

ASSEMBLY BILL NO. 531—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 29, 2005

Referred to Committee on Judiciary

SUMMARY—Provides additional or alternative penalty if first responder suffers substantial bodily harm or death during discovery or cleanup of premises wherein certain controlled substances were unlawfully manufactured or compounded. (BDR 40-105)

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; providing an additional or alternative penalty if a first responder sustains substantial bodily harm or death during the discovery or cleanup of the premises wherein certain controlled substances were unlawfully manufactured or compounded; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 453 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Unless a greater penalty is provided by law, and except as otherwise provided in this section and NRS 193.169, if:

(a) A person violates NRS 453.322, 453.3385 or 453.3395, and the violation involves the manufacturing or compounding of any controlled substance other than marijuana; and

(b) During the discovery or cleanup of the premises at, on or in which the controlled substance was manufactured or compounded, a first responder suffers substantial bodily harm



1 other than death while performing his official duties as the
2 proximate result of the manufacturing or compounding of the
3 controlled substance,

4 ↳ the person shall be punished by imprisonment in the state
5 prison for a term equal to and in addition to the term of
6 imprisonment prescribed by statute for the offense. The sentence
7 prescribed by this subsection runs consecutively with the sentence
8 prescribed by statute for the offense.

9 2. Unless a greater penalty is provided by law, and except as
10 otherwise provided in NRS 193.169, if:

11 (a) A person violates NRS 453.322, 453.3385 or 453.3395, and
12 the violation involves the manufacturing or compounding of any
13 controlled substance other than marijuana; and

14 (b) During the discovery or cleanup of the premises at, on or
15 in which the controlled substance was manufactured or
16 compounded, a first responder suffers death while performing his
17 official duties as the proximate result of the manufacturing or
18 compounding of the controlled substance,

19 ↳ the offense shall be deemed a category A felony and the person
20 who committed the offense shall be punished by imprisonment in
21 the state prison:

22 (1) For life without the possibility of parole;

23 (2) For life with the possibility of parole, with eligibility for
24 parole beginning when a minimum of 20 years has been served; or

25 (3) For a definite term of 50 years, with eligibility for
26 parole beginning when a minimum of 20 years has been served.

27 3. Subsection 1 does not create a separate offense but
28 provides an additional penalty for the primary offense, the
29 imposition of which is contingent upon the finding of the
30 prescribed fact. Subsection 2 does not create a separate offense
31 but provides an alternative penalty for the primary offense, the
32 imposition of which is contingent upon the finding of the
33 prescribed fact.

34 4. As used in this section:

35 (a) "First responder" includes:

36 (1) Any person who possesses some or all of the powers of a
37 peace officer.

38 (2) A person employed by an agency of criminal justice, as
39 defined in NRS 179A.030.

40 (3) A person employed in a full-time salaried occupation of
41 fire fighting for the benefit or safety of the public or a member of
42 a volunteer fire department.

43 (4) A person licensed as an attendant or certified as an
44 emergency medical technician, intermediate emergency medical



1 *technician or advanced emergency medical technician pursuant to*
2 *chapter 450B of NRS.*

3 *(5) An employee of the State or a political subdivision of the*
4 *State whose official duties require him to make home visits.*

5 *(6) Any other person who is required by law to perform*
6 *official duties that result in the person being present during the*
7 *course of the discovery or cleanup of premises at, on or in which*
8 *the controlled substance was manufactured or compounded.*

9 *(b) "Premises" means:*

10 *(1) Any temporary or permanent structure, including,*
11 *without limitation, any building, house, room, apartment,*
12 *tenement, shed, carport, garage, shop, warehouse, store, mill,*
13 *barn, stable, outhouse or tent; or*

14 *(2) Any conveyance, including, without limitation, any*
15 *vessel, boat, vehicle, airplane, glider, house trailer, travel trailer,*
16 *motor home or railroad car,*

17 *↳ whether located aboveground or underground and whether*
18 *inhabited or not.*

19 **Sec. 2.** NRS 193.169 is hereby amended to read as follows:

20 193.169 1. A person who is sentenced to an additional term
21 of imprisonment pursuant to the provisions of subsection 1 of NRS
22 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167,
23 193.1675, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335,
24 453.3345 or 453.3351 *or subsection 1 of section 1 of this act* must
25 not be sentenced to an additional term of imprisonment pursuant to
26 any of the other listed sections even if the person's conduct satisfies
27 the requirements for imposing an additional term of imprisonment
28 pursuant to another one or more of those sections.

29 2. A person who is sentenced to an alternative term of
30 imprisonment pursuant to subsection 2 of NRS 193.161 , ~~for~~
31 subsection 2 of NRS 193.1685 *or subsection 1 of section 1 of this*
32 *act* must not be sentenced to an additional term of imprisonment
33 pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163,
34 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345
35 or 453.3351 even if the person's conduct satisfies the requirements
36 for imposing an additional term of imprisonment pursuant to another
37 one or more of those sections.

38 3. This section does not:

39 (a) Affect other penalties or limitations upon probation or
40 suspension of a sentence contained in the sections listed in
41 subsection 1 or 2.

42 (b) Prohibit alleging in the alternative in the indictment or
43 information that the person's conduct satisfies the requirements of
44 more than one of the sections listed in subsection 1 or 2 and
45 introducing evidence to prove the alternative allegations.



1 **Sec. 3.** This act becomes effective upon passage and approval.

