
ASSEMBLY BILL NO. 72—ASSEMBLYMAN MABEY

FEBRUARY 17, 2005

Referred to Committee on Judiciary

SUMMARY—Increases penalty for subsequent convictions within 3-year period for use of drug paraphernalia or possession of drug paraphernalia with intent to use drug paraphernalia. (BDR 40-569)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~fornited material~~ is material to be omitted.

AN ACT relating to controlled substances; increasing the penalty for subsequent convictions within a 3-year period for the use of drug paraphernalia or the possession of drug paraphernalia with the intent to use the drug paraphernalia; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, any person who uses or possesses with intent to use illegal
2 drug paraphernalia is guilty of a misdemeanor. (NRS 453.566) Existing law allows
3 a court to impose enhanced penalties for repeat offenses of certain crimes. (NRS
4 433.554, 453.334, 484.37975)

5 This bill increases the penalty for a second, third or fourth offense of
6 possession of illegal drug paraphernalia that occurs within a 3-year period. This bill
7 defines a prior offense to include a previous conviction that occurred before or after
8 the principal offense.

9 This bill requires the facts concerning a prior offense to be alleged in the
10 complaint, indictment or information and proved at the time of sentencing. If the
11 principal offense is alleged to be a felony, the facts concerning a prior offense must
12 be shown at the preliminary examination or presented to the grand jury.



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

Section 1. NRS 453.566 is hereby amended to read as follows:
453.566 **1.** Any person who uses, or possesses with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter :

(a) For the first offense within 3 years, is guilty of a misdemeanor and shall be punished as provided in NRS 193.150.

(b) For the second offense within 3 years, is guilty of a misdemeanor and shall be punished by imprisonment in the city or county jail or detention facility for not less than 60 days, but not more than 6 months, or by a fine of not less than \$500, but not more than \$1,000, or by both imprisonment and fine.

(c) For the third offense within 3 years, is guilty of a misdemeanor and shall be punished by imprisonment in the city or county jail or detention facility for not less than 120 days, but not more than 6 months, or by a fine of \$1,000, or by both imprisonment and fine.

(d) For the fourth or any subsequent offense within 3 years, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

2. *An offense that occurred within 3 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.*

Sec. 2. The amendatory provisions of this act apply to offenses committed before the effective date of this act for the purpose of determining whether a person is subject to the provisions of paragraph (b), (c) or (d) of subsection 1 of NRS 453.566, as amended by this act.

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

