

SENATE BILL NO. 242—COMMITTEE ON JUDICIARY

(ON BEHALF OF DISTRICT ATTORNEYS ASSOCIATION)

FEBRUARY 26, 2001

Referred to Committee on Judiciary

SUMMARY—Prohibits growing, cultivating or propagating of marijuana. (BDR 40-469)

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 the growth, cultivation or propagation of marijuana; 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 a
2 new section to read as follows:
3 ***1. Except as authorized by the provisions of NRS 453.011 to 453.552,***
4 ***inclusive, it is unlawful to:***
5 ***(a) Grow, cultivate or propagate marijuana; or***
6 ***(b) Offer or attempt to grow, cultivate or propagate marijuana.***
7 ***2. Unless a greater penalty is provided in NRS 453.339:***
8 ***(a) Except as otherwise provided in paragraphs (b) and (c), a person***
9 ***who violates subsection 1 is guilty of a category B felony and shall be***
10 ***punished by imprisonment in the state prison for a minimum term of not***
11 ***less than 1 year and a maximum term of not more than 6 years, and may***
12 ***be further punished by a fine of not more than \$20,000.***
13 ***(b) Except as otherwise provided in paragraph (c), a person who***
14 ***violates subsection 1 who has previously been convicted of an offense***
15 ***pursuant to this section or of an offense under the laws of the United***
16 ***States or any state, territory or district that, if committed in this state,***
17 ***would amount to an offense under this section, is guilty of a category B***
18 ***felony and shall be punished by imprisonment in the state prison for a***
19 ***minimum term of not less than 2 years and a maximum term of not more***
20 ***than 10 years, and may be further punished by a fine of not more than***
21 ***\$20,000.***



1 (c) A person who violates subsection 1 who has previously been
2 convicted two or more times of an offense pursuant to this section or of
3 an offense under the laws of the United States or any state, territory or
4 district that, if committed in this state, would amount to an offense under
5 this section, is guilty of a category B felony and shall be punished by
6 imprisonment in the state prison for a minimum term of not less than 3
7 years and a maximum term of not more than 15 years, and may be
8 further punished by a fine of not more than \$20,000.

9 3. The court shall not grant probation to or suspend the sentence of a
10 person convicted of an offense that is punishable pursuant to paragraph
11 (b) or (c) of subsection 2.

12 Sec. 2. NRS 453.3345 is hereby amended to read as follows:

13 453.3345 1. Unless a greater penalty is provided in NRS 453.333 or
14 453.334, and except as otherwise provided in NRS 193.169, any person
15 who violates NRS 453.321, 453.322 or 453.323 ~~+~~ or section 1 of this act:

16 (a) On the grounds of a public or private school, a playground, public
17 park, public swimming pool, recreational center for youths or a video
18 arcade;

19 (b) On a campus of the University and Community College System of
20 Nevada;

21 (c) Within 1,000 feet of the perimeter of such a school ground or
22 campus, playground, park, pool, recreational center or arcade; or

23 (d) Within 1,000 feet of a school bus stop from 1 hour before school
24 begins until 1 hour after school ends during scheduled school
25 days,

26 must be punished by imprisonment in the state prison for a term equal to
27 and in addition to the term of imprisonment prescribed by statute for the
28 crime. The sentence prescribed by this section runs consecutively with the
29 sentence prescribed by statute for the crime.

30 2. This section does not create a separate offense but provides an
31 additional penalty for the primary offense, whose imposition is contingent
32 upon the finding of the prescribed fact.

33 3. For the purposes of this section:

34 (a) "Playground" means any outdoor facility, intended for recreation,
35 open to the public and in any portion thereof containing one or more
36 apparatus intended for the recreation of children, such as a sliding board,
37 teeterboard, sandbox or swingset.

38 (b) "Recreational center for youths" means a recreational facility or
39 gymnasium which regularly provides athletic, civic or cultural activities for
40 persons under 18 years of age.

41 (c) "School bus" has the meaning ascribed to it in NRS 483.160.

42 (d) "Video arcade" means a facility legally accessible to persons under
43 18 years of age, intended primarily for the use of pinball and video
44 machines for amusement and which contains a minimum of 10 such
45 machines.

46 Sec. 3. NRS 453.339 is hereby amended to read as follows:

47 453.339 1. Except as otherwise provided in NRS 453.011 to
48 453.552, inclusive, *and unless a greater penalty is provided in section 1 of*
49 *this act*, a person who knowingly or intentionally sells, manufactures,



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1 delivers or brings into this state or who is knowingly or intentionally in
2 actual or constructive possession of marijuana shall be punished, if the
3 quantity involved:

4 (a) Is 100 pounds or more, but less than 2,000 pounds, for a category C
5 felony as provided in NRS 193.130 and by a fine of not more than \$25,000.

6 (b) Is 2,000 pounds or more, but less than 10,000 pounds, for a category
7 B felony by imprisonment in the state prison for a minimum term of not
8 less than 2 years and a maximum term of not more than 10 years and by a
9 fine of not more than \$50,000.

10 (c) Is 10,000 pounds or more, for a category A felony by imprisonment
11 in the state prison:

12 (1) For life with the possibility of parole, with eligibility for parole
13 beginning when a minimum of 5 years has been served; or

14 (2) For a definite term of 15 years, with eligibility for parole
15 beginning when a minimum of 5 years has been served,
16 and by a fine of not more than \$200,000.

17 2. For the purposes of this section:

18 (a) "Marijuana" means all parts of any plant of the genus Cannabis,
19 whether growing or not.

20 (b) The weight of marijuana is its weight when seized or as soon as
21 practicable thereafter.

22 **Sec. 4.** NRS 453.348 is hereby amended to read as follows:

23 453.348 In any proceeding brought under NRS 453.316, 453.321,
24 453.322, 453.333, 453.334, 453.337, 453.338 or 453.401, *or section 1 of*
25 *this act*, any previous convictions of the offender for a felony relating to
26 controlled substances must be alleged in the indictment or information
27 charging the primary offense, but the conviction may not be alluded to on
28 the trial of the primary offense nor may any evidence of the previous
29 offense be produced in the presence of the jury except as otherwise
30 prescribed by law. If the offender pleads guilty or guilty but mentally ill to
31 or is convicted of the primary offense but denies any previous conviction
32 charged, the court shall determine the issue after hearing all relevant
33 evidence. A certified copy of a conviction of a felony is prima facie
34 evidence of the conviction.

35 **Sec. 5.** NRS 453.553 is hereby amended to read as follows:

36 453.553 1. In addition to any criminal penalty imposed for a
37 violation of the provisions of NRS 453.011 to 453.552, inclusive, *and*
38 *section 1 of this act*, any person who unlawfully sells, manufactures,
39 delivers or brings into this state, possesses for sale or participates in any
40 way in a sale of a controlled substance listed in schedule I, II or III is
41 subject to a civil penalty for each violation. This penalty must be recovered
42 in a civil action, brought in the name of the State of Nevada by the attorney
43 general or by any district attorney in a court of competent jurisdiction.

44 2. As used in this section and NRS 453.5531, 453.5532 and 453.5533:

45 (a) "Each violation" includes a continuous or repetitive violation arising
46 out of the same act.

47 (b) "Sell" includes exchange, barter, solicitation or receipt of an order,
48 transfer to another for sale or resale and any other transfer for any
49 consideration or a promise obtained directly or indirectly.



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1 (c) "Substitute" means a substance which:

2 (1) Was manufactured by a person who at the time was not currently
3 registered with the Secretary of Health and Human Services; and

4 (2) Is an imitation of or intended for use as a substitute for a
5 substance listed in schedule I, II or III.

6 **Sec. 6.** NRS 207.360 is hereby amended to read as follows:

7 207.360 "Crime related to racketeering" means the commission of,
8 attempt to commit or conspiracy to commit any of the following crimes:

- 9 1. Murder;
- 10 2. Manslaughter;
- 11 3. Mayhem;
- 12 4. Battery which is punished as a felony;
- 13 5. Kidnapping;
- 14 6. Sexual assault;
- 15 7. Arson;
- 16 8. Robbery;
- 17 9. Taking property from another under circumstances not amounting to
18 robbery;
- 19 10. Extortion;
- 20 11. Statutory sexual seduction;
- 21 12. Extortionate collection of debt in violation of NRS 205.322;
- 22 13. Forgery;
- 23 14. Any violation of NRS 199.280 which is punished as a felony;
- 24 15. Burglary;
- 25 16. Grand larceny;
- 26 17. Bribery or asking for or receiving a bribe in violation of chapter
27 197 or 199 of NRS which is punished as a felony;
- 28 18. Battery with intent to commit a crime in violation of NRS 200.400;
- 29 19. Assault with a deadly weapon;
- 30 20. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, or
31 453.375 to 453.401, inclusive ~~H~~, *or section 1 of this act*;
- 32 21. Receiving or transferring a stolen vehicle;
- 33 22. Any violation of NRS 202.260, 202.275 or 202.350 which is
34 punished as a felony;
- 35 23. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465
36 of NRS;
- 37 24. Receiving, possessing or withholding stolen goods valued at \$250
38 or more;
- 39 25. Embezzlement of money or property valued at \$250 or more;
- 40 26. Obtaining possession of money or property valued at \$250 or
41 more, or obtaining a signature by means of false pretenses;
- 42 27. Perjury or subornation of perjury;
- 43 28. Offering false evidence;
- 44 29. Any violation of NRS 201.300 or 201.360;
- 45 30. Any violation of NRS 90.570, 91.230, 686A.290 or 686A.291; or
- 46 31. Any violation of NRS 205.506, 205.920 or 205.930.

47 **Sec. 7.** 1. Except as otherwise provided in subsection 2, the
48 amendatory provisions of this act do not apply to offenses committed
49 before October 1, 2001.



1 2. The amendatory provisions of this act apply to offenses committed
2 before October 1, 2001, for the purposes of determining whether an offense
3 is punishable pursuant to paragraph (b) or (c) of subsection 2 of section 1
4 of this act.

