

SENATE BILL NO. 397—SENATORS WIENER, MATHEWS, NEAL, RAWSON,
CARE, MCGINNESS, PORTER AND SHAFFER

MARCH 19, 2001

Referred to Committee on Human Resources and Facilities

SUMMARY—Prohibits certain acts related to drugs and Internet pharmacies. (BDR 40-102)

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 drugs; prohibiting certain acts related to drugs and Internet pharmacies; prohibiting practitioners and other persons from prescribing prescription drugs under certain circumstances; providing the attorney general with jurisdiction to prosecute certain acts related to drugs and Internet pharmacies; revising various provisions related to controlled substances and other substances and drugs; requiring the state board of pharmacy to adopt certain regulations related to Internet pharmacies; 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 to 12, inclusive, of this act.
3 **Sec. 2.** *As used in sections 2 to 12, inclusive, of this act, unless the*
4 *context otherwise requires, the words and terms defined in sections 3 to*
5 *7, inclusive, of this act have the meanings ascribed to them in those*
6 *sections.*
7 **Sec. 3.** *“Dangerous drug” has the meaning ascribed to it in NRS*
8 *454.201.*
9 **Sec. 4.** *“Imitation controlled substance” has the meaning ascribed*
10 *to it in NRS 453.332.*
11 **Sec. 5.** 1. *“Internet” means:*
12 *(a) The computer network commonly known as the Internet and any*
13 *other computer network that is similar to or is a predecessor or successor*
14 *of the Internet; and*
15 *(b) Any identifiable site on the Internet or such other computer*
16 *network.*
17 2. *The term includes, without limitation:*
18 *(a) A website or other similar site on the World Wide Web;*



- 1 (b) A site that is identifiable through a Uniform Resource Location;
- 2 (c) A site on a computer network that is owned, operated,
- 3 administered or controlled by a provider of Internet service;
- 4 (d) An electronic bulletin board;
- 5 (e) A list server;
- 6 (f) A newsgroup; or
- 7 (g) A chat room.

8 **Sec. 6.** "Internet pharmacy" means a person who is located within
9 or outside this state and who knowingly:

10 1. Uses or attempts to use the Internet, in whole or in part, to
11 communicate with or obtain information from another person; and

12 2. Uses or attempts to use such communication or information, in
13 whole or in part, to:

14 (a) Fill or refill a prescription for a prescription drug for the other
15 person; or

16 (b) Deliver or cause, allow or aid in the delivery of a controlled
17 substance, imitation controlled substance, counterfeit substance or
18 prescription drug to the other person.

19 **Sec. 7.** "Prescription drug" means:

20 1. A controlled substance or dangerous drug that may be dispensed
21 to an ultimate user only pursuant to a lawful prescription; and

22 2. Any other substance or drug substituted for such a controlled
23 substance or dangerous drug.

24 **Sec. 8.** For the purposes of sections 2 to 12, inclusive, of this act, a
25 person has "reasonable cause to believe" if, in light of all the
26 surrounding facts and circumstances which are known or which
27 reasonably should be known to the person at the time, a reasonable
28 person would believe, under those facts and circumstances, that an act,
29 transaction, event, situation or condition exists, is occurring or has
30 occurred.

31 **Sec. 9.** The provisions of sections 2 to 12, inclusive, of this act do not
32 apply to a person who is:

33 1. A common or contract carrier or warehouseman, or an employee
34 thereof, unless the person is acting outside of the usual course of his
35 business or employment and knows or has reasonable cause to believe
36 that the act or transaction is unlawful.

37 2. The intended recipient of a substance or drug, unless the intended
38 recipient knows or has reasonable cause to believe that the act or
39 transaction is unlawful.

40 **Sec. 10.** 1. Except as otherwise provided in this subsection, a
41 person who owns, operates, controls, profits from or is employed or paid
42 by an Internet pharmacy and who knows or has reasonable cause to
43 believe that another person is located within this state shall not deliver or
44 cause, allow or aid in the delivery of a controlled substance classified in
45 schedule I, an imitation controlled substance or a counterfeit substance
46 to the other person. The provisions of this subsection do not apply to an
47 imitation controlled substance delivered to a practitioner for use as a
48 placebo in the usual course of his professional practice or research.



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- 1 2. A person who owns, operates, controls, profits from or is employed
2 or paid by an Internet pharmacy and who knows or has reasonable cause
3 to believe that another person is located within this state shall not:
4 (a) Fill or refill a prescription for a prescription drug for the other
5 person; or
6 (b) Deliver or cause, allow or aid in the delivery of a prescription drug
7 to the other person,
8 unless the Internet pharmacy is registered with the board pursuant to this
9 chapter and holds a valid license issued by the board pursuant to chapter
10 639 of NRS that authorizes the Internet pharmacy to engage in such an
11 act or transaction.
- 12 3. A person shall not knowingly aid another person in any act or
13 transaction that violates the provisions of this section.
- 14 4. Except as otherwise provided in subsection 5, a person who
15 violates the provisions of this section is guilty of a category C felony and
16 shall be punished as provided in NRS 193.130.
- 17 5. A person who violates the provisions of this section is guilty of a
18 category B felony and shall be punished by imprisonment in the state
19 prison for a minimum term of not less than 3 years and a maximum term
20 of not more than 15 years, and may be further punished by a fine of not
21 more than \$100,000, if the substance or drug delivered:
22 (a) Is classified in schedule I; or
23 (b) Proximately causes substantial bodily harm to or the death of the
24 intended recipient of the substance or drug or any other person.
- 25 6. The court shall not grant probation to or suspend the sentence of a
26 person punished pursuant to subsection 5.
- 27 7. A person may be prosecuted, convicted and punished for a
28 violation of this section whether or not the person is prosecuted,
29 convicted or punished for a violation of any other statute based upon the
30 same act or transaction.
- 31 **Sec. 11.** 1. A practitioner who is located within this state shall not
32 prescribe a prescription drug for another person located within or
33 outside this state if:
34 (a) The practitioner has not physically examined the other person
35 within the 6 months immediately preceding the date on which the
36 prescription is issued; and
37 (b) The practitioner knows or has reasonable cause to believe that an
38 Internet pharmacy will fill the prescription or otherwise use the
39 prescription to deliver or cause, allow or aid in the delivery of the
40 prescription drug to the other person.
- 41 2. A practitioner who is located outside this state and who knows or
42 has reasonable cause to believe that another person is located within this
43 state shall not prescribe a prescription drug for the other person if:
44 (a) The practitioner has not physically examined the other person
45 within the 6 months immediately preceding the date on which the
46 prescription is issued; and
47 (b) The practitioner knows or has reasonable cause to believe that an
48 Internet pharmacy will fill the prescription or otherwise use the



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1 *prescription to deliver or cause, allow or aid in the delivery of the*
2 *prescription drug to the other person.*

3 3. *A person who is located outside this state, who is licensed by*
4 *another jurisdiction to prescribe prescription drugs and who knows or*
5 *has reasonable cause to believe that another person is located within this*
6 *state shall not prescribe a prescription drug for the other person if:*

7 (a) *The person has not physically examined the other person within*
8 *the 6 months immediately preceding the date on which the prescription is*
9 *issued; and*

10 (b) *The person knows or has reasonable cause to believe that an*
11 *Internet pharmacy will fill the prescription or otherwise use the*
12 *prescription to deliver or cause, allow or aid in the delivery of the*
13 *prescription drug to the other person.*

14 4. *A person shall not knowingly aid another person in any act or*
15 *transaction that violates the provisions of this section.*

16 5. *Except as otherwise provided in subsection 6, a practitioner or any*
17 *other person who violates the provisions of this section is guilty of a*
18 *category C felony and shall be punished as provided in NRS 193.130.*

19 6. *A practitioner or any other person who violates the provisions of*
20 *this section is guilty of a category B felony and shall be punished by*
21 *imprisonment in the state prison for a minimum term of not less than 3*
22 *years and a maximum term of not more than 15 years, and may be*
23 *further punished by a fine of not more than \$100,000, if the substance or*
24 *drug delivered:*

25 (a) *Is classified in schedule I; or*

26 (b) *Proximately causes substantial bodily harm to or the death of the*
27 *intended recipient of the substance or drug or any other person.*

28 7. *The court shall not grant probation to or suspend the sentence of a*
29 *practitioner or any other person punished pursuant to subsection 6.*

30 8. *A practitioner or any other person may be prosecuted, convicted*
31 *and punished for a violation of this section whether or not the*
32 *practitioner or person is prosecuted, convicted or punished for violating*
33 *any other specific statute based upon the same act or transaction.*

34 **Sec. 12.** 1. *The attorney general has concurrent jurisdiction with*
35 *the district attorneys of this state for the enforcement of the provisions of*
36 *sections 2 to 12, inclusive, of this act.*

37 2. *The attorney general may investigate and prosecute a practitioner*
38 *or any other person who violates the provisions of:*

39 (a) *Sections 2 to 12, inclusive, of this act; and*

40 (b) *Any other statute if the violation is committed by the practitioner*
41 *or person in the course of committing a violation described in*
42 *paragraph (a).*

43 3. *When acting pursuant to this section, the attorney general may*
44 *commence his investigation and file a criminal action without leave of*
45 *court, and the attorney general has exclusive charge of the conduct of*
46 *the prosecution.*

47 **Sec. 13.** NRS 453.146 is hereby amended to read as follows:

48 453.146 1. The board shall administer the provisions of NRS
49 453.011 to 453.552, inclusive, *and sections 2 to 12, inclusive, of this act*



* S B 3 9 7 *

1 and may add substances to or delete or reschedule all substances
2 enumerated in schedules I, II, III, IV and V by regulation.

3 2. In making a determination regarding a substance, the board shall
4 consider the following:

- 5 (a) The actual or relative potential for abuse;
- 6 (b) The scientific evidence of its pharmacological effect, if known;
- 7 (c) The state of current scientific knowledge regarding the substance;
- 8 (d) The history and current pattern of abuse;
- 9 (e) The scope, duration and significance of abuse;
- 10 (f) The risk to the public health;
- 11 (g) The potential of the substance to produce psychic or physiological
12 dependence liability; and
- 13 (h) Whether the substance is an immediate precursor of a controlled
14 substance.

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

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

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

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

28 **Sec. 14.** NRS 453.211 is hereby amended to read as follows:

29 453.211 1. The board shall:

30 (a) Review the schedules annually and maintain a list of current
31 schedules.

32 (b) Upon the revision of a schedule, cause a copy of the revised
33 schedule to be sent to each district attorney, public defender and judge in
34 the State of Nevada.

35 (c) Make copies of the list of current schedules available to members of
36 the public upon request. The board may charge a reasonable fee for
37 providing the copies.

38 2. Failure to publish revised schedules is not a defense in any
39 administrative or judicial proceeding under NRS 453.011 to 453.552,
40 inclusive ~~H~~, *and sections 2 to 12, inclusive, of this act.*

41 **Sec. 15.** NRS 453.2182 is hereby amended to read as follows:

42 453.2182 If a substance is designated, rescheduled or deleted as a
43 controlled substance pursuant to federal law, the board shall similarly treat
44 the substance pursuant to the provisions of NRS 453.011 to 453.552,
45 inclusive, *and sections 2 to 12, inclusive, of this act* after the expiration of
46 60 days from publication in the Federal Register of a final order
47 designating a substance as a controlled substance or rescheduling or
48 deleting a substance or from the date of issuance of an order of temporary
49 scheduling under Section 508 of the federal Dangerous Drug Diversion



* S B 3 9 7 *

1 Control Act of 1984, ~~§~~ 21 U.S.C. § 811(h), ~~§~~ unless within the 60-day
2 period, the board or an interested party objects to the treatment of the
3 substance. If no objection is made, the board shall adopt, without making
4 the determinations or findings required by *subsections 1 to 4, inclusive, of*
5 *NRS 453.146 or* NRS 453.166, 453.176, 453.186, 453.196 ~~§ 453.206 or~~
6 ~~subsections 1 to 4, inclusive, of NRS 453.146, § or 453.206,~~ a final
7 regulation treating the substance. If an objection is made, the board shall
8 make a determination with respect to the treatment of the substance as
9 provided by subsections 1 to 4, inclusive, of NRS 453.146. Upon receipt of
10 an objection to the treatment by the board, the board shall publish notice of
11 the receipt of the objection, and action by the board is stayed until the
12 board adopts a regulation as provided by subsection 4 of NRS 453.146.

13 **Sec. 16.** NRS 453.219 is hereby amended to read as follows:

14 453.219 A controlled substance analog, to the extent intended for
15 human consumption, must be treated, for the purposes of NRS 453.011 to
16 453.552, inclusive, *and sections 2 to 12, inclusive, of this act* as a
17 substance included in schedule I. Within 30 days after the initiation of
18 prosecution with respect to a controlled substance analog by indictment or
19 information, the district attorney shall notify the board of information
20 relevant to scheduling by extraordinary regulation as provided for in NRS
21 453.2184. If the board finally determines, that the controlled substance
22 analog should not be scheduled, no prosecution relating to that substance as
23 a controlled substance analog may be commenced or continued.

24 **Sec. 17.** NRS 453.233 is hereby amended to read as follows:

25 453.233 Upon the conviction of any person required to be registered
26 under the provisions of NRS 453.011 to 453.552, inclusive, *and sections 2*
27 *to 12, inclusive, of this act* of violation of any federal or state law relating
28 to any controlled substance, the prosecuting attorney shall cause copies of
29 the judgment of conviction to be sent to the board and to any other
30 licensing agency by whom the convicted person has been licensed or
31 registered under the laws of the State of Nevada to engage in the practice
32 of his business or profession.

33 **Sec. 18.** NRS 453.246 is hereby amended to read as follows:

34 453.246 Persons registered to dispense controlled substances pursuant
35 to the provisions of NRS 453.011 to 453.552, inclusive, *and sections 2 to*
36 *12, inclusive, of this act* shall keep records and maintain inventories in
37 conformance with the recordkeeping and inventory requirements of state
38 and federal law and with any additional regulations the board issues.

39 **Sec. 19.** NRS 453.271 is hereby amended to read as follows:

40 453.271 Any officer or employee of the division designated by his
41 appointing authority may:

- 42 1. Carry firearms in the performance of his official duties;
- 43 2. Execute and serve search warrants, arrest warrants, administrative
44 inspection warrants, subpoenas and summonses issued under the authority
45 of this state;
- 46 3. Make arrests without warrant for any offense under the provisions
47 of NRS 453.011 to 453.552, inclusive, *and sections 2 to 12, inclusive, of*
48 *this act* committed in his presence, or if he has probable cause to believe



1 that the person to be arrested has committed or is committing a violation of
2 such sections which may constitute a felony;

3 4. Make seizures of property pursuant to the provisions of NRS
4 453.011 to 453.552, inclusive ~~H~~, *and sections 2 to 12, inclusive, of this*
5 *act*; or

6 5. Perform other law enforcement duties as the division designates.

7 **Sec. 20.** NRS 453.276 is hereby amended to read as follows:

8 453.276 The board *or the attorney general* may bring an action to
9 enjoin any act which would be in violation of the provisions of this chapter.
10 Such an action must be commenced in the district court for the county in
11 which the act is to occur and must be in conformity with Rule 65 of the
12 Nevada Rules of Civil Procedure, except that the board *or the attorney*
13 *general* is not required to allege facts necessary to show or tending to show
14 lack of adequate remedy at law or irreparable damage or loss. The action
15 must be brought in the name of the State of Nevada.

16 **Sec. 21.** NRS 453.281 is hereby amended to read as follows:

17 453.281 1. It is not necessary for the state to negate any exemption
18 or exception in the provisions of NRS 453.011 to 453.552, inclusive, *and*
19 *sections 2 to 12, inclusive, of this act* in any complaint, information,
20 indictment or other pleading or in any trial, hearing or other proceeding
21 under such sections. The burden of proof of any exemption or exception is
22 upon the person claiming it.

23 2. In the absence of proof that a person is *the* duly authorized holder of
24 an appropriate registration or order form issued under the provisions of
25 NRS 453.011 to 453.552, inclusive, ~~the~~ *and sections 2 to 12, inclusive, of*
26 *this act*:

27 (a) *The person* is presumed not to be the holder of the registration or
28 form ~~H~~; *and*

29 (b) The burden of proof is upon ~~him~~ *the person* to rebut the
30 presumption.

31 3. No liability is imposed by the provisions of NRS 453.011 to
32 453.552, inclusive, *and sections 2 to 12, inclusive, of this act* upon any
33 authorized state, county or municipal officer engaged in the lawful
34 performance of his duties.

35 **Sec. 22.** NRS 453.286 is hereby amended to read as follows:

36 453.286 All final determinations, findings and conclusions of the
37 board or division under the provisions of NRS 453.011 to 453.552,
38 inclusive, *and sections 2 to 12, inclusive, of this act* are final and
39 conclusive decisions of the matters involved. Any person aggrieved by the
40 decision is entitled to judicial review of the decision in the manner
41 provided by chapter 233B of NRS. Findings of fact by the board or
42 division, if supported by substantial evidence, are conclusive.

43 **Sec. 23.** NRS 453.301 is hereby amended to read as follows:

44 453.301 The following are subject to forfeiture pursuant to NRS
45 179.1156 to 179.119, inclusive:

46 1. All controlled substances which have been manufactured,
47 distributed, dispensed or acquired in violation of the provisions of NRS
48 453.011 to 453.552, inclusive, *and sections 2 to 12, inclusive, of this act*



* S B 3 9 7 *

1 or a law of any other jurisdiction which prohibits the same or similar
2 conduct.

3 2. All raw materials, products and equipment of any kind which are
4 used, or intended for use, in manufacturing, compounding, processing,
5 delivering, importing or exporting any controlled substance in violation of
6 the provisions of NRS 453.011 to 453.552, inclusive, *and sections 2 to 12,*
7 *inclusive, of this act* or a law of any other jurisdiction which prohibits the
8 same or similar conduct.

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

11 4. All books, records and research products and materials, including
12 formulas, microfilm, tapes and data, which are used, or intended for use, in
13 violation of the provisions of NRS 453.011 to 453.552, inclusive, *and*
14 *sections 2 to 12, inclusive, of this act* or a law of any other jurisdiction
15 which prohibits the same or similar conduct.

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

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

25 7. All imitation controlled substances which have been manufactured,
26 distributed or dispensed in violation of the provisions of NRS 453.332 *or*
27 *sections 2 to 12, inclusive, of this act* or a law of any other jurisdiction
28 which prohibits the same or similar conduct.

29 8. All real property and mobile homes used or intended to be used by
30 any owner or tenant of the property or mobile home to facilitate a violation
31 of the provisions of NRS 453.011 to 453.552, inclusive, *and sections 2 to*
32 *12, inclusive, of this act*, except NRS 453.336, or used or intended to be
33 used to facilitate a violation of a law of any other jurisdiction which
34 prohibits the same or similar conduct as prohibited in NRS 453.011 to
35 453.552, inclusive, *and sections 2 to 12, inclusive, of this act*, except NRS
36 453.336. As used in this subsection, “tenant” means any person entitled,
37 under a written or oral rental agreement, to occupy real property or a
38 mobile home to the exclusion of others.

39 9. Everything of value furnished or intended to be furnished in
40 exchange for a controlled substance in violation of the provisions of NRS
41 453.011 to 453.552, inclusive, *and sections 2 to 12, inclusive, of this act*
42 or a law of any other jurisdiction which prohibits the same or similar
43 conduct, all proceeds traceable to such an exchange, and all other property
44 used or intended to be used to facilitate a violation of the provisions of
45 NRS 453.011 to 453.552, inclusive, *and sections 2 to 12, inclusive, of this*
46 *act*, except NRS 453.336, or used or intended to be used to facilitate a
47 violation of a law of any other jurisdiction which prohibits the same or
48 similar conduct as prohibited in NRS 453.011 to 453.552, inclusive, *and*
49 *sections 2 to 12, inclusive, of this act*, except NRS 453.336. If an amount



1 of cash which exceeds \$300 is found in the possession of a person who is
2 arrested for a violation of NRS 453.337 or 453.338, then there is a
3 rebuttable presumption that the cash is traceable to an exchange for a
4 controlled substance and is subject to forfeiture pursuant to this subsection.

5 10. All firearms, as defined by NRS 202.253, which are in the actual
6 or constructive possession of a person who possesses or is consuming,
7 manufacturing, transporting, selling or under the influence of any
8 controlled substance in violation of the provisions of NRS 453.011 to
9 453.552, inclusive, *and sections 2 to 12, inclusive, of this act* or a law of
10 any other jurisdiction which prohibits the same or similar conduct.

11 *11. All computer hardware, equipment, accessories, software and*
12 *programs that are in the actual or constructive possession of a person*
13 *who owns, operates, controls, profits from or is employed or paid by an*
14 *Internet pharmacy and who violates the provisions of sections 2 to 12,*
15 *inclusive, of this act or a law of any other jurisdiction which prohibits the*
16 *same or similar conduct.*

17 **Sec. 24.** NRS 453.305 is hereby amended to read as follows:

18 453.305 1. Whenever a person is arrested for violating any of the
19 provisions of NRS 453.011 to 453.552, inclusive, *and sections 2 to 12,*
20 *inclusive, of this act*, except NRS 453.336, and real property or a mobile
21 home occupied by him as a tenant has been used to facilitate the violation,
22 the prosecuting attorney responsible for the case shall cause to be delivered
23 to the owner of the property or mobile home a written notice of the arrest.

24 2. Whenever a person is convicted of violating any of the provisions of
25 NRS 453.011 to 453.552, inclusive, *and sections 2 to 12, inclusive, of this*
26 *act*, except NRS 453.336, and real property or a mobile home occupied by
27 him as a tenant has been used to facilitate the violation, the prosecuting
28 attorney responsible for the case shall cause to be delivered to the owner of
29 the property or mobile home a written notice of the conviction.

30 3. The notices required by this section must:

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

39 (1) The property or mobile home is subject to forfeiture pursuant to
40 NRS ~~453.301 and~~ 179.1156 to 179.119, inclusive, *and 453.301* unless the
41 tenant, if convicted, is evicted;

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

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

47 (4) The provisions of NRS 40.2514 and 40.254 authorize the
48 supplemental remedy of summary eviction to facilitate his recovery of the



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1 property or mobile home upon such a violation and provide for the
2 recovery of any reasonable attorney's fees he incurs in doing so.

3 4. Nothing in this section shall be deemed to preclude the
4 commencement of a proceeding for forfeiture or the forfeiture of the
5 property or mobile home, whether or not the notices required by this
6 section are given as required, if the proceeding and forfeiture are otherwise
7 authorized pursuant to NRS ~~453.301 and~~ 179.1156 to 179.119, inclusive
8 ~~H~~, and 453.301.

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

12 **Sec. 25.** NRS 453.311 is hereby amended to read as follows:

13 453.311 1. Controlled substances listed in schedule I:

14 (a) That are possessed, transferred, sold or offered for sale in violation
15 of the provisions of NRS 453.011 to 453.552, inclusive, *and sections 2 to*
16 *12, inclusive, of this act* are contraband and shall be seized and summarily
17 forfeited to the state.

18 (b) Which are seized or come into the possession of the state, the
19 owners of which are unknown, are contraband and shall be summarily
20 forfeited to the state.

21 2. Species of plants from which controlled substances in schedules I
22 and II may be derived which have been planted or cultivated in violation of
23 the provisions of NRS 453.011 to 453.552, inclusive, *and sections 2 to 12,*
24 *inclusive, of this act* or of which the owners or cultivators are unknown, or
25 which are wild growths, may be seized and summarily forfeited to the
26 state.

27 3. The failure, upon demand by the division or other law enforcement
28 agency, or the authorized agent of either, of the person in occupancy or in
29 control of land or premises upon which the species of plants are growing or
30 being stored, to produce an appropriate registration, or proof that he is the
31 holder thereof, constitutes authority for the seizure and forfeiture of the
32 plants.

33 **Sec. 26.** NRS 453.326 is hereby amended to read as follows:

34 453.326 1. It is unlawful for a person:

35 (a) To refuse or fail to make, keep or furnish any record, notification,
36 order form, statement, invoice or information required under the provisions
37 of NRS 453.011 to 453.552, inclusive ~~H~~, *and sections 2 to 12, inclusive,*
38 *of this act;*

39 (b) To refuse an entry into any premises for any inspection authorized
40 by the provisions of NRS 453.011 to 453.552, inclusive ~~H~~, *and sections 2*
41 *to 12, inclusive, of this act;* or

42 (c) Knowingly to keep or maintain any store, shop, warehouse,
43 dwelling, building, vehicle, boat, aircraft or other structure or place which
44 is resorted to by persons using controlled substances in violation of the
45 provisions of NRS 453.011 to 453.552, inclusive, *and sections 2 to 12,*
46 *inclusive, of this act* for the purpose of using these substances, or which is
47 used for keeping or selling them in violation of those sections.

48 2. A person who violates this section is guilty of a category C felony
49 and shall be punished as provided in NRS 193.130.



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1 **Sec. 27.** NRS 453.3363 is hereby amended to read as follows:
2 453.3363 1. If a person who has not previously been convicted of
3 any offense pursuant to NRS 453.011 to 453.552, inclusive, *and sections 2*
4 *to 12, inclusive, of this act* or pursuant to any statute of the United States
5 or of any state relating to narcotic drugs, marijuana, or stimulant,
6 depressant or hallucinogenic substances tenders a plea of guilty, guilty but
7 mentally ill, nolo contendere or similar plea to a charge pursuant to NRS
8 453.336, 453.411 or 454.351, or is found guilty of one of those charges, the
9 court, without entering a judgment of conviction and with the consent of
10 the accused, may suspend further proceedings and place him on probation
11 upon terms and conditions that must include attendance and successful
12 completion of an educational program or, in the case of a person dependent
13 upon drugs, of a program of treatment and rehabilitation pursuant to NRS
14 453.580.

15 2. Upon violation of a term or condition, the court may enter a
16 judgment of conviction and proceed as provided in the section pursuant to
17 which the accused was charged. Notwithstanding the provisions of
18 paragraph (e) of subsection 2 of NRS 193.130, upon violation of a term or
19 condition, the court may order the person to the custody of the department
20 of prisons.

21 3. Upon fulfillment of the terms and conditions, the court shall
22 discharge the accused and dismiss the proceedings against him. A
23 nonpublic record of the dismissal must be transmitted to and retained by
24 the division of parole and probation of the department of motor vehicles
25 and public safety solely for the use of the courts in determining whether, in
26 later proceedings, the person qualifies under this section.

27 4. Except as otherwise provided in subsection 5, discharge and
28 dismissal under this section is without adjudication of guilt and is not a
29 conviction for purposes of this section or for purposes of employment, civil
30 rights or any statute or regulation or license or questionnaire or for any
31 other public or private purpose, but is a conviction for the purpose of
32 additional penalties imposed for second or subsequent convictions or the
33 setting of bail. Discharge and dismissal restores the person discharged, in
34 the contemplation of the law, to the status occupied before the arrest,
35 indictment or information. He may not be held thereafter under any law to
36 be guilty of perjury or otherwise giving a false statement by reason of
37 failure to recite or acknowledge that arrest, indictment, information or trial
38 in response to an inquiry made of him for any purpose. Discharge and
39 dismissal under this section may occur only once with respect to any
40 person.

41 5. A professional licensing board may consider a proceeding under this
42 section in determining suitability for a license or liability to discipline for
43 misconduct. Such a board is entitled for those purposes to a truthful answer
44 from the applicant or licensee concerning any such proceeding with respect
45 to him.

46 **Sec. 28.** NRS 453.346 is hereby amended to read as follows:
47 453.346 1. If a violation of NRS 453.011 to 453.552, inclusive, *and*
48 *sections 2 to 12, inclusive, of this act* is a violation of a federal law or the



1 law of another state, a conviction or acquittal under federal law or the law
2 of another state for the same act is a bar to prosecution in this state.

3 2. The provisions of subsection 1 ~~shall not apply to~~ **do not** prohibit
4 any licensing board within this state from proceeding administratively to
5 suspend or revoke any certificate, license or permit held by any person who
6 has been convicted of a violation of any federal or state controlled
7 substance law.

8 **Sec. 29.** NRS 453.381 is hereby amended to read as follows:

9 453.381 1. In addition to the limitations imposed by NRS 453.256 ~~and~~
10 **and sections 2 to 12, inclusive, of this act**, a physician, physician's
11 assistant, dentist or podiatric physician may prescribe or administer
12 controlled substances only for a legitimate medical purpose and in the
13 usual course of his professional practice, and he shall not prescribe,
14 administer or dispense a controlled substance listed in schedule II for
15 himself, his spouse or his children except in cases of emergency.

16 2. A veterinarian, in the course of his professional practice only, and
17 not for use by a human being, may prescribe, possess and administer
18 controlled substances, and he may cause them to be administered by a
19 veterinary technician under his direction and supervision.

20 3. A euthanasia technician, within the scope of his license, and not for
21 use by a human being, may possess and administer sodium pentobarbital.

22 4. A pharmacist shall not fill an order which purports to be a
23 prescription if he has reason to believe that it was not issued in the usual
24 course of the professional practice of a physician, physician's assistant,
25 dentist, podiatric physician or veterinarian.

26 5. Any person who has obtained from a physician, physician's
27 assistant, dentist, podiatric physician or veterinarian any controlled
28 substance for administration to a patient during the absence of the
29 physician, physician's assistant, dentist, podiatric physician or veterinarian
30 shall return to him any unused portion of the substance when it is no longer
31 required by the patient.

32 6. A manufacturer, wholesale supplier or other person legally able to
33 furnish or sell any controlled substance listed in schedule II shall not
34 provide samples of such a controlled substance to registrants.

35 7. A salesman of any manufacturer or wholesaler of pharmaceuticals
36 shall not possess, transport or furnish any controlled substance listed in
37 schedule II.

38 8. A person shall not dispense a controlled substance in violation of a
39 regulation adopted by the board.

40 **Sec. 30.** NRS 453.541 is hereby amended to read as follows:

41 453.541 The criminal sanction provided in NRS 453.011 to 453.552,
42 inclusive, **and sections 2 to 12, inclusive, of this act** does not apply to that
43 plant of the genus *Lophophora* commonly known as peyote when such
44 drug is used as the sacrament in religious rites of any bona fide religious
45 organization.

46 **Sec. 31.** NRS 453.551 is hereby amended to read as follows:

47 453.551 All agents or inspectors of the board or division, peace
48 officers, **and the attorney general**, district attorneys and their deputies
49 while investigating violations of the provisions of NRS 453.011 to



1 453.552, inclusive, *and sections 2 to 12, inclusive, of this act* in
2 performance of their official duties, and any person working under their
3 immediate direction, supervision or instruction are immune from
4 prosecution under the provisions of such sections for acts which would
5 otherwise be unlawful under such provisions but which are reasonably
6 necessary in the performance of their official duties.

7 **Sec. 32.** 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 to 12, inclusive, of this act* is in addition
10 to, and not in lieu of, any civil or administrative penalty or sanction
11 otherwise authorized by law.

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

15 **Sec. 33.** NRS 453.553 is hereby amended to read as follows:

16 453.553 1. In addition to any criminal penalty imposed for a
17 violation of the provisions of NRS 453.011 to 453.552, inclusive, *and*
18 *sections 2 to 12, inclusive, of this act*, any person who unlawfully sells,
19 manufactures, delivers or brings into this state, possesses for sale or
20 participates in any way in a sale of a controlled substance listed in schedule
21 I, II or III *or who engages in any act or transaction in violation of the*
22 *provisions of sections 2 to 12, inclusive, of this act* is subject to a civil
23 penalty for each violation. This penalty must be recovered in a civil action,
24 brought in the name of the State of Nevada by the attorney general or by
25 any district attorney in a court of competent jurisdiction.

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

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

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

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

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

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

37 **Sec. 34.** NRS 453.5531 is hereby amended to read as follows:

38 453.5531 1. The State of Nevada is entitled , in a civil action brought
39 pursuant to NRS 453.553 involving marijuana, to a civil penalty in an
40 amount:

41 (a) Not to exceed \$350,000, if the quantity involved is 100 pounds or
42 more, but less than 2,000 pounds.

43 (b) Not to exceed \$700,000, if the quantity involved is 2,000 pounds or
44 more, but less than 10,000 pounds.

45 (c) Not to exceed \$1,000,000, if the quantity involved is 10,000 pounds
46 or more.

47 2. The State of Nevada is entitled, in a civil action brought pursuant to
48 NRS 453.553 involving a controlled substance, except marijuana, which is
49 listed in schedule I or a substitute therefor, to a civil penalty in an amount:



* S B 3 9 7 *

1 (a) Not to exceed \$350,000, if the quantity involved is 4 grams or more,
2 but less than 14 grams.

3 (b) Not to exceed \$700,000, if the quantity involved is 14 grams or
4 more, but less than 28 grams.

5 (c) Not to exceed \$1,000,000, if the quantity involved is 28 grams or
6 more.

7 3. The State of Nevada is entitled, in a civil action brought pursuant to
8 NRS 453.553 involving a controlled substance which is listed in schedule
9 II or III or a substitute therefor, to a civil penalty in an amount:

10 (a) Not to exceed \$350,000, if the quantity involved is 28 grams or
11 more, but less than 200 grams.

12 (b) Not to exceed \$700,000, if the quantity involved is 200 grams or
13 more, but less than 400 grams.

14 (c) Not to exceed \$1,000,000, if the quantity involved is 400 grams or
15 more.

16 *4. Unless a greater civil penalty is authorized by another provision of*
17 *this section, the State of Nevada is entitled, in a civil action brought*
18 *pursuant to NRS 453.553 involving any act or transaction in violation of*
19 *the provisions of sections 2 to 12, inclusive, of this act, to a civil penalty*
20 *in an amount not to exceed \$350,000.*

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

22 453.553 1. A civil action brought pursuant to NRS 453.553 must be
23 brought within 3 years after the conduct in violation of the provisions of
24 NRS 453.011 to 453.552, inclusive, *and sections 2 to 12, inclusive, of this*
25 *act* occurs.

26 2. Such a civil action is not barred by a prior acquittal of the defendant
27 in a criminal action arising out of the same *act*, transaction or occurrence.
28 A final judgment or decree rendered in favor of the state in any criminal
29 proceeding arising out of the same *act*, transaction or occurrence estops the
30 defendant in a subsequent civil action from denying the essential
31 allegations of the criminal offense.

32 **Sec. 36.** NRS 453.570 is hereby amended to read as follows:

33 453.570 The amount of a controlled substance needed to sustain a
34 conviction of a person for an offense prohibited by the provisions of NRS
35 453.011 to 453.552, inclusive, *and sections 2 to 12, inclusive, of this act* is
36 that amount necessary for identification as a controlled substance by a
37 witness qualified to make such identification.

38 **Sec. 37.** NRS 453.575 is hereby amended to read as follows:

39 453.575 1. If a defendant pleads guilty or guilty but mentally ill to,
40 or is found guilty of, any violation of this chapter and an analysis of a
41 controlled substance *or other substance or drug* was performed in relation
42 to his case, the ~~justice or judge~~ court shall include in the sentence an
43 order that the defendant pay the sum of \$60 as a fee for the analysis of the
44 controlled substance ~~+~~ *or other substance or drug*.

45 2. Except as otherwise provided in this subsection, any money
46 collected for such an analysis must not be deducted from, and is in addition
47 to, any fine otherwise imposed by the ~~justice or judge~~ court and must be:

48 (a) Collected from the defendant before or at the same time that the fine
49 is collected.



1 (b) Stated separately in the judgment of the court or on the court's
2 docket.

3 3. The money collected pursuant to subsection 1 in any district,
4 municipal or justice's court must be paid by the clerk of the court to the
5 county or city treasurer, as appropriate, on or before the fifth day of each
6 month for the preceding month.

7 4. The board of county commissioners of each county shall by
8 ordinance create in the county treasury a fund to be designated as the fund
9 for forensic services. The governing body of each city shall create in the
10 city treasury a fund to be designated as the fund for forensic services. Upon
11 receipt, the county or city treasurer, as appropriate, shall deposit any fee for
12 the analyses of controlled substances *or other substances or drugs* in the
13 fund. The money from such deposits must be accounted for separately
14 within the fund.

15 5. Except as otherwise provided in subsection 6, each month the
16 treasurer shall, from the money credited to the fund pursuant to subsection
17 3, pay any amount owed for forensic services and deposit any remaining
18 money in the county or city general fund, as appropriate.

19 6. In counties which do not receive forensic services under a contract
20 with the state, the money deposited in the fund for forensic services
21 pursuant to subsection 4 must be expended, except as otherwise provided
22 in this subsection:

23 (a) To pay for the analyses of controlled substances *or other substances*
24 *or drugs* performed in connection with criminal investigations within the
25 county;

26 (b) To purchase and maintain equipment to conduct these analyses; and

27 (c) For the training and continuing education of the employees who
28 conduct these analyses.

29 Money from the fund must not be expended to cover the costs of analyses
30 conducted by, equipment used by or training for employees of an analytical
31 laboratory not registered with the Drug Enforcement Administration of the
32 United States Department of Justice.

33 **Sec. 38.** NRS 40.2514 is hereby amended to read as follows:

34 40.2514 A tenant of real property or a mobile home for a term less
35 than life is guilty of an unlawful detainer when he:

36 1. Assigns or sublets the leased premises contrary to the covenants of
37 the lease;

38 2. Commits or permits waste thereon;

39 3. Sets up or carries on therein or thereon any unlawful business;

40 4. Suffers, permits or maintains on or about the premises any nuisance;

41 or

42 5. Violates any of the provisions of NRS 453.011 to 453.552,
43 inclusive, *and sections 2 to 12, inclusive, of this act*, except NRS 453.336,
44 therein or thereon,

45 and remains in possession after service upon him of 3 days' notice to quit.

46 **Sec. 39.** NRS 40.254 is hereby amended to read as follows:

47 40.254 Except as otherwise provided by specific statute, in addition to
48 the remedy provided in NRS 40.251 and in NRS 40.290 to 40.420,
49 inclusive, when the tenant of a dwelling unit which is subject to the



* S B 3 9 7 *

1 provisions of chapter 118A of NRS, part of a low-rent housing program
2 operated by a public housing authority, a mobile home or a recreational
3 vehicle is guilty of an unlawful detainer, the landlord is entitled to the
4 summary procedures provided in NRS 40.253 except that:

5 1. Written notice to surrender the premises must:
6 (a) Be given to the tenant in accordance with the provisions of NRS
7 40.280;
8 (b) Advise the tenant of the court that has jurisdiction over the matter;
9 and
10 (c) Advise the tenant of his right to contest the notice by filing within 5
11 days an affidavit with the court that has jurisdiction over the matter that he
12 is not guilty of an unlawful detainer.

13 2. The affidavit of the landlord or his agent submitted to the justice's
14 court or the district court must contain:

15 (a) The date when the tenancy commenced, the term of the tenancy,
16 and, if any, a copy of the rental agreement.

17 (b) The date when the tenancy or rental agreement allegedly terminated.

18 (c) The date when the tenant became subject to the provisions of NRS
19 40.251 to 40.2516, inclusive, together with any supporting facts.

20 (d) The date when the written notice was given, a copy of the notice and
21 a statement that notice was served in accordance with NRS 40.280.

22 (e) A statement that the claim for relief was authorized by law.

23 3. If the tenant is found guilty of unlawful detainer as a result of his
24 violation of any of the provisions of NRS 453.011 to 453.552, inclusive,
25 *and sections 2 to 12, inclusive, of this act*, except NRS 453.336, the
26 landlord is entitled to be awarded any reasonable attorney's fees incurred
27 by the landlord or his agent as a result of a hearing, if any, held pursuant to
28 subsection 6 of NRS 40.253 wherein the tenant contested the eviction.

29 **Sec. 40.** NRS 179.1164 is hereby amended to read as follows:

30 179.1164 1. Except as otherwise provided in subsection 2, the
31 following property is subject to seizure and forfeiture in a proceeding for
32 forfeiture:

33 (a) Any proceeds attributable to the commission or attempted
34 commission of any felony.

35 (b) Any property or proceeds otherwise subject to forfeiture pursuant to
36 NRS 179.121, 200.760, 202.257, 453.301 or 501.3857.

37 2. Property may not, to the extent of the interest of any claimant, be
38 declared forfeited by reason of an act or omission shown to have been
39 committed or omitted without the knowledge, consent or willful blindness
40 of the claimant.

41 3. Unless the owner of real property or a mobile home:

42 (a) Has given the tenant notice to surrender the premises pursuant to
43 NRS 40.254 within 90 days after the owner receives notice of a conviction
44 pursuant to subsection 2 of NRS 453.305; or

45 (b) Shows the court that he had good cause not to evict the tenant
46 summarily pursuant to NRS 40.254,

47 the owner of real property or a mobile home used or intended for use by a
48 tenant to facilitate any violation of the provisions of NRS 453.011 to
49 453.552, inclusive, *and sections 2 to 12, inclusive, of this act*, except NRS



* S B 3 9 7 *

1 453.336, is disputably presumed to have known of and consented to that
2 use if the notices required by NRS 453.305 have been given in connection
3 with another such violation relating to the property or mobile home. The
4 holder of a lien or encumbrance on the property or mobile home is
5 disputably presumed to have acquired his interest in the property for fair
6 value and without knowledge or consent to such use, regardless of when
7 the act giving rise to the forfeiture occurred.

8 **Sec. 41.** Chapter 639 of NRS is hereby amended by adding thereto the
9 provisions set forth as sections 42 and 43 of this act.

10 **Sec. 42.** *“Internet pharmacy” has the meaning ascribed to it section*
11 *6 of this act.*

12 **Sec. 43.** *1. In addition to the requirements set forth in this chapter*
13 *and any other specific statute, an Internet pharmacy located:*

14 *(a) Within this state, shall not fill or refill a prescription or otherwise*
15 *engage in the practice of pharmacy for a person located within or outside*
16 *this state unless the Internet pharmacy is certified by the board.*

17 *(b) Outside this state, shall not fill or refill a prescription or otherwise*
18 *engage in the practice of pharmacy for a person located within this state*
19 *unless the Internet pharmacy is certified by the board.*

20 *2. The board shall adopt regulations prescribing standards for*
21 *certifying an Internet pharmacy. The standards adopted by the board*
22 *may be based upon standards adopted by the National Association of*
23 *Boards of Pharmacy or some other association or organization that*
24 *provides standards for certifying an Internet pharmacy.*

25 *3. The board shall post on a website or other Internet site that is*
26 *operated or administered by or on behalf of the board:*

27 *(a) A list of Internet pharmacies certified by the board; and*

28 *(b) Any other information relating to Internet pharmacies that the*
29 *board deems relevant.*

30 **Sec. 44.** NRS 639.001 is hereby amended to read as follows:

31 639.001 As used in this chapter, unless the context otherwise requires,
32 the words and terms defined in NRS 639.0015 to 639.016, inclusive, *and*
33 *section 42 of this act* have the meanings ascribed to them in those sections.

34 **Sec. 45.** NRS 639.012 is hereby amended to read as follows:

35 639.012 1. “Pharmacy” means every store or shop licensed by the
36 board where drugs, controlled substances, poisons, medicines or chemicals
37 are stored or possessed, or dispensed or sold at retail, or displayed for sale
38 at retail, or where prescriptions are compounded or dispensed.

39 2. “Pharmacy” includes:

40 (a) Pharmacies owned or operated by the State of Nevada and political
41 subdivisions and municipal corporations therein.

42 (b) Institutional pharmacies.

43 (c) Pharmacies in correctional institutions.

44 (d) Nuclear pharmacies.

45 (e) *Internet pharmacies.*



* S B 3 9 7 *

1 **Sec. 46.** NRS 639.070 is hereby amended to read as follows:
2 639.070 1. The board may:
3 (a) Adopt such regulations, not inconsistent with the laws of this state,
4 as are necessary for the protection of the public, appertaining to the
5 practice of pharmacy and the lawful performance of its duties.
6 (b) Adopt regulations requiring that prices charged by retail pharmacies
7 for drugs and medicines which are obtained by prescription be posted in
8 the pharmacies and be given on the telephone to persons requesting such
9 information.
10 (c) Adopt regulations, not inconsistent with the laws of this state,
11 authorizing the secretary to issue certificates, licenses and permits required
12 by *this chapter and* chapters 453 and 454 of NRS. ~~and this chapter.~~
13 (d) Adopt regulations governing the dispensing of poisons, drugs,
14 chemicals and medicines.
15 (e) Regulate the practice of pharmacy.
16 (f) Regulate the sale and dispensing of poisons, drugs, chemicals and
17 medicines.
18 (g) Regulate the means of recordkeeping and storage, handling,
19 sanitation and security of drugs, poisons, medicines, chemicals and
20 devices, including, but not limited to, requirements relating to:
21 (1) Pharmacies, institutional pharmacies and pharmacies in
22 correctional institutions;
23 (2) Drugs stored in hospitals; and
24 (3) Drugs stored for the purpose of wholesale distribution.
25 (h) Examine and register, upon application, pharmacists and other
26 persons who dispense or distribute medications whom it deems qualified.
27 (i) Charge and collect necessary and reasonable fees for its services,
28 other than those specifically set forth in this chapter.
29 (j) Maintain offices in as many localities in the state as it finds
30 necessary to carry out the provisions of this chapter.
31 (k) Employ an attorney, inspectors, investigators and other professional
32 consultants and clerical personnel necessary to the discharge of its duties.
33 (l) Enforce the provisions of NRS 453.011 to 453.552, inclusive, *and*
34 *sections 2 to 12, inclusive, of this act* and enforce the provisions of *this*
35 *chapter and* chapter 454 of NRS. ~~and this chapter.~~
36 (m) Adopt regulations concerning the information required to be
37 submitted in connection with an application for any license, certificate or
38 permit required by this chapter or chapter 453 or 454 of NRS.
39 (n) Adopt regulations concerning the education, experience and
40 background of a person who is employed by the holder of a license or
41 permit issued pursuant to this chapter and who has access to drugs and
42 devices.
43 (o) Adopt regulations concerning the use of computerized mechanical
44 equipment for the filling of prescriptions.
45 (p) Participate in and expend money for programs that enhance the
46 practice of pharmacy.
47 2. This section does not authorize the board to prohibit open-market
48 competition in the advertising and sale of prescription drugs and
49 pharmaceutical services.



* S B 3 9 7 *

1 **Sec. 47.** NRS 639.2328 is hereby amended to read as follows:

2 639.2328 1. Every pharmacy located outside Nevada that provides
3 mail order service to or solicits or advertises for orders for drugs available
4 with a prescription from a resident of Nevada must be licensed by the
5 board.

6 2. To be licensed or to renew a license, a pharmacy located outside
7 Nevada must:

8 (a) Be licensed by the state in which its dispensing facilities are located.

9 (b) Comply with all applicable federal laws, regulations and standards.

10 (c) Submit an application in the form furnished by the board.

11 (d) Provide the following information to the board:

12 (1) The name and address of the owner;

13 (2) The location of the pharmacy;

14 (3) The name of the pharmacist who is the managing pharmacist; and

15 (4) Any other information the board deems necessary.

16 (e) Pay the fee required by regulation of the board.

17 (f) Submit evidence satisfactory to the board that the facility, records
18 and operation of the pharmacy comply with the laws and regulations of the
19 state in which the pharmacy is located.

20 (g) Submit certification satisfactory to the board that the pharmacy
21 complies with all lawful requests and directions from the regulatory board
22 or licensing authority of the state in which the pharmacy is located relating
23 to the shipment, mailing or delivery of drugs.

24

(h) Be certified by the board pursuant to section 43 of this act if the

25

pharmacy operates an Internet pharmacy.

26 3. In addition to the requirements of subsection 2, the board may
27 require that the pharmacy located outside of Nevada be inspected by the
28 board.

29 **Sec. 48.** NRS 639.235 is hereby amended to read as follows:

30 639.235 1. No person other than a practitioner holding a license to
31 practice his profession in this state may prescribe or write a prescription,
32 except that a prescription written by a person not licensed to practice in this
33 state but authorized by the laws of another state to prescribe shall be
34 deemed to be a legal prescription **+** *unless the person prescribed or wrote*
35 *the prescription in violation of the provisions of sections 2 to 12,*
36 *inclusive, of this act.*

37 2. If a prescription *that* is prescribed by a person who is not licensed to
38 practice in this state , but is authorized by the laws of another state to
39 prescribe, calls for a controlled substance listed in:

40 (a) Schedule II, the registered pharmacist who is to fill the prescription
41 shall establish and document that the prescription is authentic and that a
42 bona fide relationship between the patient and the person prescribing the
43 controlled substance did exist when the prescription was written.

44 (b) Schedule III or IV, the registered pharmacist who is to fill the
45 prescription shall establish, in his professional judgment, that the
46 prescription is authentic and that a bona fide relationship between the
47 patient and the person prescribing the controlled substance did exist when



* S B 3 9 7 *

1 the prescription was written. This paragraph does not require the registered
2 pharmacist to inquire into such a relationship upon the receipt of each such
3 prescription.

4 **Sec. 49.** The amendatory provisions of this act do not apply to
5 offenses committed before July 1, 2001.

6 **Sec. 50.** This act becomes effective on July 1, 2001.

