

Amendment No. 605

Assembly Amendment to Senate Bill No. 359 First Reprint	(BDR 40-1006)
Proposed by: Assembly Committee on Judiciary	
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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

BAW



Date: 5/17/2021

S.B. No. 359—Provides additional penalties if a fire or explosion results from the commission of certain prohibited acts. (BDR 40-1006)



SENATE BILL NO. 359—COMMITTEE ON JUDICIARY

MARCH 25, 2021

Referred to Committee on Judiciary

SUMMARY—~~[Provides additional]~~ **Revises the** penalties ~~[if a fire or explosion results from]~~ **for** the commission of certain prohibited acts ~~[relating to controlled substances.]~~ (BDR 40-1006)

FISCAL NOTE: Effect on Local Government: No.
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 crimes; ~~[providing additional]~~ **revising the** penalties ~~[if a fire or explosion results from]~~ **for** the commission of certain prohibited acts ~~[relating to controlled substances];~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) prohibits the unauthorized manufacturing or compounding of a controlled substance other than marijuana; and (2) provides that a person who engages in such unauthorized manufacturing or compounding of a controlled substance other than marijuana is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$100,000. (NRS 453.322) **Section 1** of this bill provides that ~~[in addition to any punishment that may be imposed for]~~ **if such** unauthorized manufacturing or compounding of a controlled substance other than marijuana ~~[if]~~ **causes** a fire or explosion, ~~[occurs as the result of such manufacturing or compounding of a controlled substance other than marijuana,]~~ the person is ~~[also]~~ guilty of a category ~~[C]~~ **B** felony ~~[and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.]~~

Existing law prohibits: (1) the unauthorized manufacturing, growing, planting, cultivating, harvesting, drying, propagating or processing of marijuana, which is punishable as a category E felony; and (2) the unauthorized extraction of **concentrated** cannabis, which is punishable as a category C felony. (NRS 453.3393) **Section 2** of this bill ~~[provides that in addition to any other punishment that may be imposed for violating such prohibitions, if a fire or explosion occurs as the result of the violation, the person is also guilty of a category C felony.]~~ **:(1) reduces the penalty for the unauthorized extraction of concentrated cannabis from a category C felony to a category D felony; and (2) provides for the imposition of an additional penalty if the unauthorized manufacturing, growing, planting, cultivating, harvesting, drying, propagating or processing of marijuana or the unauthorized extraction of concentrated cannabis causes a fire or explosion.**

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

Section 1. NRS 453.322 is hereby amended to read as follows:

453.322 1. Except as authorized by the provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for a person to knowingly or intentionally:

(a) Manufacture or compound a controlled substance other than marijuana.

(b) Possess, with the intent to manufacture or compound a controlled substance other than marijuana, or sell, exchange, barter, supply, prescribe, dispense or give away, with the intent that the chemical be used to manufacture or compound a controlled substance other than marijuana:

(1) Any chemical identified in subsection ~~4-5~~ 5; or

(2) Any other chemical which is proven by expert testimony to be commonly used in manufacturing or compounding a controlled substance other than marijuana. The district attorney may present expert testimony to provide a prima facie case that any chemical, whether or not it is a chemical identified in subsection ~~4-5~~ 5, is commonly used in manufacturing or compounding such a controlled substance.

➤ The provisions of this paragraph do not apply to a person who, without the intent to commit an unlawful act, possesses any chemical at a laboratory that is licensed to store the chemical.

(c) Offer or attempt to do any act set forth in paragraph (a) or (b).

2. Unless a greater penalty is provided in subsection 3 or NRS 453.3385, a person who violates any provision of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$100,000.

3. ~~In addition to any other punishment that may be imposed pursuant to this section, if~~ If a person violates any provision of subsection 1 by engaging in the manufacturing or compounding of a controlled substance other than marijuana, or by attempting to do so, and the violation causes a fire or explosion, occurs as the result of such manufacturing or compounding of a controlled substance other than marijuana, or an attempt to do so, the person is guilty of a category ~~C~~ B felony and shall be punished as provided in NRS 193.130, by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

4. The court shall not grant probation to a person convicted pursuant to this section.

~~4-5~~ 5. The following chemicals are identified for the purposes of subsection

1:

- (a) Acetic anhydride.
- (b) Acetone.
- (c) N-Acetylanthranilic acid, its esters and its salts.
- (d) Anthranilic acid, its esters and its salts.
- (e) Benzaldehyde, its salts, isomers and salts of isomers.
- (f) Benzyl chloride.
- (g) Benzyl cyanide.
- (h) 1,4-Butanediol.
- (i) 2-Butanone (or methyl ethyl ketone or MEK).
- (j) Ephedrine, its salts, isomers and salts of isomers.
- (k) Ergonovine and its salts.

- (l) Ergotamine and its salts.
- (m) Ethylamine, its salts, isomers and salts of isomers.
- (n) Ethyl ether.
- (o) Gamma butyrolactone.
- (p) Hydriodic acid, its salts, isomers and salts of isomers.
- (q) Hydrochloric gas.
- (r) Iodine.
- (s) Isosafrole, its salts, isomers and salts of isomers.
- (t) Lithium metal.
- (u) Methylamine, its salts, isomers and salts of isomers.
- (v) 3,4-Methylenedioxy-phenyl-2-propanone.
- (w) N-Methylephedrine, its salts, isomers and salts of isomers.
- (x) Methyl isobutyl ketone (MIBK).
- (y) N-Methylpseudoephedrine, its salts, isomers and salts of isomers.
- (z) Nitroethane, its salts, isomers and salts of isomers.
- (aa) Norpseudoephedrine, its salts, isomers and salts of isomers.
- (bb) Phenylacetic acid, its esters and its salts.
- (cc) Phenylpropanolamine, its salts, isomers and salts of isomers.
- (dd) Piperidine and its salts.
- (ee) Piperonal, its salts, isomers and salts of isomers.
- (ff) Potassium permanganate.
- (gg) Propionic anhydride, its salts, isomers and salts of isomers.
- (hh) Pseudoephedrine, its salts, isomers and salts of isomers.
- (ii) Red phosphorous.
- (jj) Safrole, its salts, isomers and salts of isomers.
- (kk) Sodium metal.
- (ll) Sulfuric acid.
- (mm) Toluene.

Sec. 2. NRS 453.3393 is hereby amended to read as follows:

453.3393 1. A person shall not knowingly or intentionally manufacture, grow, plant, cultivate, harvest, dry, propagate or process marijuana, except as specifically authorized by the provisions of this chapter or title 56 of NRS.

2. Unless a greater penalty is provided in subsection 3 or NRS 453.339, a person who violates subsection 1, if the quantity involved is more than 12 marijuana plants, irrespective of whether the marijuana plants are mature or immature, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

3. A person shall not knowingly or intentionally extract concentrated cannabis, except as specifically authorized by the provisions of title 56 of NRS. Unless a greater penalty is provided in NRS 453.339, a person who violates this subsection is guilty of a category ~~C~~ D felony and shall be punished as provided in NRS 193.130.

4. ~~In addition to any other punishment that may be imposed pursuant to this section, if a person:~~

~~(a) Manufactures, grows, plants, cultivates, harvests, dries, propagates or processes marijuana in violation of subsection 1; or~~

~~(b) Extracts concentrated cannabis in violation of subsection 3, and a fire or explosion occurs as the result of the violation, the person is guilty of a category C felony and shall be punished as provided in NRS 193.130.~~

~~5. If a person violates:~~

~~(a) Subsection 1 by manufacturing, growing, planting, cultivating, harvesting, drying, propagating or processing marijuana; or~~

~~(b) Subsection 3 by extracting concentrated cannabis,~~

1 ↪ and the violation causes a fire or explosion, the person shall, in addition to the
2 term of imprisonment prescribed in this section for the underlying violation, be
3 punished by imprisonment in the state prison for a minimum term of not less
4 than 1 year and a maximum term of not more than 4 years.

5 5. In determining the length of the additional penalty imposed pursuant to
6 subsection 4, the court shall consider the following information:

7 (a) The facts and circumstances of the violation;

8 (b) The criminal history of the person;

9 (c) The impact of the violation on any victim;

10 (d) Any mitigating factors presented by the person; and

11 (e) Any other relevant information.

12 ↪ The court shall state on the record that it has considered the information
13 described in paragraphs (a) to (e), inclusive, in determining the length of the
14 additional penalty imposed.

15 6. The sentence prescribed by subsection 4:

16 (a) Must not exceed the sentence imposed for the underlying violation of
17 subsection 1 or 3, as applicable; and

18 (b) Must run consecutively with the sentence imposed for the underlying
19 violation of subsection 1 or 3, as applicable.

20 7. The provisions of subsection 4 do not create any separate offense but
21 provide an additional penalty for the primary offense, whose imposition is
22 contingent upon the finding of the prescribed fact.

23 8. In addition to any punishment imposed pursuant to this section, the court
24 shall order a person convicted of a violation of this section to pay all costs
25 associated with any necessary cleanup and disposal related to the manufacturing,
26 growing, planting, cultivation, harvesting, drying, propagation or processing of the
27 marijuana or the extraction of concentrated cannabis.