

## Amendment No. 213

Senate Amendment to Senate Bill No. 335

(BDR 40-795)

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

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 underlining* is newly added transitory language.

RBL



Date: 4/21/2011

S.B. No. 335—Revises provisions governing drug paraphernalia. (BDR 40-795)



## SENATE BILL NO. 335—SENATOR PARKS (BY REQUEST)

MARCH 21, 2011

JOINT SPONSORS: ASSEMBLYMEN PIERCE; AND OHRENSCHALL

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing ~~[drug paraphernalia]~~ hypodermic devices. (BDR 40-795)

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 hypodermics; removing hypodermic devices from the list of paraphernalia that is prohibited for delivery, sale, possession, manufacture or use in this State; providing that hypodermic devices may be sold or furnished without a prescription if not prohibited by federal law or in certain circumstances; repealing a provision which makes it a crime to misuse a hypodermic device; requiring the State Board of Health to establish a program for the safe distribution and disposal of hypodermic devices; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Section 1 of this bill requires the State Board of Health to establish by regulation a program for the safe distribution and disposal of hypodermic devices. Section 1 further requires a pharmacy, health care facility, provider of health care, nonprofit community-based organization or governmental entity that wishes to sell or furnish hypodermic devices without a prescription to register with the appropriate health authority. Section 1 requires the State Board to identify by regulation the persons who may obtain a hypodermic device without a prescription. In addition, section 1 requires the State Board to develop or approve language for a safety insert to be included with each hypodermic device that is sold or furnished to a person without a prescription. Selling or furnishing a device in violation of the requirements of section 1 or the regulations adopted pursuant thereto is a misdemeanor and the registration of the pharmacy, health care facility, provider of health care, nonprofit community-based organization or governmental entity may be suspended for such a violation.

Existing law prohibits the delivery, sale, possession or manufacture of certain drug paraphernalia when the person engaging in the act reasonably should know that it will be used for an illegal purpose. (NRS 453.560) Existing law further makes it a felony for a person to deliver drug paraphernalia to a minor who is at least 3 years younger than the person. (NRS 453.562) Section ~~1~~ 2 of this bill removes hypodermic devices from the list of items that may be found to constitute drug paraphernalia.

Existing law authorizes the sale of hypodermic devices which are not restricted by federal law to being sold by prescription to be sold without a prescription for certain limited purposes. (NRS 454.480) ~~Section 44 5~~ of this bill removes the restrictions so that hypodermic devices may be sold ~~or furnished~~ without a prescription for any purpose so long as the sale of such devices is not restricted by federal law ~~Section 51~~ and is authorized pursuant to the program for the safe distribution and disposal of hypodermic devices established by the State Board of Health pursuant to section 1 of this bill. Section 5 further prohibits a pharmacy that sells or provides hypodermic devices without a prescription from advertising the availability of such devices without a prescription and requires that such devices be stored so that they are accessible only to authorized personnel.

Section 6 of this bill repeals a provision which makes it a misdemeanor to use or allow the use of a hypodermic device for a purpose other than that for which it was purchased, because the specific uses were removed in ~~section 44 5~~.

WHEREAS, The Human Immunodeficiency Virus, Hepatitis and other infectious diseases that may be transmitted through the use of unsterile hypodermic devices such as syringes and needles pose a major health threat in the United States, causing thousands of deaths and millions of dollars in preventable health care costs each year; and

WHEREAS, The lack of availability of sterile hypodermic devices is a major cause of this serious health threat; and

WHEREAS, Hundreds of studies have demonstrated that making sterile hypodermic devices available to persons who inject drugs reduces the spread of infectious disease and does not encourage drug use; and

WHEREAS, The trend among states has been to deregulate the possession, sale and use of hypodermic devices and to make such devices more accessible; and

WHEREAS, Increasing access to sterile hypodermic devices is necessary to control the spread of life-threatening infectious diseases; now, therefore,

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Health shall establish by regulation a program for the safe distribution and disposal of hypodermic devices.

2. A person or governmental entity shall not sell or furnish a hypodermic device without a prescription unless the person or governmental entity is registered and authorized to do so pursuant to this section. A pharmacy, health care facility, provider of health care, nonprofit community-based organization or governmental entity that wishes to sell or furnish hypodermic devices without a prescription must register with the health authority to participate in the program established pursuant to subsection 1.

3. The regulations adopted by the State Board of Health must provide the requirements for a pharmacy, health care facility, provider of health care, nonprofit community-based organization or governmental entity to register with the health authority to participate in the program established pursuant to subsection 1.

4. The regulations adopted by the State Board of Health must identify the persons who may obtain hypodermic devices without a prescription. Such regulations:

(a) Must not allow the distribution of hypodermic devices to a person who is under the age of 18 years.

(b) Must limit the number of hypodermic devices that may be sold or furnished to a person without a prescription to not more than 10 such devices at one time.

5. The State Board of Health shall develop or approve the language for a safety insert that must be provided with each hypodermic device which is sold or furnished to a person without a prescription. The safety insert must include, without limitation:

(a) Information on the proper use of hypodermic devices;

(b) The risk of bloodborne diseases that may result from the use of hypodermic devices;

(c) Methods for preventing the transmission or contraction of bloodborne diseases;

(d) Information concerning the dangers of injecting drugs and the manner in which to access treatment;

(e) Information regarding the manner in which to obtain information concerning the human immunodeficiency virus; and

(f) Information concerning the safe disposal of hypodermic devices.

6. The State Board of Health may suspend the registration of a pharmacy, health care facility, provider of health care, nonprofit community-based organization or governmental entity upon finding that the pharmacy, health care facility, provider of health care, nonprofit community-based organization or governmental entity has violated the provisions of this section or the regulations adopted pursuant thereto, or that a pharmacy has violated the provisions of NRS 454.480.

7. Selling or furnishing a hypodermic device without a prescription in a manner that is not authorized pursuant to this section is a misdemeanor.

8. As used in this section:

(a) "Health care facility" means any facility in or through which health care services are provided, including, without limitation, a nonprofit or governmental entity that provides health care services.

(b) "Provider of health care" means a physician licensed pursuant to chapter 630 or 633 of NRS or any other person who is authorized to prescribe hypodermic devices.

~~[Section 1.]~~ Sec. 2. NRS 453.554 is hereby amended to read as follows:

453.554 ~~[As]~~ **1. Except as otherwise provided in subsection 2, as** used in NRS 453.554 to 453.566, inclusive, unless the context otherwise requires, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ~~[injecting]~~ ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this chapter. The term includes, but is not limited to:

~~[1.]~~ **(a)** Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

~~[2.]~~ **(b)** Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing or preparing controlled substances;

~~[3.]~~ **(c)** Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

~~[4.]~~ **(d)** Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

~~(5-)~~ (e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

~~(6-)~~ (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

~~(7-)~~ (g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

~~(8-)~~ (h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

~~(9-)~~ (i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

~~(10-)~~ (j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; and

~~(11-)~~ (k) Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

~~(1a-)~~ (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

~~(1b-)~~ (2) Water pipes;

~~(1c-)~~ (3) Smoking masks;

~~(1d-)~~ (4) Roach clips, which are objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

~~(1e-)~~ (5) Cocaine spoons and cocaine vials;

~~(1f-)~~ (6) Carburetor pipes and carburetion tubes and devices;

~~(1g-)~~ (7) Chamber pipes;

~~(1h-)~~ (8) Electric pipes;

~~(1i-)~~ (9) Air-driven pipes;

~~(1j-)~~ (10) Chillums;

~~(1k-)~~ (11) Bongs; and

~~(1l-)~~ (12) Ice pipes or chillers.

**2. The term does not include any type of hypodermic syringe, needle, instrument, device or implement intended or capable of being adapted for the purpose of administering drugs by subcutaneous, intramuscular or intravenous injection.**

~~(Sec. 2-)~~ **Sec. 3.** NRS 453.560 is hereby amended to read as follows:

453.560 Unless a greater penalty is provided in NRS 212.160, a person who delivers or sells, possesses with the intent to deliver or sell, or manufactures with the intent to deliver or sell any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used 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 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

~~(Sec. 3-)~~ **Sec. 4.** NRS 453.566 is hereby amended to read as follows:

453.566 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 is guilty of a misdemeanor.

~~(Sec. 4-)~~ **Sec. 5.** NRS 454.480 is hereby amended to read as follows:

454.480 1. Hypodermic devices which are not restricted by federal law to sale by or on the order of a physician may be sold by a pharmacist, or by a person

1 in a pharmacy under the direction of a pharmacist, on the prescription of a  
2 physician, dentist or veterinarian, or of an advanced practitioner of nursing who is a  
3 practitioner. Those prescriptions must be filed as required by NRS 639.236, and  
4 may be refilled as authorized by the prescriber. Records of refilling must be  
5 maintained as required by NRS 639.2393 to 639.2397, inclusive.

6 2. Hypodermic devices which are not restricted by federal law to sale by or on  
7 the order of a physician may be sold or furnished without prescription ~~for~~ for the  
8 following purposes:

9 ~~—(a) For use in the treatment of persons having asthma or diabetes.~~

10 ~~—(b) For use in injecting intramuscular or subcutaneous medications prescribed~~  
11 ~~by a practitioner for the treatment of human beings.~~

12 ~~—(c) For use in an ambulance or by a fire-fighting agency for which a permit is~~  
13 ~~held pursuant to NRS 450B.200 or 450B.210.~~

14 ~~—(d) For the injection of drugs in animals or poultry.~~

15 ~~—(e) For commercial or industrial use or use by jewelers or other merchants~~  
16 ~~having need for those devices in the conduct of their business, or by hobbyists if the~~  
17 ~~seller is satisfied that the device will be used for legitimate purposes.~~

18 ~~—(f) For use by funeral directors and embalmers, licensed medical technicians or~~  
19 ~~technologists, or research laboratories.] if authorized pursuant to section 1 of this~~  
20 act.

21 3. A pharmacy that is registered pursuant to section 1 of this act to sell or  
22 furnish hypodermic devices without a prescription:

23 (a) Shall not advertise the availability of such devices without a prescription.

24 (b) Shall store such devices in the pharmacy in a manner that makes them  
25 available only to authorized personnel.

26 4. A violation of the provisions of this section is a misdemeanor.

27 ~~[Sec. 5.]~~ Sec. 6. NRS 454.520 is hereby repealed.

28 Sec. 7. The State Board of Health shall adopt regulations necessary to  
29 implement the provisions of this act on or before January 1, 2012.

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## TEXT OF REPEALED SECTION

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**454.520 Misuse of hypodermic device; penalty.** Any person who has lawfully obtained a hypodermic device, as provided by NRS 454.480 to 454.530, inclusive, and uses, permits or causes, directly or indirectly, such a device to be used for any purpose other than that for which it was purchased is guilty of a misdemeanor.