

(Reprinted with amendments adopted on April 20, 2021)

FIRST REPRINT

A.B. 158

ASSEMBLY BILL NO. 158—ASSEMBLYMEN MONROE-MORENO;
ANDERSON, BILBRAY-AXELROD, BROWN-MAY, COHEN,
CONSIDINE, DURAN, FLORES, GONZÁLEZ, GORELOW,
MARZOLA, BRITTNEY MILLER, ORENTLICHER, 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; establishing and revising the penalties
for certain offenses involving alcohol, marijuana and
cannabis; requiring the automatic sealing of records
relating to certain offenses involving alcohol, marijuana
and cannabis; providing juvenile courts with exclusive
jurisdiction over offenses relating to alcohol or marijuana
committed by children; establishing provisions relating to
the issuance of citations for offenses relating to alcohol or
marijuana committed by children; 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; or (3) falsely represent himself or
4 herself to be 21 years of age or older to obtain cannabis. (NRS 202.020, 202.040,
5 678D.310) Additionally, existing law makes it a misdemeanor to possess 1 ounce
6 or less of marijuana without being authorized to possess cannabis. (NRS 453.336)
7 Existing law provides that unless the statute in force at the time of commission of a
8 misdemeanor prescribes a different penalty, a misdemeanor is punishable by



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9 imprisonment in the county jail for not more than 6 months, or by a fine of not
10 more than \$1,000, or by both fine and imprisonment. (NRS 193.150)

11 **Sections 1, 2, 3 and 4** of this bill revise the penalties for the first and second
12 violations, respectively, of each such offense. For the first violation, **sections 1, 2, 3**
13 **and 4**, respectively, provide that a person: (1) is not subject to imprisonment in the
14 county jail or a fine; (2) must perform not more than 24 hours of community
15 service; and (3) must attend a meeting of a panel of victims of persons injured or
16 killed by a person who was driving under the influence of alcohol or a controlled
17 substance. For the second offense, **sections 1, 2, 3 and 4**, respectively, provide that
18 a person: (1) is not subject to imprisonment in the county jail or a fine; and (2) must
19 complete not more than 100 hours of counseling or participation in an educational
20 program, a support group relating to the use of alcohol or other substances or
21 another program of treatment for the use of alcohol or other substances.

22 **Sections 1, 2, 3 and 4**, respectively, also require the court to automatically seal
23 records relating to such convictions if the offender completes the terms and
24 conditions imposed by the court.

25 Existing law defines "child," for the purposes of juvenile justice, as a person
26 who is: (1) less than 18 years of age; (2) less than 21 years of age and is subject to
27 the jurisdiction of the juvenile court for an unlawful act committed before the
28 person reached 18 years of age; or (3) subject to the jurisdiction of the juvenile
29 court as a juvenile sex offender. (NRS 62A.030) **Section 2.8** of this bill: (1)
30 establishes penalties for certain unlawful acts relating to the possession or
31 consumption of alcohol or the possession of less than 1 ounce of marijuana
32 committed by children; and (2) requires a child who commits such unlawful acts to
33 be punished in accordance with the penalties for children instead of those penalties
34 set forth in **section 1 or 3** of this bill.

35 Existing law establishes the jurisdiction of juvenile courts. (NRS 62B.320)
36 **Section 2.2** of this bill expands the jurisdiction of juvenile courts to include
37 offenses committed by children relating to the possession or consumption of
38 alcohol or offenses relating to possessing 1 ounce or less of marijuana. **Section 2.4**
39 of this bill makes a conforming change relating to the jurisdiction of juvenile
40 courts.

41 Existing law authorizes a peace officer to issue a child a citation for certain
42 traffic offenses and tobacco related offenses. (NRS 62C.070, 62C.072) **Section 2.6**
43 of this bill establishes provisions authorizing a peace officer to issue a child a
44 citation for certain offenses relating to the possession or consumption of alcohol or
45 the possession of 1 ounce or less of marijuana.

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
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:*

9 (1) *Performing not more than 24 hours of community*
10 *service; and*



1 (2) *Attending the live meeting described in paragraph (a) of*
2 *subsection 2 of NRS 484C.530.*

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

8 (c) *For a third or subsequent offense, as provided in*
9 *NRS 193.150.*

10 2. Except as otherwise provided in this section, a person under
11 21 years of age who, for any reason, possesses any alcoholic
12 beverage in public is guilty of a misdemeanor **H** *and shall be*
13 *punished:*

14 (a) *For a first offense, by:*

15 (1) *Performing not more than 24 hours of community*
16 *service; and*

17 (2) *Attending the live meeting described in paragraph (a) of*
18 *subsection 2 of NRS 484C.530;*

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

26 3. *If a person under 21 years of age fulfills the terms and*
27 *conditions imposed for a violation of subsection 1 or 2, the court*
28 *shall, without a hearing, order sealed all documents, papers and*
29 *exhibits in that person's record, minute book entries and entries*
30 *on dockets, and other documents relating to the case in the*
31 *custody of such other agencies and officers as are named in the*
32 *court's order. The court shall cause a copy of the order to be sent*
33 *to each agency or officer named in the order. Each such agency or*
34 *officer shall notify the court in writing of its compliance with the*
35 *order.*

36 4. A person under 21 years of age is not subject to the criminal
37 penalty set forth in subsection 1 for consuming an alcoholic
38 beverage or subsection 2 if the person requests emergency medical
39 assistance for another person whom he or she reasonably believes is
40 under 21 years of age if the person making the request:

41 (a) Reasonably believes that the person who consumed the
42 alcohol is in need of such assistance because of the alcohol
43 consumption;

44 (b) Is the first person to request emergency medical assistance
45 for the person;



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

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

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

12 ~~[5.]~~ 6. A person under 21 years of age is not subject to the
13 criminal penalty set forth in subsection 1 for consuming an alcoholic
14 beverage or subsection 2 if the person:

15 (a) Requests emergency medical assistance because he or she
16 reasonably believes that he or she is in need of medical assistance
17 because of alcohol consumption; and

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

21 ~~[6.]~~ 7. This section does not preclude a local governmental
22 entity from enacting by ordinance an additional or broader
23 restriction, except that any such ordinance must not conflict with the
24 provisions of subsection ~~[3,4 or]~~ 4, 5 or 6 or create criminal liability
25 for a person to whom an exemption set forth in subsection ~~[3,4 or]~~
26 4, 5 or 6 applies.

27 ~~[7.]~~ 8. For the purposes of this section, possession “in public”
28 includes possession:

29 (a) On any street or highway;

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

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

33 ~~[8.]~~ 9. The term does not include:

34 (a) Possession for an established religious purpose;

35 (b) Possession in the presence of the person’s parent, spouse or
36 legal guardian who is 21 years of age or older;

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

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

40 (e) The selling, handling, serving or transporting of alcoholic
41 beverages by a person in the course of his or her lawful employment
42 by a licensed manufacturer, wholesaler or retailer of alcoholic
43 beverages.

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

45 202.040 ~~[Every minor]~~



1 *1. A person who is under 21 years of age and* who ~~[shall]~~
2 *falsely* ~~[represent]~~ *represents* himself or herself to be 21 years of
3 *age or older* in order to obtain any intoxicating liquor ~~[shall be]~~ *is*
4 *guilty of a misdemeanor [-] and shall be punished:*

5 *(a) For a first offense, by:*

6 *(1) Performing not more than 24 hours of community*
7 *service; and*

8 *(2) Attending the live meeting described in paragraph (a) of*
9 *subsection 2 of NRS 484C.530.*

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

15 *(c) For a third or subsequent offense, as provided in*
16 *NRS 193.150.*

17 *2. If a person under 21 years of age fulfills the terms and*
18 *conditions imposed for a violation of this section, the court shall,*
19 *without a hearing, order sealed all documents, papers and exhibits*
20 *in that person's record, minute book entries and entries on*
21 *dockets, and other documents relating to the case in the custody of*
22 *such other agencies and officers as are named in the court's*
23 *order. The court shall cause a copy of the order to be sent to each*
24 *agency or officer named in the order. Each such agency or officer*
25 *shall notify the court in writing of its compliance with the order.*

26 **Sec. 2.2.** NRS 62B.320 is hereby amended to read as follows:

27 62B.320 1. Except as otherwise provided in this title, the
28 juvenile court has exclusive original jurisdiction in proceedings
29 concerning any child living or found within the county who is
30 alleged or adjudicated to be in need of supervision because the
31 child:

32 (a) Is subject to compulsory school attendance and is a habitual
33 truant from school;

34 (b) Habitually disobeys the reasonable and lawful demands of
35 the parent or guardian of the child and is unmanageable;

36 (c) Deserts, abandons or runs away from the home or usual
37 place of abode of the child and is in need of care or rehabilitation;

38 (d) Uses an electronic communication device to transmit or
39 distribute a sexual image of himself or herself to another person or
40 to possess a sexual image in violation of NRS 200.737;

41 (e) Transmits or distributes an image of bullying committed
42 against a minor in violation of NRS 200.900;

43 (f) Violates a county or municipal ordinance imposing a curfew
44 on a child;



1 (g) Violates a county or municipal ordinance restricting loitering
2 by a child; ~~(f)~~

3 (h) Commits an offense related to tobacco ~~(f)~~;

4 *(i) Commits an offense related to consuming or possessing*
5 *alcohol; or*

6 *(j) Commits an offense related to the possession of 1 ounce or*
7 *less of marijuana.*

8 2. A child who is subject to the jurisdiction of the juvenile
9 court pursuant to this section must not be considered a delinquent
10 child.

11 3. The provisions of subsection 1 do not prohibit the
12 imposition of administrative sanctions pursuant to NRS 392.148
13 against a child who is subject to compulsory school attendance and
14 is a habitual truant from school.

15 4. As used in this section:

16 (a) "Bullying" means a willful act which is written, verbal or
17 physical, or a course of conduct on the part of one or more persons
18 which is not otherwise authorized by law and which exposes a
19 person one time or repeatedly and over time to one or more negative
20 actions which is highly offensive to a reasonable person and:

21 (1) Is intended to cause or actually causes the person to
22 suffer harm or serious emotional distress;

23 (2) Poses a threat of immediate harm or actually inflicts harm
24 to another person or to the property of another person;

25 (3) Places the person in reasonable fear of harm or serious
26 emotional distress; or

27 (4) Creates an environment which is hostile to a pupil by
28 interfering with the education of the pupil.

29 (b) "Electronic communication device" has the meaning
30 ascribed to it in NRS 200.737.

31 (c) "Sexual image" has the meaning ascribed to it in
32 NRS 200.737.

33 **Sec. 2.4.** NRS 62B.330 is hereby amended to read as follows:

34 62B.330 1. Except as otherwise provided in this title, the
35 juvenile court has exclusive original jurisdiction over a child living
36 or found within the county who is alleged or adjudicated to have
37 committed a delinquent act.

38 2. For the purposes of this section, a child commits a
39 delinquent act if the child:

40 (a) Violates a county or municipal ordinance other than those
41 specified in paragraph (f), ~~(g)~~, *(i) or (j)* of subsection 1 of NRS
42 62B.320 or an offense related to tobacco;

43 (b) Violates any rule or regulation having the force of law; or

44 (c) Commits an act designated a criminal offense pursuant to the
45 laws of the State of Nevada.



1 3. For the purposes of this section, each of the following acts
2 shall be deemed not to be a delinquent act, and the juvenile court
3 does not have jurisdiction over a person who is charged with
4 committing such an act:

5 (a) Murder or attempted murder and any other related offense
6 arising out of the same facts as the murder or attempted murder,
7 regardless of the nature of the related offense, if the person was 16
8 years of age or older when the murder or attempted murder was
9 committed.

10 (b) Sexual assault or attempted sexual assault involving the use
11 or threatened use of force or violence against the victim and any
12 other related offense arising out of the same facts as the sexual
13 assault or attempted sexual assault, regardless of the nature of the
14 related offense, if:

15 (1) The person was 16 years of age or older when the sexual
16 assault or attempted sexual assault was committed; and

17 (2) Before the sexual assault or attempted sexual assault was
18 committed, the person previously had been adjudicated delinquent
19 for an act that would have been a felony if committed by an adult.

20 (c) An offense or attempted offense involving the use or
21 threatened use of a firearm and any other related offense arising out
22 of the same facts as the offense or attempted offense involving the
23 use or threatened use of a firearm, regardless of the nature of the
24 related offense, if:

25 (1) The person was 16 years of age or older when the offense
26 or attempted offense involving the use or threatened use of a firearm
27 was committed; and

28 (2) Before the offense or attempted offense involving the use
29 or threatened use of a firearm was committed, the person previously
30 had been adjudicated delinquent for an act that would have been a
31 felony if committed by an adult.

32 (d) A felony resulting in death or substantial bodily harm to the
33 victim and any other related offense arising out of the same facts as
34 the felony, regardless of the nature of the related offense, if:

35 (1) The felony was committed on the property of a public or
36 private school when pupils or employees of the school were present
37 or may have been present, at an activity sponsored by a public or
38 private school or on a school bus while the bus was engaged in its
39 official duties; and

40 (2) The person intended to create a great risk of death or
41 substantial bodily harm to more than one person by means of a
42 weapon, device or course of action that would normally be
43 hazardous to the lives of more than one person.

44 (e) A category A or B felony and any other related offense
45 arising out of the same facts as the category A or B felony,



1 regardless of the nature of the related offense, if the person was at
2 least 16 years of age but less than 18 years of age when the offense
3 was committed, and:

4 (1) The person is not identified by law enforcement as
5 having committed the offense and charged before the person is at
6 least 20 years, 3 months of age, but less than 21 years of age; or

7 (2) The person is not identified by law enforcement as
8 having committed the offense until the person reaches 21 years of
9 age.

10 (f) Any other offense if, before the offense was committed, the
11 person previously had been convicted of a criminal offense.

12 **Sec. 2.6.** Chapter 62C of NRS is hereby amended by adding
13 thereto a new section to read as follows:

14 *1. A peace officer may prepare and issue a citation in the*
15 *same manner in which a traffic citation is prepared and issued*
16 *pursuant to NRS 62C.070, if the child is stopped or otherwise*
17 *detained by the peace officer for:*

18 (a) *A violation of NRS 202.020;*

19 (b) *A violation of a city or county ordinance relating to the*
20 *consumption or possession of alcohol; or*

21 (c) *A violation of subsection 4 of NRS 453.336 for possession*
22 *of 1 ounce or less of marijuana.*

23 *2. If a child who is issued a citation pursuant to subsection 1*
24 *executes a written promise to appear in court by signing the*
25 *citation, the peace officer:*

26 (a) *Shall deliver a copy of the citation to the child; and*

27 (b) *Shall not take the child into physical custody for the*
28 *violation unless:*

29 (1) *The peace officer believes that there is an imminent risk*
30 *to the safety of the child or an imminent risk of harm to the child;*
31 *and*

32 (2) *The safety of the child will not be ensured by placing*
33 *the child with:*

34 (I) *An adult relative of the child;*

35 (II) *A treatment facility; or*

36 (III) *A shelter designed to assist children who run away*
37 *from their parent or guardian or are victims of sex trafficking.*

38 *3. If a child who is issued a citation refuses to execute a*
39 *written promise to appear in court but physically receives a copy of*
40 *the citation delivered by the peace officer:*

41 (a) *The receipt shall be deemed personal service of the notice*
42 *to appear in court;*

43 (b) *A copy of the citation signed by the peace officer suffices as*
44 *proof of service; and*



1 (c) *The peace officer shall not take the child into physical*
2 *custody for the violation.*

3 4. *At the time that a child is issued a citation pursuant to*
4 *subsection 1, the peace officer shall make reasonable attempts to*
5 *notify a parent or guardian of the child, and a peace officer shall*
6 *not take the child into custody by reason alone of being unable to*
7 *contact the parent or child of the guardian.*

8 **Sec. 2.8.** Chapter 62E of NRS is hereby amended by adding
9 thereto a new section to read as follows:

10 1. *If a child commits an alcohol or marijuana offense:*

11 (a) *For a first offense:*

12 (1) *The complaint must be referred to a probation officer*
13 *pursuant to NRS 62C.100 and the child may be placed under*
14 *informal supervision pursuant to NRS 62C.200; and*

15 (2) *The child shall perform not more than 24 hours of*
16 *community service.*

17 (b) *For a second offense:*

18 (1) *The complaint must be referred to a probation officer*
19 *pursuant to NRS 62C.100 and the child may be placed under*
20 *informal supervision pursuant to NRS 62C.200; and*

21 (2) *The child shall perform not more than 24 hours of*
22 *community service.*

23 (c) *For a third or subsequent offense, a district attorney may*
24 *file a petition alleging delinquency.*

25 2. *As used in this section, "alcohol or marijuana offense"*
26 *means:*

27 (a) *A violation of NRS 202.020;*

28 (b) *A violation of a city or county ordinance relating to the*
29 *consumption or possession of alcohol; or*

30 (c) *A violation of subsection 4 of NRS 453.336 for possession*
31 *of 1 ounce or less of marijuana.*

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

33 453.336 1. Except as otherwise provided in subsection 5, a
34 person shall not knowingly or intentionally possess a controlled
35 substance, unless the substance was obtained directly from, or
36 pursuant to, a prescription or order of a physician, physician
37 assistant licensed pursuant to chapter 630 or 633 of NRS, dentist,
38 podiatric physician, optometrist, advanced practice registered nurse
39 or veterinarian while acting in the course of his or her professional
40 practice, or except as otherwise authorized by the provisions of NRS
41 453.005 to 453.552, inclusive.

42 2. Except as otherwise provided in subsections 3 and 4 and in
43 NRS 453.3363, and unless a greater penalty is provided in NRS
44 212.160, 453.3385 or 453.339, a person who violates this section:



1 (a) For a first or second offense, if the controlled substance is
2 listed in schedule I or II and the quantity possessed is less than 14
3 grams, or if the controlled substance is listed in schedule III, IV or V
4 and the quantity possessed is less than 28 grams, is guilty of
5 possession of a controlled substance and shall be punished for a
6 category E felony as provided in NRS 193.130. In accordance with
7 NRS 176.211, the court shall defer judgment upon the consent of the
8 person.

9 (b) For a third or subsequent offense, if the controlled substance
10 is listed in schedule I or II and the quantity possessed is less than 14
11 grams, or if the controlled substance is listed in schedule III, IV or V
12 and the quantity possessed is less than 28 grams, or if the offender
13 has previously been convicted two or more times in the aggregate of
14 any violation of the law of the United States or of any state, territory
15 or district relating to a controlled substance, is guilty of possession
16 of a controlled substance and shall be punished for a category D
17 felony as provided in NRS 193.130, and may be further punished by
18 a fine of not more than \$20,000.

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

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

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

39 3. Unless a greater penalty is provided in NRS 212.160,
40 453.337 or 453.3385, a person who is convicted of the possession of
41 flunitrazepam or gamma-hydroxybutyrate, or any substance for
42 which flunitrazepam or gamma-hydroxybutyrate is an immediate
43 precursor, is guilty of a category B felony and shall be punished by
44 imprisonment in the state prison for a minimum term of not less
45 than 1 year and a maximum term of not more than 6 years.



1 4. Unless a greater penalty is provided pursuant to NRS
2 212.160, a person who is convicted of the possession of 1 ounce or
3 less of marijuana:

4 (a) For the first offense, *is guilty of a misdemeanor and shall be*
5 *punished by:*

6 (1) *Performing not more than 24 hours of community*
7 *service; and*

8 (2) *Attending the live meeting described in paragraph (a) of*
9 *subsection 2 of NRS 484C.530.*

10 (b) *For the second offense,* is guilty of a misdemeanor and shall
11 be:

12 (1) Punished by ~~[a fine of not more than \$600;]~~ *completion*
13 *of not more than 100 hours of counseling or participation in an*
14 *educational program, a support group relating to the use of*
15 *alcohol or other substances or another program of treatment for*
16 *the use of alcohol or other substances; or*

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

20 ~~[(b)]~~ (c) For the ~~[second]~~ *third* offense, is guilty of a
21 misdemeanor and shall be:

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

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

26 ~~[(c)]~~ (d) For the ~~[third]~~ *fourth* offense, is guilty of a gross
27 misdemeanor and shall be punished as provided in NRS 193.140.

28 ~~[(d)]~~ (e) For a ~~[fourth]~~ *fifth* or subsequent offense, is guilty of a
29 category E felony and shall be punished as provided in NRS
30 193.130.

31 5. It is not a violation of this section if a person possesses a
32 trace amount of a controlled substance and that trace amount is in or
33 on a hypodermic device obtained from a sterile hypodermic device
34 program pursuant to NRS 439.985 to 439.994, inclusive.

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

37 7. *If a person fulfills the terms and conditions imposed for a*
38 *violation of subsection 4, the court shall, without a hearing, order*
39 *sealed all documents, papers and exhibits in that person's record,*
40 *minute book entries and entries on dockets, and other documents*
41 *relating to the case in the custody of such other agencies and*
42 *officers as are named in the court's order. The court shall cause a*
43 *copy of the order to be sent to each agency or officer named in the*
44 *order. Each such agency or officer shall notify the court in writing*
45 *of its compliance with the order.*



1 8. As used in this section:

2 (a) "Controlled substance" includes flunitrazepam, gamma-
3 hydroxybutyrate and each substance for which flunitrazepam or
4 gamma-hydroxybutyrate is an immediate precursor.

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

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

8 **Sec. 3.5.** NRS 484C.350 is hereby amended to read as follows:

9 484C.350 1. If an offender is found guilty of a violation of
10 NRS 484C.110 that is punishable pursuant to paragraph (a) of
11 subsection 1 of NRS 484C.400 and if the concentration of alcohol in
12 the offender's blood or breath at the time of the offense was 0.18 or
13 more, ~~or~~ if an offender is found guilty of a violation of NRS
14 484C.110 or 484C.120 that is punishable pursuant to paragraph (b)
15 of subsection 1 of NRS 484C.400 ~~or~~ *or if the offender is found*
16 *guilty of a violation of paragraph (a) of subsection 4 of 453.336,*
17 the court shall, before sentencing the offender, require an evaluation
18 of the offender pursuant to subsection 3, 4, 5 or 6 to determine
19 whether the offender has an alcohol or other substance use disorder.

20 2. If an offender is convicted of a violation of NRS 484C.110
21 or 484C.120 that is punishable pursuant to paragraph (a) of
22 subsection 1 of NRS 484C.400 and if the offender is under 21 years
23 of age at the time of the violation ~~or~~ *or if the offender is convicted*
24 *of a violation of NRS 202.020, 202.040 or paragraph (a) of*
25 *subsection 4 of NRS 678D.310,* the court shall, before sentencing
26 the offender, require an evaluation of the offender pursuant to
27 subsection 3, 4, 5 or 6 to determine whether the offender has an
28 alcohol or other substance use disorder.

29 3. Except as otherwise provided in subsection 4, 5 or 6, the
30 evaluation of an offender pursuant to this section must be conducted
31 at an evaluation center by:

32 (a) An alcohol and drug counselor who is licensed or certified,
33 or a clinical alcohol and drug counselor who is licensed, pursuant to
34 chapter 641C of NRS, to make that evaluation;

35 (b) A physician who is certified to make that evaluation by the
36 Board of Medical Examiners; or

37 (c) An advanced practice registered nurse who is certified to
38 make that diagnosis by the State Board of Nursing,

39 ↪ who shall report to the court the results of the evaluation and
40 make a recommendation to the court concerning the length and type
41 of treatment required for the offender.

42 4. The evaluation of an offender who resides more than 30
43 miles from an evaluation center may be conducted outside an
44 evaluation center by a person who has the qualifications set forth in
45 subsection 3. The person who conducts the evaluation shall report to



1 the court the results of the evaluation and make a recommendation
2 to the court concerning the length and type of treatment required for
3 the offender.

4 5. The evaluation of an offender who resides in another state
5 may, upon approval of the court, be conducted in the state where the
6 offender resides by a physician, advanced practice registered nurse
7 or other person who is authorized by the appropriate governmental
8 agency in that state to conduct such an evaluation. The offender
9 shall ensure that the results of the evaluation and the
10 recommendation concerning the length and type of treatment for the
11 offender are reported to the court.

12 6. The evaluation of an offender who resides in this State may,
13 upon approval of the court, be conducted in another state by a
14 physician, advanced practice registered nurse or other person who is
15 authorized by the appropriate governmental agency in that state to
16 conduct such an evaluation if the location of the physician,
17 advanced practice registered nurse or other person in the other state
18 is closer to the residence of the offender than the nearest location in
19 this State at which an evaluation may be conducted. The offender
20 shall ensure that the results of the evaluation and the
21 recommendation concerning the length and type of treatment for the
22 offender are reported to the court.

23 7. An offender who is evaluated pursuant to this section shall
24 pay the cost of the evaluation. An evaluation center or a person who
25 conducts an evaluation in this State outside an evaluation center
26 shall not charge an offender more than \$100 for the evaluation.

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

28 678D.310 1. Except as otherwise provided in chapter 678C
29 of NRS, ~~any~~ a person shall not:

30 (a) Cultivate cannabis within 25 miles of an adult-use cannabis
31 retail store licensed pursuant to chapter 678B of NRS, unless the
32 person is an adult-use cannabis cultivation facility or is a cannabis
33 establishment agent volunteering at, employed by or providing labor
34 to an adult-use cannabis cultivation facility;

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

37 (c) Cultivate cannabis on property not in the cultivator's lawful
38 possession or without the consent of the person in lawful physical
39 possession of the property.

40 2. A person who violates the provisions of subsection 1 is
41 guilty of:

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

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



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

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

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

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

10 (a) *For a first offense, by:*

11 (1) *Performing not more than 24 hours of community*
12 *service; and*

13 (2) *Attending the live meeting described in paragraph (a) of*
14 *subsection 2 of NRS 484C.530.*

15 (b) *For a second offense, by completion of not more than 100*
16 *hours of counseling or participation in an educational program, a*
17 *support group relating to the use of alcohol or other substances or*
18 *another program of treatment for the use of alcohol or other*
19 *substances.*

20 (c) *For a third or subsequent offense, as provided in*
21 *NRS 193.150.*

22 5. *If a person under 21 years of age fulfills the terms and*
23 *conditions imposed for a violation of subsection 4, the court shall,*
24 *without a hearing, order sealed all documents, papers and exhibits*
25 *in that person's record, minute book entries and entries on*
26 *dockets, and other documents relating to the case in the custody of*
27 *such other agencies and officers as are named in the court's*
28 *order. The court shall cause a copy of the order to be sent to each*
29 *agency or officer named in the order. Each such agency or officer*
30 *shall notify the court in writing of its compliance with the order.*

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

37 ~~H~~ 7. A person who manufactures cannabis by chemical
38 extraction or chemical synthesis, unless done pursuant to an adult-
39 use cannabis establishment license for an adult-use cannabis
40 production facility issued by the Board or authorized by this title, is
41 guilty of a category E felony.

42 ~~H~~ 8. A person who knowingly gives cannabis or a cannabis
43 product to any person under 21 years of age or who knowingly
44 leaves or deposits any cannabis or cannabis product in any place



1 with the intent that it will be procured by any person under 21 years
2 of age is guilty of a misdemeanor.

3 ~~§ 9.~~ **9.** A person who knowingly gives cannabis to any person
4 under 18 years of age or who knowingly leaves or deposits any
5 cannabis in any place with the intent that it will be procured by any
6 person under 18 years of age is guilty of a gross misdemeanor.

7 **Sec. 5.** The amendatory provisions of sections 1, 2, 3 and 3.5
8 of this act apply to an offense committed:

9 1. Before October 1, 2021, if the person is sentenced on or
10 after October 1, 2021.

11 2. On or after October 1, 2021.

