
INITIATIVE PETITION NO. 3

MARCH 2, 2005

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning possession, use, sale and taxation of marijuana.

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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 marijuana; providing that a person who is 21 years of age or older is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for the possession, use and transfer of one ounce or less of marijuana and the use and possession of marijuana paraphernalia under certain circumstances; providing that retailers and wholesalers who perform certain acts pertaining to marijuana and marijuana paraphernalia are exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution; providing a penalty for a person who is 18 years of age or older who knowingly furnishes marijuana to a person who is under 18 years of age and at least 3 years his junior; providing a penalty for a minor to falsely represent himself to be 21 years of age in order to obtain marijuana; providing for the regulation of the cultivation, sale, transfer, possession and use of marijuana and marijuana paraphernalia under certain circumstances; providing for the licensing of retailers and wholesalers of marijuana and establishing fees for such licensing; enacting provisions governing the taxation and sale of marijuana by retailers and wholesalers; increasing the penalty for the offense of operating a vehicle while under the influence of or while having a certain amount of alcohol or a controlled or prohibited substance in the body that results in substantial bodily harm or death; providing penalties; and providing other matters properly relating thereto.



1 WHEREAS, Approximately 700,000 people are arrested for
2 marijuana offenses in the United States each year, which is more
3 than the entire populations of Las Vegas and Reno combined; and

4 WHEREAS, Because decades of arresting millions of marijuana
5 users has failed to prevent teenagers—or anyone else—from using
6 marijuana, the State of Nevada should take a new approach by
7 strictly regulating marijuana with the goal of reducing teenage
8 access to marijuana; and

9 WHEREAS, Rather than spending millions of taxpayer dollars
10 arresting marijuana users, the State of Nevada should instead
11 generate millions of dollars by taxing and regulating marijuana, and
12 earmark part of these revenues to prevent and treat the abuse of
13 marijuana, tobacco, alcohol, and other drugs; and

14 WHEREAS, By allowing adults aged 21 and older to use
15 marijuana legally in the privacy of the home, police will be able to
16 spend more time preventing and investigating serious crimes like
17 murder, rape, assault, robbery, burglary and driving under the
18 influence of alcohol and other drugs; and

19 WHEREAS, Patients with cancer, AIDS, multiple sclerosis, and
20 other serious illnesses should be able to obtain medical marijuana
21 from legally regulated establishments instead of illegal drug dealers;
22 and

23 WHEREAS, If certain portions of this initiative are found to be
24 inoperable or unconstitutional, it is the intent of the people of the
25 State of Nevada to implement as much of the initiative as possible;
26 now, therefore,

27
28 THE PEOPLE OF THE STATE OF NEVADA
29 DO ENACT AS FOLLOWS:
30

31 **Section 1.** Title 40 of NRS is hereby amended by adding
32 thereto a new chapter consisting of the provisions set forth as
33 sections 2 to 12, inclusive, of this act.

34 **Sec. 2.** *As used in this chapter, unless the context otherwise*
35 *requires, the words and terms defined in sections 3 to 7, inclusive,*
36 *of this act have the meanings ascribed to them in those sections.*

37 **Sec. 3.** *“Marijuana” means a plant of the genus Cannabis or*
38 *its product, but the term does not include hashish.*

39 **Sec. 4.** *“Marijuana paraphernalia” means objects used,*
40 *intended for use or designed for use in ingesting, inhaling or*
41 *otherwise introducing marijuana into the human body.*

42 **Sec. 5.** *“Retailer” means an establishment licensed pursuant*
43 *to sections 15 to 28, inclusive, of this act to purchase marijuana*
44 *from a wholesaler and to sell marijuana and marijuana*
45 *paraphernalia to the customer.*



1 **Sec. 6.** *“State prosecution” means prosecution initiated or*
2 *maintained by the State of Nevada or an agency or political*
3 *subdivision of the State of Nevada.*

4 **Sec. 7.** *“Wholesaler” means an establishment licensed*
5 *pursuant to sections 15 to 28, inclusive, of this act to cultivate,*
6 *prepare, package and sell marijuana to a retailer or another*
7 *wholesaler, but not to sell marijuana to the customer or general*
8 *public.*

9 **Sec. 8.** *Except as otherwise provided in this chapter:*

10 1. *A person who is 21 years of age or older and who acts in*
11 *compliance with the provisions of this chapter is exempt from*
12 *arrest, civil or criminal penalty, seizure or forfeiture of assets,*
13 *discipline by any state or local licensing board and state*
14 *prosecution for the following acts:*

15 (a) *Possession or use of one ounce or less of marijuana.*

16 (b) *Possession or use of marijuana paraphernalia.*

17 (c) *Transfer of one ounce or less of marijuana without*
18 *remuneration to a person who is 21 years of age or older.*

19 (d) *Aiding and abetting another person who is 21 years of age*
20 *or older in the possession or use of one ounce or less of*
21 *marijuana.*

22 (e) *Aiding and abetting another person who is 21 years of age*
23 *or older in the possession or use of marijuana paraphernalia.*

24 (f) *Any combination of the acts described in paragraphs (a) to*
25 *(e), inclusive.*

26 2. *A retailer or any person who is 21 years of age or older*
27 *and acting in his capacity as an owner, employee or agent of a*
28 *retailer who acts in compliance with the provisions of this chapter*
29 *is exempt from arrest, civil or criminal penalty, seizure or*
30 *forfeiture of assets, discipline by any state or local licensing board*
31 *and state prosecution for the following acts:*

32 (a) *Possession of marijuana.*

33 (b) *Possession of marijuana paraphernalia.*

34 (c) *Purchasing or selling marijuana or marijuana*
35 *paraphernalia.*

36 (d) *Aiding and abetting any person who is 21 years of age or*
37 *older in the possession or use of one ounce or less of marijuana.*

38 (e) *Aiding and abetting another person who is 21 years of age*
39 *or older in the possession or use of marijuana paraphernalia.*

40 (f) *Any combination of the acts described in paragraphs (a)*
41 *to (e), inclusive.*

42 3. *A wholesaler or any person who is 21 years of age or older*
43 *and acting in his capacity as an owner, employee or agent of a*
44 *wholesaler who acts in compliance with the provisions of this*



1 *chapter is exempt from arrest, civil or criminal penalty, seizure or*
2 *forfeiture of assets, discipline by any state or local licensing board*
3 *and state prosecution for the following acts:*

4 (a) *Cultivating, packing, processing, transporting or*
5 *manufacturing marijuana.*

6 (b) *Possession of marijuana.*

7 (c) *Selling marijuana to a retailer or a wholesaler.*

8 (d) *Purchasing marijuana from a wholesaler.*

9 (e) *Aiding and abetting any person who is 21 years of age or*
10 *older in the possession or use of one ounce or less of marijuana.*

11 (f) *Any combination of the acts described in paragraphs (a)*
12 *to (e), inclusive.*

13 4. *Except as otherwise provided in subsection 5, in a*
14 *prosecution for selling, giving or otherwise furnishing marijuana*
15 *or marijuana paraphernalia to any person who is under 21 years*
16 *of age, it is a complete defense if:*

17 (a) *The person who sold, gave or otherwise furnished*
18 *marijuana or marijuana paraphernalia to a person who is under*
19 *21 years of age was a retailer or was acting in his capacity as an*
20 *owner, employee or agent of a retailer at the time the marijuana or*
21 *marijuana paraphernalia was sold, given or otherwise furnished*
22 *to the person; and*

23 (b) *Immediately before selling, giving or otherwise furnishing*
24 *marijuana or marijuana paraphernalia to a person who is under*
25 *21 years of age, the person who sold, gave or otherwise furnished*
26 *the marijuana or marijuana paraphernalia was shown a document*
27 *which appeared to be issued by an agency of a federal, state or*
28 *local government and which indicated that the person to whom the*
29 *marijuana or marijuana paraphernalia was sold, given or*
30 *otherwise furnished was 21 years of age or older at the time the*
31 *marijuana or marijuana paraphernalia was sold, given or*
32 *otherwise furnished to the person.*

33 5. *The complete defense set forth in subsection 4 does not*
34 *apply if:*

35 (a) *The document which was shown to the person who sold,*
36 *gave or otherwise furnished the marijuana or marijuana*
37 *paraphernalia was counterfeit, forged or altered, or was issued to*
38 *a person other than the person to whom the marijuana or*
39 *marijuana paraphernalia was sold, given or otherwise furnished;*
40 *and*

41 (b) *Under the circumstances, a reasonable person would have*
42 *known or suspected that the document was counterfeit, forged or*
43 *altered, or was issued to a person other than the person to whom*



1 *the marijuana or marijuana paraphernalia was sold, given or*
2 *otherwise furnished.*

3 **Sec. 9.** *The provisions of this chapter do not authorize, and*
4 *no person is exempt from arrest, civil or criminal penalty, seizure*
5 *or forfeiture of assets, discipline by any state or local licensing*
6 *board and state prosecution for, nor may he establish an*
7 *affirmative defense to charges arising from, any of the following*
8 *acts:*

9 1. *Driving, operating or being in actual physical control of a*
10 *vehicle or a vessel under power or sail while under the influence*
11 *of marijuana.*

12 2. *Engaging in any other conduct prohibited by NRS 484.379,*
13 *484.3795, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or*
14 *493.130.*

15 3. *Possessing a firearm in violation of paragraph (b) of*
16 *subsection 1 of NRS 202.257.*

17 4. *Possessing marijuana if the person is a prisoner. As used*
18 *in this subsection, "prisoner" has the meaning ascribed to it in*
19 *NRS 208.085.*

20 5. *Possessing marijuana in violation of NRS 453.336 or*
21 *possessing drug paraphernalia in violation of NRS 453.560 or*
22 *453.566, if the possession of the marijuana or drug paraphernalia*
23 *is discovered because the person engaged or assisted in the use of*
24 *marijuana in:*

25 (a) *Any public place or in any place open to the public or*
26 *exposed to public view; or*

27 (b) *Any local detention facility, county jail, state prison,*
28 *reformatory or other correctional facility, including, without*
29 *limitation, any facility for the detention of juvenile offenders.*

30 (c) *Any public school or private school.*

31 6. *Possessing, using, transferring, selling or cultivating*
32 *marijuana or committing any other act involving marijuana in*
33 *violation of the provisions of this chapter.*

34 **Sec. 10.** *The provisions of this chapter do not require*
35 *employers to accommodate the use, possession or being under the*
36 *influence of marijuana in a place of employment.*

37 **Sec. 11.** *Unless a greater penalty is provided pursuant to*
38 *specific statute, a person who is 18 years of age or older and who*
39 *knowingly sells, gives or otherwise furnishes marijuana to a*
40 *person who is under 18 years of age and at least 3 years his junior*
41 *is guilty of a category B felony and shall be punished by*
42 *imprisonment in the state prison for a minimum term of not less*
43 *than 1 year and a maximum term of not more than 8 years, and*
44 *may be further punished by a fine of not more than \$10,000.*



1 **Sec. 12.** *Any minor who falsely represents himself to be 21*
2 *years of age or older in order to obtain any marijuana or*
3 *marijuana paraphernalia pursuant to this chapter is guilty of a*
4 *misdemeanor.*

5 **Sec. 13.** NRS 453.005 is hereby amended to read as follows:
6 453.005 The provisions of this chapter do not apply to the
7 extent that they are inconsistent with the provisions of chapter 453A
8 of NRS ~~§~~ *or sections 2 to 12, inclusive, of this act.*

9 **Sec. 14.** Title 32 of NRS is hereby amended by adding thereto
10 a new chapter to consist of the provisions set forth as sections 15 to
11 28, inclusive, of this act.

12 **Sec. 15.** *As used in this chapter, unless the context otherwise*
13 *requires, the words and terms defined in sections 16, 17 and 18 of*
14 *this act have the meanings ascribed to them in those sections.*

15 **Sec. 16.** *“Marijuana” has the meaning ascribed to it in*
16 *section 3 of this act.*

17 **Sec. 17.** *“Retailer” has the meaning ascribed to it in section*
18 *5 of this act.*

19 **Sec. 18.** *“Wholesaler” has the meaning ascribed to it in*
20 *section 7 of this act.*

21 **Sec. 19.** *Except as otherwise provided in section 21 of this*
22 *act:*

23 1. *An establishment may apply, in accordance with the*
24 *provisions of this chapter and the regulations adopted pursuant*
25 *thereto, for the issuance of a license authorizing the establishment*
26 *to act as a retailer pursuant to the provisions of this chapter.*

27 2. *The Department shall issue a license authorizing an*
28 *establishment to act as a retailer pursuant to the provisions of this*
29 *chapter if the Department determines that the applicant satisfies*
30 *the requirements set forth in this chapter and the regulations*
31 *adopted pursuant thereto. The Department shall approve each*
32 *qualified applicant within 90 days of its submission of its*
33 *application.*

34 3. *The fee for the initial issuance of a license as a retailer is*
35 *\$1,000. A license as a retailer must be renewed annually. The fee*
36 *for renewal of a licenses as a retailer is \$1,000.*

37 4. *If the Department fails to issue a retailer license to a*
38 *qualified applicant within 90 days of its submission of its*
39 *application and the applicant is licensed as a retail dealer of*
40 *tobacco pursuant to chapter 370, the licensed retail dealer of*
41 *tobacco shall be deemed to be a retailer.*

42 5. *As used in this section, “qualified applicant” means any*
43 *establishment that:*



1 (a) *Complies with any regulations adopted pursuant to section*
2 *28 of this act concerning application for and issuance of a license;*
3 *and*

4 (b) *Satisfies the requirements set forth in this chapter and the*
5 *regulations adopted pursuant thereto.*

6 **Sec. 20.** *Except as otherwise provided in section 21 of this*
7 *act:*

8 1. *An establishment may apply, in accordance with the*
9 *provisions of this chapter and the regulations adopted pursuant*
10 *thereto, for the issuance of a license authorizing the establishment*
11 *to act as a wholesaler pursuant to the provisions of this chapter.*

12 2. *The Department shall issue a license authorizing an*
13 *establishment to act as a wholesaler pursuant to the provisions of*
14 *this chapter if the Department determines that the applicant*
15 *satisfies the requirements set forth in this chapter and the*
16 *regulations adopted pursuant thereto. The Department shall*
17 *approve each qualified applicant within 90 days of its submission*
18 *of its application.*

19 3. *The fee for the initial issuance of a license as a wholesaler*
20 *is \$1,000. A license as a wholesaler must be renewed annually.*
21 *The fee for renewal of a license as a wholesaler is \$1,000.*

22 4. *If the Department fails to issue a wholesaler license to a*
23 *qualified applicant within 90 days of its submission of its*
24 *application and the applicant is licensed as a wholesale dealer of*
25 *tobacco pursuant to chapter 370, the licensed wholesale dealer of*
26 *tobacco shall be deemed to be a wholesaler.*

27 5. *As used in this section, "qualified applicant" means any*
28 *establishment that:*

29 (a) *Complies with any regulations adopted pursuant to section*
30 *28 of this act concerning application for and issuance of a license;*
31 *and*

32 (b) *Satisfies the requirements set forth in this chapter and the*
33 *regulations adopted pursuant thereto.*

34 **Sec. 21.** 1. *The Department may not issue a license as a*
35 *retailer or wholesaler to an establishment:*

36 (a) *That is located within 500 feet of the property line of a*
37 *public school, private school or structure used primarily for*
38 *religious services or worship;*

39 (b) *That is engaged in business as a gas station, convenience*
40 *store, grocery store, night club, dance hall or licensed gaming*
41 *establishment; or*

42 (c) *That sells intoxicating liquor for consumption on or off the*
43 *premises.*

44 2. *As used in this section:*



1 (a) "Licensed gaming establishment" has the meaning
2 ascribed to it in NRS 463.0169.

3 (b) "Private school" has the meaning ascribed to it in
4 NRS 394.103.

5 (c) "Public school" has the meaning ascribed to it in
6 NRS 385.007.

7 **Sec. 22. 1. A retailer shall not:**

8 (a) Sell, give or otherwise furnish marijuana or marijuana
9 paraphernalia to any person who is under 21 years of age.

10 (b) Allow any person who is under 21 years of age to be
11 present on the premises of its establishment.

12 (c) Knowingly sell, give or otherwise furnish an amount of
13 marijuana to a person that would cause that person to possess
14 more than one ounce of marijuana.

15 (d) Purchase marijuana from any person other than a
16 wholesaler.

17 (e) Purchase or sell, give or otherwise furnish marijuana in
18 any manner other than as authorized pursuant to the provisions of
19 this chapter and any regulations adopted pursuant thereto.

20 (f) Sell marijuana that has been adulterated or contaminated
21 by any other substance including, without limitation, any
22 controlled substance.

23 2. In addition to any other penalty provided pursuant to
24 specific statute, a person who violates this section is guilty of a
25 misdemeanor and shall be punished by a fine of not more than
26 \$1,000.

27 3. Except as otherwise provided in this subsection, in a
28 prosecution for a violation of paragraph (b) of subsection 1, it is a
29 complete defense that immediately before allowing the person who
30 is under 21 years of age onto the premises, the person who allowed
31 the person onto the premises was shown a document which
32 appeared to be issued by an agency of a federal, state or local
33 government and which indicated that the person who was allowed
34 onto the premises of the retailer was 21 years of age or older at the
35 time the person was allowed onto the premises of the retailer. The
36 complete defense set forth in this subsection does not apply if:

37 (a) The document which was shown to the person who allowed
38 the person who is under 21 years of age onto the premises of the
39 retailer was counterfeit, forged or altered, or was issued to a
40 person other than the person who was allowed onto the premises
41 of the retailer; and

42 (b) Under the circumstances, a reasonable person would have
43 known or suspected that the document was counterfeit, forged or



1 *altered, or was issued to a person other than the person who was*
2 *allowed onto the premises.*

3 *4. As used in this section, "marijuana paraphernalia" has the*
4 *meaning ascribed to it in section 4 of this act.*

5 **Sec. 23. 1. A wholesaler shall not:**

6 *(a) Allow any person who is under 21 years of age to be*
7 *present on the premises of its establishment.*

8 *(b) Sell, give or otherwise furnish marijuana to any person*
9 *other than a retailer or wholesaler.*

10 *(c) Purchase marijuana from any person other than a*
11 *wholesaler.*

12 *(d) Purchase or sell, give or otherwise furnish marijuana in*
13 *any manner other than as authorized pursuant to the provisions of*
14 *this chapter and any regulations adopted pursuant thereto.*

15 *(e) Sell marijuana that has been adulterated or contaminated*
16 *by any other substance, including, without limitation, any*
17 *controlled substance.*

18 *2. In addition to any other penalty provided pursuant to*
19 *specific statute, a person who violates this section is guilty of a*
20 *misdemeanor and shall be punished by a fine of not more than*
21 *\$1,000.*

22 *3. Except as otherwise provided in this subsection, in a*
23 *prosecution for a violation of paragraph (a) of subsection 1, it is a*
24 *complete defense that immediately before allowing the person who*
25 *is under 21 years of age onto the premises, the person who allowed*
26 *the person onto the premises was shown a document which*
27 *appeared to be issued by an agency of a federal, state or local*
28 *government and which indicated that the person who was allowed*
29 *onto the premises of the wholesaler was 21 years of age or older at*
30 *the time the person was allowed onto the premises of the*
31 *wholesaler. The complete defense set forth in this subsection does*
32 *not apply if:*

33 *(a) The document which was shown to the person who allowed*
34 *the person who is under 21 years of age onto the premises of the*
35 *wholesaler was counterfeit, forged or altered, or was issued to a*
36 *person other than the person who was allowed onto the premises*
37 *of the wholesaler; and*

38 *(b) Under the circumstances, a reasonable person would have*
39 *known or suspected that the document was counterfeit, forged or*
40 *altered, or was issued to a person other than the person who was*
41 *allowed onto the premises.*



1 **Sec. 24. 1.** *An excise tax is hereby levied upon wholesalers*
2 *and must be collected respecting all marijuana sold to retailers at*
3 *the rate of \$45 per ounce or proportionate part thereof.*

4 **2.** *For the purpose of determining the tax for the retail sale of*
5 *marijuana pursuant to this chapter, the tax for the sale of*
6 *marijuana must be the same as the taxes for the retail sale of other*
7 *products generally.*

8 **Sec. 25.** *The Department shall apportion the money remitted*
9 *to the Department from license fees and taxes collected pursuant*
10 *to this chapter in the following manner:*

11 **1.** *The Department shall retain sufficient money to defray the*
12 *entire cost of administration of this chapter.*

13 **2.** *After retaining sufficient money to defray the entire cost of*
14 *administration of this chapter pursuant to subsection 1, the*
15 *Department shall remit the remaining money to the State General*
16 *Fund, 50 percent of which must be distributed to the Health*
17 *Division of the Department of Human Resources for use in*
18 *voluntary programs for the prevention or treatment of the abuse of*
19 *alcohol, tobacco or controlled substances.*

20 **Sec. 26. 1.** *A person shall not advertise the sale of*
21 *marijuana through television, radio, newspapers, magazines,*
22 *billboards, the Internet or any other written or oral commercial*
23 *media.*

24 **2.** *As used in this section, "Internet" has the meaning*
25 *ascribed to it in NRS 453.3625.*

26 **Sec. 27.** *The provisions of this chapter do not authorize any*
27 *person to transport marijuana into or outside the State of Nevada*
28 *unless federal law permits such transport.*

29 **Sec. 28. 1.** *The Department is responsible for*
30 *administering and carrying out the provisions of this chapter.*

31 **2.** *The Department may adopt regulations that are necessary*
32 *and convenient to administer and carry out the provisions of this*
33 *chapter.*

34 **3.** *The Department shall adopt regulations that:*

35 **(a)** *Set forth the procedures for the application for and*
36 *issuance of licenses to retailers and wholesalers, including,*
37 *without limitation, the content and form for an application to be*
38 *licensed as a retailer or wholesaler.*

39 **(b)** *Specify the procedures for the collection of taxes levied*
40 *pursuant to this chapter.*

41 **(c)** *Specify the content, form and timing of reports which must*
42 *be submitted to the Department by a retailer or wholesaler,*
43 *including, without limitation, the requirement that information on*



1 *sales, expenses, inventory and taxes collected must be reported to*
2 *the Department.*

3 *(d) Establish the requirements concerning the records that*
4 *must be created and maintained by a retailer or wholesaler.*

5 *(e) Specify the requirements for the packaging and labeling of*
6 *marijuana.*

7 *(f) Require the posting or display of the license of a retailer or*
8 *wholesaler.*

9 *(g) Establish the procedures for inspecting and auditing the*
10 *records or premises of a retailer or wholesaler.*

11 *(h) Set forth the procedures for hearings to contest the denial*
12 *of an application for a license as a retailer or wholesaler.*

13 *(i) Set forth the procedures for hearings to contest the*
14 *suspension or revocation of a license as a retailer or wholesaler*
15 *for a violation of any provision of this chapter, the regulations*
16 *adopted pursuant to this chapter or any provision of the Nevada*
17 *Revised Statutes.*

18 **Sec. 29.** NRS 372A.060 is hereby amended to read as follows:

19 372A.060 1. This chapter does not apply to **[any]** :

20 *(a) Any* person who is registered or exempt from registration
21 pursuant to NRS 453.226 **[or any]** ;

22 *(b) Any retailer or wholesaler or any owner, employee or agent*
23 *acting on behalf of a retailer or wholesaler; or*

24 *(c) Any* other person who is lawfully in possession of a
25 controlled substance.

26 2. Compliance with this chapter does not immunize a person
27 from criminal prosecution for the violation of any other provision of
28 law.

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

30 *(a) “Retailer” has the meaning ascribed to it in section 5 of*
31 *this act.*

32 *(b) “Wholesaler” has the meaning ascribed to it in section 7 of*
33 *this act.*

34 **Sec. 30.** NRS 484.3795 is hereby amended to read as follows:

35 484.3795 1. A person who:

36 (a) Is under the influence of intoxicating liquor;

37 (b) Has a concentration of alcohol of 0.08 or more in his blood
38 or breath;

39 (c) Is found by measurement within 2 hours after driving or
40 being in actual physical control of a vehicle to have a concentration
41 of alcohol of 0.08 or more in his blood or breath;

42 (d) Is under the influence of a controlled substance or is under
43 the combined influence of intoxicating liquor and a controlled
44 substance;



1 (e) Inhales, ingests, applies or otherwise uses any chemical,
2 poison or organic solvent, or any compound or combination of any
3 of these, to a degree which renders him incapable of safely driving
4 or exercising actual physical control of a vehicle; or

5 (f) Has a prohibited substance in his blood or urine in an amount
6 that is equal to or greater than the amount set forth in subsection 3
7 of NRS 484.379,

8 ➤ and does any act or neglects any duty imposed by law while
9 driving or in actual physical control of any vehicle on or off the
10 highways of this State, if the act or neglect of duty proximately
11 causes the death of, or substantial bodily harm to, a person other
12 than himself, is guilty of a category B felony and shall be punished
13 by imprisonment in the state prison for a minimum term of not less
14 than 2 years and a maximum term of not more than ~~20~~ 40 years
15 and must be further punished by a fine of not less than \$2,000 nor
16 more than ~~\$5,000~~ \$10,000. A person so imprisoned must, insofar
17 as practicable, be segregated from offenders whose crimes were
18 violent and, insofar as practicable, be assigned to an institution or
19 facility of minimum security.

20 2. A prosecuting attorney shall not dismiss a charge of
21 violating the provisions of subsection 1 in exchange for a plea of
22 guilty or nolo contendere to a lesser charge or for any other reason
23 unless he knows or it is obvious that the charge is not supported by
24 probable cause or cannot be proved at the time of trial. A sentence
25 imposed pursuant to subsection 1 may not be suspended nor may
26 probation be granted.

27 3. If consumption is proven by a preponderance of the
28 evidence, it is an affirmative defense under paragraph (c) of
29 subsection 1 that the defendant consumed a sufficient quantity of
30 alcohol after driving or being in actual physical control of the
31 vehicle, and before his blood or breath was tested, to cause him to
32 have a concentration of alcohol of 0.08 or more in his blood
33 or breath. A defendant who intends to offer this defense at a trial or
34 preliminary hearing must, not less than 14 days before the trial or
35 hearing or at such other time as the court may direct, file and serve
36 on the prosecuting attorney a written notice of that intent.

37 4. If the defendant was transporting a person who is less than
38 15 years of age in the motor vehicle at the time of the violation, the
39 court shall consider that fact as an aggravating factor in determining
40 the sentence of the defendant.

41 **Sec. 31.** If any provision of this act, or the application thereof
42 to any person, thing or circumstance is held invalid, such invalidity
43 shall not affect the provisions or application of this act which can be



1 given effect without the invalid provision or application, and to this
2 end the provisions of this act are declared to be severable.

3 **Sec. 32.** 1. The Department of Taxation shall adopt
4 regulations to implement this act and shall begin processing
5 applications for retailers and wholesalers within 180 days of the
6 effective date of this act.

7 2. If the Department fails to issue such regulations within 180
8 days of the effective date of this act, any establishment that is
9 licensed as a retail dealer of tobacco pursuant to chapter 370 shall be
10 deemed to be a retailer if the establishment that is licensed as a retail
11 dealer of tobacco:

12 (a) Notifies the Department in writing of its readiness to apply;

13 (b) Pays the Department the \$1,000 license fee; and

14 (c) Satisfies the requirements set forth in sections 15 to 28,
15 inclusive, of this act.

16 3. If the Department fails to issue such regulations within 180
17 days of the effective date of this act, any establishment that is
18 licensed as a wholesale dealer of tobacco pursuant to chapter 370
19 shall be deemed to be a licensed wholesaler if the establishment that
20 is licensed as a wholesale dealer of tobacco:

21 (a) Notifies the Department in writing of its readiness to apply;

22 (b) Pays the Department the \$1,000 license fee; and

23 (c) Satisfies the requirements set forth in sections 15 to 28,
24 inclusive, of this act.

25 4. If the Department fails to adopt regulations to implement
26 this act and begin processing applications for retailers and
27 wholesalers within 180 days of the effective date of this act, a
28 retailer, wholesaler or person who desires to purchase marijuana
29 pursuant to this act may commence an action in a court of
30 competent jurisdiction to compel the Department to perform the
31 actions mandated pursuant to the provisions of this act.

32 5. As used in this section:

33 (a) "Retailer" has the meaning ascribed to it in section 5 of this
34 act.

35 (b) "Wholesaler" has the meaning ascribed to it in section 7 of
36 this act.



