

Amendment No. 241

Senate Amendment to Senate Bill No. 262

(BDR 40-1107)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

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 dashed underlining*** is newly added transitory language.

BFG/BAW



Date: 4/10/2009

S.B. No. 262—Prescribes penalties for the cultivation of marijuana in greater amounts than is allowable for medical use. (BDR 40-1107)



SENATE BILL NO. 262—SENATORS COPENING, WIENER,
CEGAVSKE; LEE, NOLAN AND RAGGIO

MARCH 16, 2009

JOINT SPONSORS: ASSEMBLYMEN OCEGUERA,
HORNE; GUSTAVSON AND STEWART

Referred to Committee on Health and Education

SUMMARY—Prescribes penalties for the cultivation of marijuana in greater amounts than is allowable for medical use. (BDR 40-1107)

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; prohibiting certain acts relating to marijuana; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill prohibits a person from knowingly and intentionally manufacturing, growing, planting, cultivating, harvesting, drying, propagating or processing marijuana, except as specifically authorized for the medical use of marijuana. The severity of the punishment for a violation of **section 1** depends upon the number of marijuana plants involved in the violation. A person convicted of a violation of **section 1** is also required to pay all costs associated with necessary cleanup and disposal. ~~Additionally, a violation of section 1 that involves possession of 8 or more marijuana plants constitutes prima facie evidence of possession of marijuana for the purpose of sale.~~

Sections 2 and 3 of this bill include internal references to **section 1 of this bill** to indicate that ~~in (1)~~ **section 1** will be codified in chapter 453 of NRS in proximity to similar offenses involving controlled substances ~~in and (2)~~. **but section 1** will ~~therefore~~ **not** be treated in the same manner as those similar offenses for other purposes in NRS, such as being included in the list of crimes related to racketeering and being included in the definition of "immorality" for the purposes of certain provisions related to educational personnel. (NRS 207.360, 391.311)

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 1. A person shall not knowingly and intentionally manufacture, grow,
2 plant, cultivate, harvest, dry, propagate or process marijuana, except as
3 specifically authorized by the provisions of this chapter and chapter 453A of
4 NRS.

5 2. Unless a greater penalty is provided in NRS 453.339, a person who
6 violates subsection 1 shall be punished, if the quantity involved:

7 (a) Is 1 to 25 marijuana plants, for a ~~category E felony as provided in NRS~~
8 ~~193.130,~~ gross misdemeanor.

9 (b) Is 26 to ~~100~~ 75 marijuana plants, for a category ~~D~~ E felony as provided
10 in NRS 193.130.

11 (c) Is ~~100 to 499~~ 76 to 100 marijuana plants, for a category ~~C~~ D felony as
12 provided in NRS 193.130.

13 (d) Is ~~500~~ more than 100 marijuana plants, ~~for more,~~ for a category ~~B~~
14 ~~felony by imprisonment in the state prison for a minimum term of not less than 3~~
15 ~~years and a maximum term of not more than 15 years, and may be further~~
16 ~~punished by a fine of not more than \$100,000,~~ C felony as provided in
17 NRS 193.130.

18 3. In addition to the punishment imposed pursuant to subsection 2, the
19 court shall order a person convicted of a violation of subsection 1 to pay all costs
20 associated with any necessary cleanup and disposal related to the manufacturing,
21 growing, planting, cultivation, harvesting, drying, propagation or processing of
22 the marijuana.

23 ~~4. A violation of subsection 1 that involves possession by a person of 8 or~~
24 ~~more marijuana plants constitutes prima facie evidence of possession of~~
25 ~~marijuana for the purpose of sale in violation of NRS 453.337.~~

26 Sec. 2. NRS 207.360 is hereby amended to read as follows:

27 207.360 "Crime related to racketeering" means the commission of, attempt to
28 commit or conspiracy to commit any of the following crimes:

- 29 1. Murder;
- 30 2. Manslaughter, except vehicular manslaughter as described in
31 NRS 484.3775;
- 32 3. Mayhem;
- 33 4. Battery which is punished as a felony;
- 34 5. Kidnapping;
- 35 6. Sexual assault;
- 36 7. Arson;
- 37 8. Robbery;
- 38 9. Taking property from another under circumstances not amounting to
39 robbery;
- 40 10. Extortion;
- 41 11. Statutory sexual seduction;
- 42 12. Extortionate collection of debt in violation of NRS 205.322;
- 43 13. Forgery;
- 44 14. Any violation of NRS 199.280 which is punished as a felony;
- 45 15. Burglary;
- 46 16. Grand larceny;
- 47 17. Bribery or asking for or receiving a bribe in violation of chapter 197 or
48 199 of NRS which is punished as a felony;
- 49 18. Battery with intent to commit a crime in violation of NRS 200.400;
- 50 19. Assault with a deadly weapon;
- 51 20. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, ~~and~~
52 except a violation of section 1 of this act, or 453.375 to 453.401, inclusive;
- 53 21. Receiving or transferring a stolen vehicle;

22. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;

23. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;

24. Receiving, possessing or withholding stolen goods valued at \$250 or more;

25. Embezzlement of money or property valued at \$250 or more;

26. Obtaining possession of money or property valued at \$250 or more, or obtaining a signature by means of false pretenses;

27. Perjury or subornation of perjury;

28. Offering false evidence;

29. Any violation of NRS 201.300 or 201.360;

30. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud pursuant to NRS 686A.291;

31. Any violation of NRS 205.506, 205.920 or 205.930; or

32. Any violation of NRS 202.445 or 202.446.

Sec. 3. NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, unless the context otherwise requires:

1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.

2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, is employed.

3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.

4. "Immorality" means:

(a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, ~~and~~ except an act forbidden by section 1 of this act, 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or

(b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, "sexual conduct" has the meaning ascribed to it in NRS 201.520.

5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment.

6. "Probationary employee" means an administrator or a teacher who is employed for the period set forth in NRS 391.3197.

7. "Superintendent" means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.

8. "Teacher" means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.