

SENATE BILL NO. 205—SENATOR MATHEWS

MARCH 21, 2005

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.

AN ACT relating to crimes; 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; or*

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, including payment of any costs to reinter or redeposit*  
31 *the contents of any grave, tomb or crypt that were removed or*  
32 *disturbed by the person.*

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

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



1     **Sec. 7.** NRS 206.125 is hereby amended to read as follows:  
2     206.125 **1.** Unless a greater penalty is provided by law, a  
3 person who knowingly vandalizes, places graffiti on, defaces or  
4 otherwise damages:  
5     ~~1-1~~ **(a)** Any church, synagogue or other building, structure or  
6 place used for religious worship or other religious purpose;  
7     ~~2-1~~ **(b)** Any cemetery, mortuary or other facility used for the  
8 purpose of burial or memorializing the dead;  
9     ~~3-1~~ **(c)** Any school, educational facility or community center;  
10    ~~4-1~~ **(d)** The grounds adjacent to, and owned or rented by, any  
11 institution, facility, building, structure or place described in  
12 ~~subsection 1, 2 or 3; or~~  
13 ~~5-1~~ **paragraph (a), (b) or (c); or**  
14    **(e)** Any personal property contained in any institution, facility,  
15 building, structure or place described in ~~subsection 1, 2 or 3,~~  
16 **paragraph (a), (b) or (c),**  
17    ↳ is guilty of a gross misdemeanor. *In addition to any other*  
18 *penalty, the court shall order the person to pay restitution for the*  
19 *damage.*  
20    **2.** *A person who is paid money for restitution pursuant to*  
21 *subsection 1 shall use the money to repair or restore the property*  
22 *that was damaged.*

