

ASSEMBLY BILL NO. 170—ASSEMBLYMEN MONROE-MORENO, THOMAS, C.H. MILLER, BRITTNEY MILLER, MARZOLA; ANDERSON, BILBRAY-AXELROD, BROWN-MAY, COHEN, CONSIDINE, GONZÁLEZ, GORELOW, NGUYEN, ORENTLICHER, PETERS, TAYLOR, WATTS AND YEAGER

FEBRUARY 15, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to certain offenses involving concentrated cannabis. (BDR 40-110)

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 penalties for certain offenses involving concentrated cannabis; providing juvenile courts with exclusive jurisdiction over offenses relating to concentrated cannabis committed by children; revising provisions relating to the issuance of citations for offenses relating to concentrated cannabis committed by children; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law provides that a person who is convicted of the possession of 1  
2 ounce or less of marijuana is guilty of a misdemeanor and subject to certain  
3 specified penalties. However, for the purpose of those penalties, existing law  
4 excludes concentrated cannabis from the definition of “marijuana.” Under existing  
5 law, a person who is convicted of the possession of one-eighth of an ounce or less  
6 of concentrated cannabis is subject to the same penalties that apply to a person who  
7 is convicted of the possession of any other controlled substance listed in schedule I  
8 in which the quantity involved is less than 14 grams. Existing law provides that  
9 such a person is guilty of a category D or E felony, depending on whether the  
10 offense is a first, second or third or subsequent offense. (NRS 453.336) **Section 1**  
11 of this bill decreases the penalty for the possession of one-eighth of an ounce or less  
12 of concentrated cannabis to a misdemeanor and subjects a person who commits  
13 such an offense to the same penalties that apply to a person who is convicted of the  
14 possession of 1 ounce or less of marijuana.

15 Existing law defines “alcohol or marijuana offense” for certain purposes  
16 relating to juvenile justice to include certain offenses committed by children  
17 relating to the possession of 1 ounce or less of marijuana. (NRS 62E.173) Existing



18 law: (1) provides that juvenile courts have exclusive jurisdiction over alcohol or  
19 marijuana offenses committed by children; and (2) sets forth certain penalties for a  
20 child who commits such an offense. (NRS 62B.320, 62E.173) Under existing law, a  
21 child who commits an alcohol or marijuana offense is, for a first or second offense,  
22 a child in need of supervision and is not a delinquent child. (NRS 62E.173) **Section**  
23 **4** of this bill expands the definition of “alcohol or marijuana offense” to include  
24 certain offenses relating to the possession of one-eighth of an ounce or less of  
25 concentrated cannabis, thereby: (1) providing juvenile courts with exclusive  
26 jurisdiction over such an offense committed by a child; and (2) subjecting a child  
27 who commits such an offense to the same penalties as a child who commits an  
28 offense relating to the possession of 1 ounce or less of marijuana. **Section 2** of this  
29 bill makes a conforming change to indicate that a child who commits a first or  
30 second offense relating to the possession of one-eighth of an ounce or less of  
31 concentrated cannabis does not commit a delinquent act.

32 Existing law authorizes a peace officer to issue a child a citation for certain  
33 offenses, including, among other offenses, certain offenses relating to the  
34 possession of 1 ounce or less of marijuana. (NRS 62C.073) **Section 3** of this bill  
35 authorizes a peace officer to issue a child a citation for certain offenses relating to  
36 the possession of one-eighth of an ounce or less of concentrated cannabis.

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

1 **Section 1.** NRS 453.336 is hereby amended to read as follows:

2 453.336 1. Except as otherwise provided in subsection 6, a  
3 person shall not knowingly or intentionally possess a controlled  
4 substance, unless the substance was obtained directly from, or  
5 pursuant to, a prescription or order of a physician, physician  
6 assistant licensed pursuant to chapter 630 or 633 of NRS, dentist,  
7 podiatric physician, optometrist, advanced practice registered nurse  
8 or veterinarian while acting in the course of his or her professional  
9 practice, or except as otherwise authorized by the provisions of NRS  
10 453.005 to 453.552, inclusive.

11 2. Except as otherwise provided in subsections 3, 4 and 5 and  
12 in NRS 453.3363, and unless a greater penalty is provided in NRS  
13 212.160, 453.3385 or 453.339, a person who violates this section:

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

22 (b) For a third or subsequent offense, if the controlled substance  
23 is listed in schedule I or II and the quantity possessed is less than 14  
24 grams, or if the controlled substance is listed in schedule III, IV or V  
25 and the quantity possessed is less than 28 grams, or if the offender



1 has previously been convicted two or more times in the aggregate of  
2 any violation of the law of the United States or of any state, territory  
3 or district relating to a controlled substance, is guilty of possession  
4 of a controlled substance and shall be punished for a category D  
5 felony as provided in NRS 193.130, and may be further punished by  
6 a fine of not more than \$20,000.

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

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

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

27 3. Unless a greater penalty is provided in NRS 212.160,  
28 453.337 or 453.3385, a person who is convicted of the possession of  
29 flunitrazepam or gamma-hydroxybutyrate, or any substance for  
30 which flunitrazepam or gamma-hydroxybutyrate is an immediate  
31 precursor, is guilty of a category B felony and shall be punished by  
32 imprisonment in the state prison for a minimum term of not less  
33 than 1 year and a maximum term of not more than 6 years.

34 4. Unless a greater penalty is provided pursuant to NRS  
35 212.160, a person who is convicted of the possession of 1 ounce or  
36 less of marijuana , *or one-eighth of an ounce or less of*  
37 *concentrated cannabis*, is guilty of a misdemeanor and shall be  
38 punished by:

39 (a) Performing not more than 24 hours of community service;

40 (b) Attending the live meeting described in paragraph (a) of  
41 subsection 2 of NRS 484C.530 and complying with any other  
42 requirements set forth in that section; or

43 (c) Being required to undergo an evaluation in accordance with  
44 subsection 1 of NRS 484C.350,

45 ↪ or any combination thereof.



1 5. Unless a greater penalty is provided pursuant to NRS  
2 212.160, a person who is convicted of the possession of more than 1  
3 ounce, but less than 50 pounds, of marijuana or more than one-  
4 eighth of an ounce, but less than one pound, of concentrated  
5 cannabis is guilty of a category E felony and shall be punished as  
6 provided in NRS 193.130.

7 6. It is not a violation of this section if a person possesses a  
8 trace amount of a controlled substance and that trace amount is in or  
9 on a hypodermic device obtained from a sterile hypodermic device  
10 program pursuant to NRS 439.985 to 439.994, inclusive.

11 7. The court may grant probation to or suspend the sentence of  
12 a person convicted of violating this section.

13 8. If a person fulfills the terms and conditions imposed for a  
14 violation of subsection 4, the court shall, without a hearing, order  
15 sealed all documents, papers and exhibits in that person's record,  
16 minute book entries and entries on dockets, and other documents  
17 relating to the case in the custody of such other agencies and  
18 officers as are named in the court's order. The court shall cause a  
19 copy of the order to be sent to each agency or officer named in the  
20 order. Each such agency or officer shall notify the court in writing  
21 of its compliance with the order.

22 9. As used in this section:

23 (a) "Controlled substance" includes flunitrazepam, gamma-  
24 hydroxybutyrate and each substance for which flunitrazepam or  
25 gamma-hydroxybutyrate is an immediate precursor.

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

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

29 **Sec. 2.** NRS 62B.330 is hereby amended to read as follows:

30 62B.330 1. Except as otherwise provided in this title, the  
31 juvenile court has exclusive original jurisdiction over a child living  
32 or found within the county who is alleged or adjudicated to have  
33 committed a delinquent act.

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

36 (a) Violates a county or municipal ordinance other than those:

37 (1) Specified in paragraph (f) or (g) of subsection 1 of  
38 NRS 62B.320;

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

40 (3) Relating to the consumption or possession of alcohol or  
41 the possession of 1 ounce or less of marijuana *or one-eighth of an*  
42 *ounce or less of concentrated cannabis* that are punishable  
43 pursuant to paragraph (a) of subsection 1 of NRS 62E.173.

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



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

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

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

12 (b) A felony resulting in death or substantial bodily harm to the  
13 victim and any other related offense arising out of the same facts as  
14 the felony, regardless of the nature of the related offense, if:

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

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

24 (c) A category A or B felony and any other related offense  
25 arising out of the same facts as the category A or B felony,  
26 regardless of the nature of the related offense, if the person was at  
27 least 16 years of age but less than 18 years of age when the offense  
28 was committed, and:

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

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

35 (d) Any other offense if, before the offense was committed, the  
36 person previously had been convicted of a criminal offense.

37 **Sec. 3.** NRS 62C.073 is hereby amended to read as follows:

38 62C.073 1. A peace officer may prepare and issue a citation  
39 in the same manner in which a traffic citation is prepared and issued  
40 pursuant to NRS 62C.070 if the child is stopped or otherwise  
41 detained by the peace officer for:

42 (a) A violation of NRS 202.020;

43 (b) A violation of a city or county ordinance relating to the  
44 consumption or possession of alcohol;



1 (c) A violation of subsection 4 of NRS 453.336 for possession  
2 of 1 ounce or less of marijuana ~~[-]~~ *or one-eighth of an ounce or less*  
3 *of concentrated cannabis;* or

4 (d) A violation of a city or county ordinance relating to the  
5 possession of 1 ounce or less of marijuana ~~[-]~~ *or one-eighth of an*  
6 *ounce or less of concentrated cannabis.*

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

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

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

18 (I) An adult relative of the child;

19 (II) A treatment facility; or

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

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

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

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

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

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

38 **Sec. 4.** NRS 62E.173 is hereby amended to read as follows:

39 62E.173 1. If a child commits an alcohol or marijuana  
40 offense:

41 (a) For a first or second offense:

42 (1) The child is a child in need of supervision and is not a  
43 delinquent child, and the child must be placed under informal  
44 supervision pursuant to NRS 62C.200; and



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

3 (b) For a third or subsequent offense, a district attorney may file  
4 a petition alleging delinquency.

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

7 (a) A violation of NRS 202.020;

8 (b) A violation of a city or county ordinance relating to the  
9 consumption or possession of alcohol;

10 (c) A violation of subsection 4 of NRS 453.336 for possession  
11 of 1 ounce or less of marijuana ~~or~~ *or one-eighth of an ounce or less*  
12 *of concentrated cannabis;* or

13 (d) A violation of a city or county ordinance relating to the  
14 possession of 1 ounce or less of marijuana ~~or~~ *or one-eighth of an*  
15 *ounce or less of concentrated cannabis.*

16 **Sec. 5.** This act becomes effective upon passage and approval.



