

SENATE BILL NO. 359—SENATORS TITUS, WIENER,
SCHNEIDER, CARE AND MATHEWS

JOINT SPONSORS: ASSEMBLYMEN GRIFFIN AND HETTRICK

MARCH 17, 2003

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to freedom to display
flag of United States. (BDR 22-310)

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 the display of the flag of the United States; providing that the governing body of a local government may not take any action to prohibit an owner of real property from engaging in the display of the flag on his property; providing that covenants, conditions and restrictions relating to real property are void and unenforceable to the extent that they prohibit an owner of real property from engaging in the display of the flag on his property; providing that executive boards of common-interest communities and landlords may not prohibit a unit's owner or tenant, as applicable, from engaging in the display of the flag within that portion of the common-interest community, premises or manufactured home lot that the unit's owner or tenant has a right to occupy and use exclusively; providing that a local government employer may not prohibit an employee from engaging in the display of the flag; allowing the imposition of reasonable restrictions with respect to the placement and manner of display of the flag; providing for the payment to a prevailing party of reasonable attorney's fees and costs incurred to pursue certain legal actions; and providing other matters properly relating thereto.



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

1 **Section 1.** Chapter 278 of NRS is hereby amended by adding
2 thereto a new section to read as follows:
3 1. *Except as otherwise provided in subsection 2:*
4 (a) *A governing body shall not adopt an ordinance, regulation*
5 *or plan or take any other action that prohibits an owner of real*
6 *property from engaging in the display of the flag of the United*
7 *States on his property.*
8 (b) *Any covenant, condition or restriction contained in a deed,*
9 *contract or other legal instrument which affects the transfer, sale*
10 *or any other interest in real property that prohibits the owner of*
11 *the property from engaging in the display of the flag of the United*
12 *States on his property is void and unenforceable.*
13 2. *The provisions of this section do not:*
14 (a) *Apply to the display of the flag of the United States for*
15 *commercial advertising purposes.*
16 (b) *Preclude a governing body from imposing reasonable*
17 *restrictions as to the time, place and manner of display of the flag*
18 *of the United States if the governing body determines that such*
19 *restrictions are necessary to protect the health, safety or welfare of*
20 *the public. For the purposes of this paragraph, reasonable*
21 *restrictions as to the time, place and manner of display of the flag*
22 *of the United States may include, without limitation, reasonable*
23 *restrictions as to height and setback.*
24 3. *In any action commenced to enforce the provisions of this*
25 *section, the prevailing party is entitled to recover reasonable*
26 *attorney's fees and costs.*
27 4. *As used in this section, "display of the flag of the United*
28 *States" means a flag of the United States that is:*
29 (a) *Made of cloth, fabric or paper;*
30 (b) *Displayed from a pole or staff or in a window; and*
31 (c) *Displayed in a manner that is consistent with 4 U.S.C.*
32 *chapter 1.*
33 *The term does not include a depiction or emblem of the flag of the*
34 *United States that is made of balloons, flora, lights, paint, paving*
35 *materials, roofing, siding or any other similar building, decorative*
36 *or landscaping component.*
37 **Sec. 2.** NRS 278.010 is hereby amended to read as follows:
38 278.010 As used in NRS 278.010 to 278.630, inclusive, *and*
39 *section 1 of this act*, unless the context otherwise requires, the
40 words and terms defined in NRS 278.0105 to 278.0195, inclusive,
41 have the meanings ascribed to them in those sections.



1 **Sec. 3.** Chapter 111 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *Except as otherwise provided in subsection 2, any*
4 *covenant, condition or restriction contained in a deed, contract or*
5 *other legal instrument which affects the transfer, sale or any other*
6 *interest in real property that prohibits the owner of the property*
7 *from engaging in the display of the flag of the United States on his*
8 *property is void and unenforceable.*

9 2. *The provisions of this section do not apply to the display of*
10 *the flag of the United States for commercial advertising purposes.*

11 3. *In any action commenced to enforce the provisions of this*
12 *section, the prevailing party is entitled to recover reasonable*
13 *attorney's fees and costs.*

14 4. *As used in this section, "display of the flag of the United*
15 *States" means a flag of the United States that is:*

16 (a) *Made of cloth, fabric or paper;*

17 (b) *Displayed from a pole or staff or in a window; and*

18 (c) *Displayed in a manner that is consistent with 4 U.S.C.*
19 *chapter 1.*

20 *The term does not include a depiction or emblem of the flag of the*
21 *United States that is made of balloons, flora, lights, paint, paving*
22 *materials, roofing, siding or any other similar building, decorative*
23 *or landscaping component.*

24 **Sec. 4.** Chapter 116 of NRS is hereby amended by adding
25 thereto a new section to read as follows:

26 1. *Except as otherwise provided in subsection 2, the executive*
27 *board of an association shall not and the governing documents of*
28 *that association must not prohibit a unit's owner from engaging in*
29 *the display of the flag of the United States within such physical*
30 *portion of the common-interest community as that owner has a*
31 *right to occupy and use exclusively.*

32 2. *The provisions of this section do not:*

33 (a) *Apply to the display of the flag of the United States for*
34 *commercial advertising purposes.*

35 (b) *Preclude an association from adopting, and do not*
36 *preclude the governing documents of an association from setting*
37 *forth, rules that reasonably restrict the placement and manner of*
38 *the display of the flag of the United States by a unit's owner.*

39 3. *In any action commenced to enforce the provisions of this*
40 *section, the prevailing party is entitled to recover reasonable*
41 *attorney's fees and costs.*

42 4. *As used in this section, "display of the flag of the United*
43 *States" means a flag of the United States that is:*

44 (a) *Made of cloth, fabric or paper;*

45 (b) *Displayed from a pole or staff or in a window; and*



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1 (c) *Displayed in a manner that is consistent with 4 U.S.C.*
2 *chapter 1.*

3 *The term does not include a depiction or emblem of the flag of the*
4 *United States that is made of balloons, flora, lights, paint, paving*
5 *materials, roofing, siding or any other similar building, decorative*
6 *or landscaping component.*

7 **Sec. 5.** Chapter 118A of NRS is hereby amended by adding
8 thereto a new section to read as follows:

9 1. *Except as otherwise provided in subsection 2, a landlord or*
10 *an agent or employee of a landlord shall not prohibit a tenant*
11 *from engaging in the display of the flag of the United States within*
12 *such physical portion of the premises as that tenant has a right to*
13 *occupy and use exclusively.*

14 2. *The provisions of this section do not:*

15 (a) *Apply to the display of the flag of the United States for*
16 *commercial advertising purposes.*

17 (b) *Preclude a landlord or an agent or employee of a landlord*
18 *from adopting rules that reasonably restrict the placement and*
19 *manner of the display of the flag of the United States by a tenant.*

20 3. *In any action commenced to enforce the provisions of this*
21 *section, the prevailing party is entitled to recover reasonable*
22 *attorney's fees and costs.*

23 4. *As used in this section, "display of the flag of the United*
24 *States" means a flag of the United States that is:*

25 (a) *Made of cloth, fabric or paper;*

26 (b) *Displayed from a pole or staff or in a window; and*

27 (c) *Displayed in a manner that is consistent with 4 U.S.C.*
28 *chapter 1.*

29 *The term does not include a depiction or emblem of the flag of the*
30 *United States that is made of balloons, flora, lights, paint, paving*
31 *materials, roofing, siding or any other similar building, decorative*
32 *or landscaping component.*

33 **Sec. 6.** NRS 118A.180 is hereby amended to read as follows:

34 118A.180 1. Except as provided in subsection 2, this chapter
35 applies to, regulates and determines rights, obligations and remedies
36 under a rental agreement, wherever made, for a dwelling unit or
37 premises located within this state.

38 2. This chapter does not apply to:

39 (a) A rental agreement subject to the provisions of chapter 118B
40 of NRS;

41 (b) Low-rent housing programs operated by public housing
42 authorities and established pursuant to the United States Housing
43 Act of 1937, 42 U.S.C. §§ 1437 et seq.;

44 (c) A person who owns and personally manages four or fewer
45 dwelling units, except with respect to the provisions of NRS



1 118A.200, 118A.300, 118A.340, 118A.380, 118A.450 and
2 118A.460 ~~§~~ *and section 5 of this act;*

3 (d) Residence in an institution, public or private, incident to
4 detention or the provision of medical, geriatric, educational,
5 counseling, religious or similar service;

6 (e) Occupancy under a contract of sale of a dwelling unit or the
7 property of which it is a part, if the occupant is the purchaser or his
8 successor in interest;

9 (f) Occupancy by a member of a fraternal or social organization
10 in the portion of a structure operated for the benefit of the
11 organization;

12 (g) Occupancy in a hotel or motel for less than 30 consecutive
13 days unless the occupant clearly manifests an intent to remain for a
14 longer continuous period;

15 (h) Occupancy by an employee of a landlord whose right to
16 occupancy is solely conditional upon employment in or about the
17 premises;

18 (i) Occupancy by an owner of a condominium unit or by a
19 holder of a proprietary lease in a cooperative apartment; or

20 (j) Occupancy under a rental agreement covering premises used
21 by the occupant primarily for agricultural purposes.

22 **Sec. 7.** NRS 118A.200 is hereby amended to read as follows:

23 118A.200 1. Any written agreement for the use and
24 occupancy of a dwelling unit or premises must be signed by the
25 landlord or his agent and the tenant or his agent.

26 2. Any written rental agreement must contain, but is not limited
27 to, provisions relating to the following subjects:

28 (a) Duration of the agreement.

29 (b) Amount of rent and the manner and time of its payment.

30 (c) Occupancy by children or pets.

31 (d) Services included with the dwelling rental.

32 (e) Fees which are required and the purposes for which they are
33 required.

34 (f) Deposits which are required and the conditions for their
35 refund.

36 (g) Charges which may be required for late or partial payment of
37 rent or for return of any dishonored check.

38 (h) Inspection rights of the landlord.

39 (i) A listing of persons or numbers of persons who are to occupy
40 the dwelling.

41 (j) Respective responsibilities of the landlord and the tenant as
42 to the payment of utility charges.

43 (k) A signed record of the inventory and condition of the
44 premises under the exclusive custody and control of the tenant.

45 (l) A summary of the provisions of NRS 202.470.



1 (m) Information regarding the procedure pursuant to which a
2 tenant may report to the appropriate authorities:

- 3 (1) A nuisance.
- 4 (2) A violation of a building, safety or health code or
5 regulation.

6 *(n) Information regarding the right of the tenant to engage in*
7 *the display of the flag of the United States, as set forth in section 5*
8 *of this act.*

9 3. The absence of a written agreement raises a disputable
10 presumption that:

- 11 (a) There are no restrictions on occupancy by children or pets.
- 12 (b) Maintenance and waste removal services are provided
13 without charge to the tenant.
- 14 (c) No charges for partial or late payments of rent or for
15 dishonored checks are paid by the tenant.
- 16 (d) Other than normal wear, the premises will be returned in the
17 same condition as when the tenancy began.

18 4. It is unlawful for a landlord or any person authorized to
19 enter into a rental agreement on his behalf to use any written
20 agreement which does not conform to the provisions of this section,
21 and any provision in an agreement which contravenes the provisions
22 of this section is void.

23 **Sec. 8.** Chapter 118B of NRS is hereby amended by adding
24 thereto a new section to read as follows:

25 *1. Except as otherwise provided in subsection 2, a landlord or*
26 *an agent or employee of a landlord shall not prohibit a tenant*
27 *from engaging in the display of the flag of the United States within*
28 *the boundary of the lot of the tenant.*

29 *2. The provisions of this section do not:*

30 *(a) Apply to the display of the flag of the United States for*
31 *commercial advertising purposes.*

32 *(b) Preclude a landlord or an agent or employee of a landlord*
33 *from adopting rules that reasonably restrict the placement and*
34 *manner of the display of the flag of the United States by a tenant.*

35 *3. In any action commenced to enforce the provisions of this*
36 *section, the prevailing party is entitled to recover reasonable*
37 *attorney's fees and costs.*

38 *4. As used in this section, "display of the flag of the United*
39 *States" means a flag of the United States that is:*

- 40 *(a) Made of cloth, fabric or paper;*
- 41 *(b) Displayed from a pole or staff or in a window; and*
- 42 *(c) Displayed in a manner that is consistent with 4 U.S.C.*
43 *chapter 1.*

44 *The term does not include a depiction or emblem of the flag of the*
45 *United States that is made of balloons, flora, lights, paint, paving*



1 *materials, roofing, siding or any other similar building, decorative*
2 *or landscaping component.*

3 **Sec. 9.** NRS 118B.040 is hereby amended to read as follows:

4 118B.040 1. A rental agreement or lease between a landlord
5 and tenant to rent or lease any manufactured home lot must be in
6 writing. The landlord shall give the tenant a copy of the agreement
7 or lease at the time the tenant signs it.

8 2. A rental agreement or lease must contain, but is not limited
9 to, provisions relating to:

10 (a) The duration of the agreement.

11 (b) The amount of rent, the manner and time of its payment and
12 the amount of any charges for late payment and dishonored checks.

13 (c) Restrictions on occupancy by children or pets.

14 (d) Services and utilities included with the rental of a lot and the
15 responsibility of maintaining or paying for them, including the
16 charge, if any, for cleaning the lots.

17 (e) Deposits which may be required and the conditions for their
18 refund.

19 (f) Maintenance which the tenant is required to perform and any
20 appurtenances he is required to provide.

21 (g) The name and address of the owner of the manufactured
22 home park and his authorized agent.

23 (h) Any restrictions on subletting.

24 (i) Any recreational facilities and other amenities provided to the
25 tenant and any deposits or fees required for their use.

26 (j) Any restriction of the park to older persons pursuant to
27 federal law.

28 (k) The dimensions of the manufactured home lot of the tenant.

29 (l) A summary of the provisions of NRS 202.470.

30 (m) Information regarding the procedure pursuant to which a
31 tenant may report to the appropriate authorities:

32 (1) A nuisance.

33 (2) A violation of a building, safety or health code or
34 regulation.

35 (n) *Information regarding the right of the tenant to engage in*
36 *the display of the flag of the United States, as set forth in section 8*
37 *of this act.*

38 (o) The amount to be charged each month to the tenant to
39 reimburse the landlord for the cost of a capital improvement to the
40 manufactured home park. Such an amount must be stated separately
41 and include the length of time the charge will be collected and the
42 total amount to be recovered by the landlord from all tenants in the
43 manufactured home park.



1 **Sec. 10.** NRS 118B.210 is hereby amended to read as follows:
2 118B.210 1. The landlord shall not terminate a tenancy,
3 refuse to renew a tenancy, increase rent or decrease services he
4 normally supplies, or bring or threaten to bring an action for
5 possession of a manufactured home lot as retaliation upon the tenant
6 because:

7 (a) He has complained in good faith about a violation of a
8 building, safety or health code or regulation pertaining to a
9 manufactured home park to the governmental agency responsible
10 for enforcing the code or regulation.

11 (b) He has complained to the landlord concerning the
12 maintenance, condition or operation of the park or a violation of any
13 provision of NRS 118B.040 to 118B.220, inclusive, *and section 8*
14 *of this act* or 118B.240.

15 (c) He has organized or become a member of a tenants' league
16 or similar organization.

17 (d) He has requested the reduction in rent required by:

18 (1) NRS 118.165 as a result of a reduction in property taxes.

19 (2) NRS 118B.153 when a service, utility or amenity is
20 decreased or eliminated by the landlord.

21 (e) A citation has been issued to the landlord as the result of a
22 complaint of the tenant.

23 (f) In a judicial proceeding or arbitration between the landlord
24 and the tenant, an issue has been determined adversely to the
25 landlord.

26 2. A landlord, manager or assistant manager of a manufactured
27 home park shall not willfully harass a tenant.

28 3. A tenant shall not willfully harass a landlord, manager or
29 assistant manager of a manufactured home park or an employee or
30 agent of the landlord.

31 4. As used in this section, "harass" means to threaten or
32 intimidate, through words or conduct, with the intent to affect the
33 terms or conditions of a tenancy or a person's exercise of his rights
34 pursuant to this chapter.

35 **Sec. 11.** Chapter 237 of NRS is hereby amended by adding
36 thereto a new section to read as follows:

37 ***1. Except as otherwise provided in subsection 2, a local***
38 ***government employer shall not:***

39 ***(a) Prohibit or restrict an employee from engaging in the***
40 ***display of the flag of the United States:***

41 ***(1) On the person of the employee;***

42 ***(2) In the workplace of the employee; or***

43 ***(3) On a vehicle owned by the local government employer***
44 ***that is operated by the employee in the course of performing the***
45 ***employee's duties; or***



1 (b) Discharge or otherwise discriminate against any employee
2 because the employee has exercised his right to engage in the
3 display of the flag of the United States as described in
4 paragraph (a).

5 2. The provisions of this section do not:

6 (a) Apply to the display of the flag of the United States for
7 commercial advertising purposes.

8 (b) Preclude a local government employer from imposing
9 reasonable restrictions as to the time, place and manner of display
10 of the flag of the United States if the local government employer
11 determines that such restrictions are necessary to preserve the
12 order or discipline of the workplace.

13 3. An employee who is prohibited or restricted from engaging
14 in the display of the flag of the United States in violation of
15 paragraph (a) of subsection 1 or is discharged or otherwise
16 discriminated against in violation of paragraph (b) of subsection 1
17 may bring a civil action against a local government employer who
18 violates the provisions of subsection 1 and obtain:

19 (a) Any wages and benefits lost as a result of the violation;

20 (b) An order of reinstatement without loss of position, seniority
21 or benefits; and

22 (c) Damages equal to the amount of the lost wages and
23 benefits.

24 4. The court shall award reasonable costs, including court
25 costs and attorney's fees to the prevailing party in an action
26 brought pursuant to this section.

27 5. The remedy provided for in this section is the exclusive
28 remedy for an action brought pursuant to this section.

29 6. As used in this section:

30 (a) "Display of the flag of the United States" means a flag of
31 the United States that is:

32 (1) Made of cloth, fabric, paper, plastic or metal;

33 (2) Displayed:

34 (I) From a pole or staff or in a window; or

35 (II) In the form of a brooch, button, pin, sticker,
36 transfer or transparency;

37 (3) If applicable, displayed in a manner that is consistent
38 with 4 U.S.C. chapter 1; and

39 (4) Of a size to allow the flag, or depiction thereof, to be
40 displayed in the workplace without undue disruption or the
41 creation of a safety hazard.

42 (b) "Local government employer" has the meaning ascribed to
43 it in NRS 288.060.

44 **Sec. 12.** 1. Any provision in:



- 1 (a) An ordinance, regulation or plan of a governing body
2 described in section 1 of this act;
- 3 (b) A covenant, condition or restriction described in section 3 of
4 this act;
- 5 (c) A governing document of an executive board of a common-
6 interest community described in section 4 of this act;
- 7 (d) A rental agreement or policy of a landlord described in
8 section 5 or 8 of this act; or
- 9 (e) An employee handbook or policy of a local government
10 employer described in section 11 of this act,
11 that is in effect on the effective date of this act and which is contrary
12 to the provisions of this act is void and unenforceable.
- 13 2. On or before October 1, 2003, the persons or entities
14 described in this subsection shall review and amend as necessary to
15 ensure compliance with the provisions of this act:
- 16 (a) In the case of a governing body described in section 1 of this
17 act, the ordinances, regulations and plans of the governing body.
- 18 (b) In the case of an executive board of a common-interest
19 community described in section 4 of this act, the governing
20 documents of the common-interest community.
- 21 (c) In the case of a landlord described in section 5 or 8 of this
22 act, the policies of the landlord.
- 23 (d) In the case of a local government employer described in
24 section 11 of this act, the employee handbooks, if any, and policies
25 of the employer.
- 26 3. A landlord described in section 5 or 8 of this act shall review
27 his rental agreements that are in effect on the effective date of this
28 act to ensure compliance with the provisions of this act and, on or
29 before the date for renewal of such an agreement:
- 30 (a) Remove any provision of such an agreement that is void and
31 unenforceable pursuant to subsection 1; and
- 32 (b) Add the information required by paragraph (n) of subsection
33 2 of NRS 118A.200, as amended by section 7 of this act, or
34 paragraph (n) of subsection 2 of NRS 118B.040, as amended by
35 section 9 of this act, as applicable.
- 36 4. Between the effective date of this act and the date on which
37 a landlord described in section 5 or 8 of this act brings his rental
38 agreements into compliance with this act pursuant to subsection 3,
39 the landlord shall:
- 40 (a) Provide notice of the right of a tenant to engage in the
41 display of the flag of the United States, as set forth in section 5 or 8
42 of this act, as applicable, to each tenant who is subject to such an
43 agreement; or
- 44 (b) Post a notice of the right of a tenant to engage in the display
45 of the flag of the United States, as set forth in section 5 or 8 of this



1 act, as applicable, in a conspicuous and readily accessible place on
2 the property or in the park.
3 **Sec. 13.** This act becomes effective upon passage and
4 approval.

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