

ASSEMBLY BILL NO. 91—COMMITTEE ON NATURAL RESOURCES,
AGRICULTURE, AND MINING

(ON BEHALF OF THE DEPARTMENT OF AGRICULTURE)

FEBRUARY 13, 2003

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Revises provisions governing regulation of
pesticides. (BDR 51-568)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to pesticides; providing for the registration of
brands of pesticides; expanding the authorized uses of the
fees currently deposited in an account for the disposal of
pesticides to include the monitoring of ground water and
surface water from contamination by pesticides; and
providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 586 of NRS is hereby amended by adding
2 thereto a new section to read as follows:
3 *“Brand” means any and all words, terms, designs or*
4 *trademarks used in connection with a pesticide.*
5 **Sec. 2.** NRS 586.020 is hereby amended to read as follows:
6 586.020 As used in NRS 586.010 to 586.450, inclusive, *and*
7 *section 1 of this act*, unless the context otherwise requires, the
8 words and terms defined in NRS 586.030 to 586.220, inclusive, *and*
9 *section 1 of this act* have the meanings ascribed to them in those
10 sections.



* A B 9 1 R 1 *

1 **Sec. 3.** NRS 586.200 is hereby amended to read as follows:
2 586.200 “Registrant” means the person registering any *brand*
3 *of* pesticide pursuant to the provisions of NRS 586.010 to 586.450,
4 inclusive ~~{ }~~, *and section 1 of this act.*

5 **Sec. 4.** NRS 586.250 is hereby amended to read as follows:
6 586.250 ~~{ }~~ Each *brand of* pesticide which is distributed,
7 sold ~~{ }~~ or offered for sale within this state , or delivered for
8 transportation or transported in intrastate commerce or between
9 points within this state through any point outside this state , must be
10 registered in the office of the Director . ~~{and}~~ *Such a registration of*
11 *a brand of pesticide must be* renewed annually.

12 ~~{2. Products which have the same formula and are~~
13 ~~manufactured by the same person, the labeling of which contains the~~
14 ~~same claims, and the labels of which bear a designation identifying~~
15 ~~the product as the same pesticide may be registered as a single~~
16 ~~pesticide. Additional names and labels may be added by~~
17 ~~supplemental statements during the current period of registration.]~~

18 **Sec. 5.** NRS 586.260 is hereby amended to read as follows:
19 586.260 1. The registrant shall file with the Director a
20 statement including:

21 (a) The name and address of the registrant and the name and
22 address of the person whose name will appear on the label, if other
23 than the registrant.

24 (b) The ~~{name}~~ *brand* of the pesticide.

25 (c) A complete copy of the labeling accompanying the *brand of*
26 pesticide and a statement of all claims to be made for it, including
27 directions for use.

28 (d) If requested by the Director, a full description of the tests
29 made and the results thereof upon which the claims are based.

30 2. In the case of the renewal of registration, a statement is
31 required only with respect to information which is different from the
32 information that was furnished when the *brand of* pesticide was
33 registered or last reregistered.

34 **Sec. 6.** NRS 586.270 is hereby amended to read as follows:

35 586.270 1. A registrant shall pay an annual registration fee in
36 an amount established by regulation of the Director for each *brand*
37 *of* pesticide registered.

38 2. The Director shall, for each annual registration fee he
39 collects, deposit in a separate account the amount established for
40 that purpose by regulation of the Director. The money deposited in
41 the account must be used ~~{only}~~ for the disposal of pesticides ~~{ }~~ *and*
42 *to monitor pesticides and protect ground water and surface water*
43 *from contamination by pesticides.*



1 3. A registrant who offers a pesticide for sale before registering
2 the *brand of* pesticide shall pay an amount equal to twice the
3 registration fee for registering the *brand of* pesticide.

4 **Sec. 7.** NRS 586.335 is hereby amended to read as follows:

5 586.335 1. The Director shall endeavor to eliminate from use
6 in this state any pesticide:

- 7 (a) Which endangers the agricultural or nonagricultural
- 8 environment;
- 9 (b) Which is not beneficial for the purposes for which it is sold;
- 10 or
- 11 (c) Which is misrepresented.

12 2. In carrying out this responsibility, he shall develop an
13 orderly program for the continuous evaluation of all pesticides *the*
14 *brands of which have* actually *been* registered.

15 **Sec. 8.** NRS 586.339 is hereby amended to read as follows:

16 586.339 1. Pursuant to NRS 586.335, the Director may, after
17 a hearing, cancel the registration of, or refuse to register, any *brand*
18 *of* pesticide ~~if:~~

19 ~~(a) Which~~ *if:*

20 (a) *The pesticide* has demonstrated serious uncontrollable
21 adverse effects within or outside the agricultural environment.

22 (b) The use of ~~which~~ *the pesticide* is of less public value or
23 greater detriment to the environment than the benefit received by its
24 use.

25 (c) ~~For which there~~ *There* is a reasonably effective and
26 practicable alternate material or procedure *to the pesticide* which is
27 demonstrably less destructive to the environment.

28 (d) ~~Which, if~~ *The pesticide, when* properly used, is detrimental
29 to:

- 30 (1) Vegetation, except weeds;
- 31 (2) Domestic animals; or
- 32 (3) Public health and safety.

33 (e) ~~Which~~ *The pesticide* is of little or no value for the purpose
34 for which it is intended.

35 (f) ~~Concerning which any~~ *Any* false or misleading statement
36 *concerning the pesticide* is made or implied by the registrant or his
37 agent, orally or in writing, or in the form of any advertising
38 literature.

39 2. In making any such determination, the Director may require
40 such practical demonstrations as are necessary to determine the
41 facts.

42 3. If the Director has a reason to believe that any of the
43 conditions stated in subsection 1 are applicable to any ~~registered~~
44 pesticide *the brand of which is registered* and that the use or
45 continued use of the pesticide constitutes an immediate substantial



1 danger to persons or to the environment, he may, after notice to the
2 registrant, suspend the registration of the *brand of* pesticide pending
3 a hearing and final decision.

4 **Sec. 9.** NRS 586.350 is hereby amended to read as follows:

5 586.350 It is unlawful for any person to distribute, sell or offer
6 for sale within this state, or deliver for transportation or transport in
7 intrastate commerce or between points within this state through any
8 point outside this state, any pesticide *the brand of* which has not
9 been registered pursuant to the provisions of NRS 586.250 to
10 586.300, inclusive, or any pesticide if any of the claims made for it
11 or any of the directions for its use differ in substance from the
12 representations made in connection with its registration, or if the
13 composition of a pesticide differs from its composition as
14 represented in connection with its registration, except that, in the
15 discretion of the Director, a change in the labeling or formula of a
16 pesticide may be made within a registration period without requiring
17 reregistration of the ~~[product.]~~ *brand of pesticide.*

18 **Sec. 10.** NRS 586.360 is hereby amended to read as follows:

19 586.360 It is unlawful for any person to distribute, sell or offer
20 for sale within this state, or deliver for transportation or transport in
21 intrastate commerce or between points within this state through any
22 point outside this state, any pesticide unless it is in the registrant's
23 or the manufacturer's unbroken immediate container and there is
24 affixed to the container, and to the outside container or wrapper of
25 the retail package, if there is one through which the required
26 information on the immediate container cannot be clearly read, a
27 label bearing:

- 28 1. The name and address of the manufacturer, registrant or
29 person for whom manufactured.
- 30 2. The ~~[name, brand or trademark]~~ *brand* under which the
31 article is sold.
- 32 3. The net weight or measure of the content, subject to such
33 reasonable variations as the Director may permit.

34 **Sec. 11.** NRS 586.420 is hereby amended to read as follows:

35 586.420 1. The penalties provided for violations of NRS
36 586.350 to 586.390, inclusive, do not apply to:

37 (a) Any carrier while lawfully engaged in transporting a
38 pesticide within this state, if the carrier, upon request, permits the
39 Director or his designated agent to copy all records showing the
40 transactions in and movement of the articles.

41 (b) Public officers of this state and the Federal Government
42 engaged in the performance of their duties.

43 (c) The manufacturer or shipper of a pesticide for experimental
44 use only:



1 (1) By or under the supervision of an agency of this state or
2 of the Federal Government authorized by law to conduct research in
3 the field of pesticides; or

4 (2) By other persons if the pesticide is not sold and if the
5 container thereof is plainly and conspicuously marked "For
6 experimental use only—Not to be sold," together with the
7 manufacturer's name and address, but if a written permit has been
8 obtained from the Director, pesticides may be sold for experimental
9 purposes subject to such restrictions and conditions as may be set
10 forth in the permit.

11 2. An article shall not be deemed in violation of the provisions
12 of NRS 586.010 to 586.450, inclusive, *and section 1 of this act* if
13 intended solely for export to a foreign country ~~§~~ and if prepared or
14 packed according to the specifications or directions of the purchaser.
15 If not so exported, all the provisions of NRS 586.010 to 586.450,
16 inclusive, *and section 1 of this act* apply.

17 **Sec. 12.** NRS 586.430 is hereby amended to read as follows:

18 586.430 1. The examination of pesticides or devices must be
19 made under the direction of the Director to determine whether they
20 comply with the requirements of NRS 586.010 to 586.450, inclusive
21 ~~§~~, *and section 1 of this act*. If it appears from the examination that
22 a pesticide or device fails to comply with the provisions of NRS
23 586.010 to 586.450, inclusive, *and section 1 of this act* and the
24 Director contemplates instituting criminal proceedings against any
25 person, the Director shall cause appropriate notice to be given to the
26 person. Any person so notified must be given an opportunity to
27 present his views, orally or in writing, with regard to those
28 contemplated proceedings, and if thereafter in the opinion of the
29 Director it appears that the provisions of NRS 586.010 to 586.450,
30 inclusive, *and section 1 of this act* have been violated by the person,
31 the Director shall refer the facts to the district attorney of the county
32 in which the violation occurred with a copy of the results of the
33 analysis or the examination of the article. The provisions of NRS
34 586.010 to 586.450, inclusive, *and section 1 of this act* do not
35 require the Director to report any act or failure to act for prosecution
36 or for the institution of libel proceedings, or to report minor
37 violations of NRS 586.010 to 586.450, inclusive, *and section 1 of*
38 *this act* if he believes that the public interest will be best served by a
39 suitable notice of warning in writing.

40 2. Each district attorney to whom any such violation is reported
41 shall cause appropriate proceedings to be instituted and prosecuted
42 in a court of proper jurisdiction without delay.

43 3. The Director shall, by publication in such manner as he may
44 prescribe, give notice of all judgments entered in actions instituted



1 under the authority of NRS 586.010 to 586.450, inclusive ~~{ }~~, and
2 *section 1 of this act.*

3 **Sec. 13.** NRS 586.440 is hereby amended to read as follows:

4 586.440 1. Any pesticide or device that is distributed, sold or
5 offered for sale within the State of Nevada , or delivered for
6 transportation or transported in intrastate commerce or between
7 points within this state through any point outside this state ~~{shall be}~~
8 *is* liable to be proceeded against in any district court in any county
9 of this state where it may be found and seized for confiscation by
10 process of libel for condemnation:

11 (a) In the case of a pesticide:

12 (1) If it is adulterated or misbranded.

13 (2) If ~~{the brand of the pesticide}~~ has not been registered
14 under the provisions of NRS 586.250 to 586.300, inclusive.

15 (3) If it is a white powder pesticide and is not colored as
16 required under NRS 586.010 to 586.450, inclusive ~~{ }~~, and *section*
17 *1 of this act.*

18 (4) If it fails to bear on the label the information required by
19 NRS 586.010 to 586.450, inclusive ~~{ }~~, and *section 1 of this act.*

20 (b) In the case of a device, if it is misbranded.

21 2. If the article is condemned, it ~~{shall,}~~ *must*, after the entry of
22 the decree, be disposed of by destruction or sale as the court may
23 direct, and the proceeds ~~{shall}~~ *must* be paid to the State Treasurer
24 and deposited in the *State* General Fund. The article seized ~~{shall}~~
25 *must* not be sold or destroyed contrary to the provisions of NRS
26 586.010 to 586.450, inclusive ~~{ }~~, and *section 1 of this act.* The
27 article ~~{shall}~~ *must* not be sold or destroyed if the owner thereof
28 pays the costs of condemnation and executes a good and sufficient
29 bond conditioned that the article ~~{shall}~~ *must* not be disposed of
30 unlawfully. The court shall then order that the article condemned
31 ~~{shall}~~ *must* be delivered to the owner thereof for relabeling or
32 reprocessing as the case may be.

33 3. When a decree of condemnation is entered against the
34 article, court costs, fees and storage charges , and other proper
35 expenses ~~{shall}~~ , *must* be awarded against the person, if any,
36 intervening as claimant of the article.

37 **Sec. 14.** NRS 561.385 is hereby amended to read as follows:

38 561.385 1. The Agriculture Registration and Enforcement
39 Account is hereby created in the State General Fund for the use of
40 the Department.

41 2. The following fees must be deposited in the Agriculture
42 Registration and Enforcement Account:

43 (a) ~~{Fees}~~ *Except as otherwise provided in NRS 586.270, fees*
44 *collected pursuant to the provisions of NRS 586.010 to 586.450,*
45 *inclusive ~~{ }~~, and section 1 of this act.*



1 (b) Fees collected pursuant to the provisions of *chapter 588 of*
2 NRS . ~~[588.010 to 588.350, inclusive.]~~

3 (c) Fees collected pursuant to the provisions of NRS 590.340 to
4 590.450, inclusive.

5 (d) Laboratory fees collected for the testing of pesticides as
6 authorized by NRS 561.305, and as are necessary pursuant to the
7 provisions of NRS 555.2605 to 555.460, inclusive, and 586.010 to
8 586.450, inclusive ~~[]~~, *and section 1 of this act.*

9 (e) Laboratory fees collected for the analysis and testing of
10 commercial fertilizers and agricultural minerals, as authorized by
11 NRS 561.305, and as are necessary pursuant to the provisions of
12 NRS 588.010 to 588.350, inclusive.

13 (f) Laboratory fees collected for the analysis and testing of
14 petroleum products, as authorized by NRS 561.305, and as are
15 necessary pursuant to the provisions of NRS 590.010 to 590.150,
16 inclusive.

17 (g) Laboratory fees collected for the analysis and testing of
18 antifreeze, as authorized by NRS 561.305, and as are necessary
19 pursuant to the provisions of NRS 590.340 to 590.450, inclusive.

20 3. Expenditures from the Agriculture Registration and
21 Enforcement Account may be made only to carry out the provisions
22 of this chapter, chapters 586, 588 and 590 of NRS and NRS
23 555.2605 to 555.460, inclusive.

24 **Sec. 15.** This act becomes effective upon passage and approval
25 for the purpose of adopting regulations and on January 1, 2004, for
26 all other purposes.

