

Amendment No. 481

Assembly Amendment to Assembly Bill No. 150 (BDR 40-667)

Proposed by: Assembly Committee on Health and Human Services**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will ADD a 2/3s majority vote requirement for final passage of A.B. 150 (§§ 40, 44).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold** is newly added transitory language.

BFG/BAW



Date: 4/21/2007

A.B. No. 150—Makes various changes pertaining to methamphetamine and other controlled substances. (BDR 40-667)



ASSEMBLY BILL NO. 150—ASSEMBLYMEN ANDERSON, BUCKLEY, OCEGUERA, LESLIE, CONKLIN, ALLEN, ARBERRY, ATKINSON, BEERS, BOBZIEN, CARPENTER, CHRISTENSEN, CLABORN, COBB, DENIS, GANSERT, GERHARDT, GOEDHART, GOICOECHEA, GRADY, HARDY, HOGAN, HORNE, KIHUEN, KIRKPATRICK, KOIVISTO, MABEY, MANENDO, MARVEL, MCCLAIN, MORTENSON, MUNFORD, OHRENSCHALL, PARKS, PARNELL, PIERCE, SEGERBLOM, SETTELMAYER, SMITH, STEWART, WEBER AND WOMACK

FEBRUARY 22, 2007

JOINT SPONSORS: SENATORS RAGGIO, TITUS, AMODEI, CARE, WASHINGTON, LEE, MATHEWS, MCGINNESS, NOLAN, RHOADS, SCHNEIDER, TOWNSEND, WIENER AND WOODHOUSE

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes pertaining to methamphetamine and other controlled substances. (BDR 40-667)

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 ~~omitted material~~ is material to be omitted.

AN ACT relating to controlled substances; ~~requiring the State Board of Pharmacy to classify certain precursors to methamphetamine as controlled substances which must not be dispensed by a pharmacy without a prescription;~~ requiring the Office of Court Administrator to apply for federal grants for drug courts; making various other changes pertaining to crimes related to the use or manufacturing of methamphetamine and other controlled substances; revising various provisions pertaining to nuisances; making various changes relating to lithium metal, sodium metal and anhydrous ammonia; **enacting provisions relating to the sale or transfer of certain precursors to methamphetamine;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes various changes pertaining to methamphetamine and other controlled substances.

~~Existing law allows the State Board of Pharmacy to adopt regulations that add or delete substances from the schedules of controlled substances. (NRS 453.146) The Board has designated ephedrine, pseudoephedrine and phenylpropanolamine as controlled substances included on schedule III, but has excluded such substances if they are sold over the counter in~~

~~packages containing not more than 2 grams of the substances. (NAC 452.520) Sections 4-6 of this bill require the Board to classify all ephedrine, pseudoephedrine and phenylpropanolamine as controlled substances included on schedule III and provide that these substances may not be dispensed without a prescription. (NRS 452.256.)~~

Section 40 of this bill prohibits a person from: (1) selling or transferring in the course of business a product that is a precursor to methamphetamine; or (2) engaging in the business of selling at retail a product that is a precursor to methamphetamine, unless the person is a pharmacy or the holder of a permit which allows the person to sell or transfer products that are precursors to methamphetamine. A person who violates these prohibitions is guilty of a category C felony. To obtain a permit to sell or transfer products that are precursors to methamphetamine, a person must submit an application to the State Board of Pharmacy and pay a fee of \$200. The Board must issue a permit to a person if the Board determines, after considering certain factors, that the person will safely and lawfully sell products that are precursors to methamphetamine.

Section 41 of this bill requires a pharmacy or the holder of a permit to: (1) comply with state and federal law concerning the sale and transfer of products that are precursors to methamphetamine; and (2) submit to the Department of Public Safety a quarterly report of the quantity of each purchase and sale or transfer of a product that is a precursor to methamphetamine. If a pharmacy or permit holder does not comply with either of these requirements, section 45 allows the State Board of Pharmacy to take certain disciplinary action against the pharmacy or permit holder.

Section 2 of this bill prohibits the possession or disposition of chemical waste or debris resulting from the manufacture of methamphetamine. Section 3 of this bill prohibits the possession of lithium metal or sodium metal under certain circumstances.

Existing law prohibits a person from possessing certain chemicals with the intent to manufacture or compound a controlled substance other than marijuana. (NRS 453.322)

Section 7 of this bill adds lithium metal and sodium metal to the list of prohibited chemicals. Section 7 also prohibits a person from providing such a chemical to another person with the intent that it be used in the manufacturing or compounding of a controlled substance other than marijuana.

Existing law creates the Office of Court Administrator and prescribes the duties of the Court Administrator. (NRS 1.320, 1.360) **Section 9 of this bill requires the Court Administrator to apply for any federal grants for the establishment, support or expansion of drug courts and to allocate to the courts any money received.**

Existing law provides that a building or place used to unlawfully manufacture a controlled substance is a nuisance, which creates civil liability, and a public nuisance, which is punishable criminally. (NRS 40.140, 202.450, 202.470) **Sections 10 and 11 of this bill provide that a building or place that was used to unlawfully manufacture a controlled substance is both a nuisance and a public nuisance if certain activities relating to the decontamination of the building or place have not occurred within a certain period.**

Section 12 of this bill provides that a person commits first degree arson if, by knowingly engaging in the manufacture of methamphetamine, the person sets fire to or causes an explosion that damages a dwelling house or personal property that is occupied by one or more persons. Section 13 of this bill provides that a person commits second degree arson if, by knowingly engaging in the manufacture of methamphetamine, the person sets fire to or causes an explosion that damages any abandoned building or structure. Section 14 of this bill provides that a person is guilty of a category B felony if the person commits the theft of certain chemicals that are precursors to controlled substances, regardless of the value of those chemicals.

Sections 21-32 of this bill require the State Department of Agriculture, in consultation with the Department of Public Safety, to certify substances that are added to anhydrous ammonia for the purpose of rendering the anhydrous ammonia unusable or undesirable for the manufacture of methamphetamine. To assist in advising the State Department of Agriculture on the certification of such substances, sections 32 and 33 of this bill create the Anhydrous Ammonia Advisory Committee.

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 the provisions set forth as section 2 and 3 of this act.

Sec. 2. *1. Except as otherwise provided in subsection 2, a person who knowingly possesses or disposes of methamphetamine manufacturing waste is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

2. A person does not violate subsection 1 if the person:

(a) Possesses or disposes of the methamphetamine manufacturing waste pursuant to state or federal laws regulating the storage, cleanup or disposal of waste products from unlawful methamphetamine manufacturing;

(b) Has notified a law enforcement agency of the existence of the methamphetamine manufacturing waste; or

(c) Possesses or disposes of methamphetamine manufacturing waste that had previously been disposed of by another person on the person's property in violation of subsection 1.

3. As used in this section:

(a) "Disposes of" means to discharge, deposit, inject, spill, leak or place methamphetamine manufacturing waste into or onto land or water.

(b) "Methamphetamine manufacturing waste" means chemical waste or debris, used in or resulting from:

(1) The manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(2) The grinding, soaking or otherwise breaking down of a substance that is a precursor for the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine.

Sec. 3. *1. Except as otherwise provided in this subsection, it is unlawful for a person to knowingly or intentionally possess lithium metal or sodium metal. A person does not violate this subsection if the person:*

(a) Is conducting a lawful manufacturing operation that involves the use of lithium metal or sodium metal;

(b) Possesses lithium metal or sodium metal in conjunction with experiments conducted in a chemistry or chemistry-related laboratory maintained by a:

(1) Regularly established public or private secondary school; or

(2) Public or private institution of higher education that is accredited by a national or regional accrediting agency recognized by the United States Department of Education;

(c) Is a retail distributor, wholesaler, manufacturer, warehouseman or common carrier, or an agent of any of those persons, who possesses lithium metal or sodium metal in the regular course of lawful business activities; or

(d) Possesses lithium metal or sodium metal as a component of a commercially produced product, including, without limitation, rechargeable batteries.

2. A person who violates this section is guilty of a gross misdemeanor.

Sec. 4. ~~[NRS 453.146 is hereby amended to read as follows:~~

~~453.146 1. The Board shall administer the provisions of NRS 452.011 to 453.552, inclusive, and may add substances to or delete or reschedule all substances enumerated in schedules I, II, III, IV and V by regulation.~~

~~2. In making a determination regarding a substance, the Board shall consider the following:~~

~~(a) The actual or relative potential for abuse;~~

~~(b) The scientific evidence of its pharmacological effect, if known;~~
~~(c) The state of current scientific knowledge regarding the substance;~~
~~(d) The history and current pattern of abuse;~~
~~(e) The scope, duration and significance of abuse;~~
~~(f) The risk to the public health;~~
~~(g) The potential of the substance to produce psychic or physiological dependence liability; and~~

~~(h) Whether the substance is an immediate precursor of a controlled substance.~~
~~2. The Board may consider findings of the federal Food and Drug Administration or the Drug Enforcement Administration as prima facie evidence relating to one or more of the determinative factors.~~

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

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

~~(a) Expressly intended to be administered through an implant to cattle, poultry or other animals; and~~

~~(b) Approved by the Food and Drug Administration for such use.~~

~~6. Except as otherwise provided in subsection 7, the Board shall designate as a controlled substance included in schedule III, regardless of the amount thereof:~~

~~(a) Ephedrine, its optical isomers, salts and salts of optical isomers;~~

~~(b) Pseudoephedrine, its optical isomers, salts and salts of optical isomers; and~~

~~(c) Phenylpropanolamine, its optical isomers, salts and salts of optical isomers.~~

~~7. The Board may exempt a product that contains a substance described in subsection 6 from regulation as a controlled substance if:~~

~~(a) The manufacturer of the product applies to the Board for an exemption; and~~

~~(b) The Board finds that the product is formulated to effectively prevent conversion of the active ingredient into methamphetamine or its salts or precursors.~~

~~Upon notification from the Department of Public Safety that the Department has probable cause to believe that a product described in this subsection does not effectively prevent conversion of the active ingredient into methamphetamine or its salts or precursors, the Board may issue an emergency rule revoking the exemption for the product pending a full hearing.] (Deleted by amendment.)~~

Sec. 5. [NRS 453.2186 is hereby amended to read as follows:

~~453.2186 1. Authority to control pursuant to NRS 453.146, 453.218, 453.2182 and 453.2184 does not extend to distilled spirits, wine, malt beverages or tobacco.~~

~~2. The Board shall not include any nonnarcotic substance on any schedule if that substance is in a form suitable for final dosage and has been approved by the Food and Drug Administration for sale over the counter without a prescription, unless subsection 6 of NRS 453.146 requires the Board to include the substance on a schedule or the Board affirmatively finds that:~~

~~(a) The substance itself or one or more of its active ingredients is an immediate precursor of a controlled substance; and~~

~~(b) The substance is materially misbranded or mislabeled, or the public interest requires the scheduling of the substance as a controlled substance in schedule I, II, III or IV;~~

~~3. In determining whether the public interest requires the scheduling of the substance, the Board shall consider:~~

~~(a) Whether the customary methods of marketing and distributing the substance are likely to lead to its unlawful distribution or use, including any relevant information with regard to a manufacturer or distributor of the substance concerning;~~

~~(1) His record of compliance with applicable federal, state and local statutes, ordinances and regulations;~~

~~(2) His past experience in the manufacture and distribution of controlled substances, and the existence in his establishment of effective controls against the unlawful distribution or use of the substance;~~

~~(3) Whether he has ever been convicted under any federal or state law relating to a controlled substance; and~~

~~(4) Whether he has ever furnished materially falsified or fraudulent material in any application filed pursuant to NRS 453.011 to 453.552, inclusive.~~

~~(b) Whether the substance is controlled under the federal Controlled Substances Act;~~

~~(c) The status of any pending proceeding to determine whether the substance should be controlled or exempted from control;~~

~~(d) Any history of abuse or misuse of the substance in this State; and~~

~~(e) Any other factors which are relevant to the public health and safety.~~

~~4. In determining whether a substance is misbranded or mislabeled, the Board shall consider the requirements of the federal Food, Drug, and Cosmetic Act and the Code of Federal Regulations concerning indications for its use and any advertising for a use not so indicated.] (Deleted by amendment.)~~

Sec. 6. [NRS 453.256 is hereby amended to read as follows:

~~453.256 1. Except as otherwise provided in subsection 2, a substance included in schedule II must not be dispensed without the written prescription of a practitioner.~~

~~2. A controlled substance included in schedule II may be dispensed without the written prescription of a practitioner only:~~

~~(a) In an emergency, as defined by regulation of the Board, upon oral prescription of a practitioner, reduced to writing promptly and in any case within 72 hours, signed by the practitioner and filed by the pharmacy;~~

~~(b) Upon the use of a facsimile machine to transmit the prescription for a substance included in schedule II by a practitioner or a practitioner's agent to a pharmacy for:~~

~~(1) Direct administration to a patient by parenteral solution; or~~

~~(2) A resident of a facility for intermediate care or a facility for skilled nursing which is licensed as such by the Health Division of the Department.~~

~~→ A prescription transmitted by a facsimile machine pursuant to this paragraph must be printed on paper which is capable of being retained for at least 2 years. For the purposes of this section, such a prescription constitutes a written prescription. The pharmacy shall keep prescriptions in conformity with the requirements of NRS 453.246. A prescription for a substance included in schedule II must not be refilled.~~

~~3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a substance included in schedule III or IV which is a dangerous drug as determined under NRS 454.201 [,] or which is set forth in subsection 6 of NRS 453.146 must not be dispensed without a written or oral prescription of a practitioner. The prescription must not be filled or refilled more than 6 months after~~

~~the date thereof or be refilled more than five times, unless renewed by the practitioner.~~

~~4. A substance included in schedule V may be distributed or dispensed only for a medical purpose, including medical treatment or authorized research.~~

~~5. A practitioner may dispense or deliver a controlled substance to or for a person or animal only for medical treatment or authorized research in the ordinary course of his profession.~~

~~6. No civil or criminal liability or administrative sanction may be imposed on a pharmacist for action taken in good faith in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.~~

~~7. An individual practitioner may not dispense a substance included in schedule II, III or IV for his own personal use except in a medical emergency.~~

~~8. A person who violates this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.~~

~~9. As used in this section:~~

~~(a) "Facsimile machine" means a device which sends or receives a reproduction or facsimile of a document or photograph which is transmitted electronically or telephonically by telecommunications lines.~~

~~(b) "Medical treatment" includes dispensing or administering a narcotic drug for pain, whether or not intractable.~~

~~(c) "Parenteral solution" has the meaning ascribed to it in NRS 639.0105.]~~

(Deleted by amendment.)

Sec. 7. NRS 453.322 is hereby amended to read as follows:

453.322 1. Except as authorized by the provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for a person to knowingly or intentionally:

(a) Manufacture or compound a controlled substance other than marijuana.

(b) Possess, with the intent to manufacture or compound a controlled substance other than marijuana ~~+~~, **or sell, exchange, barter, supply, prescribe, dispense or give away, with the intent that the chemical be used to manufacture or compound a controlled substance other than marijuana:**

(1) Any chemical identified in subsection 4; or

(2) Any other chemical which is proven by expert testimony to be commonly used in manufacturing or compounding a controlled substance other than marijuana. The district attorney may present expert testimony to provide a prima facie case that any chemical, whether or not it is a chemical identified in subsection 4, is commonly used in manufacturing or compounding such a controlled substance.

➤ The provisions of this paragraph do not apply to a person who, without the intent to commit an unlawful act, possesses any chemical at a laboratory that is licensed to store the chemical.

(c) Offer or attempt to do any act set forth in paragraph (a) or (b).

2. Unless a greater penalty is provided in NRS 453.3385 or 453.3395, a person who violates any provision of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$100,000.

3. The court shall not grant probation to a person convicted pursuant to this section.

4. The following chemicals are identified for the purposes of subsection 1:

(a) Acetic anhydride.

(b) Acetone.

(c) N-Acetylthranilic acid, its esters and its salts.

- (d) Anthranilic acid, its esters and its salts.
- (e) Benzaldehyde, its salts, isomers and salts of isomers.
- (f) Benzyl chloride.
- (g) Benzyl cyanide.
- (h) 1,4-Butanediol.
- (i) 2-Butanone (or methyl ethyl ketone or MEK).
- (j) Ephedrine, its salts, isomers and salts of isomers.
- (k) Ergonovine and its salts.
- (l) Ergotamine and its salts.
- (m) Ethylamine, its salts, isomers and salts of isomers.
- (n) Ethyl ether.
- (o) Gamma butyrolactone.
- (p) Hydriodic acid, its salts, isomers and salts of isomers.
- (q) Hydrochloric gas.
- (r) Iodine.
- (s) Isosafrole, its salts, isomers and salts of isomers.
- (t) *Lithium metal*.
- (u) Methylamine, its salts, isomers and salts of isomers.
- ~~(v)~~ (v) 3,4-Methylenedioxy-phenyl-2-propanone.
- ~~(w)~~ (w) N-Methylephedrine, its salts, isomers and salts of isomers.
- ~~(x)~~ (x) Methyl isobutyl ketone (MIBK).
- ~~(y)~~ (y) N-Methylpseudoephedrine, its salts, isomers and salts of isomers.
- ~~(z)~~ (z) Nitroethane, its salts, isomers and salts of isomers.
- ~~(aa)~~ (aa) Norpseudoephedrine, its salts, isomers and salts of isomers.
- ~~(bb)~~ (bb) Phenylacetic acid, its esters and its salts.
- ~~(cc)~~ (cc) Phenylpropanolamine, its salts, isomers and salts of isomers.
- ~~(dd)~~ (dd) Piperidine and its salts.
- ~~(ee)~~ (ee) Piperonal, its salts, isomers and salts of isomers.
- ~~(ff)~~ (ff) Potassium permanganate.
- ~~(gg)~~ (gg) Propionic anhydride, its salts, isomers and salts of isomers.
- ~~(hh)~~ (hh) Pseudoephedrine, its salts, isomers and salts of isomers.
- ~~(ii)~~ (ii) Red phosphorous.
- ~~(jj)~~ (jj) Safrole, its salts, isomers and salts of isomers.
- ~~(kk)~~ (kk) *Sodium metal*.
- (ll) Sulfuric acid.
- ~~(mm)~~ (mm) Toluene.

Sec. 8. NRS 453.553 is hereby amended to read as follows:

453.553 1. In addition to any criminal penalty imposed for a violation of the provisions of NRS 453.011 to 453.552, inclusive, *and sections 2 and 3 of this act*, any person who unlawfully sells, manufactures, delivers or brings into this State, possesses for sale or participates in any way in a sale of a controlled substance listed in schedule I, II or III or who engages in any act or transaction in violation of the provisions of NRS 453.3611 to 453.3648, inclusive, is subject to a civil penalty for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General or by any district attorney in a court of competent jurisdiction.

2. As used in ~~[this section and]~~ NRS ~~[453.5531, 453.5532 and]~~ *453.553 to 453.5533* ~~[, inclusive:]~~, *inclusive:*

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

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

(c) "Substitute" means a substance which:

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

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

Sec. 9. NRS 1.360 is hereby amended to read as follows:

1.360 Under the direction of the Supreme Court, the Court Administrator shall:

1. Examine the administrative procedures employed in the offices of the judges, clerks, court reporters and employees of all courts of this State and make recommendations, through the Chief Justice, for the improvement of those procedures;

2. Examine the condition of the dockets of the courts and determine the need for assistance by any court;

3. Make recommendations to and carry out the directions of the Chief Justice relating to the assignment of district judges where district courts are in need of assistance;

4. Develop a uniform system for collecting and compiling statistics and other data regarding the operation of the State Court System and transmit that information to the Supreme Court so that proper action may be taken in respect thereto;

5. Prepare and submit a budget of state appropriations necessary for the maintenance and operation of the State Court System and make recommendations in respect thereto;

6. Develop procedures for accounting, internal auditing, procurement and disbursement for the State Court System;

7. Collect statistical and other data and make reports relating to the expenditure of all public money for the maintenance and operation of the State Court System and the offices connected therewith;

8. Compile statistics from the information required to be maintained by the clerks of the district courts pursuant to NRS 3.275 and make reports as to the cases filed in the district courts;

9. Formulate and submit to the Supreme Court recommendations of policies or proposed legislation for the improvement of the State Court System;

10. On or before January 1 of each year, submit to the Director of the Legislative Counsel Bureau a written report compiling the information submitted to the Court Administrator pursuant to NRS 3.243, 4.175 and 5.045 during the immediately preceding fiscal year;

11. On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau a written report concerning:

(a) The distribution of money deposited in the special account created pursuant to NRS 176.0613 to assist with funding and establishing specialty court programs;

(b) The current status of any specialty court programs to which money from the account was allocated since the last report; and

(c) Such other related information as the Court Administrator deems appropriate;

12. On or before February 15 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling the information submitted by clerks of courts to the Court Administrator pursuant to NRS 630.307 and 633.533 which includes only aggregate information for statistical purposes and excludes any identifying information related to a particular person;

13. On or before February 15 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the effectiveness of participation in counseling sessions in a program for the treatment of persons who commit domestic violence ordered by a court pursuant to NRS 200.485 and the effect of such counseling sessions on recidivism of the offenders who commit battery which constitutes domestic violence pursuant to NRS 33.018; ~~and~~

14. *Apply for and accept any money appropriated and made available by any act of Congress for the establishment, support or expansion of specialty court programs that facilitate the testing, treatment and oversight of persons who abuse alcohol or drugs;*

15. *Allocate the money received pursuant to subsection 14 to courts to assist with the establishment, support or expansion of specialty court programs that facilitate the testing, treatment and oversight of persons who abuse alcohol or drugs; and*

16. Attend to such other matters as may be assigned by the Supreme Court or prescribed by law.

Sec. 10. NRS 40.140 is hereby amended to read as follows:

40.140 1. Except as otherwise provided in this section ~~[-anything]~~:

(a) *Anything* which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property ~~[-including, without limitation, a]~~;

(b) *A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor ~~[as defined in NRS 453.086]~~ or controlled substance analog ~~[as defined in NRS 453.043,]; or~~*

(c) *A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:*

(1) *Which has not been deemed safe for habitation by a governmental entity; or*

(2) *From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog,*

is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

2. It is presumed:

(a) That an agricultural practice conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997.

➤ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. As used in this section ~~[-“shooting”]~~:

(a) *“Controlled substance analog” has the meaning ascribed to it in NRS 453.043;*

(b) *“Immediate precursor” has the meaning ascribed to it in NRS 453.086; and*

(c) *“Shooting range” means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.*

Sec. 11. NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor ~~[-as defined in NRS 453.086]~~ or controlled substance analog ~~[-as defined in NRS 453.043]~~ is unlawfully sold, served, stored, kept, manufactured, used or given away; or

(f) Where vagrants resort,

➤ is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal, ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property,

➤ is a public nuisance.

4. *A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog is a public nuisance if the building or place has not been deemed safe for habitation by a governmental entity and:*

(a) *The owner of the building or place allows the building or place to be used for any purpose before all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have been removed from or remediated on the building or place by an entity certified or licensed to do so; or*

(b) The owner of the building or place fails to have all materials or substances involving the controlled substance, immediate precursor or controlled substance analog removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

5. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on the public health or safety. It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

~~[5.]~~ 6. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

➤ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

~~[6.]~~ 7. As used in this section ~~[-,"shooting"]~~:

(a) *"Controlled substance analog" has the meaning ascribed to it in NRS 453.043;*

(b) *"Immediate precursor" has the meaning ascribed to it in NRS 453.086; and*

(c) *"Shooting range" has the meaning ascribed to it in NRS 40.140.*

Sec. 12. NRS 205.010 is hereby amended to read as follows:

205.010 A person who ~~[willfully]~~:

1. *Willfully* and maliciously sets fire to or burns or causes to be burned ~~[-or who aids.]~~;

2. *Aids*, counsels or procures the burning of ~~[any]~~

~~—1. Dwelling] ; or~~

3. *By knowingly engaging in the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine, sets fire to or causes an explosion that damages,*

➤ *any dwelling* house or other structure or mobile home, whether occupied or vacant ~~[-or~~

~~—2. Personal] and whether the property of himself or another, or personal~~

property which is occupied by one or more persons, ~~[-~~ whether the property of himself or of another, is guilty of arson in the first degree which is a category B felony and shall be punished by imprisonment for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$15,000.

Sec. 13. NRS 205.015 is hereby amended to read as follows:

205.015 A person who ~~[willfully]~~:

1. *Willfully* and maliciously sets fire to or burns or causes to be burned ~~[-or who aids.]~~;

2. *Aids*, counsels or procures the burning of ; *or*

1 3. *By knowingly engaging in the manufacture of any material, compound,*
2 *mixture or preparation which contains any quantity of methamphetamine, sets*
3 *fire to or causes an explosion that damages,*

4 ↳ any abandoned building or structure, whether the property of himself or of
5 another, is guilty of arson in the second degree which is a category B felony and
6 shall be punished by imprisonment in the state prison for a minimum term of not
7 less than 1 year and a maximum term of not more than 10 years, and may be further
8 punished by a fine of not more than \$10,000.

9 **Sec. 14.** NRS 205.0835 is hereby amended to read as follows:

10 205.0835 1. Unless a greater penalty is imposed by a specific statute, a
11 person who commits theft in violation of any provision of NRS 205.0821 to
12 205.0835, inclusive, shall be punished pursuant to the provisions of this section.

13 2. ~~[[3]]~~ *Except as otherwise provided in subsection 3, if* the value of the
14 property or services involved in the theft ~~[[is]]~~:

15 (a) *Is* less than \$250, the person who committed the theft is guilty of a
16 misdemeanor.

17 ~~[[3.— If the value of the property or services involved in the theft is]]~~

18 (b) *Is* \$250 or more but less than \$2,500, the person who committed the theft is
19 guilty of a category C felony and shall be punished as provided in NRS 193.130.

20 ~~[[4]]~~ 3. If the value of the property or services involved in the theft is \$2,500
21 or more ~~[[or if the property involved in the theft is a chemical identified in~~
22 *subsection 4 of NRS 453.322,* the person who committed the theft is guilty of a
23 category B felony and shall be punished by imprisonment in the state prison for a
24 minimum term of not less than 1 year and a maximum term of not more than 10
25 years, and by a fine of not more than \$10,000.

26 ~~[[5]]~~ 4. In addition to any other penalty, the court shall order the person who
27 committed the theft to pay restitution.

28 **Sec. 15.** NRS 244.3603 is hereby amended to read as follows:

29 244.3603 1. Each board of county commissioners may, by ordinance, to
30 protect the public health, safety and welfare of the residents of the county, adopt
31 procedures pursuant to which the district attorney may file an action in a court of
32 competent jurisdiction to:

33 (a) Seek the abatement of a chronic nuisance that is located or occurring within
34 the unincorporated area of the county;

35 (b) If applicable, seek the closure of the property where the chronic nuisance is
36 located or occurring; and

37 (c) If applicable, seek penalties against the owner of the property within the
38 unincorporated area of the county and any other appropriate relief.

39 2. An ordinance adopted pursuant to subsection 1 must:

40 (a) Contain procedures pursuant to which the owner of the property is:

41 (1) Sent a notice, by certified mail, return receipt requested, by the sheriff
42 or other person authorized to issue a citation of the existence on his property of
43 nuisance activities and the date by which he must abate the condition to prevent the
44 matter from being submitted to the district attorney for legal action; and

45 (2) Afforded an opportunity for a hearing before a court of competent
46 jurisdiction.

47 (b) Provide that the date specified in the notice by which the owner must abate
48 the condition is tolled for the period during which the owner requests a hearing and
49 receives a decision.

50 (c) Provide the manner in which the county will recover money expended to
51 abate the condition on the property if the owner fails to abate the condition.

52 3. If the court finds that a chronic nuisance exists and action is necessary to
53 avoid serious threat to the public welfare or the safety or health of the occupants of

the property, the court may order the county to secure and close the property until the nuisance is abated and may:

(a) Impose a civil penalty of not more than \$500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the county for the cost incurred by the county in abating the condition; and

(c) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the county to abate the chronic nuisance, the board may make the expense a special assessment against the property upon which the chronic nuisance is located or occurring. The special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section:

(a) A "chronic nuisance" exists:

(1) When three or more nuisance activities exist or have occurred during any 90-day period on the property. ~~{ }~~

(2) When a person associated with the property has engaged in three or more nuisance activities during any 90-day period on the property or within 100 feet of the property. ~~{ }~~

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS. ~~{ }~~

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor ~~{as defined in NRS 453.086}~~ or controlled substance analog. ~~{as defined in NRS 453.043.}~~

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(d) "Nuisance activity" means:

(1) Criminal activity;

(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;

(3) Violations of building codes, housing codes or any other codes regulating the health or safety of occupants of real property;

(4) Excessive noise and violations of curfew; or

(5) Any other activity, behavior or conduct defined by the board to constitute a public nuisance.

~~{ }~~ (e) "Person associated with the property" means:

(1) The owner of the property;

(2) The manager or assistant manager of the property;

(3) The tenant of the property; or

(4) A person who, on the occasion of a nuisance activity, has:

(I) Entered, patronized or visited;

(II) Attempted to enter, patronize or visit; or

(III) Waited to enter, patronize or visit,

the property or a person present on the property.

Sec. 16. NRS 244.363 is hereby amended to read as follows:

244.363 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~5~~ 6 of NRS 202.450, the boards of county commissioners in their respective counties may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the county.

Sec. 17. NRS 266.335 is hereby amended to read as follows:

266.335 The city council may:

1. Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~5~~ 6 of NRS 202.450, determine by ordinance what shall be deemed nuisances.

2. Provide for the abatement, prevention and removal of the nuisances at the expense of the person creating, causing or committing the nuisances.

3. Provide that the expense of removal is a lien upon the property upon which the nuisance is located. The lien must:

(a) Be perfected by recording with the county recorder a statement by the city clerk of the amount of expenses due and unpaid and describing the property subject to the lien.

(b) Be coequal with the latest lien thereon to secure the payment of general taxes.

(c) Not be subject to extinguishment by the sale of any property because of the nonpayment of general taxes.

(d) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

4. Provide any other penalty or punishment of persons responsible for the nuisances.

Sec. 18. NRS 268.412 is hereby amended to read as follows:

268.412 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~5~~ 6 of NRS 202.450, the city council or other governing body of a city may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the city.

Sec. 19. NRS 268.4124 is hereby amended to read as follows:

268.4124 1. The governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the city;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the city and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, by the city police or other person authorized to issue a citation, of the existence on his property of two or more nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the city attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and emergency action is necessary to avoid immediate threat to the public health, welfare or safety, the court shall order the city to secure and close the property for a period not to exceed 1 year or until the nuisance is abated, whichever occurs first, and may:

(a) Impose a civil penalty of not more than \$500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the city for the cost incurred by the city in abating the condition;

(c) If applicable, order the owner to pay reasonable expenses for the relocation of any tenants who are affected by the chronic nuisance; and

(d) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the chronic nuisance, the governing body may make the expense a special assessment against the property upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. As used in this section:

(a) A "chronic nuisance" exists:

(1) When three or more nuisance activities exist or have occurred during any 30-day period on the property. ~~{ }~~

(2) When a person associated with the property has engaged in three or more nuisance activities during any 30-day period on the property or within 100 feet of the property. ~~{ }~~

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS. ~~{ ; or }~~

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor ~~{as defined in NRS 453.086}~~ or controlled substance analog. ~~{as defined in NRS 453.043.}~~

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(d) "Nuisance activity" means:

- (1) Criminal activity;
- (2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;
- (3) Excessive noise and violations of curfew; or
- (4) Any other activity, behavior or conduct defined by the governing body to constitute a public nuisance.

~~(e)~~ (e) "Person associated with the property" means a person who, on the occasion of a nuisance activity, has:

- (1) Entered, patronized or visited;
- (2) Attempted to enter, patronize or visit; or
- (3) Waited to enter, patronize or visit,

↳ a property or a person present on the property.

Sec. 20. Title 51 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 21 to 33, inclusive, of this act.

Sec. 21. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 22 to 30, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 22. "Advisory Committee" means the Anhydrous Ammonia Additive Advisory Committee created by section 32 of this act.

Sec. 23. "Anhydrous ammonia" means a liquid or gaseous inorganic compound that is formed by the chemical combination of nitrogen and hydrogen in the molar proportion of one part nitrogen to three parts hydrogen. The term does not include ammonium hydroxide.

Sec. 24. "Board" means the State Board of Agriculture.

Sec. 25. "Department" means the State Department of Agriculture.

Sec. 26. "Director" means the Director of the Department.

Sec. 27. "Distributor" means a person that imports, consigns, sells, offers for sale, barter, exchanges or otherwise facilitates the supply of anhydrous ammonia to a user in this State.

Sec. 28. "Nontoxic dye" means a biodegradable, clear liquid product that causes staining when exposed to air.

Sec. 29. "Other additive" means a product other than a nontoxic dye that, when put in tanks containing anhydrous ammonia, renders the anhydrous ammonia nonreactive, unusable or undesirable for use in the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine.

Sec. 30. "User" means a person that uses anhydrous ammonia in the course of engaging in agricultural activity in this State to promote or stimulate the growth of plants, increase the productiveness of plants, improve the quality of crops or produce any chemical or physical change in the soil.

Sec. 31. 1. The Department, in consultation with the Department of Public Safety, shall certify each brand of nontoxic dye or other additive that a distributor of anhydrous ammonia or user may add to anhydrous ammonia.

2. The Board, in consultation with the Advisory Committee, shall adopt regulations establishing standards to be used in making certifications pursuant to subsection 1 and for the administration of this chapter.

Sec. 32. 1. The Anhydrous Ammonia Additive Advisory Committee is hereby created within the Department.

2. The Advisory Committee consists of one representative of each of the following:

- (a) The Department.
- (b) The Department of Public Safety.
- (c) Manufacturers of anhydrous ammonia fertilizers.
- (d) The Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education.
- (e) Retail distributors of anhydrous ammonia.
- (f) Users who are growers of agricultural products.

3. The Director, in consultation with the Director of the Department of Public Safety, shall appoint the members of the Advisory Committee.

4. After the initial term, each member of the Advisory Committee shall serve for a term of 4 years.

5. Each member of the Advisory Committee serves without compensation. If sufficient money is available to the Department, members are entitled to travel allowances provided for state officers and employees generally while attending meetings of the Advisory Committee.

6. Each member of the Advisory Committee who is an officer or employee of the State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Advisory Committee.

Sec. 33. The Advisory Committee:

1. May review all relevant scientific and economic data on nontoxic dyes or other additives for anhydrous ammonia that are submitted to the Department for certification.

2. Shall require the manufacturer of any nontoxic dye or other additive submitted to the Department for certification to provide sufficient scientifically valid data for each submitted nontoxic dye or other additive to allow the Department to determine the:

- (a) Impact of the nontoxic dye or other additive on crop yield;
- (b) Specific food crop residue analysis of the nontoxic dye or other additive; and
- (c) Impact of the nontoxic dye or other additive on the environment.

3. May issue recommendations to the Department regarding whether the Department should certify a nontoxic dye or other additive.

Sec. 34. ~~It is an affirmative defense to a charge of violating NRS 453.336 or 453.411 by possessing or using ephedrine, pseudoephedrine, phenylpropanolamine, the optical isomers, salts and salts of optical isomers of those substances or any combination of these substances that the person:~~

~~1. Lawfully obtained possession of the ephedrine, pseudoephedrine, phenylpropanolamine, optical isomers, salts and salts of optical isomers of those substances or any combination of these substances before October 1, 2007;~~

~~2. Possesses not more than 6 grams of ephedrine, pseudoephedrine, phenylpropanolamine, the optical isomers, salts and salts of optical isomers of those substances or any combination of these substances; and~~

~~3. Possesses ephedrine, pseudoephedrine, phenylpropanolamine, the optical isomers, salts and salts of optical isomers of those substances or any combination of these substances under circumstances that are consistent with typical medicinal or~~

~~household use, as indicated by factors that include, without limitation, storage location, purchase date, possession of the products in a variety of strengths, brands, types or purposes and expiration date.] (Deleted by amendment.)~~

Sec. 35. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 36 to 42, inclusive, of this act.

Sec. 36. As used in sections 36 to 42, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 37, 38 and 39 of this act have the meanings ascribed to them in those sections.

Sec. 37. "Department" means the Department of Public Safety.

Sec. 38. "Permit" means a permit to sell or transfer a product that is a precursor to methamphetamine issued by the Board pursuant to sections 36 to 42, inclusive, of this act.

Sec. 39. "Product that is a precursor to methamphetamine" means a product which contains ephedrine, pseudoephedrine or phenylpropanolamine or the salts, optical isomers or salts of optical isomers of such chemicals and may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq., as a nonprescription drug.

Sec. 40. 1. A person shall not sell or transfer to an ultimate user in the course of any business, or engage in the business of selling to ultimate users, a product that is a precursor to methamphetamine, unless the person:

(a) Is a pharmacy; or

(b) Holds a valid permit issued by the Board pursuant to this section.

2. A person who violates subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. To obtain or renew a permit, a person must:

(a) Submit an application to the Executive Secretary of the Board on a form furnished by the Board;

(b) Pay the fee required by NRS 639.170; and

(c) Submit any other documentation that the Board may require by regulation.

4. The Board shall issue or renew a permit if the person applying for the permit has complied with subsection 2 and the Board determines that the person will safely and lawfully sell or transfer a product that is a precursor to methamphetamine. To determine whether a person will safely and lawfully sell or transfer a product that is a precursor to methamphetamine, the Board shall consider the following factors:

(a) Whether the business operated by the person contains a pharmacy which is not open to the public at all times.

(b) The proximity of the business operated by the person to a pharmacy that is open to the public at all times.

(c) Whether an owner, partner, member, manager, stockholder who owns more than 10 percent of the outstanding stock, director or officer of the person, or an employee of the person who will sell or transfer a product that is a precursor to methamphetamine, has been arrested for, charged with or convicted of:

(1) A felony;

(2) Any crime involving moral turpitude; or

(3) Any crime related to the unlawful possession, sale or use of a controlled substance or dangerous drug.

(d) Whether the business operated by the person is the type of business at which a reasonable person purchases a product that is a precursor to methamphetamine.

(e) The previous experience of the person with the sale of a product that is a precursor to methamphetamine.

Sec. 41. A pharmacy or a person who holds a permit shall:

1. Comply with the law of this State and federal law concerning the sale or transfer of a product that is a precursor to methamphetamine.

2. Submit to the Department a report of the quantity of each purchase and sale or transfer of a product that is a precursor to methamphetamine not later than:

(a) April 30, for the period from January 1 through March 31;

(b) July 31, for the period from April 1 through June 30;

(c) October 31, for the period from July 1 through September 30; and

(d) January 31, for the period from October 1 of the previous year through December 31 of the previous year.

➤ The Department shall adopt regulations governing the form of the report and the manner in which the report is submitted to the Department.

Sec. 42. At any time that a pharmacy or a business operated by a holder of a permit is open to the public, an agent of the Board, the Department or a local law enforcement agency may examine, copy, seize or impound any records of the pharmacy or the holder of a permit concerning the purchase, sale or transfer of a product that is a precursor to methamphetamine.

Sec. 43. NRS 639.129 is hereby amended to read as follows:

639.129 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for the issuance of a certificate of registration as a pharmacist, intern pharmacist, pharmaceutical technician or pharmaceutical technician in training, ~~for~~ a license issued pursuant to NRS 639.233 or a permit issued pursuant to sections 36 to 42, inclusive, of this act shall include the social security number of the applicant in the application submitted to the Board.

(b) A natural person who applies for the issuance or renewal of a certificate of registration as a pharmacist, intern pharmacist, pharmaceutical technician or pharmaceutical technician in training, ~~for~~ a license issued pursuant to NRS 639.233 or a permit issued pursuant to sections 36 to 42, inclusive, of this act shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the certificate, ~~for~~ license or permit; or

(b) A separate form prescribed by the Board.

3. A certificate of registration as a pharmacist, intern pharmacist, pharmaceutical technician or pharmaceutical technician in training, ~~for~~ a license issued pursuant to NRS 639.233 or a permit issued pursuant to sections 36 to 42, inclusive, of this act may not be issued or renewed by the Board if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other

public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 44. NRS 639.170 is hereby amended to read as follows:

639.170 1. The Board shall charge and collect not more than the following fees for the following services:

	Actual cost
For the examination of an applicant registration for as a pharmacist	of the examination
For the investigation or registration of an applicant as a registered pharmacist	\$200
For the investigation, examination or registration of an applicant as a registered pharmacist by reciprocity	300
For the investigation or issuance of an original license to conduct a retail pharmacy	600
For the biennial renewal of a license to conduct a retail pharmacy	500
For the investigation or issuance of an original license to conduct an institutional pharmacy	600
For the biennial renewal of a license to conduct an institutional pharmacy	500
For the issuance of an original or duplicate certificate of registration as a registered pharmacist	50
For the biennial renewal of registration as a registered pharmacist	200
For the reinstatement of a lapsed registration (in addition to the fees for renewal for the period of lapse)	100
For the initial registration of a pharmaceutical technician or pharmaceutical technician in training	50
For the biennial renewal of registration of a pharmaceutical technician or pharmaceutical technician in training	50
For the investigation or registration of an intern pharmacist	50
For the biennial renewal of registration as an intern pharmacist	40
For investigation or issuance of an original license to a manufacturer or wholesaler	500
For the biennial renewal of a license for a manufacturer or wholesaler	500
For the reissuance of a license issued to a pharmacy, when no change of ownership is involved, but the license must be reissued because of a change in the information required thereon	100
For authorization of a practitioner to dispense controlled substances or dangerous drugs, or both	300
For the biennial renewal of authorization of a practitioner to dispense controlled substances or dangerous drugs, or both	300
<u>For the issuance or renewal of a permit to sell or transfer a product that is a precursor to methamphetamine issued by the Board pursuant to sections 36 to 42, inclusive, of this act</u>	<u>200</u>

2. If a person requests a special service from the Board or requests the Board to convene a special meeting, he must pay the actual costs to the Board as a condition precedent to the rendition of the special service or the convening of the special meeting.

3. All fees are payable in advance and are not refundable.

4. The Board may, by regulation, set the penalty for failure to pay the fee for renewal for any license, permit, authorization or certificate within the statutory period, at an amount not to exceed 100 percent of the fee for renewal for each year of delinquency in addition to the fees for renewal for each year of delinquency.

Sec. 45. NRS 639.210 is hereby amended to read as follows:

639.210 The Board may suspend or revoke any certificate, license, registration or permit issued pursuant to this chapter, and deny the application of any person for a certificate, license, registration or permit, if the holder or applicant:

1. Is not of good moral character;

2. Is guilty of habitual intemperance;

3. Becomes or is intoxicated or under the influence of liquor, any depressant drug or a controlled substance, unless taken pursuant to a lawfully issued prescription, while on duty in any establishment licensed by the Board;

4. Is guilty of unprofessional conduct or conduct contrary to the public interest;

5. Is addicted to the use of any controlled substance;

6. Has been convicted of a violation of any law or regulation of the Federal Government or of this or any other state related to controlled substances, dangerous drugs, drug samples, or the wholesale or retail distribution of drugs;

7. Has been convicted of:

(a) A felony relating to holding a certificate, license, registration or permit pursuant to this chapter;

(b) A felony pursuant to NRS 639.550 or 639.555; or

(c) Other crime involving moral turpitude, dishonesty or corruption;

8. Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

9. Has willfully made to the Board or its authorized representative any false statement which is material to the administration or enforcement of any of the provisions of this chapter;

10. Has obtained any certificate, certification, license or permit by the filing of an application, or any record, affidavit or other information in support thereof, which is false or fraudulent;

11. Has violated any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs;

12. Has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy, or has knowingly permitted, allowed, condoned or failed to report a violation of any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy committed by the holder of a certificate, license, registration or permit;

13. Has failed to renew his certificate, license or permit by failing to submit the application for renewal or pay the renewal fee therefor;

14. Has had his certificate, license or permit suspended or revoked in another state on grounds which would cause suspension or revocation of a certificate, license or permit in this State;

15. Has, as a managing pharmacist, violated any provision of law or regulation concerning recordkeeping or inventory in a store over which he presides,

1 or has knowingly allowed a violation of any provision of this chapter or other state
2 or federal laws or regulations relating to the practice of pharmacy by personnel of
3 the pharmacy under his supervision;

4 16. Has repeatedly been negligent, which may be evidenced by claims of
5 malpractice settled against him;

6 17. Has failed to maintain and make available to a state or federal officer any
7 records in accordance with the provisions of this chapter or chapter 453 or 454 of
8 NRS; or

9 18. Has failed to file or maintain a bond or other security if required by
10 NRS 639.515.

11 19. *Has violated any provision of section 41 of this act or any regulations*
12 *adopted pursuant thereto.*

13 **Sec. 46. 1. The State Board of Pharmacy shall, during the 2007-2009**
14 **interim, conduct a study to identify computer software that will create an**
15 **electronic database which:**

16 (a) Identifies each sale or transfer of a product that is a precursor to
17 methamphetamine immediately after the sale or transfer has occurred; and

18 (b) A pharmacy or person who holds a permit issued by the Board
19 pursuant to sections 36 to 42, inclusive, of this act may access for the purpose
20 of determining whether a sale or transfer of a product that is a precursor to
21 methamphetamine would violate state or federal law.

22 2. The State Board of Pharmacy shall submit a report of the results of the
23 study and any recommendations for legislation to the Director of the
24 Legislative Counsel Bureau for transmission to the 75th Session of the Nevada
25 Legislature.

26 ~~Sec. 35.~~ **Sec. 47.** As soon as practicable after October 1, 2007, the
27 Director of the State Department of Agriculture shall appoint to the Anhydrous
28 Ammonia Additive Advisory Committee created by section 32 of this act:

29 1. Three members whose terms expire on September 30, 2009; and

30 2. Three members whose terms expire on September 30, 2011.

31 ~~Sec. 36.~~ **Sec. 48. 1. This section ~~becomes~~ and section 46 of this act**
32 **become** effective upon passage and approval.

33 2. Sections 4, 5 ~~and~~, 6 **and 35 to 45, inclusive**, of this act become effective:

34 (a) Upon passage and approval for the purpose of adopting regulations and
35 performing any other preparatory administrative tasks that are necessary to carry
36 out the amendatory provisions of sections 4, 5 ~~and~~, 6 **and 35 to 45, inclusive**, of
37 this act; and

38 (b) On October 1, 2007, for all other purposes.

39 3. Sections 1, 2, 3, ~~and~~ 7 to ~~35~~ **34, inclusive, and 47** of this act become
40 effective on October 1, 2007.

41 4. **Section 43 of this act expires by limitation on the date on which the**
42 **provisions of 42 U.S.C. § 666 requiring each state to establish procedures**
43 **under which the state has authority to withhold or suspend, or to restrict the**
44 **use of professional, occupational and recreational licenses of persons who:**

45 (a) **Have failed to comply with a subpoena or warrant relating to a**
46 **proceeding to determine the paternity of a child or to establish or enforce an**
47 **obligation for the support of a child; or**

48 (b) **Are in arrears in the payment for the support of one or more children,**
49 **are repealed by the Congress of the United States.**