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## Crimes; Trafficking in Ccontrolled Substances

University of the Pacific, McGeorge School of Law

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een years of age or older distributes or sells an imitation controlled substance to a person under the age of eighteen.<sup>13</sup> Finally, Chapter 383 provides that all unlawful imitation controlled substances will be subject to forfeiture.<sup>14</sup>

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13. *Id.* c. 383, §1(3), at 921.

14. NEV. REV. STAT. §453.301 (amended by 1983 Nev. Stat. c. 383, §3(7), at 921).

## Crimes; trafficking in controlled substances

NEV. REV. STAT. §453.— (new); §§453.336, 453.337 (amended).  
SB 7 (Raggio); 1983 STAT. Ch 111

Existing law imposes penalties for the unlawful possession of controlled substances.<sup>1</sup> Chapter 111 establishes stringent penalties for persons who traffic in controlled substances and provides harsher penalties for offenders who unlawfully possess sizeable quantities of controlled substances.<sup>2</sup>

Under existing law, the State Board of Pharmacy places a substance in schedule I<sup>3</sup> upon a finding that the substance (1) has a high potential for abuse, (2) has no acceptable use in medical treatment in the United States, and (3) lacks accepted safety standards for use in treatment even while under medical supervision.<sup>4</sup> With the enactment of Chapter 111, any person who, without authorization, knowingly, or intentionally sells, manufactures, delivers or brings into Nevada, or who knowingly or intentionally is in actual or constructive possession of at least four but less than fourteen grams of a schedule I substance, will be imprisoned in the state prison for not less than three years or more than twenty years and fined a minimum of \$50,000.<sup>5</sup> If between fourteen and twenty-eight grams are involved, the offender will be imprisoned for life, or for a definite term of not less than ten years, and fined at least \$100,000.<sup>6</sup> If the offenders possess twenty-eight or more grams, they may be imprisoned for life, or for a definite term of not less than twenty-five years, and fined at least \$50,000.<sup>7</sup>

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1. See NEV. REV. STAT. §§453.336-.337.

2. See 1983 Nev. Stat. c. 111, §§2-4, at 287-88. See generally *Sheriff v. Williams*, 96 Nev. 22, 604 P.2d 800, 801 (1980) (the legislature is entitled to establish more severe penalties for acts that it believes have greater social impact and consequences).

3. NEV. REV. STAT. §453.166.

4. *Id.*

5. 1983 Nev. Stat. c. 111, §2(1), at 287.

6. *Id.* c. 111, §2(2), at 287.

7. *Id.* c. 111, §2(3), at 287.

Chapter 111 also creates specific penalties for unauthorized trafficking in marihuana.<sup>8</sup> Any person who knowingly or intentionally sells, manufactures, delivers or brings into Nevada, or who knowingly or intentionally is in actual or constructive possession of at least 100 but less than 2000 pounds of marihuana, will be imprisoned in the state prison for not less than three years nor more than twenty years and fined a minimum of \$25,000.<sup>9</sup> If between 2,000 and 10,000 pounds of marihuana are involved, the offender will be imprisoned from five to twenty years and fined at least \$50,000.<sup>10</sup> If 10,000 pounds or more of marihuana are involved, the offender will be imprisoned for life, or for a definite term of not less than fifteen years and fined at least \$200,000.<sup>11</sup>

Additionally, Chapter 111 establishes similar penalties for controlled substances listed in schedule II.<sup>12</sup> Under existing law, the State Board of Pharmacy places a substance in schedule II upon a finding that (1) the substance has a high potential for abuse, (2) the substance has acceptable use with some restrictions, and (3) the abuse of the substance may lead to severe psychic or physical dependence.<sup>13</sup> With the enactment of Chapter 111, any person who, without authorization, knowingly or intentionally sells, manufactures, delivers, or brings into Nevada, or who knowingly or intentionally is in actual or constructive possession of at least twenty-eight but less than 200 grams of a schedule II substance, will be imprisoned from three to twenty years and fined a minimum of \$50,000.<sup>14</sup> If however, between 200 and 400 grams are involved, the offender will be imprisoned for not less than five nor more than twenty years and fined at least \$100,000.<sup>15</sup> If 400 or more grams of a schedule II substance are involved, the offender will be imprisoned for life, or for a definite term of not less than fifteen years, and fined at least \$250,000.<sup>16</sup>

Chapter 111 also provides that the adjudication of guilt and the imposition of a sentence under the foregoing provisions cannot be suspended.<sup>17</sup> Moreover, the offender is ineligible for parole until the prescribed mandatory minimum term of imprisonment has been served.<sup>18</sup> Chapter 111, however, does authorize one exception to this

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8. *Id.* c. 111, §3, at 287.

9. *Id.* c. 111, §3(1), at 287.

10. *Id.* c. 111, §3(2), at 287.

11. *Id.* c. 111, §3(3), at 287.

12. *See id.* c. 111, §4, at 288.

13. NEV. REV. STAT. §453.176.

14. 1983 Nev. Stat. c. 111, §4(1), at 288.

15. *Id.* c. 111, §4(2), at 288.

16. *Id.* c. 111, §4(3), at 288.

17. *Id.* c. 111, §5(1), at 288.

18. *Id.*

prescription.<sup>19</sup> Under an appropriate motion, the judge may reduce or suspend the sentence upon a finding that the convicted person has rendered "substantial assistance" in the identification, arrest, or conviction of any accomplice, co-conspirator, accessory, or principal in the trafficking operation.<sup>20</sup> The arresting agency, however, must be given an opportunity to be heard before the motion is granted.<sup>21</sup> This motion may be heard in camera if good cause is shown.<sup>22</sup>

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19. See *id.* c. 111, §5(2), at 288.

20. *Id.*

21. *Id.*

22. *Id.*

### Crimes; controlled substances—sales to minors

NEV. REV. STAT. §453.— (new); §§200.010, 453.321, 453.348 (amended).

AB 389 (Ham); 1983 STAT. Ch 218

In an apparent response to recent case law,<sup>1</sup> Chapter 218 provides enhanced penalties for the sale of controlled substances<sup>2</sup> to minors<sup>3</sup> and for deaths of minors proximately caused by their sale<sup>4</sup>. Under existing law, the penalties vary for the sale of a controlled substance depending upon the type of substance involved.<sup>5</sup> With the enactment of Chapter 218, unless a greater penalty already exists,<sup>6</sup> a special penalty of life imprisonment and a fine not exceeding \$20,000 will be imposed for a second or subsequent conviction of selling a controlled substance to a minor.<sup>7</sup>

Prior to the enactment of Chapter 218, murder was defined as the killing of a human being with malice aforethought.<sup>8</sup> Chapter 218 expands this definition<sup>9</sup> to include the death of a minor proximately

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1. See *Sheriff v. Morris*, 99 Advanced Opinion 25 (1982). Second degree murder was found where the drugs that were sold caused the death of a minor after the defendant aided the minor in ingesting the drugs. *Id.*

2. NEV. REV. STAT. §§453.166, 453.176, 453.186, 453.196, 453.206 (definitions of controlled substances).

3. 1983 Nev. Stat., c. 218, §3, at —.

4. *Id.* c. 218, §§2, 6

5. See NEV. REV. STAT. §453.321 punishments for a violation of these provisions range from one to twenty years in prison and up to \$20,000 in fines depending on whether the drug is classified in Schedule I, II, III, IV, or V *Id.*

6. 1983 Nev. Stat. c. 218, §3, at 510.

7. *Id.*

8. 1911 Nev. Rev. Laws §6384 (enacting NEV. REV. STAT. §200.010).

9. Compare NEV. REV. STAT. §200.010 (amended by 1983 Nev. Stat. c. 218, §6, at 512) with 1911 Nev. Rev. Laws §6384 (enacting NEV. REV. STAT. §200.010).