

ASSEMBLY BILL NO. 387—ASSEMBLYMEN CEGAVSKE, FREEMAN, GIBBONS,
ANGLE, BERMAN, BROWER, BROWN, CHOWNING, CLABORN,
COLLINS, GOLDWATER, GUSTAVSON, HETTRICK, KOIVISTO,
LESLIE, MCCLAIN, TIFFANY AND WILLIAMS

MARCH 15, 2001

JOINT SPONSORS: SENATORS NEAL, AMODEI, JACOBSEN,
MATHEWS AND SHAFFER

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning certain immediate precursors to controlled
substances. (BDR 40-101)

FISCAL NOTE: Effect on Local Government: No.
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 controlled substances; prohibiting a person, other than a registered
pharmacist or a person working in a pharmacy and acting under the direct and
immediate supervision of a registered pharmacist, from selling certain immediate
precursors to controlled substances at retail; prohibiting the possession of certain
amounts of certain immediate precursors to controlled substances; 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 453 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 and 3 of this act.
3 **Sec. 2. 1. *A person, other than a registered pharmacist or a person***
4 ***who is working in a pharmacy and acting under the direct and immediate***
5 ***supervision of a registered pharmacist, shall not sell at retail an***
6 ***immediate precursor that is easily converted from a lawful to an***
7 ***unlawful use and that is not restricted to sale by prescription.***
8 **2. *A person who violates the provisions of subsection 1 is guilty of a***
9 ***category D felony and shall be punished as provided in NRS 193.130.***
10 **3. *The board shall adopt regulations establishing guidelines***
11 ***concerning the sale of immediate precursors pursuant to this section.***
12 ***Regulations adopted pursuant to this section must include, without***



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1 *limitation, the manner in which such immediate precursors must be*
2 *stored in a pharmacy and the circumstances under which such*
3 *immediate precursors may be sold.*

4 *4. As used in this section, "registered pharmacist" has the meaning*
5 *ascribed to it in NRS 639.015.*

6 **Sec. 3.** *1. Except as otherwise authorized pursuant to NRS 453.011*
7 *to 453.552, inclusive, it is unlawful for a person to possess 10 grams or*
8 *more of an immediate precursor that is easily converted from a lawful to*
9 *an unlawful use.*

10 *2. Unless a greater penalty is provided in NRS 453.322, a person who*
11 *violates the provisions of subsection 1, if the quantity involved:*

12 *(a) Is at least 10 grams, but less than 455 grams, is guilty of a*
13 *category D felony and shall be punished as provided in NRS 193.130,*
14 *and may be further punished by a fine of not more than \$10,000.*

15 *(b) Is 455 grams or more, is guilty of a category B felony and shall be*
16 *punished by imprisonment in the state prison for a minimum term of not*
17 *less than 3 years and a maximum term of not more than 15 years, and*
18 *may be further punished by a fine of not more than \$15,000.*

19 **Sec. 4.** NRS 453.146 is hereby amended to read as follows:

20 453.146 1. The board shall administer the provisions of NRS
21 453.011 to 453.552, inclusive, *and sections 2 and 3 of this act*, and may
22 add substances to or delete or reschedule all substances enumerated in
23 schedules I, II, III, IV and V by regulation.

24 2. In making a determination regarding a substance, the board shall
25 consider the following:

- 26 (a) The actual or relative potential for abuse;
- 27 (b) The scientific evidence of its pharmacological effect, if known;
- 28 (c) The state of current scientific knowledge regarding the substance;
- 29 (d) The history and current pattern of abuse;
- 30 (e) The scope, duration and significance of abuse;
- 31 (f) The risk to the public health;
- 32 (g) The potential of the substance to produce psychic or physiological
33 dependence liability; and
- 34 (h) Whether the substance is an immediate precursor of a controlled
35 substance.

36 3. The board may consider findings of the federal Food and Drug
37 Administration or the Drug Enforcement Administration as prima facie
38 evidence relating to one or more of the determinative factors.

39 4. After considering the factors enumerated in subsection 2 the board
40 shall make findings with respect thereto and adopt a regulation controlling
41 the substance if it finds the substance has a potential for abuse.

42 5. The board shall designate as a controlled substance a steroid or
43 other product which is used to enhance athletic performance, muscle mass,
44 strength or weight without medical necessity. The board may not designate
45 as a controlled substance an anabolic steroid which is:

- 46 (a) Expressly intended to be administered through an implant to cattle,
47 poultry or other animals; and
- 48 (b) Approved by the Food and Drug Administration for such use.



1 **Sec. 5.** NRS 453.301 is hereby amended to read as follows:
2 453.301 The following are subject to forfeiture pursuant to NRS
3 179.1156 to 179.119, inclusive:

4 1. All controlled substances which have been manufactured,
5 distributed, dispensed or acquired in violation of the provisions of NRS
6 453.011 to 453.552, inclusive, or a law of any other jurisdiction which
7 prohibits the same or similar conduct.

8 2. All raw materials, products and equipment of any kind which are
9 used, or intended for use, in manufacturing, compounding, processing,
10 delivering, importing or exporting any controlled substance in violation of
11 the provisions of NRS 453.011 to 453.552, inclusive, or a law of any other
12 jurisdiction which prohibits the same or similar conduct.

13 3. All property which is used, or intended for use, as a container for
14 property described in subsections 1 and 2.

15 4. All books, records and research products and materials, including
16 formulas, microfilm, tapes and data, which are used, or intended for use, in
17 violation of the provisions of NRS 453.011 to 453.552, inclusive, *and*
18 *sections 2 and 3 of this act*, or a law of any other jurisdiction which
19 prohibits the same or similar conduct.

20 5. All conveyances, including aircraft, vehicles or vessels, which are
21 used, or intended for use, to transport, or in any manner to facilitate the
22 transportation, concealment, manufacture or protection, for the purpose of
23 sale, possession for sale or receipt of property described in subsection 1
24 or 2.

25 6. All drug paraphernalia as defined by NRS 453.554 which are used
26 in violation of NRS 453.560, 453.562 or 453.566 or a law of any other
27 jurisdiction which prohibits the same or similar conduct, or of an injunction
28 issued pursuant to NRS 453.558.

29 7. All imitation controlled substances which have been manufactured,
30 distributed or dispensed in violation of the provisions of NRS 453.332 or a
31 law of any other jurisdiction which prohibits the same or similar conduct.

32 8. All real property and mobile homes used or intended to be used by
33 any owner or tenant of the property or mobile home to facilitate a violation
34 of the provisions of NRS 453.011 to 453.552, inclusive, *and sections 2*
35 *and 3 of this act*, except NRS 453.336, or used or intended to be used to
36 facilitate a violation of a law of any other jurisdiction which prohibits the
37 same or similar conduct as prohibited in NRS 453.011 to 453.552,
38 inclusive, *and sections 2 and 3 of this act*, except NRS 453.336. As used
39 in this subsection, "tenant" means any person entitled, under a written or
40 oral rental agreement, to occupy real property or a mobile home to the
41 exclusion of others.

42 9. Everything of value furnished or intended to be furnished in
43 exchange for a controlled substance in violation of the provisions of NRS
44 453.011 to 453.552, inclusive, or a law of any other jurisdiction which
45 prohibits the same or similar conduct, all proceeds traceable to such an
46 exchange, and all other property used or intended to be used to facilitate a
47 violation of the provisions of NRS 453.011 to 453.552, inclusive, *and*
48 *sections 2 and 3 of this act*, except NRS 453.336, or used or intended to be
49 used to facilitate a violation of a law of any other jurisdiction which



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1 prohibits the same or similar conduct as prohibited in NRS 453.011 to
2 453.552, inclusive, *and sections 2 and 3 of this act*, except NRS 453.336.
3 If an amount of cash which exceeds \$300 is found in the possession of a
4 person who is arrested for a violation of NRS 453.337 or 453.338, then
5 there is a rebuttable presumption that the cash is traceable to an exchange
6 for a controlled substance and is subject to forfeiture pursuant to this
7 subsection.

8 10. All firearms, as defined by NRS 202.253, which are in the actual
9 or constructive possession of a person who possesses or is consuming,
10 manufacturing, transporting, selling or under the influence of any
11 controlled substance in violation of the provisions of NRS 453.011 to
12 453.552, inclusive, or a law of any other jurisdiction which prohibits the
13 same or similar conduct.

14 **Sec. 6.** NRS 453.305 is hereby amended to read as follows:

15 453.305 1. Whenever a person is arrested for violating any of the
16 provisions of NRS 453.011 to 453.552, inclusive, *and sections 2 and 3 of*
17 *this act*, except NRS 453.336, and real property or a mobile home occupied
18 by him as a tenant has been used to facilitate the violation, the prosecuting
19 attorney responsible for the case shall cause to be delivered to the owner of
20 the property or mobile home a written notice of the arrest.

21 2. Whenever a person is convicted of violating any of the provisions of
22 NRS 453.011 to 453.552, inclusive, *and sections 2 and 3 of this act*,
23 except NRS 453.336, and real property or a mobile home occupied by him
24 as a tenant has been used to facilitate the violation, the prosecuting attorney
25 responsible for the case shall cause to be delivered to the owner of the
26 property or mobile home a written notice of the conviction.

27 3. The notices required by this section must:

- 28 (a) Be written in language which is easily understood;
29 (b) Be sent by certified or registered mail, return receipt requested, to
30 the owner at his last known address;
31 (c) Be sent within 15 days after the arrest occurs or judgment of
32 conviction is entered against the tenant, as the case may be;
33 (d) Identify the tenant involved and the offense for which he has been
34 arrested or convicted; and
35 (e) Advise the owner that:

36 (1) The property or mobile home is subject to forfeiture pursuant to
37 NRS 453.301 and 179.1156 to 179.119, inclusive, unless the tenant, if
38 convicted, is evicted;

39 (2) Any similar violation by the same tenant in the future may also
40 result in the forfeiture of the property unless the tenant has been evicted;

41 (3) In any proceeding for forfeiture based upon such a violation he
42 will, by reason of the notice, be deemed to have known of and consented to
43 the unlawful use of the property or mobile home; and

44 (4) The provisions of NRS 40.2514 and 40.254 authorize the
45 supplemental remedy of summary eviction to facilitate his recovery of the
46 property or mobile home upon such a violation and provide for the
47 recovery of any reasonable attorney's fees he incurs in doing so.

48 4. Nothing in this section shall be deemed to preclude the
49 commencement of a proceeding for forfeiture or the forfeiture of the



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1 property or mobile home, whether or not the notices required by this
2 section are given as required, if the proceeding and forfeiture are otherwise
3 authorized pursuant to NRS 453.301 and 179.1156 to 179.119, inclusive.

4 5. As used in this section, "tenant" means any person entitled under a
5 written or oral rental agreement to occupy real property or a mobile home
6 to the exclusion of others.

7 **Sec. 7.** NRS 453.552 is hereby amended to read as follows:

8 453.552 1. Any penalty imposed for violation of NRS 453.011 to
9 453.551, inclusive, *and sections 2 and 3 of this act*, is in addition to, and
10 not in lieu of, any civil or administrative penalty or sanction otherwise
11 authorized by law.

12 2. Any violation of the provisions of NRS 453.011 to 453.551,
13 inclusive, *and sections 2 and 3 of this act*, where no other penalty is
14 specifically provided, is a misdemeanor.

15 **Sec. 8.** NRS 207.360 is hereby amended to read as follows:

16 207.360 "Crime related to racketeering" means the commission of,
17 attempt to commit or conspiracy to commit any of the following crimes:

- 18 1. Murder;
- 19 2. Manslaughter;
- 20 3. Mayhem;
- 21 4. Battery which is punished as a felony;
- 22 5. Kidnapping;
- 23 6. Sexual assault;
- 24 7. Arson;
- 25 8. Robbery;
- 26 9. Taking property from another under circumstances not amounting to
27 robbery;
- 28 10. Extortion;
- 29 11. Statutory sexual seduction;
- 30 12. Extortionate collection of debt in violation of NRS 205.322;
- 31 13. Forgery;
- 32 14. Any violation of NRS 199.280 which is punished as a felony;
- 33 15. Burglary;
- 34 16. Grand larceny;
- 35 17. Bribery or asking for or receiving a bribe in violation of chapter
36 197 or 199 of NRS which is punished as a felony;
- 37 18. Battery with intent to commit a crime in violation of NRS 200.400;
- 38 19. Assault with a deadly weapon;
- 39 20. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, *or*
40 *section 3 of this act* or *NRS* 453.375 to 453.401, inclusive;
- 41 21. Receiving or transferring a stolen vehicle;
- 42 22. Any violation of NRS 202.260, 202.275 or 202.350 which is
43 punished as a felony;
- 44 23. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465
45 of NRS;
- 46 24. Receiving, possessing or withholding stolen goods valued at \$250
47 or more;
- 48 25. Embezzlement of money or property valued at \$250 or more;



1 26. Obtaining possession of money or property valued at \$250 or
2 more, or obtaining a signature by means of false pretenses;
3 27. Perjury or subornation of perjury;
4 28. Offering false evidence;
5 29. Any violation of NRS 201.300 or 201.360;
6 30. Any violation of NRS 90.570, 91.230, 686A.290 or 686A.291; or
7 31. Any violation of NRS 205.506, 205.920 or 205.930.
8 **Sec. 9.** NRS 639.270 is hereby amended to read as follows:
9 639.270 Any drug, medicine, remedy, poison or chemical, the sale of
10 which is not otherwise restricted as provided by this chapter ~~H~~ *or section 2*
11 *of this act*, and any patent or proprietary medicine, may be sold by grocers
12 and dealers generally without restriction when prepared and sold in original
13 and unbroken packages and, if poisonous, labeled with the official poison
14 labels and sold in accordance with the requirements of the Federal Food,
15 Drug and Cosmetic Act ~~H~~, *21 U.S.C. §§ 301 et seq.*
16 **Sec. 10.** NRS 639.285 is hereby amended to read as follows:
17 639.285 ~~Any~~ *Except as otherwise provided in section 2 of this act, a*
18 person not licensed by the board, who sells, displays or offers for sale any
19 drug, device or poison, the sale of which is restricted to prescription only
20 or by a registered pharmacist or under his direct and immediate
21 supervision, is guilty of a misdemeanor.
22 **Sec. 11.** The amendatory provisions of this act do not apply to
23 offenses committed before October 1, 2001.

