

Assembly Bill No. 345—Assemblyman Orentlicher

Joint Sponsor: Senator Donate

CHAPTER.....

AN ACT relating to drug paraphernalia; providing that it is not unlawful to provide, administer or use a testing product for certain purposes; exempting a person or entity acting in good faith and with reasonable care from professional discipline and civil liability for providing, administering or using a testing product for those purposes; excluding testing products from the list of drug paraphernalia that is prohibited for delivery, sale, possession, manufacture, advertising or use in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a felony to deliver, sell, possess with intent to sell or manufacture with intent to deliver or sell drug paraphernalia when the person engaging in the delivery, sale, possession or manufacture knows or reasonably should know that the drug paraphernalia will be used as such. (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) Existing law additionally makes it a misdemeanor to: (1) advertise drug paraphernalia in print where one knows or should know that the advertisement is for the purpose of promoting objects designed or intended for use as drug paraphernalia; (2) use drug paraphernalia as such; or (3) possess drug paraphernalia with the intent to use it as such. (NRS 453.564, 453.566) **Section 1** of this bill provides that it is not unlawful to provide, administer or use a testing product to assist a person in determining whether a controlled substance contains chemicals, toxic substances or hazardous compounds. **Section 1** also exempts a person or entity who acts in good faith and with reasonable care in providing, administering or using a testing product for that purpose from professional discipline and civil liability. **Section 2** of this bill excludes testing products from the definition of the term “drug paraphernalia” for the purposes of those offenses. **Section 3** of this bill makes a conforming change to indicate the proper placement of **section 1** in the Nevada Revised Statutes.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

Section 1. Chapter 453 of NRS is hereby amended by adding thereto a new section to read as follows:

1. It is not unlawful to provide, administer or use a testing product to assist a person in determining whether a controlled substance contains chemicals, toxic substances or hazardous compounds.



2. *A person or entity who, acting in good faith and with reasonable care, provides, administers or uses a testing product to assist another person in determining whether a controlled substance contains chemicals, toxic substances or hazardous compounds is immune from sanction under any professional licensing statute and civil liability for such an act.*

3. *As used in this section, “testing product” has the meaning ascribed to it in NRS 453.554.*

Sec. 2. NRS 453.554 is hereby amended to read as follows:

453.554 1. Except as otherwise provided in subsection 2, as used in NRS 453.554 to 453.566, inclusive, *and section 1 of this act*, 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, 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:

(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;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing or preparing controlled substances;

(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;

(d) Testing equipment , *other than testing products*, used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

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

(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;

(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;

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



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

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

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

(2) Water pipes;

(3) Smoking masks;

(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;

(5) Cocaine spoons and cocaine vials;

(6) Carburetor pipes and carburetion tubes and devices;

(7) Chamber pipes;

(8) Electric pipes;

(9) Air-driven pipes;

(10) Chillums;

(11) Bongs; and

(12) Ice pipes or chillers.

2. The term does not include ~~any~~ **any**:

(a) 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 ~~it~~; **or**

(b) Testing products.

3. **As used in this section:**

(a) “Fentanyl test strip” means a strip used to rapidly test for the presence of fentanyl or other synthetic opiates.

(b) “Testing product” means a product, including, without limitation, a fentanyl test strip, that analyzes a controlled substance for the presence of adulterants.

Sec. 3. NRS 453C.150 is hereby amended to read as follows:

453C.150 1. Notwithstanding any other provision of law, a person who, in good faith, seeks medical assistance for a person who is experiencing a drug or alcohol overdose or other medical emergency or who seeks such assistance for himself or herself, or who is the subject of a good faith request for such assistance may not be arrested, charged, prosecuted or convicted, or have his or her



property subjected to forfeiture, or be otherwise penalized for violating:

(a) Except as otherwise provided in subsection 4, a provision of chapter 453 of NRS relating to:

(1) Drug paraphernalia, including, without limitation, NRS 453.554 to 453.566, inclusive ~~H~~, **and section 1 of this act;**

(2) Possession, unless it is for the purpose of sale or violates the provisions of NRS 453.3385, subsection 2 of NRS 453.3393 or 453.3405; or

(3) Use of a controlled substance, including, without limitation, NRS 453.336;

(b) A local ordinance as described in NRS 453.3361 that establishes an offense that is similar to an offense set forth in NRS 453.336;

(c) A restraining order; or

(d) A condition of the person's parole or probation,
→ if the evidence to support the arrest, charge, prosecution, conviction, seizure or penalty was obtained as a result of the person seeking medical assistance.

2. A court, before sentencing a person who has been convicted of a violation of chapter 453 of NRS for which immunity is not provided by this section, shall consider in mitigation any evidence or information that the defendant, in good faith, sought medical assistance for a person who was experiencing a drug or alcohol overdose or other life-threatening emergency in connection with the events that constituted the violation.

3. For the purposes of this section, a person seeks medical assistance if the person:

(a) Reports a drug or alcohol overdose or other medical emergency to a member of a law enforcement agency, a 911 emergency service, a poison control center, a medical facility or a provider of emergency medical services;

(b) Assists another person making such a report;

(c) Provides care to a person who is experiencing a drug or alcohol overdose or other medical emergency while awaiting the arrival of medical assistance; or

(d) Delivers a person who is experiencing a drug or alcohol overdose or other medical emergency to a medical facility and notifies the appropriate authorities.

4. The provisions of this section do not prohibit any governmental entity from taking any actions required or authorized by chapter 432B of NRS relating to the abuse or neglect of a child.



5. As used in this section, “drug or alcohol overdose” means a condition, including, without limitation, extreme physical illness, a decreased level of consciousness, respiratory depression, coma, mania or death which is caused by the consumption or use of a controlled substance or alcohol, or another substance with which a controlled substance or alcohol was combined, or that an ordinary layperson would reasonably believe to be a drug or alcohol overdose that requires medical assistance.

Sec. 4. This act becomes effective upon passage and approval.

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