

SENATE BILL NO. 359—COMMITTEE ON JUDICIARY

MARCH 25, 2021

Referred to Committee on Judiciary

SUMMARY—Revises the penalties 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; revising the penalties 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 if such unauthorized manufacturing or compounding of a controlled substance other than marijuana causes a fire or explosion, the person 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 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: (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:

1 **Section 1.** NRS 453.322 is hereby amended to read as follows:
2 453.322 1. Except as authorized by the provisions of NRS
3 453.011 to 453.552, inclusive, it is unlawful for a person to
4 knowingly or intentionally:

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

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

12 (1) Any chemical identified in subsection ~~[4:]~~ 5; or

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

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

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

25 2. Unless a greater penalty is provided in *subsection 3 or* NRS
26 453.3385, a person who violates any provision of subsection 1 is
27 guilty of a category B felony and shall be punished by imprisonment
28 in the state prison for a minimum term of not less than 3 years and a
29 maximum term of not more than 15 years, and may be further
30 punished by a fine of not more than \$100,000.

31 3. *If a person violates any provision of subsection 1 by*
32 *engaging in the manufacturing or compounding of a controlled*
33 *substance other than marijuana, or by attempting to do so, and the*
34 *violation causes a fire or explosion, the person is guilty of a*
35 *category B felony and shall be punished by imprisonment in the*
36 *state prison for a minimum term of not less than 3 years and a*
37 *maximum term of not more than 20 years, and may be further*
38 *punished by a fine of not more than \$100,000.*

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

41 ~~[4:]~~ 5. The following chemicals are identified for the purposes
42 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



1 process marijuana, except as specifically authorized by the
2 provisions of this chapter or title 56 of NRS.

3 2. Unless a greater penalty is provided in subsection 3 or NRS
4 453.339, a person who violates subsection 1, if the quantity
5 involved is more than 12 marijuana plants, irrespective of whether
6 the marijuana plants are mature or immature, is guilty of a category
7 E felony and shall be punished as provided in NRS 193.130.

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

14 4. *If a person violates:*

15 (a) *Subsection 1 by manufacturing, growing, planting,*
16 *cultivating, harvesting, drying, propagating or processing*
17 *marijuana; or*

18 (b) *Subsection 3 by extracting concentrated cannabis,*
19 *↪ and the violation causes a fire or explosion, the person shall, in*
20 *addition to the term of imprisonment prescribed in this section for*
21 *the underlying violation, be punished by imprisonment in the state*
22 *prison for a minimum term of not less than 1 year and a*
23 *maximum term of not more than 4 years.*

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

27 (a) *The facts and circumstances of the violation;*

28 (b) *The criminal history of the person;*

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

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

31 (e) *Any other relevant information.*

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

35 6. *The sentence prescribed by subsection 4:*

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

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

40 7. *The provisions of subsection 4 do not create any separate*
41 *offense but provide an additional penalty for the primary offense,*
42 *whose imposition is contingent upon the finding of the prescribed*
43 *fact.*

44 8. In addition to any punishment imposed pursuant to this
45 section, the court shall order a person convicted of a violation of this



- 1 section to pay all costs associated with any necessary cleanup and
- 2 disposal related to the manufacturing, growing, planting, cultivation,
- 3 harvesting, drying, propagation or processing of the marijuana or the
- 4 extraction of concentrated cannabis.

