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Assembly Bill 302
Assembly Judiciary Bill Draft Request

Draft legislation to address the Nevada Supreme Court's decision in Washington v. State. In this case, the Nevada Supreme Court reviewed two existing statutes concerning the sale of an imitation controlled substance. The penalty for this activity under NRS 453.332, which was enacted in 1983, is a *misdemeanor*. The penalty under NRS 453.323, which was enacted in 1977, is a *felony*.

The court indicated that the 1977 statute with the felony penalty was repealed by implication since the later statute, which imposes a misdemeanor penalty, covers its substance. The Legislature may choose to address this decision with one of the following options, as set forth by Risa Lang, Legal Counsel, in the document presented to the Committee on February 4, 2003:

- a. If the Legislature agrees the interpretation of the Nevada Supreme Court, it may wish to officially repeal NRS 453.323 (the statute with the felony penalty).
- b. If the Legislature believes a greater penalty should be imposed, it may wish to:
 - i. Repeal NRS 453.332 (the statute with the misdemeanor penalty) so that only the felony provision of NRS 453.323 remains; or
 - ii. Amend either statute as it deems appropriate.