

SENATE BILL NO. 35—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 5, 2008

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the prosecution of certain offenses. (BDR 15-272)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 criminal procedure; providing that an acquittal of an offense in another jurisdiction is admissible in evidence in the trial in this State for the same offense; repealing the provision that prohibits the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another state, territory or country; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill amends existing law to provide that after a person is acquitted of a crime in another jurisdiction and a criminal prosecution is brought in the courts of this State for the same offense, the acquittal in the other jurisdiction is admissible in evidence in the prosecution in this State. (NRS 193.280)

Section 2 of this bill: (1) repeals the provision that prohibits the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another state, territory or country; and (2) establishes the “dual sovereignty doctrine” in this State. (NRS 171.070) Under the dual sovereignty doctrine, successive prosecutions by two states, or by a state and the Federal Government, for the same criminal conduct are not barred by the double jeopardy clause of the Fifth Amendment to the United States Constitution. (*Heath v. Alabama*, 474 U.S. 82 (1985); *United States v. Lanza*, 260 U.S. 377 (1922))



* S B 3 5 R 1 *

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

- 1 **Section 1.** NRS 193.280 is hereby amended to read as follows:
2 193.280 Whenever, upon the trial of any person for a crime, it
3 appears that the offense was committed in another state or country,
4 under such circumstances that the courts of this state had
5 jurisdiction thereof, and that the defendant has already been
6 acquitted ~~for convicted~~ upon the merits, upon a criminal
7 prosecution under the laws of such state or country, founded upon
8 the act or omission with respect to which he is upon trial, such
9 former acquittal ~~for conviction is a sufficient defense.~~ *is admissible*
10 *in evidence in the trial.*
11 **Sec. 2.** NRS 171.070 is hereby repealed.
12 **Sec. 3.** The amendatory provisions of this act do not apply to
13 offenses committed before July 1, 2009.
14 **Sec. 4.** This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTION

171.070 Conviction or acquittal in another state, territory or country is bar where jurisdiction is concurrent. When an act charged as a public offense is within the jurisdiction of another state, territory or country, as well as of this State, a conviction or acquittal thereof in the former is a bar to the prosecution or indictment therefor in this State.

