

SENATE BILL NO. 234—SENATOR PARKS

MARCH 9, 2015

Referred to Committee on Health and Human Services

SUMMARY—Requires certain substances to be included on the list of schedule I controlled substances. (BDR 40-628)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 include certain substances, chemical compounds and isomers of chemical compounds on the list of schedule I controlled substances; requiring the Department of Public Safety to establish a pilot program for the use of technologies to instantly identify synthetic marijuana and certain other substances; providing criminal and civil penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Board of Pharmacy to adopt regulations to add substances to, or delete or reschedule substances included in, the schedules of controlled substances. (NRS 453.146) Existing law also provides criminal penalties for various acts involving a schedule I controlled substance, including, without limitation, possession, manufacture, compounding, importation, distribution, sale, transfer, trafficking or driving under the influence of a schedule I controlled substance. (NRS 453.316-453.348, 484C.110) In addition to criminal penalties, existing law provides for civil penalties against a person who engages in certain acts involving the unlawful manufacture, distribution or sale of a schedule I controlled substance. (NRS 453.553-453.5533) The Board currently designates certain substances, chemical compounds and isomers of chemical compounds as schedule I controlled substances, including, without limitation, certain substances commonly known as synthetic marijuana. (NAC 453.510)

Section 1 of this bill requires the Board to designate, by extraordinary regulation, *salvia divinorum* and certain substances commonly known as synthetic marijuana in the list of schedule I controlled substances. When these substances are added to schedule I, the substances will be subject to the same criminal and civil



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18 penalties applicable to other schedule I controlled substances. **Section 2** of this bill
19 requires the Department of Public Safety to establish a pilot program for the use of
20 technologies to instantly identify synthetic marijuana and certain other substances.

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

1 **Section 1.** NRS 453.146 is hereby amended to read as follows:
2 453.146 1. The Board shall administer the provisions of NRS
3 453.011 to 453.552, inclusive, and may add substances to or delete
4 or reschedule all substances enumerated in schedules I, II, III, IV
5 and V by regulation.
6 2. In making a determination regarding a substance, the Board
7 shall consider the following:
8 (a) The actual or relative potential for abuse;
9 (b) The scientific evidence of its pharmacological effect, if
10 known;
11 (c) The state of current scientific knowledge regarding the
12 substance;
13 (d) The history and current pattern of abuse;
14 (e) The scope, duration and significance of abuse;
15 (f) The risk to the public health;
16 (g) The potential of the substance to produce psychic or
17 physiological dependence liability; and
18 (h) Whether the substance is an immediate precursor of a
19 controlled substance.
20 3. The Board may consider findings of the federal Food and
21 Drug Administration or the Drug Enforcement Administration as
22 prima facie evidence relating to one or more of the determinative
23 factors.
24 4. After considering the factors enumerated in subsection 2, the
25 Board shall make findings with respect thereto and adopt a
26 regulation controlling the substance if it finds the substance has a
27 potential for abuse.
28 5. The Board shall designate as a controlled substance a steroid
29 or other product which is used to enhance athletic performance,
30 muscle mass, strength or weight without medical necessity. The
31 Board may not designate as a controlled substance an anabolic
32 steroid which is:
33 (a) Expressly intended to be administered through an implant to
34 cattle, poultry or other animals; and
35 (b) Approved by the Food and Drug Administration for such
36 use.



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6. *Notwithstanding any other provision of law, the Board shall, by extraordinary regulation as provided for in NRS 453.2184, designate as a controlled substance included in schedule I:*

(a) *Salvia divinorum or salvinorin A, including any part of the plant classified as salvia divinorum, whether growing or not, including the seeds thereof, any extract from any part of the plant, and any compound, manufacture, salts, derivative, mixture or preparation of the plant, its seeds or its extracts; and*

(b) *Except as otherwise provided in subsection 7, any chemical compound that is chemically synthesized and:*

(1) *Has been demonstrated to have binding activity at one or more cannabinoid receptors; or*

(2) *Is substantially similar in chemical structure to, or is an isomer of, a chemical compound that has been demonstrated to have binding activity at one or more cannabinoid receptors.*

7. *The Board is not required to designate the following as controlled substances included in schedule I pursuant to paragraph (b) of subsection 6:*

(a) *A substance for which there is an approved new drug application.*

(b) *A substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 355, to the extent conduct with respect to the substance is permitted by the exemption.*

(c) *Any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.*

Sec. 2. 1. The Department of Public Safety shall create a pilot program for the use of technologies to instantly identify synthetic marijuana and other controlled substance analogs. The Department shall select one or more law enforcement agencies in this State to participate in the pilot program.

2. The Department shall:

(a) Identify technologies that are capable of producing presumptive evidence in field testing of synthetic marijuana and other controlled substance analogs;

(b) Establish protocols for the use of such technologies as part of the pilot program; and

(c) Select the technologies and protocols that must be used as part of the pilot program.

3. On or before July 31, 2016, the Department shall submit a report to the Legislative Commission that sets forth the findings of the pilot program and any recommendations concerning whether the



1 technologies and protocols selected for the pilot program are useful
2 in preventing the development and use of controlled substance
3 analogs in this State. The report must include, without limitation:

4 (a) A review of the technical capabilities and accuracy rates of
5 the technologies and protocols selected for the pilot program;

6 (b) A statement of whether the technologies and protocols
7 selected for the pilot program could eliminate the need to send
8 suspected controlled substance analogs to the crime lab for testing
9 and, if such need could be eliminated, a description of the impact to
10 state and local crime lab backlogs and the cost savings to state and
11 local governments; and

12 (c) A description of whether courts are accepting the use of the
13 technologies and protocols selected for the pilot program as
14 presumptive evidence to identify controlled substance analogs.

15 4. As used in this section, “controlled substance analog” has
16 the meaning ascribed to it in NRS 453.043.

17 **Sec. 3.** 1. This section and section 1 of this act become
18 effective upon passage and approval.

19 2. Section 2 of this act becomes effective on July 1, 2015, and
20 expires by limitation on August 1, 2016.

