

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 person 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 person 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, another person suffers substantial bodily harm other



1 *than death as the proximate result of the manufacturing or*
2 *compounding of the controlled substance,*
3 *↳ the person who committed the offense shall be punished by*
4 *imprisonment in the state prison for a term equal to and in*
5 *addition to the term of imprisonment prescribed by statute for the*
6 *offense. The sentence prescribed by this subsection runs*
7 *consecutively with the sentence prescribed by statute for the*
8 *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, another person suffers death as the proximate result*
17 *of the manufacturing or compounding of the controlled substance,*
18 *↳ the offense shall be deemed a category A felony and the person*
19 *who committed the offense shall be punished by imprisonment in*
20 *the state prison:*

21 (1) *For life without the possibility of parole;*

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

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

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

33 4. *As used in this section, "premises" means:*

34 (a) *Any temporary or permanent structure, including, without*
35 *limitation, any building, house, room, apartment, tenement, shed,*
36 *carport, garage, shop, warehouse, store, mill, barn, stable,*
37 *outhouse or tent; or*

38 (b) *Any conveyance, including, without limitation, any vessel,*
39 *boat, vehicle, airplane, glider, house trailer, travel trailer, motor*
40 *home or railroad car,*

41 *↳ whether located aboveground or underground and whether*
42 *inhabited or not.*

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

44 193.169 1. *A person who is sentenced to an additional term*
45 *of imprisonment pursuant to the provisions of subsection 1 of NRS*



1 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167,
2 193.1675, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335,
3 453.3345 or 453.3351 *or subsection 1 of section 1 of this act* must
4 not be sentenced to an additional term of imprisonment pursuant to
5 any of the other listed sections even if the person's conduct satisfies
6 the requirements for imposing an additional term of imprisonment
7 pursuant to another one or more of those sections.

8 2. A person who is sentenced to an alternative term of
9 imprisonment pursuant to subsection 2 of NRS 193.161 , ~~for~~
10 subsection 2 of NRS 193.1685 *or subsection 2 of section 1 of this*
11 *act* must not be sentenced to an additional term of imprisonment
12 pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163,
13 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345
14 or 453.3351 even if the person's conduct satisfies the requirements
15 for imposing an additional term of imprisonment pursuant to another
16 one or more of those sections.

17 3. This section does not:

18 (a) Affect other penalties or limitations upon probation or
19 suspension of a sentence contained in the sections listed in
20 subsection 1 or 2.

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

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



