et seq), as amended. *Id.* § 512.131.

7. 1989 Nev. Stat. ch. 670, sec. 1, at 1556 (enacting NEV. REV. STAT. § 41.____).

Torts; anatomical gifts

NEV. REV. STAT. § 460.010 (amended).

SB 70 (Horn); 1989 STAT. Ch. 32

Existing law categorizes the procuring, processing, distributing and use of whole human blood, blood products, or blood derivatives as

services and limits liability for such services to negligence¹ or willful misconduct.² Chapter 32 places the same limits on liability for the service of procuring, processing, distributing and use of organs or tissue for transplantation into the human body.³

PHB

1. See generally Shodahl, *Liability for Transfusion-Transmitted Disease*, 14 WM. MITCHELL L. REV. 141 (1988) (explanation of potential liability arising from the negligent handling of blood transfusions).

2. NEV. REV. STAT. § 460.010 (1985) (amended by 1989 Nev. Stat. ch. 32, sec. 1, at 60) (there is no implied warranty of merchantability or fitness with blood products, bodily tissue, or organs). See 1985 PAC. L. J. REV. NEV. LEGIS. 151 (liability arises only for acts of negligence or willful misconduct in the transmission of infectious disease through blood transfusion or blood product injection). See, e.g., *Zichichi v. Middlesex Memorial Hosp.* 204 Conn. 399, 409-10, 528 A.2d 805, 806 (1987) (classifying the transfer of blood as a medical service pursuant to Connecticut General Statute § 19a-280).

3. 1989 Nev. Stat. ch. 32, sec. 1, at 60 (amending NEV. REV. STAT. § 460.010).

Torts; defense of residence

NEV. REV. STAT. § 41.— (new).

SB 215 (Malone); 1989 STAT. CH. 759

Chapter 759 creates a presumption that a person lawfully in a residence,¹ who uses deadly force² against an unlawful intruder,³ is acting in reasonable fear⁴ of imminent death or bodily injury if the occupant has reason to believe that an unlawful entry occurred.⁵ Under these circumstances, the occupant may not be held liable in personal injury⁶ or wrongful death⁷ actions, unless the other party

1. See 1989 Nev. Stat. ch. 759, sec. 1, at 1798 (enacting NEV. REV. STAT. § 41.—) (definition of residence includes any building, vehicle, trailer, or boat designed or intended for occupancy as a residence).

2. See *id.* (likely to cause death or bodily injury).

3. See *id.* (defined as a person committing burglary or invasion of the home). See NEV. REV. STAT. § 205.060 (1987) (definition of burglary).

4. Reasonable fear sufficient to justify a homicide requires that the defendant be motivated to act by circumstances sufficient to excite the fear of a reasonable person, and not for a revenge motive. *Id.* § 200.130 (1987). A justifiable homicide is not criminally punishable. *Id.* § 200.190 (1987).

5. 1989 Nev. Stat. ch. 759, sec. 1, at 1798 (enacting NEV. REV. STAT. § 41.—).

6. See NEV. REV. STAT. § 41.130 (1987) (liability of persons who negligently or wrongfully cause injury).

7. See *id.* § 41.085 (1987) (action maintainable by heirs or personal representatives on behalf of decedent).