

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.
(BDR 40-795)

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

~

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 without a prescription if not prohibited by federal law; repealing a provision which makes it a crime to misuse a hypodermic device; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prohibits the delivery, sale, possession or manufacture of certain
2 drug paraphernalia when the person engaging in the act reasonably should know
3 that it will be used for an illegal purpose. (NRS 453.560) Existing law further
4 makes it a felony for a person to deliver drug paraphernalia to a minor who is at
5 least 3 years younger than the person. (NRS 453.562) **Section 1** of this bill removes
6 hypodermic devices from the list of items that may be found to constitute drug
7 paraphernalia. Existing law authorizes the sale of hypodermic devices which are
8 not restricted by federal law to being sold by prescription to be sold without a
9 prescription for certain limited purposes. (NRS 454.480) **Section 4** of this bill
10 removes the restrictions so that hypodermic devices may be sold without a
11 prescription for any purpose so long as the sale of such devices is not restricted by
12 federal law. **Section 5** of this bill repeals a provision which makes it a misdemeanor
13 to use or allow the use of a hypodermic device for a purpose other than that for
14 which it was purchased, because the specific uses were removed in **section 4**.



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. 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;



* S B 3 3 5 *

~~14-1~~ (d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

~~15-1~~ (e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

~~16-1~~ (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;

~~17-1~~ (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;

~~18-1~~ (h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

~~19-1~~ (i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

~~110-1~~ (j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; and

~~111-1~~ (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:

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

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

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

~~1(d)-1~~ (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;

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

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

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

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

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

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

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

~~1(l)-1~~ (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. 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



* S B 3 3 5 *

1 sell, or manufactures with the intent to deliver or sell any drug
2 paraphernalia, knowing, or under circumstances where one
3 reasonably should know, that it will be used to plant, propagate,
4 cultivate, grow, harvest, manufacture, compound, convert, produce,
5 prepare, test, analyze, pack, repack, store, contain, conceal, ~~inject,~~
6 ingest, inhale or otherwise introduce into the human body a
7 controlled substance in violation of this chapter is guilty of a
8 category E felony and shall be punished as provided in
9 NRS 193.130.

10 **Sec. 3.** NRS 453.566 is hereby amended to read as follows:

11 453.566 Any person who uses, or possesses with intent to use,
12 drug paraphernalia to plant, propagate, cultivate, grow, harvest,
13 manufacture, compound, convert, produce, prepare, test, analyze,
14 pack, repack, store, contain, conceal, ~~inject,~~ ingest, inhale or
15 otherwise introduce into the human body a controlled substance in
16 violation of this chapter is guilty of a misdemeanor.

17 **Sec. 4.** NRS 454.480 is hereby amended to read as follows:

18 454.480 1. Hypodermic devices which are not restricted by
19 federal law to sale by or on the order of a physician may be sold by
20 a pharmacist, or by a person in a pharmacy under the direction of a
21 pharmacist, on the prescription of a physician, dentist or
22 veterinarian, or of an advanced practitioner of nursing who is a
23 practitioner. Those prescriptions must be filed as required by NRS
24 639.236, and may be refilled as authorized by the prescriber.
25 Records of refilling must be maintained as required by NRS
26 639.2393 to 639.2397, inclusive.

27 2. Hypodermic devices which are not restricted by federal law
28 to sale by or on the order of a physician may be sold without
29 prescription. ~~[for the following purposes:~~

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

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

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

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

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

42 ~~—(f) For use by funeral directors and embalmers, licensed medical~~
43 ~~technicians or technologists, or research laboratories.]~~



- 1 **Sec. 5.** NRS 454.520 is hereby repealed.

TEXT OF REPEALED SECTION

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.

(30)



★ S B 3 3 5 ★