

SENATE BILL NO. 367—SENATORS KIHUEN, SEGERBLOM,  
PARKS; ATKINSON, DENIS, FORD AND SPEARMAN

MARCH 16, 2015

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing controlled substances.  
(BDR 40-883)

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: 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 controlled substances; providing that possession of certain controlled substances may be punishable as a gross misdemeanor; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law makes it unlawful to possess a controlled substance listed in schedule I, II, III or IV. For a first or second offense, a person who violates this provision is guilty of a category E felony, punishable by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. (NRS 193.130, 453.336) This bill alternatively allows the court to sentence a person found guilty of possessing such controlled substances to a gross misdemeanor.

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

**Section 1.** NRS 453.336 is hereby amended to read as follows:  
453.336 1. Except as otherwise provided in subsection 5, a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practice registered nurse



1 or veterinarian while acting in the course of his or her professional  
2 practice, or except as otherwise authorized by the provisions of NRS  
3 453.005 to 453.552, inclusive.

4 2. Except as otherwise provided in subsections 3 and 4 and in  
5 NRS 453.3363, and unless a greater penalty is provided in NRS  
6 212.160, 453.3385, 453.339 or 453.3395, a person who violates this  
7 section shall be punished:

8 (a) For the first or second offense, if the controlled substance is  
9 listed in schedule I, II, III or IV, for a category E felony as provided  
10 in NRS 193.130 ~~H~~ or for a gross misdemeanor as provided in  
11 NRS 193.140.

12 (b) For a third or subsequent offense, if the controlled substance  
13 is listed in schedule I, II, III or IV, or if the offender has previously  
14 been convicted two or more times in the aggregate of any violation  
15 of the law of the United States or of any state, territory or district  
16 relating to a controlled substance, for a category D felony as  
17 provided in NRS 193.130, and may be further punished by a fine of  
18 not more than \$20,000.

19 (c) For the first offense, if the controlled substance is listed in  
20 schedule V, for a category E felony as provided in NRS 193.130.

21 (d) For a second or subsequent offense, if the controlled  
22 substance is listed in schedule V, for a category D felony as  
23 provided in NRS 193.130.

24 3. Unless a greater penalty is provided in NRS 212.160,  
25 453.337 or 453.3385, a person who is convicted of the possession of  
26 flunitrazepam or gamma-hydroxybutyrate, or any substance for  
27 which flunitrazepam or gamma-hydroxybutyrate is an immediate  
28 precursor, is guilty of a category B felony and shall be punished by  
29 imprisonment in the state prison for a minimum term of not less  
30 than 1 year and a maximum term of not more than 6 years.

31 4. Unless a greater penalty is provided pursuant to NRS  
32 212.160, a person who is convicted of the possession of 1 ounce or  
33 less of marijuana:

34 (a) For the first offense, is guilty of a misdemeanor and shall be:

35 (1) Punished by a fine of not more than \$600; or

36 (2) Examined by an approved facility for the treatment of  
37 abuse of drugs to determine whether the person is a drug addict and  
38 is likely to be rehabilitated through treatment and, if the examination  
39 reveals that the person is a drug addict and is likely to be  
40 rehabilitated through treatment, assigned to a program of treatment  
41 and rehabilitation pursuant to NRS 453.580.

42 (b) For the second offense, is guilty of a misdemeanor and shall  
43 be:

44 (1) Punished by a fine of not more than \$1,000; or



(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(c) For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.

(d) For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. It is not a violation of this section if a person possesses a trace amount of a controlled substance and that trace amount is in or on a hypodermic device obtained from a sterile hypodermic device program pursuant to NRS 439.985 to 439.994, inclusive.

6. As used in this section:

(a) “Controlled substance” includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

(b) “Sterile hypodermic device program” has the meaning ascribed to it in NRS 439.986.

**Sec. 2.** The amendatory provisions of this act apply to a person who is sentenced on or after October 1, 2015, for a crime committed before, on or after October 1, 2015.

