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SENATE BILL NO. 205—SENATOR MATHEWS

MARCH 21, 2005

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Referred to Committee on Human Resources and Education

SUMMARY—Revises provisions governing criminal and civil liability for engaging in certain acts relating to cemeteries. (BDR 40-797)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.  
Effect on the State: Yes.

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

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AN ACT relating to cemeteries; making it unlawful for a person to remove, possess, sell or offer or attempt to sell a tomb, monument, gravestone, fence, building or other structure placed in a cemetery under certain circumstances; increasing the penalty for engaging in certain other acts relating to a cemetery; requiring the payment of restitution for those acts under certain circumstances; providing penalties; 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 452 of NRS is hereby amended by adding  
2     thereto the provisions set forth as sections 2 and 3 of this act.  
3     **Sec. 2.** *“Cemetery” means any enclosure or plot of land that*  
4     *is or may be used for the burial of the dead and includes an*  
5     *individual plot.*  
6     **Sec. 3. 1.** *It is unlawful for a person to:*  
7     *(a) Remove willfully any tomb, monument, gravestone,*  
8     *fencing, building or other structure placed in a cemetery, or any*  
9     *portion of the tomb, monument, gravestone, fencing, building or*  
10    *structure, without written authorization from a member of the*



1 *immediate family or a lineal descendent of the deceased, the*  
2 *owner of the cemetery or cemetery authority, the board of county*  
3 *commissioners of the county where the cemetery is located or a*  
4 *court order;*

5 (b) *Possess any tomb, monument, gravestone, fencing,*  
6 *building or other structure removed from a cemetery, or any*  
7 *portion of the tomb, monument, gravestone, fencing, building or*  
8 *structure, if the person knows it has been unlawfully removed*  
9 *from a cemetery;*

10 (c) *Sell, offer or attempt to sell or otherwise transfer or dispose*  
11 *of any tomb, monument, gravestone, fencing, building or other*  
12 *structure placed in a cemetery, or any portion of the tomb,*  
13 *monument, gravestone, fencing, building or structure, if the*  
14 *person knows it has been unlawfully removed from a cemetery.*

15 2. *A person who violates any provision of subsection 1 is*  
16 *guilty of a category D felony and shall be punished as provided in*  
17 *NRS 193.130. In addition to any other penalty, the court shall*  
18 *order the person to pay restitution to the owner of the cemetery,*  
19 *the cemetery authority or the board of county commissioners of*  
20 *the county in which the cemetery is located, as appropriate.*

21 3. *A person who is paid money for restitution pursuant to*  
22 *subsection 2 shall use the money to repair or restore the property*  
23 *that was removed from the cemetery.*

24 4. *This section does not relieve any person from civil liability*  
25 *for engaging in an unlawful act pursuant to this section.*

26 5. *The provisions of this section do not apply to a person*  
27 *acting in the course of a medical or archeological study, a*  
28 *criminal investigation or in carrying out the professional mortuary*  
29 *duties of the person.*

30 **Sec. 4.** NRS 452.003 is hereby amended to read as follows:

31 452.003 As used in NRS 452.001 to 452.610, inclusive, *and*  
32 *sections 2 and 3 of this act*, unless the context otherwise requires,  
33 the words and terms defined in NRS 452.004 to 452.019, inclusive,  
34 *and section 2 of this act* have the meanings ascribed to them in  
35 those sections.

36 **Sec. 5.** NRS 452.300 is hereby amended to read as follows:

37 452.300 1. Every person who ~~[shall make or open]~~ *makes or*  
38 *opens* any road, or ~~[construct]~~ *constructs* any railway, turnpike,  
39 canal or other public easement over, through, in or upon ~~[.]~~ such part  
40 of any ~~[enclosure as may be used for the burial of the dead.]~~  
41 *cemetery* without authority of law or the consent of the *cemetery*  
42 *authority or* owner thereof ~~[, shall be]~~ *is* guilty of a ~~[misdemeanor.]~~  
43 *category D felony and shall be punished as provided in*  
44 *NRS 193.130.*



1       2. *Every person who deposits any material in or upon any*  
2 *cemetery without written consent from the owner of the cemetery*  
3 *or the cemetery authority or without a court order is guilty*  
4 *of a category D felony and shall be punished as provided in*  
5 *NRS 193.130.*

6       **Sec. 6.** NRS 452.305 is hereby amended to read as follows:

7       452.305 1. ~~Unless a greater penalty is provided by NRS~~  
8 ~~206.125, a] A person who:~~

9       (a) Willfully destroys, mutilates, defaces ~~[, injures or removes]~~  
10 *or injures* any tomb, monument, gravestone, building or other  
11 structure placed in any cemetery ; ~~[of any nonprofit corporation~~  
12 ~~governed by the provisions of chapter 82 of NRS formed for the~~  
13 ~~purpose of procuring and holding lands to be used exclusively for a~~  
14 ~~cemetery or place of burial of the dead;]~~

15       (b) Willfully destroys, mutilates, defaces ~~[, injures or removes]~~  
16 *or injures* any fence, railing or other work for the protection or  
17 ornament of any cemetery ~~[of any such nonprofit corporation,]~~ or  
18 any tomb, monument, gravestone, or any structure, plat or lot within  
19 the cemetery; ~~[or]~~

20       (c) Willfully destroys, cuts, breaks or injures any tree, shrub or  
21 plant within the limits of any cemetery ~~[of such nonprofit~~  
22 ~~corporation,]; or~~

23       (d) *Willfully disturbs the contents of any grave, tomb or crypt*  
24 *in a cemetery,*

25       ↳ is guilty of a ~~[misdemeanor,]~~ *category D felony and shall be*  
26 *punished as provided in NRS 193.130. In addition to any other*  
27 *penalty, the court shall order the person to pay restitution to the*  
28 *owner of the cemetery, cemetery authority or board of county*  
29 *commissioners of the county in which the cemetery is located, as*  
30 *appropriate.*

31       2. ~~[An offender is also liable in an action of trespass to be~~  
32 ~~brought in all cases in the name of the nonprofit corporation, to pay~~  
33 ~~all damages which are occasioned by his unlawful act or acts.] Any~~  
34 money ~~[recovered]~~ *paid for restitution pursuant to subsection 1*  
35 *must be applied by the trustees [to the reparation or restoration of] ,*  
36 *owner of the cemetery, cemetery authority or the board of county*  
37 *commissioners of the county in which the cemetery is located, as*  
38 *appropriate, to repair or restore* the property which was destroyed or  
39 or injured.

40       3. *This section does not relieve any person from civil liability*  
41 *for engaging in an unlawful act pursuant to this section.*

42       **Sec. 7.** NRS 206.125 is hereby amended to read as follows:

43       206.125 1. Unless a greater penalty is provided by law, a  
44 person who knowingly vandalizes, places graffiti on, defaces or  
45 otherwise damages:



- 1     ~~[1.]~~ (a) Any church, synagogue or other building, structure or  
2 place used for religious worship or other religious purpose;  
3     ~~[2.]~~ (b) Any cemetery, mortuary or other facility used for the  
4 purpose of burial or memorializing the dead;  
5     ~~[3.]~~ (c) Any school, educational facility or community center;  
6     ~~[4.]~~ (d) The grounds adjacent to, and owned or rented by, any  
7 institution, facility, building, structure or place described in  
8 ~~[subsection 1, 2 or 3; or~~  
9 ~~—5.] paragraph (a), (b) or (c);~~  
10    (e) Any personal property contained in any institution, facility,  
11 building, structure or place described in ~~[subsection 1, 2 or 3,]~~  
12 *paragraph (a), (b) or (c),*  
13    ↳ is guilty of a gross misdemeanor. *In addition to any other*  
14 *penalty, the court shall order the person to pay restitution for the*  
15 *damage.*  
16    2. *A person who is paid money for restitution pursuant to*  
17 *subsection 1 shall use the money to repair or restore the property*  
18 *that was damaged.*

