

Amendment No. 641

Senate Amendment to Assembly Bill No. 158 First Reprint	(BDR 15-360)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

MNM/BAW



Date: 5/17/2021

A.B. No. 158—Revises the penalties for certain offenses involving alcohol or cannabis. (BDR 15-360)



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:

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

Sections 1, 2, 3 and 4 of this bill revise the penalties for ~~[the first and second violations, respectively,]~~ **a violation** of each such offense. ~~[For the first violation, sections]~~ **Sections 1, 2, 3 and 4**, respectively, provide that a person: (1) is not subject to imprisonment in the county jail or a fine; **and** (2) must perform not more than 24 hours of community service ~~[, and (3) must]~~, attend a meeting of a panel of victims of persons injured or killed by a person who was driving under the influence of alcohol or a controlled substance ~~[, For the second offense, sections 1, 2, 3 and 4, respectively, provide that a person: (1) is not subject to imprisonment in the county jail or a fine; and (2) must complete not more than 100 hours of counseling or~~

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18 participation in an educational program, a support group relating to the use of alcohol or other
 19 substances or another program of treatment for the use of alcohol or other substances.) or
 20 undergo an evaluation to determine whether the person has an alcohol or other
 21 substance use disorder, or any combination thereof.

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

25 Existing law defines "child," for the purposes of juvenile justice, as a person who is: (1)
 26 less than 18 years of age; (2) less than 21 years of age and is subject to the jurisdiction of the
 27 juvenile court for an unlawful act committed before the person reached 18 years of age; or (3)
 28 subject to the jurisdiction of the juvenile court as a juvenile sex offender. (NRS 62A.030)
 29 Section 2.8 of this bill: (1) establishes penalties for certain unlawful acts relating to the
 30 possession or consumption of alcohol or the possession of less than 1 ounce of marijuana
 31 committed by children; and (2) requires a child who commits such unlawful acts to be
 32 punished in accordance with the penalties for children instead of those penalties set forth in
 33 section 1 or 3. ~~[of this bill.]~~ Section 2.8 provides that a child who commits such unlawful
 34 acts is, for a first or second offense, a child in need of supervision and is not a delinquent
 35 child.

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

41 Existing law authorizes a peace officer to issue a child a citation for certain traffic
 42 offenses and tobacco related offenses. (NRS 62C.070, 62C.072) Section 2.6 of this bill
 43 establishes provisions authorizing a peace officer to issue a child a citation for certain offenses
 44 relating to the possession or consumption of alcohol or the possession of 1 ounce or less of
 45 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 person under 21
 3 years of age who purchases any alcoholic beverage or ~~{any such person who}~~
 4 consumes any alcoholic beverage in any saloon, resort or premises where
 5 spirituous, malt or fermented liquors or wines are sold is guilty of a misdemeanor
 6 ~~{and shall be punished {by:~~

7 (a) ~~{For a first offense, by:~~

8 ~~— (1) Performing not more than 24 hours of community service; {and}~~
 9 ~~{(2) Attending the live meeting described in paragraph (a) of~~
 10 ~~subsection 2 of NRS 484C.530 {~~

11 ~~— (b) For a second offense, by completion of not more than 100 hours of~~
 12 ~~counseling or participation in an educational program, a support group relating~~
 13 ~~to the use of alcohol or other substances or another program of treatment for the~~
 14 ~~use of alcohol or other substances.} and complying with any other requirements~~
 15 set forth in that section; or

16 (c) ~~{For a third or subsequent offense, as provided in NRS 193.150.} Being~~
 17 required to undergo an evaluation in accordance with subsection 2 of NRS
 18 484C.350.
 19 ↳ or any combination thereof.

20 2. Except as otherwise provided in this section, a person under 21 years of age
 21 who, for any reason, possesses any alcoholic beverage in public is guilty of a
 22 misdemeanor ~~{and shall be punished {by:~~

1 ~~(a) [For a first offense, by~~
2 ~~===== (1)] Performing not more than 24 hours of community service; [and]~~
3 ~~===== (2)] (b) Attending the live meeting described in paragraph (a) of~~
4 ~~subsection 2 of NRS 484C.530. [~~

5 ~~(b) For a second offense, by completion of not more than 100 hours of~~
6 ~~counseling or participation in an educational program, a support group relating~~
7 ~~to the use of alcohol or other substances or another program of treatment for the~~
8 ~~use of alcohol or other substances.] and complying with any other requirements~~
9 ~~set forth in that section; or~~

10 ~~(c) [For a third or subsequent offense, as provided in NRS 193.150.] Being~~
11 ~~required to undergo an evaluation in accordance with subsection 2 of NRS~~
12 ~~484C.350.~~

13 ~~↳ or any combination thereof.~~

14 3. If a person under 21 years of age fulfills the terms and conditions
15 imposed for a violation of subsection 1 or 2, the court shall, without a hearing,
16 order sealed all documents, papers and exhibits in that person's record, minute
17 book entries and entries on dockets, and other documents relating to the case in
18 the custody of such other agencies and officers as are named in the court's order.
19 The court shall cause a copy of the order to be sent to each agency or officer
20 named in the order. Each such agency or officer shall notify the court in writing
21 of its compliance with the order.

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

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

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

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

32 (d) Cooperates with any provider of emergency medical assistance, any other
33 health care provider who assists the person who may be in need of emergency
34 medical assistance because of alcohol consumption and any law enforcement
35 officer.

36 ~~[4.]~~ 5. A person under 21 years of age for whom another person requests
37 emergency medical assistance pursuant to subsection ~~[3.]~~ 4 is not subject to the
38 criminal penalty set forth in subsection 1 for consuming an alcoholic beverage or
39 subsection 2.

40 ~~[5.]~~ 6. A person under 21 years of age is not subject to the criminal penalty
41 set forth in subsection 1 for consuming an alcoholic beverage or subsection 2 if the
42 person:

43 (a) Requests emergency medical assistance because he or she reasonably
44 believes that he or she is in need of medical assistance because of alcohol
45 consumption; and

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

49 ~~[6.]~~ 7. This section does not preclude a local governmental entity from
50 enacting by ordinance an additional or broader restriction, except that any such
51 ordinance must not conflict with the provisions of subsection ~~[3, 4 or]~~ 4, 5 or 6 or
52 create criminal liability for a person to whom an exemption set forth in subsection
53 ~~[3, 4 or]~~ 4, 5 or 6 applies.

1 ~~[7.]~~ 8. For the purposes of this section, possession “in public” includes
2 possession:

- 3 (a) On any street or highway;
4 (b) In any place open to the public; and
5 (c) In any private business establishment which is in effect open to the public.

6 ~~[8.]~~ 9. The term does not include:

- 7 (a) Possession for an established religious purpose;
8 (b) Possession in the presence of the person’s parent, spouse or legal guardian
9 who is 21 years of age or older;
10 (c) Possession in accordance with a prescription issued by a person statutorily
11 authorized to issue prescriptions;
12 (d) Possession in private clubs or private establishments; or
13 (e) The selling, handling, serving or transporting of alcoholic beverages by a
14 person in the course of his or her lawful employment by a licensed manufacturer,
15 wholesaler or retailer of alcoholic beverages.

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

17 202.040 ~~[Every minor]~~

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

22 (a) ~~[For a first offense, by~~

23 ~~(1)] Performing not more than 24 hours of community service; [and]~~

24 ~~[(2)] (b) Attending the live meeting described in paragraph (a) of~~
25 ~~subsection 2 of NRS 484C.530.]~~

26 ~~(b) For a second offense, by completion of not more than 100 hours of~~
27 ~~counseling or participation in an educational program, a support group relating~~
28 ~~to the use of alcohol or other substances or another program of treatment for the~~
29 ~~use of alcohol or other substances,] and complying with any other requirements~~
30 ~~set forth in that section; or~~

31 (c) ~~[For a third or subsequent offense, as provided in NRS 193.150.] Being~~
32 ~~required to undergo an evaluation in accordance with subsection 2 of NRS~~
33 ~~484C.350,~~

34 ~~or any combination thereof.~~

35 2. *If a person under 21 years of age fulfills the terms and conditions*
36 *imposed for a violation of this section, the court shall, without a hearing, order*
37 *sealed all documents, papers and exhibits in that person’s record, minute book*
38 *entries and entries on dockets, and other documents relating to the case in the*
39 *custody of such other agencies and officers as are named in the court’s order.*
40 *The court shall cause a copy of the order to be sent to each agency or officer*
41 *named in the order. Each such agency or officer shall notify the court in writing*
42 *of its compliance with the order.*

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

44 62B.320 1. Except as otherwise provided in this title, the juvenile court has
45 exclusive original jurisdiction in proceedings concerning any child living or found
46 within the county who is alleged or adjudicated to be in need of supervision
47 because the child:

48 (a) Is subject to compulsory school attendance and is a habitual truant from
49 school;

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

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

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

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

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

7 (g) Violates a county or municipal ordinance restricting loitering by a child;

8 ~~(e)~~

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

10 (i) Commits an alcohol or marijuana offense ~~related to consuming or~~
11 ~~possessing alcohol; or~~

12 ~~(j) Commits an offense related to the possession of 1 ounce or less of~~
13 ~~marijuana that is punishable pursuant to paragraph (a) of subsection 1 of~~
14 section 2.8 of this act.

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

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

20 4. As used in this section:

21 (a) “Alcohol or marijuana offense” has the meaning ascribed to it in section
22 2.8 of this act.

23 (b) “Bullying” means a willful act which is written, verbal or physical, or a
24 course of conduct on the part of one or more persons which is not otherwise
25 authorized by law and which exposes a person one time or repeatedly and over time
26 to one or more negative actions which is highly offensive to a reasonable person
27 and:

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

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

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

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

36 ~~(b)~~ (c) “Electronic communication device” has the meaning ascribed to it in
37 NRS 200.737.

38 ~~(e)~~ (d) “Sexual image” has the meaning ascribed to it in NRS 200.737.

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

40 62B.330 1. Except as otherwise provided in this title, the juvenile court has
41 exclusive original jurisdiction over a child living or found within the county who is
42 alleged or adjudicated to have committed a delinquent act.

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

45 (a) Violates a county or municipal ordinance other than those ~~specified~~ ;

46 (1) Specified in paragraph (f) ~~(f) or~~ (g) ~~(f) or (g)~~ of subsection 1 of NRS
47 62B.320 ~~(e)~~ ;

48 (2) Concerning an offense related to tobacco; or

49 (3) Relating to the consumption or possession of alcohol or the
50 possession of 1 ounce or less of marijuana that are punishable pursuant to
51 paragraph (a) of subsection 1 of section 2.8 of this act;

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (e) A category A or B felony and any other related offense arising out of the
39 same facts as the category A or B felony, regardless of the nature of the related
40 offense, if the person was at least 16 years of age but less than 18 years of age when
41 the offense was committed, and:

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

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

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

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

51 *1. A peace officer may prepare and issue a citation in the same manner in*
52 *which a traffic citation is prepared and issued pursuant to NRS 62C.070 ~~but~~ if the*
53 *child is stopped or otherwise detained by the peace officer for:*

1 (a) A violation of NRS 202.020;

2 (b) A violation of a city or county ordinance relating to the consumption or
3 possession of alcohol; ~~for~~

4 (c) A violation of subsection 4 of NRS 453.336 for possession of 1 ounce or
5 less of marijuana ~~for~~; or

6 (d) A violation of a city or county ordinance relating to the possession of 1
7 ounce or less of marijuana.

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

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

11 (b) Shall not take the child into physical custody for the violation unless:

12 (1) The peace officer believes that there is an imminent risk to the safety
13 of the child or an imminent risk of harm to the child; and

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

15 (I) An adult relative of the child;

16 (II) A treatment facility; or

17 (III) A shelter designed to assist children who run away from their
18 parent or guardian or are victims of sex trafficking ~~for~~, other than a shelter used
19 for the protection of children pursuant to the provisions of chapter 432B of NRS.

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

23 (a) The receipt shall be deemed personal service of the notice to appear in
24 court;

25 (b) A copy of the citation signed by the peace officer suffices as proof of
26 service; and

27 (c) The peace officer shall not take the child into physical custody for the
28 violation.

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

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

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

36 (a) For a first or second offense:

37 (1) ~~The complaint must be referred to a probation officer pursuant to~~
38 ~~NRS 62C.100~~ child is a child in need of supervision and is not a delinquent
39 child, and the child ~~may~~ must be placed under informal supervision pursuant to
40 NRS 62C.200; and

41 (2) The child shall perform not more than 24 hours of community
42 service.

43 (b) ~~For a second offense:~~

44 ~~(1) The complaint must be referred to a probation officer pursuant to~~
45 ~~NRS 62C.100 and the child may be placed under informal supervision pursuant~~
46 ~~to NRS 62C.200; and~~

47 ~~(2) The child shall perform not more than 24 hours of community~~
48 ~~service.~~

49 ~~(c) For a third or subsequent offense, a district attorney may file a petition~~
50 ~~alleging delinquency.~~

51 2. As used in this section, "alcohol or marijuana offense" means:

52 (a) A violation of NRS 202.020;

1 *(b) A violation of a city or county ordinance relating to the consumption or*
2 *possession of alcohol; ~~for~~*

3 *(c) A violation of subsection 4 of NRS 453.336 for possession of 1 ounce or*
4 *less of marijuana ~~for~~; or*

5 *(d) A violation of a city or county ordinance relating to the possession of 1*
6 *ounce or less of marijuana.*

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

8 453.336 1. Except as otherwise provided in subsection 5, a person shall not
9 knowingly or intentionally possess a controlled substance, unless the substance was
10 obtained directly from, or pursuant to, a prescription or order of a physician,
11 physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist,
12 podiatric physician, optometrist, advanced practice registered nurse or veterinarian
13 while acting in the course of his or her professional practice, or except as otherwise
14 authorized by the provisions of NRS 453.005 to 453.552, inclusive.

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

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

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

32 (c) If the controlled substance is listed in schedule I or II and the quantity
33 possessed is 14 grams or more, but less than 28 grams, or if the controlled
34 substance is listed in schedule III, IV or V and the quantity possessed is 28 grams
35 or more, but less than 200 grams, is guilty of low-level possession of a controlled
36 substance and shall be punished for a category C felony as provided in NRS
37 193.130.

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

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

50 3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385,
51 a person who is convicted of the possession of flunitrazepam or gamma-
52 hydroxybutyrate, or any substance for which flunitrazepam or gamma-
53 hydroxybutyrate is an immediate precursor, is guilty of a category B felony and

1 shall be punished by imprisonment in the state prison for a minimum term of not
2 less than 1 year and a maximum term of not more than 6 years.

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

5 ~~(a) For the first offense, is guilty of a misdemeanor and shall be punished by:~~
6 ~~(1) (a) Performing not more than 24 hours of community service; and~~
7 ~~(2) (b) Attending the live meeting described in paragraph (a) of~~
8 ~~subsection 2 of NRS 484C.530.~~

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

10 ~~(1) Punished by a fine of not more than \$600; completion of not more than~~
11 ~~100 hours of counseling or participation in an educational program, a support~~
12 ~~group relating to the use of alcohol or other substances or another program of~~
13 ~~treatment for the use of alcohol or other substances; or~~

14 ~~(2) Assigned to a program of treatment and rehabilitation pursuant to NRS~~
15 ~~476A.220 if the court determines that the person is eligible to participate in such a~~
16 ~~program.~~

17 ~~(b) (c) For the second third offense, is guilty of a misdemeanor and shall be:~~

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

19 ~~(2) Assigned to a program of treatment and rehabilitation pursuant to NRS~~
20 ~~476A.220 if the court determines that the person is eligible to participate in such a~~
21 ~~program.~~

22 ~~(c) (d) For the third fourth offense, is guilty of a gross misdemeanor and shall~~
23 ~~be punished as provided in NRS 493.140.~~

24 ~~(d) (e) For a fourth fifth or subsequent offense, is guilty of a category E felony~~
25 ~~and shall be punished as provided in NRS 493.130, and complying with any other~~
26 ~~requirements set forth in that section; or~~

27 ~~(c) Being required to undergo an evaluation in accordance with subsection 1~~
28 ~~of NRS 484C.350.~~

29 ~~or any combination thereof.~~

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

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

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

44 8. As used in this section:

45 (a) "Controlled substance" includes flunitrazepam, gamma-hydroxybutyrate
46 and each substance for which flunitrazepam or gamma-hydroxybutyrate is an
47 immediate precursor.

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

49 (c) "Sterile hypodermic device program" has the meaning ascribed to it in NRS
50 439.986.

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

52 484C.350 1. If an offender is found guilty of a violation of NRS 484C.110
53 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400 and if

1 the concentration of alcohol in the offender's blood or breath at the time of the
2 offense was 0.18 or more, ~~or~~ if an offender is found guilty of a violation of NRS
3 484C.110 or 484C.120 that is punishable pursuant to paragraph (b) of subsection 1
4 of NRS 484C.400 ~~or~~ *if the offender is found guilty of a violation* ~~of paragraph~~
5 ~~(b) of subsection 4 of NRS 453.336,~~ the court shall, before sentencing the
6 offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to
7 determine whether the offender has an alcohol or other substance use disorder.

8 2. If an offender is convicted of a violation of NRS 484C.110 or 484C.120
9 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400 and if
10 the offender is under 21 years of age at the time of the violation ~~or~~ *if the*
11 *offender is convicted of a violation of subsection 1 or 2 of NRS 202.020,*
12 *subsection 1 of NRS 202.040 or* ~~paragraph (a) of~~ *subsection 4 of NRS*
13 *678D.310,* the court shall, before sentencing the offender, require an evaluation of
14 the offender pursuant to subsection 3, 4, 5 or 6 to determine whether the offender
15 has an alcohol or other substance use disorder.

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

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

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

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

25 *who shall report to the court the results of the evaluation and make a*
26 *recommendation to the court concerning the length and type of treatment required*
27 *for the offender.*

28 4. The evaluation of an offender who resides more than 30 miles from an
29 evaluation center may be conducted outside an evaluation center by a person who
30 has the qualifications set forth in subsection 3. The person who conducts the
31 evaluation shall report to the court the results of the evaluation and make a
32 recommendation to the court concerning the length and type of treatment required
33 for the offender.

34 5. The evaluation of an offender who resides in another state may, upon
35 approval of the court, be conducted in the state where the offender resides by a
36 physician, advanced practice registered nurse or other person who is authorized by
37 the appropriate governmental agency in that state to conduct such an evaluation.
38 The offender shall ensure that the results of the evaluation and the recommendation
39 concerning the length and type of treatment for the offender are reported to the
40 court.

41 6. The evaluation of an offender who resides in this State may, upon approval
42 of the court, be conducted in another state by a physician, advanced practice
43 registered nurse or other person who is authorized by the appropriate governmental
44 agency in that state to conduct such an evaluation if the location of the physician,
45 advanced practice registered nurse or other person in the other state is closer to the
46 residence of the offender than the nearest location in this State at which an
47 evaluation may be conducted. The offender shall ensure that the results of the
48 evaluation and the recommendation concerning the length and type of treatment for
49 the offender are reported to the court.

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

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

2 678D.310 1. Except as otherwise provided in chapter 678C of NRS, ~~any~~ a
3 person shall not:

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

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

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

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

13 (a) For a first violation, a misdemeanor punished by a fine of not more than
14 \$600.

15 (b) For a second violation, a misdemeanor punished by a fine of not more than
16 \$1,000.

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

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

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

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

25 (a) ~~For a first offense, by~~

26 ~~(1) Performing not more than 24 hours of community service; and~~

27 ~~(2) Attending the live meeting described in paragraph (a) of~~
28 **subsection 2 of NRS 484C.530 ~~or~~**

29 ~~(b) For a second offense, by completion of not more than 100 hours of~~
30 **counseling or participation in an educational program, a support group relating**
31 **to the use of alcohol or other substances or another program of treatment for the**
32 **use of alcohol or other substances, and complying with any other requirements**
33 **set forth in that section; or**

34 (c) ~~For a third or subsequent offense, as provided in NRS 193.150.~~ **Being**
35 **required to undergo an evaluation in accordance with subsection 2 of NRS**
36 **484C.350,**

37 **or any combination thereof.**

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

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

50 ~~6.~~ 7. A person who manufactures cannabis by chemical extraction or
51 chemical synthesis, unless done pursuant to an adult-use cannabis establishment
52 license for an adult-use cannabis production facility issued by the Board or
53 authorized by this title, is guilty of a category E felony.

1 ~~{7}~~ 8. A person who knowingly gives cannabis or a cannabis product to any
2 person under 21 years of age or who knowingly leaves or deposits any cannabis or
3 cannabis product in any place with the intent that it will be procured by any person
4 under 21 years of age is guilty of a misdemeanor.

5 ~~{8}~~ 9. A person who knowingly gives cannabis to any person under 18 years
6 of age or who knowingly leaves or deposits any cannabis in any place with the
7 intent that it will be procured by any person under 18 years of age is guilty of a
8 gross misdemeanor.

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

11 1. Before October 1, 2021, if the person is sentenced on or after October 1,
12 2021.

13 2. On or after October 1, 2021.