

ASSEMBLY BILL NO. 158—ASSEMBLYMEN MONROE-MORENO; ANDERSON, BILBRAY-AXELROD, BROWN-MAY, COHEN, CONSIDINE, DURAN, FLORES, GONZÁLEZ, GORELOW, MARZOLA, BRITNEY MILLER, PETERS, ROBERTS, SUMMERS-ARMSTRONG, THOMAS, WATTS AND YEAGER

FEBRUARY 18, 2021

JOINT SPONSORS: SENATORS D. HARRIS AND BROOKS

Referred to Committee on Judiciary

SUMMARY—Revises the penalties for certain offenses involving alcohol or cannabis. (BDR 15-360)

FISCAL NOTE: Effect on Local Government: No.  
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 crimes; revising the penalties for certain offenses involving alcohol or cannabis; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law makes it a misdemeanor for a person who is under 21 years of age  
2 to: (1) purchase, consume or possess alcohol; (2) falsely represent himself or  
3 herself to be 21 years of age to obtain alcohol; (3) possess 1 ounce or less of  
4 marijuana without being authorized to possess cannabis; or (4) falsely represent  
5 himself or herself to be 21 years of age or older to obtain cannabis. (NRS 202.020,  
6 202.040, 453.336, 678D.310) Existing law also provides that unless the statute in  
7 force at the time of commission of a misdemeanor prescribes a different penalty, a  
8 misdemeanor is punishable by imprisonment in the county jail for not more than 6  
9 months, or by a fine of not more than \$1,000, or by both fine and imprisonment.  
10 (NRS 193.150)

11 This bill revises the penalties for a first offense in which a person who is under  
12 21 years of age: (1) purchases, consumes or possesses alcohol; (2) falsely  
13 represents himself or herself to be 21 years of age to obtain alcohol; (3) possesses 1  
14 ounce or less of marijuana without being authorized to possess cannabis; or (4)  
15 falsely represents himself or herself to be 21 years of age or older to obtain  
16 cannabis. This bill provides that for such offenses, a person convicted of the  
17 offense: (1) is not subject to imprisonment in the county jail or a fine; and (2) must  
18 complete not more than 100 hours of counseling or participation in an educational



19 program, a support group relating to the use of alcohol or other substances or  
20 another program of treatment for the use of alcohol or other substances.

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

1 **Section 1.** NRS 202.020 is hereby amended to read as follows:

2 202.020 1. Except as otherwise provided in this section, a  
3 person under 21 years of age who purchases any alcoholic beverage or  
4 or ~~any such person who~~ consumes any alcoholic beverage in any  
5 saloon, resort or premises where spirituous, malt or fermented  
6 liquors or wines are sold is guilty of a misdemeanor ~~and shall be~~  
7 *punished:*

8 *(a) For a first offense, by completion of not more than 100*  
9 *hours of counseling or participation in an educational program, a*  
10 *support group relating to the use of alcohol or other substances or*  
11 *another program of treatment for the use of alcohol or other*  
12 *substances.*

13 *(b) For a second or subsequent offense, as provided in*  
14 *NRS 193.150.*

15 2. Except as otherwise provided in this section, a person under  
16 21 years of age who, for any reason, possesses any alcoholic  
17 beverage in public is guilty of a misdemeanor ~~and shall be~~  
18 *punished:*

19 *(a) For a first offense, by completion of not more than 100*  
20 *hours of counseling or participation in an educational program, a*  
21 *support group relating to the use of alcohol or other substances or*  
22 *another program of treatment for the use of alcohol or other*  
23 *substances.*

24 *(b) For a second or subsequent offense, as provided in*  
25 *NRS 193.150.*

26 3. A person under 21 years of age is not subject to the criminal  
27 penalty set forth in subsection 1 for consuming an alcoholic  
28 beverage or subsection 2 if the person requests emergency medical  
29 assistance for another person whom he or she reasonably believes is  
30 under 21 years of age if the person making the request:

31 (a) Reasonably believes that the person who consumed the  
32 alcohol is in need of such assistance because of the alcohol  
33 consumption;

34 (b) Is the first person to request emergency medical assistance  
35 for the person;

36 (c) Remains with the person until informed that his or her  
37 presence is no longer necessary by the emergency medical personnel  
38 who respond to the request for assistance for the person; and



1 (d) Cooperates with any provider of emergency medical  
2 assistance, any other health care provider who assists the person  
3 who may be in need of emergency medical assistance because of  
4 alcohol consumption and any law enforcement officer.

5 4. A person under 21 years of age for whom another person  
6 requests emergency medical assistance pursuant to subsection 3 is  
7 not subject to the criminal penalty set forth in subsection 1 for  
8 consuming an alcoholic beverage or subsection 2.

9 5. A person under 21 years of age is not subject to the criminal  
10 penalty set forth in subsection 1 for consuming an alcoholic  
11 beverage or subsection 2 if the person:

12 (a) Requests emergency medical assistance because he or she  
13 reasonably believes that he or she is in need of medical assistance  
14 because of alcohol consumption; and

15 (b) Cooperates with any provider of emergency medical  
16 assistance, any other health care provider who provides assistance to  
17 him or her and any law enforcement officer.

18 6. This section does not preclude a local governmental entity  
19 from enacting by ordinance an additional or broader restriction,  
20 except that any such ordinance must not conflict with the provisions  
21 of subsection 3, 4 or 5 or create criminal liability for a person to  
22 whom an exemption set forth in subsection 3, 4 or 5 applies.

23 7. For the purposes of this section, possession "in public"  
24 includes possession:

25 (a) On any street or highway;

26 (b) In any place open to the public; and

27 (c) In any private business establishment which is in effect open  
28 to the public.

29 8. The term does not include:

30 (a) Possession for an established religious purpose;

31 (b) Possession in the presence of the person's parent, spouse or  
32 legal guardian who is 21 years of age or older;

33 (c) Possession in accordance with a prescription issued by a  
34 person statutorily authorized to issue prescriptions;

35 (d) Possession in private clubs or private establishments; or

36 (e) The selling, handling, serving or transporting of alcoholic  
37 beverages by a person in the course of his or her lawful employment  
38 by a licensed manufacturer, wholesaler or retailer of alcoholic  
39 beverages.

40 **Sec. 2.** NRS 202.040 is hereby amended to read as follows:

41 202.040 ~~Every~~ A minor who ~~shall~~ falsely ~~represent~~  
42 *represents* himself or herself to be 21 years of age *or older* in order  
43 to obtain any intoxicating liquor ~~shall be~~ *is* guilty of a  
44 misdemeanor ~~and shall be punished:~~



1 *1. For a first offense, by completion of not more than 100*  
2 *hours of counseling or participation in an educational program, a*  
3 *support group relating to the use of alcohol or other substances or*  
4 *another program of treatment for the use of alcohol or other*  
5 *substances.*

6 *2. For a second or subsequent offense, as provided in*  
7 *NRS 193.150.*

8 **Sec. 3.** NRS 453.336 is hereby amended to read as follows:

9 453.336 1. Except as otherwise provided in subsection 5, a  
10 person shall not knowingly or intentionally possess a controlled  
11 substance, unless the substance was obtained directly from, or  
12 pursuant to, a prescription or order of a physician, physician  
13 assistant licensed pursuant to chapter 630 or 633 of NRS, dentist,  
14 podiatric physician, optometrist, advanced practice registered nurse  
15 or veterinarian while acting in the course of his or her professional  
16 practice, or except as otherwise authorized by the provisions of NRS  
17 453.005 to 453.552, inclusive.

18 2. Except as otherwise provided in subsections 3 and 4 and in  
19 NRS 453.3363, and unless a greater penalty is provided in NRS  
20 212.160, 453.3385 or 453.339, a person who violates this section:

21 (a) For a first or second offense, if the controlled substance is  
22 listed in schedule I or II and the quantity possessed is less than 14  
23 grams, or if the controlled substance is listed in schedule III, IV or V  
24 and the quantity possessed is less than 28 grams, is guilty of  
25 possession of a controlled substance and shall be punished for a  
26 category E felony as provided in NRS 193.130. In accordance with  
27 NRS 176.211, the court shall defer judgment upon the consent of the  
28 person.

29 (b) For a third or subsequent offense, if the controlled substance  
30 is listed in schedule I or II and the quantity possessed is less than 14  
31 grams, or if the controlled substance is listed in schedule III, IV or V  
32 and the quantity possessed is less than 28 grams, or if the offender  
33 has previously been convicted two or more times in the aggregate of  
34 any violation of the law of the United States or of any state, territory  
35 or district relating to a controlled substance, is guilty of possession  
36 of a controlled substance and shall be punished for a category D  
37 felony as provided in NRS 193.130, and may be further punished by  
38 a fine of not more than \$20,000.

39 (c) If the controlled substance is listed in schedule I or II and the  
40 quantity possessed is 14 grams or more, but less than 28 grams, or if  
41 the controlled substance is listed in schedule III, IV or V and the  
42 quantity possessed is 28 grams or more, but less than 200 grams, is  
43 guilty of low-level possession of a controlled substance and shall be  
44 punished for a category C felony as provided in NRS 193.130.



1 (d) If the controlled substance is listed in schedule I or II and the  
2 quantity possessed is 28 grams or more, but less than 42 grams, or if  
3 the controlled substance is listed in schedule III, IV or V and the  
4 quantity possessed is 200 grams or more, is guilty of mid-level  
5 possession of a controlled substance and shall be punished for a  
6 category B felony by imprisonment in the state prison for a  
7 minimum term of not less than 1 year and a maximum term of not  
8 more than 10 years and by a fine of not more than \$50,000.

9 (e) If the controlled substance is listed in schedule I or II and the  
10 quantity possessed is 42 grams or more, but less than 100 grams, is  
11 guilty of high-level possession of a controlled substance and shall be  
12 punished for a category B felony by imprisonment in the state prison  
13 for a minimum term of not less than 2 years and a maximum term of  
14 not more than 15 years and by a fine of not more than \$50,000.

15 3. Unless a greater penalty is provided in NRS 212.160,  
16 453.337 or 453.3385, a person who is convicted of the possession of  
17 flunitrazepam or gamma-hydroxybutyrate, or any substance for  
18 which flunitrazepam or gamma-hydroxybutyrate is an immediate  
19 precursor, is guilty of a category B felony and shall be punished by  
20 imprisonment in the state prison for a minimum term of not less  
21 than 1 year and a maximum term of not more than 6 years.

22 4. Unless a greater penalty is provided pursuant to NRS  
23 212.160, a person who is convicted of the possession of 1 ounce or  
24 less of marijuana:

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

26 (1) Punished by ~~a fine of not more than \$600;~~ *completion*  
27 *of not more than 100 hours of counseling or participation in an*  
28 *educational program, a support group relating to the use of*  
29 *alcohol or other substances or another program of treatment for*  
30 *the use of alcohol or other substances;* or

31 (2) Assigned to a program of treatment and rehabilitation  
32 pursuant to NRS 176A.230 if the court determines that the person is  
33 eligible to participate in such a program.

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

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

37 (2) Assigned to a program of treatment and rehabilitation  
38 pursuant to NRS 176A.230 if the court determines that the person is  
39 eligible to participate in such a program.

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

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

44 5. It is not a violation of this section if a person possesses a  
45 trace amount of a controlled substance and that trace amount is in or



1 on a hypodermic device obtained from a sterile hypodermic device  
2 program pursuant to NRS 439.985 to 439.994, inclusive.

3 6. The court may grant probation to or suspend the sentence of  
4 a person convicted of violating this section.

5 7. As used in this section:

6 (a) "Controlled substance" includes flunitrazepam, gamma-  
7 hydroxybutyrate and each substance for which flunitrazepam or  
8 gamma-hydroxybutyrate is an immediate precursor.

9 (b) "Marijuana" does not include concentrated cannabis.

10 (c) "Sterile hypodermic device program" has the meaning  
11 ascribed to it in NRS 439.986.

12 **Sec. 4.** NRS 678D.310 is hereby amended to read as follows:

13 678D.310 1. Except as otherwise provided in chapter 678C  
14 of NRS, ~~any~~ a person shall not:

15 (a) Cultivate cannabis within 25 miles of an adult-use cannabis  
16 retail store licensed pursuant to chapter 678B of NRS, unless the  
17 person is an adult-use cannabis cultivation facility or is a cannabis  
18 establishment agent volunteering at, employed by or providing labor  
19 to an adult-use cannabis cultivation facility;

20 (b) Cultivate cannabis plants where they are visible from a  
21 public place by normal unaided vision; or

22 (c) Cultivate cannabis on property not in the cultivator's lawful  
23 possession or without the consent of the person in lawful physical  
24 possession of the property.

25 2. A person who violates the provisions of subsection 1 is  
26 guilty of:

27 (a) For a first violation, a misdemeanor punished by a fine of not  
28 more than \$600.

29 (b) For a second violation, a misdemeanor punished by a fine of  
30 not more than \$1,000.

31 (c) For a third violation, a gross misdemeanor.

32 (d) For a fourth or subsequent violation, a category E felony.

33 3. A person who smokes or otherwise consumes cannabis or a  
34 cannabis product in a public place, in an adult-use cannabis retail  
35 store or in a vehicle is guilty of a misdemeanor punished by a fine of  
36 not more than \$600.

37 4. A person under 21 years of age who falsely represents  
38 himself or herself to be 21 years of age or older to obtain cannabis is  
39 guilty of a misdemeanor ~~and~~ **and shall be punished:**

40 **(a) For a first offense, by completion of not more than 100**  
41 **hours of counseling or participation in an educational program, a**  
42 **support group relating to the use of alcohol or other substances or**  
43 **another program of treatment for the use of alcohol or other**  
44 **substances.**



1 *(b) For a second or subsequent offense, as provided in*  
2 *NRS 193.150.*

3 5. A person under 21 years of age who knowingly enters,  
4 loiters or remains on the premises of an adult-use cannabis  
5 establishment shall be punished by a fine of not more than \$500  
6 unless the person is authorized to possess cannabis pursuant to  
7 chapter 678C of NRS and the adult-use cannabis establishment is a  
8 dual licensee.

9 6. A person who manufactures cannabis by chemical extraction  
10 or chemical synthesis, unless done pursuant to an adult-use cannabis  
11 establishment license for an adult-use cannabis production facility  
12 issued by the Board or authorized by this title, is guilty of a category  
13 E felony.

14 7. A person who knowingly gives cannabis or a cannabis  
15 product to any person under 21 years of age or who knowingly  
16 leaves or deposits any cannabis or cannabis product in any place  
17 with the intent that it will be procured by any person under 21 years  
18 of age is guilty of a misdemeanor.

19 8. A person who knowingly gives cannabis to any person under  
20 18 years of age or who knowingly leaves or deposits any cannabis in  
21 any place with the intent that it will be procured by any person  
22 under 18 years of age is guilty of a gross misdemeanor.

23 **Sec. 5.** The amendatory provisions of this act apply to an  
24 offense committed:

25 1. Before October 1, 2021, if the person is sentenced on or  
26 after October 1, 2021.

27 2. On or after October 1, 2021.

