

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

MARCH 24, 1977

The meeting was called to order at 8:10 a.m. Senator Close was in the chair.

PRESENT:            Senator Close  
                  Senator Bryan  
                  Senator Ashworth  
                  Senator Dodge  
                  Senator Foote  
                  Senator Gojack  
                  Senator Sheerin

ABSENT:            None

AB 338    Permits dedicated school lands to be reconveyed without cost to dedicator.

Bob Price, Assemblyman District 17 stated that the reason for this bill came to light because of a parcel of 5 acres between his district and Mr. Demers district. In 1950, as part of what was then a requirement placed upon developments to dedicate certain property to schools. This 5 acre parcel had been dedicated to the school district when it was free of cost. Somehow, the property was sold to various people and at this point in time, there are 8 different lots with houses, trailers and some corrals. Somehow the dedication was made but never recorded. No one ever took deeds or so forth. In 1961 the law was changed so that when property was dedicated to a school they would actually pay for the property. All this happened before the Clark County school district was in existence, so it was whatever school board or district happened to be in that area at that time. These properties changed hands many times and all of a sudden a young fireman bought a piece of property, built himself a home and was going to sell it again. Lawyers Title happened to catch the cloud on the thing. When everyone got together with the school district, the school district did not want the property as it is too small for anything they want now. But under existing law the only way they can dispose of any property they don't want, is to put it up for auction. His understanding is that there are also some other parcels from the old days, 20 or so years ago, that might fall into the same thing. The people have been paying taxes on the property, as if it were their own and it has been sold and resold. This bill attempts to address the problem that where there are in fact some of these parcels of land around, the property can be conveyed back to the original owner or their successors. And this would only affect land in these situations before the 1961 law.

Senator Dodge stated he felt that they should reword the bill

so that this would be without cost to the school district and drop out the date. That would then cover even now if a person were to dedicate a piece of property. This way they could not profiteer themselves, but deed it back.

After some discussion the Committee agreed it would read "revert if deeded or sold if purchased".

Senator Ashworth moved amend and do pass.  
Senator Dodge seconded the motion.  
The motion carried unanimously.

AB 8 Permits voluntary cessation of life-sustaining procedures for terminally ill persons.

See minutes of March 25 for additional testimony.

Steve Coulter, Assemblyman, District 27 stated that Ian Ross was the instigator of this bill and it was to bring our law into conformity with California. One of the changes was in the paragraph that states "where mechanical or artificial methods to sustain, restore life". He wanted the mechanical procedures put in there, which is what they have in the California law. This would pertain to any extraordinary methods to keep life going when death is inevitable. This could be transfusions, or any mechanical device but there are a variety of things that can be done mechanically as you have had previous testimony on. The main difference between this bill and SB 200 is the 14 day waiting period. This waiting period would be put into effect only when the person becomes a qualified patient.

Senator Sheerin stated that they had discussed the committee approach to this and asked what his feeling was on that.

Mr. Coulter stated he had discussed this with Frank Daykin and Frank thought it would clutter up the bill. As it stands, it wouldn't preclude that approach if that was what they wanted.

Senator Sheerin stated the one thing that concerned him was the case where a person had signed one of these things, was in a minor accident, his doctor knew he had signed this; would that preclude him from say use electrodes to try to restart the heart?

Mr. Coulter stated it wouldn't because you would first have to be a qualified patient and then you would have to wait the 14 days. It is only an advisory opinion. It is presumed to be your wishes, but the doctor does not have to follow that directive. It would also have to be diagnosed as terminal by two qualified physicians. So he doesn't see how you could get involved in this in an emergency situation. Also, you will have to reaffirm it every 5 years, or it would no longer be in effect.

SB 116 Establishes the Department of Prisons.

Warden Charles Wolff, Nevada State Prison stated that this bill provides an organization structure which is essential to effective administration of the correctional system. It is growing and going to continue to increase the functions and responsibilities. Basically this bill does this. It addresses the major issues of policy structure, accountability and operations of Nevada State Prisons and seeks to provide a more effective approach. He submitted in writing the objectives (see exhibit A). He also submitted a letter which designated certain changes that they wished made (see exhibit B).

AB 12

Mike Fondi, District Attorney for Carson City stated he was representing the Nevada District Attorneys Association. He feels generally this is a good piece of legislation, but there are a couple of things he would like to point out. First, it has been amended from the way it originally started out and they are satisfied with the punishment terms that appear in the amendment. It does give the trial court some discretion in sentencing when a firearm is used, to anywhere from life to a minimum of 5 years. The problem is where it states "any person who uses a firearm or deadly weapon in commission of a crime". It is a misdemeanor to discharge a firearm under certain sections of our law and this would make this person subject to a possible penalty of 5 years in prison. He feels that the term crime should be changed to felony. Also under this bill you could end up with a lessor sentence. For instance a person who commits a burglary can receive a punishment that is not less than 1 or more than 10 years; that person possess a firearm and maybe takes a shot at someone at the same time; that person could be punished for an additional 10 years; and would be required to be punished by an additional 10 years as the law is presently written. This amendment would provide some discretion, which would permit the trial court under the circumstances that are before him to provide for a penalty of 5 years or anything in between. The other point he wanted to bring out is that there is another bill AB 381, that provides for a penalty for possession. It simply added the word in there "any person who possess or uses a firearm or other deadly weapon in commission of a crime".

Senator Bryan stated that he had a bill that made it mandatory rather than discretionary. He created a new classification of robbery. The category of armed robbery, and for that crime there would be a mandatory prison term. All other robberies would be robbery in the second degree.

Mr. Fondi stated that Larry Hicks had indicated a problem that he had experienced in his jurisdiction. Some people were caught in the process of committing a burglary, they were all armed, but the way they were swooped down upon they didn't have an opportunity to use the weapons that they had

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in their possession. He couldn't prosecute them for the additional penalties which this particular act would seem to have fall into place, because they didn't use them, only possessed them.

Senator Bryan stated that one problem with this would be if you had guys up on a hunting trip with all kinds of guns, the vehicle they are in is involved in a fatal accident and successfully prosecuted for involuntary manslaughter. Now he is in possession of weapons, it certainly was not used in the commission of a crime under those circumstances, but do you have an additional penalty imposed?

Mr. Fondi stated that was a valid question. If you were the prosecutor you would probably have to consider this and if you were a defense lawyer you would raise hell about it. But this is not the intent of the legislation.

SB 335 Requires consolidation and priority for civil actions based upon environmental violations.

Roland Oakes, representing the Associated General Contractors stated that he would like an additional amendment to this section. They certainly wouldn't want to prohibit anyone filing an action against anyone who is violating an environmental protection control.

Senator Close interjected that this bill comes from Senator Young and the purpose is that if somebody has a suit and rather than have 10 people bring 10 suits, they all have to bring one suit at one time. It would be a mandatory joint action and other people are prohibited from additional action from that point on.

Mr. Oakes stated they feel there is a weakness in the language in NRS 41.550. When it was originally passed in 1971 it states "the court may order the petitioner to post a surety bond or cash in an amount not to exceed \$500 to pay any cost or judgment which might be rendered adverse to him in any action brought under the provisions of NRS 41.550". He feels that is a little unfair today, because you can hardly get into court for less than \$2,000. He would think that language should be changed to delete "not to exceed \$500" and say instead "an amount sufficient to pay any costs". There are two large sewage plants being considered in both ends of the state. If suit were brought against them it could have a large adverse effect on the economy, plus tying up a multi-million dollar plant. I don't believe anyone should be able to tie up a project as important to a community, as say a sewage treatment project, by posing a bond of \$500. He feels this is unfair and unrealistic. He feels that the judge should decide what is a sufficient bond.

Senator Sheerin stated this was for costs only, the judge would still have the ability to require a bond through the

merits of the suit. This section only goes to the costs of the suit, even though it says costs or judgment.

Senator Close stated that this is the bond that is required when you file a complaint. Then if any additional bonds were required, the judge would require them before he takes any action to stop the project.

Senator Dodge felt that perhaps there should be a little more specific language as to the latitude of the judge. He thought there should be a policy decision of whether to have that bond to go solely to costs or whether there ought to be some discretion of the judge to require a bond which goes ultimately to economic loss and whatever damage ensues if the suit in fact is frivolous or if they don't prevail. We don't want to make it so people are afraid to file an environmental action, but on the other hand we do have a consideration that a lot of times an environmental action is filed for delaying tactics and does create a problem.

Senator Close stated that before they can enjoin the process they have to have a hearing before the court and the court at that point has the power.

Senator Sheerin stated then you get into the rules of procedure. I think that this section covers a cost or judgment and I think we should strike out "or judgement" and raise the \$500.

The Committee after some discussion decided to raise the fee to \$1,000 and let the court decide.

Senator Foote moved an amend and do pass.  
Seconded by Senator Ashworth  
Motion carried unanimously.

SB 343 Expands definition of "peace officer" to include deputy constables.

Barton Jacka, Assistant Sheriff, Las Vegas Metro Police Department stated they take basic objections to this bill. They see no significant need to establish deputies of constables to have the peace officer power. The primary consternation in this effort, is that there is a companion bill in Senate Government Affairs that is going to be heard. SB 295 asks for exactly the same thing but goes beyond that. It eliminates the inherent responsibility statutorily given to the sheriff of the county since 1864, to serve all the mesne process and further process out of the district court. We think that the sheriff's office in Washoe County joins us in that problem. We think that this is simply an effort on the part of certain of the constables throughout the state to try and become total police officers, as opposed to the basic responsibilities that have been placed upon them to serve process out of the justice courts and to perform as an

arm of the justice court. Another concern is that historically great responsibilities have been placed upon the sheriff or his deputies or police officers and they have properly selected and trained for their responsibility and there are specific instances throughout the state where deputy constables have been hired and there is no regard as to what their background, or training is or what their capabilities are. Additionally in trying to poll some of the sheriffs throughout the state we find in some instances, particularly in rural areas the responsibility of the constable has been designated ex-officio to the sheriff of the county and he serves the process.

Senator Schofield stated this was requested by some of his constituents. They wanted to include their deputies as peace officer. The constable that requested this has shown a great deal of growth and development. He has put them in uniform and he has cars. He has shown him where they can save a lot of money by going out and serving these subpoenas on a commission basis, and it appeared he was doing some good things. Also, he has been requiring them to go to the police academy and the FBI academy and take training.

Senator Sheerin stated that there is a statutory schedule for the deputy constables to serve subpoenas, it couldn't be on a commission basis.

Senator Close stated that this bill referred to all constables not just the area he was interested in, and that was their concern.

Senator Schofield stated that he had also spoken to the Douglas County Constable, and that they were trying to do the same thing in upgrading their area.

Senator Bryan moved indefinite postponement.  
Seconded by Senator Foote.  
Motion carried unanimously.

SB 116 Establishes the Department of Prisons.

Senator Close stated that he had some correspondence from Warden Wolff and Patrick Mullen which the Committee has, see exhibits A and B.

After some discussion the Committee decided to take out section 64.5 and go with the amendments.

Senator Foote moved amend and do pass.  
Seconded by Senator Ashworth.  
Motion carried unanimously.



SB 268 Revises laws regulating controlled substances.

Lt. Tom Biggs, Narcotics Division, Clark County, stated that there are two charts he would like to pass out to the Committee. One that he worked on with Andy Gross (see exhibit C) and one worked on with the District Attorney's Association (see exhibit D). He would like to go over the DA's bill with the committee as to the recommended changes. He also had a copy of statistics compiled on drug arrests in the State through November of 1976 (see exhibit E).

After a short discussion on this bill Senator Close stated that as long as there was still lengthy testimony on this, and they had to be downstairs they would take this up at a later time.

Meeting was adjourned at 10:58 a.m.

Respectfully submitted,

  
Virginia C. Letts, Secretary

APPROVED:

SENATOR MELVIN D. CLOSE, JR., CHAIRMAN

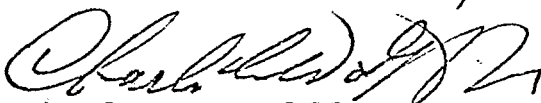
3. Upgrading of correctional institutions and services deserves priority consideration as a means of lowering the crime rate and of preventing offenders, particularly youths and first offenders, from establishing careers of crime; and

4. Correctional institutions and services should be diversified so as to facilitate individualized custody, care, and training.

Pursuant to your directive, the Attorney General's Office has provided the Committee with a detailed analysis of the substantive changes to NRS 209 made by SB 116.

I hope this information meets the needs of this Committee to consider recommending passage of Senate Bill 116.

Sincerely,



Charles L. Wolff, Jr.  
Warden  
Nevada State Prisons

CLW/mm/lh





STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL  
CAPITOL COMPLEX  
SUPREME COURT BUILDING  
CARSON CITY 89710

ROBERT LIST  
ATTORNEY GENERAL

March 22, 1977

The Honorable Melvin D. Close, Jr.  
Chairman, Senate Judiciary Committee  
Legislative Building  
Carson City, Nevada 89710

RE: S.B. 116, SUBSTANTIVE CHANGES FROM NRS CHAPTER 209

Dear Senator Close:

On March 15, 1977, S.B. 116 was presented to your Committee. At that time, Warden Wolff was directed to compile a visual list of major changes proposed by S.B. 116 which are not included in NRS Chapter 209.

It should first be noted that this bill mainly proposes to establish a department of prisons to modernize our current prison system. The Prison Board will remain intact. However, the Warden will be designated "director" and the deputy warden position will be entitled "deputy director." Each separate institution of the Nevada State Prisons will be headed by a "superintendent." S.B. 116 interposes the above designations throughout the entire bill.

Since opinions may vary as to what is or isn't an item of substance, I have, of necessity, approached this request by chronologically listing each section in Chapter 209 and briefly mentioning how S.B. 116 deals with it. This chronology is intended only to highlight the impact of S.B. 116 on Chapter 209 and not as a thorough analysis to that end.

NRS 209.010	S.B. 116 deletes paragraphs [3] and [4] of that section.
NRS 209.020 & .030	Refer to S.B. 116 [11].
NRS 209.040	Refer to S.B. 116 [12]. Paragraph 3 of this section adds the language "contract with tax-supported, nonprofit government agencies for any labor of offenders..."

NRS 209.050 Refer to S.B. 116 [14][8].

NRS 209.060 Refer to S.B. 116 [14][7]. Responsibility of this section is shifted from the Board to the director.

NRS 209.070 Deleted. However, see S.B. 116 [14][6].

NRS 209.080 Deleted.

NRS 209.090 Refer to S.B. 116 [14][1], [19].

NRS 209.110 Refer to S.B. 116 [13][2][d][e].

NRS 209.115 Refer to S.B. 116 [19]. Deletes the specifics of the statutory requirements. Requires Prison Board approval prior to granting perquisites to officers or employees in his charge.

NRS 209.120 Refer to S.B. 116 [16].

NRS 209.130 Refer to S.B. 116 [14][1][2].

NRS 209.133 Refer to S.B. 116 [18]. This section omits the director and deputy director from acquiring designation of "peace officers" when performing duties for the prisons.

NRS 209.135 S.B. 116 [19]. This section changes the discretions given therein from approval by the Governor to approval by the Prison Board.

NRS 209.140 Paragraph one of this section is included intact in S.B. 116 [36]. However, sections two, three, and four are eliminated.

NRS 209.150 Deleted.

NRS 209.160 Deleted.

NRS 209.170 Deleted.

NRS 209.180 Deleted.

NRS 209.190 Refer to S.B. 116 [21].

- NRS 209.193 Refer to S.B. 116 [20]. This changes the language "prison resident improvement fund" to "special revenue fund."
- NRS 209.195 Refer to S.B. 116 [23]. This changes the language "prisoner's store fund" to "prisoner's trust fund."
- NRS 209.196 Refer to S.B. 116 [24].
- NRS 209.197 Refer to S.B. 116 [25]. This proposed section sets up a trust fund between the Warden and offenders.
- NRS 209.200 Refer to S.B. 116 [26].
- NRS 209.220 Refer to S.B. 116 [27]. The proposed bill changes the manner of payment for expenses incurred in transportation of prisoners to conform with current state law.
- NRS 209.230 Refer to S.B. 116 [27][2][4]. Proposed changes allow the transporting officers all expenses as authorized for other state employees.
- NRS 209.240 Refer to S.B. 116 [28].
- NRS 209.245 Refer to S.B. 116 [29].
- NRS 209.250 Refer to S.B. 116 [31].
- NRS 209.255 Refer to S.B. 116 [32].
- NRS 209.259 Refer to S.B. 116 [33], [30][2]. The proposed section makes it mandatory upon the director of the receiving facility to which the prisoner has been transferred to provide for his return to the prison as opposed to that responsibility resting with the director.
- NRS 209.265 Refer to S.B. 116 [34], [35].
- NRS 209.271 Refer to S.B. 116 [36]. This eliminates the relevant discretionary powers of the Warden and makes them mandatory.

NRS 209.275 Refer to S.B. 116 [40]. This section eliminates the relevant discretionary power of the Warden and makes them mandatory.

NRS 209.280 Refer to S.B. 116 [44].

NRS 209.285 Refer to S.B. 116 [45].

NRS 209.290 Refer to S.B. 116 [46].

NRS 209.300-.330 Deleted.

NRS 209.340 Deleted.

NRS 209.350 Refer to S.B. 116 [47]. This section shifts responsibility for the employment of offenders from the Board to the director. It also deletes the restrictions contained in Section 6 of the current statute.

NRS 209.360 Refer to S.B. 116 [49].

NRS 209.370 Refer to S.B. 116 [47].

NRS 209.380 Deleted.

NRS 209.390 Deleted.

NRS 209.400 Deleted.

NRS 209.411 Refer to S.B. 116 [47].

NRS 209.431 Refer to S.B. 116 [50]. Also, see S.B. 116 [51.5] in reference to unauthorized absence by an offender who is on temporary furlough constituting an escape from the prison.

NRS 209.441 Refer to S.B. 116 [41].

NRS 209.475 Refer to S.B. 116 [15].

NRS 209.480 Deleted. However, the authority to manufacture vehicle license plates still maintained by the director in S.B. 116 [47].

NRS 209.483-.495 Deleted. See NRS Chapter 213.

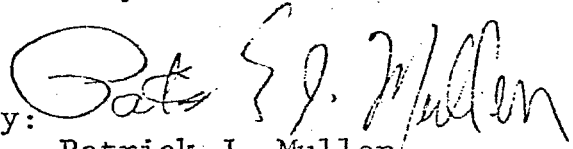
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NRS 209.497 Deleted. See NRS Chapter 213.  
NRS 209.500 Refer to S.B. 116 [51].

Sincerely,

ROBERT LIST  
Attorney General

By:

  
Patrick J. Mullen  
Deputy Attorney General  
Criminal Division

PJM:np

cc: Charles L. Wolff, Jr.  
Warden, Nevada State Prisons

COMPARISON--OFFENSES AND PENALTIES  
CHAPTER 453 OF NRS AND S.B. 268

CHAPTER 453		S.B. 268	
OFFENSE	PENALTY	OFFENSE	PENALTY
NRS 453.301 - Forfeitures Controlled substances, records, new materials, conveyances, etc.	Forfeiture	Same	Conveyance not subject to forfeiture unless one kilogram or more was carried. An encumbered conveyance can be paid off and kept by the division. (P. 4, L. 2.)
453.306 - Forfeitures Proceedings	-----	-----	Provides that proceedings to recover seized property takes priority over other civil proceedings. (P. 4, L. 27.)
453.316 - Common nuisance Place resorted to by nar- cotics addicts prohibited considered a common nuisance	None specified - misdemeanor	Opening or maintaining a place for sale or distribution of a controlled substance (Page 5, L. 11)	<u>First offense</u> , 1-10 years (suspension or probation allowed) <u>Second offense</u> , 2-20 years (no sus- pension or probation)
453.321 - Prohibited Acts Sale of Controlled Substance		Sale of Control Substance Adds "importing, transporting, manufacturing, compounding and administering" to "selling, exchanging, bartering, sup- plying or giving" of controlled substance, all under sale. Also adds "offer or attempt" as offenses. (P. 5, L 31)	

Exhibit C

OFFENSE	CHAPTER 453 PENALTY	OFFENSE	S.B. 268 PENALTY
<p>Schedule I or II Someone 21 years or over selling to someone under 21 years.</p>	<p><u>First offense</u>, life with possible parole at 7 years plus possible \$5,000 fine. <u>Second offense</u>, life without possible parole (previous conviction for drugs in another jurisdiction eliminates suspension of sentence or probation.)</p>	<p>Schedule I or II Any of the prohibited acts by anyone, no age classification (P. 6, L. 38)</p>	<p><u>First offense</u>, 5 years to life, parole possible at 3 years. <u>Second offense</u>, 10 years to life, parole possible at 10 years. <u>Third offense</u>, 15 years to life, parole possible at 15 years. (For all of above, \$20,000 fine possible) (Suspension of sentence or probation prohibited for all of the above.)</p>
<p>Someone 21 years or older selling to someone 21 years or older</p>	<p><u>First offense</u>, 1-20 years plus possible \$5,000 fine. <u>Second offense</u>, life without parole plus possible \$5,000 fine. (Previous conviction for drugs in another jurisdiction eliminates suspension of sentence or probation.)</p>		
<p>Schedule III, IV or V Seller 21 years or older, age of buyer irrelevant</p>	<p><u>First offense</u>, 1-6 years plus possible \$2,000 fine. <u>Second offense</u> (including conviction for drugs in another jurisdiction) 1-10 years plus possible \$2,000 fine.</p>	<p>Schedule III, IV or V Any of the prohibited acts by anyone to anyone, no age classification (P. 7, L. 12.)</p>	
			<p><u>First offense</u>, 5 years to life, parole possible at 3 years. <u>Second offense</u>, 5 years to life, parole possible at 5 years. <u>Third offense</u>, 10 years to life, parole possible at 10 years. (Suspension or probation possible.)</p>



CHAPTER 453		S.B. 268	
OFFENSE	PENALTY	OFFENSE	PENALTY
Schedule I, II, III, IV or V Seller under 21 years	<u>First offense</u> , 1-20 years, probation possible. <u>Second offense</u> , treated as the seller 21 years or older, probation not possible.	No Change	No Change
453.326 - Prohibited Acts B Failure or refusal to keep records, maintain place, etc.	Any violation, 1-6 years, plus possible \$2,000 fine. (Suspension of sentence or probation possible.)	No Change	No Change
453.331 - Prohibited Acts C Distribution of controlled substance except as allowed in law, misrepresentation, fraud, etc.	Any violation, 1-6 years, plus possible \$2,000 fine.	No Change	No Change
453.336 - Possession of Controlled Substance Offender under 21 years, marihuana only. Amount less than 1 ounce. (NRS 453.336,3)	<u>First offense</u> , 1-6 years plus possible \$2,000 fine or up to 1 year in jail plus possible \$2,000 fine plus possible drivers license suspension. <u>Second offense</u> , 1-6 years plus possible \$2,000 fine. <u>Third offense</u> , 1-10 years plus possible \$2,000 fine. (Presentencing report required from parole & probation; based on rehabilitation potential, court may reduce offense to a gross misdemeanor and after 3 years, seal the records.)	No Change	No Change

CHAPTER 453		S.B. 268	
OFFENSE	PENALTY	OFFENSE	PENALTY
Offender 21 years or older for Schedules I, II, III and IV and under 21 years for other than marihuana. (NRS 453.336,2.)	<p><u>First offense</u>, 1-6 years plus possible \$2,000 fine.</p> <p><u>Second offense</u>, 1-10 years plus possible \$2,000 fine.</p> <p><u>Third offense</u>, 1-20 years plus possible \$5,000 fine.</p>	No Change	No change
Schedule V (NRS 453.336, 2(d) & (e).)	<p><u>First offense</u>, up to 1 year in jail plus possible \$1,000 fine.</p> <p><u>Second offense</u>, 1-6 years plus possible \$2,000 fine.</p>	No Change	No Change
Offender of any age, Schedules I, II, III, IV or V. (NRS 453.336, 6-9)	For any possession first offense, the court may place the person on probation with conditions. Violation of conditions results in adjudication of guilt. Action by the court for probation shall not be deemed a conviction. This proceeding may only be carried out once.		S.B. 268 repeals this provision (P. 9, L. 3). <u>Note</u> : Biggs and McCarthy say this was not requested and in fact do not want these subsections removed.
453.401 - Inducing unlawful acts, conspiracy. Induce use of controlled substance, use of a minor, conspiracy to violate the act.	No penalty in this section.	<p>Two or more persons conspiring to commit any felony under this act or conspiring to defraud the State of Nevada constitutes an offense. (P. 9, L. 34.)</p> <p>Two or more persons conspire to commit an act not a felony under the act (P. 10, L. 14.)</p>	<p><u>First offense</u>, 1-6 years or up to \$10,000 fine or both.</p> <p><u>Second offense</u>, 10 years to life, parole possible at 6 years plus possible \$10,000 fine.</p> <p><u>Third offense</u>, 15 years to life, parole possible at 15 years plus possible \$10,000 fine.</p> <p>Penalty is the same as for the act that was the subject of the conspiracy. (No suspension of sentence or probation allowed.)</p>

CHAPTER 453		S.B. 268	
OFFENSE	PENALTY	OFFENSE	PENALTY
453.411 - Prohibitions Use or being under the influence of controlled substance			
Schedules I, II, III, IV (NRS 453.411, 3(a).)	Any violation, 1-6 years plus possible \$2,000 fine.	No Change	No Change
Schedule V (NRS 453.411, 3(b).)	Any violation, up to 1 year in jail plus possible \$1,000 fine.	No Change	No Change
Not an offense in current law		Possession for purpose of sale (Sec. 2, S.B. 268) Schedule I, II	<u>First offense</u> , 5-15 years, parole possible at 2 1/2 years plus possible \$20,000 fine. <u>Second offense</u> , 10 years to life, parole possible at 6 years plus possible \$20,000 fine. <u>Third offense</u> , 15 years to life, parole possible at 15 years plus possible \$20,000 fine. (No suspension of sentence or pro- bation allowed.)
Not an offense in current law		Schedule III, IV, V (Sec. 3, S.B. 268)	<u>First offense</u> , 2-10 years, parole possible at 2 years. <u>Second offense</u> , 5-15 years, parole possible at 3 years. <u>Third offense</u> , 10 years to life, parole possible at 6 years.

CHAPTER 453		S.B. 268	
OFFENSE	PENALTY	OFFENSE	PENALTY
Not an offense in current law		Fraudulent acts (Sec. 4, S.B. 268) Schedule I, II	Any violation, 1-10 years plus possible \$20,000 fine.
Not an offense in current law		Schedule III, IV, V	Any violation, up to 1 year in jail or up to 5 years in prison.
		NOTE: Biggs and McCarthy question the "and", page 2, lines 34 and 48. They think they should be "or." If the object of the sections is fraud, the "and" is appropriate. To "sell, supply, transport, deliver, give or administer any controlled substance" are offenses otherwise covered with different penalties. A change to "or" would seem to be ill-advised.	
Not an offense in current law		Entering or remaining where controlled substances unlawfully sold or used is unlawful. (Sec. 6, S.B. 268.)	No specified penalty. Misdemeanor is assumed.

COMPARISON--OFFENSES AND PENALTIES  
CHAPTER 453 OF NRS AND S.B. 268

S.B. 268 OFFENSE	NEVADA REVISED STATUTES	PENALTY IN S.B. 268	AMENDED AS SET FORTH BELOW
S.B. 268 - SEC. 2 Possession for Purpose of Sale Schedule I, II	None ( <u>New Legislation</u> )	<u>1st Offense</u> , 5-15 yrs., parole possible at 2 1/2 yrs., plus possible \$20,000 fine. <u>2nd Offense</u> , 10 yrs. to life, parole possible at 6 yrs. plus possible \$20,000 fine. <u>3rd Offense</u> , 15 yrs. to life, parole possible at 15 yrs. plus \$20,000 fine. (No suspension of sentence or probation.)	<u>1st Offense</u> , 1-15 yrs., plus possible fine of \$5,000. <u>2nd Offense</u> , 5-15 yrs., plus possible fine of \$10,000. (No suspension of sentence or probation.) <u>3rd Offense</u> , 15 yrs. to life plus possible \$20,000 fine. (No suspension of sentence or probation.)
S.B. 268 - SEC. 3 Possession for Purpose of Sale Schedule III, IV V	None ( <u>New Legislation</u> )	<u>1st Offense</u> , 2-10 yrs., parole possible at 2 yrs. <u>2nd Offense</u> , 5-15 yrs., parole possible at 3 yrs. <u>3rd Offense</u> , 10 yrs. to life, parole possible at 6 yrs.	<u>1st Offense</u> , 1- <del>15</del> <sup>10</sup> yrs., plus possible fine of \$2,500. <u>2nd Offense</u> , <del>5-15</del> <sup>10</sup> yrs., plus possible fine of \$5,000. (No suspension of sentence or probation) <u>3rd Offense</u> , <del>15</del> <sup>2-10</sup> yrs., plus possible fine of \$10,000. (No suspension of sentence or probation.)
S.B. 268 - SEC. 4 In Lieu of (Turkey Law) Schedule I, II Refer to Attachment #1- Original wording of proposed bill; #2-Calif. Health and Safety Code and Court decisions.	None ( <u>New Legislation</u> )	<u>1st Offense</u> , <u>2nd Offense</u> and <u>3rd</u> <u>Offense</u> , same penalty - Imprisonment in County Jail for not more than 1 yr. or State Prison for 1-10 yrs., plus possible \$20,000 fine.	<u>1st Offense</u> , <u>2nd Offense</u> and <u>3rd Offense</u> , Imprisonment in County Jail for not more than 1 yr. or State Prison for 1-10 yrs., plus possible fine of \$10,000. Sub-Section 2, p. 2, L. 40-45 to remain as is in S.B. 268. *Section 4, Sub-Section 1 & 3 should omit the word [ <u>Fraudu-</u> <u>lently</u> ] change conjunction from [ <u>and</u> ] to <u>or</u> .

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Bill D1

COMPARISON--OFFENSES AND PENALTIES  
CHAPTER 453 OF NRS AND S.B. 268

S.B. 268 OFFENSE	NEVADA REVISED STATUTES	PENALTY IN S.B. 268	AMENDED AS SET FORTH BELOW
S.B. 268 - SEC. 4 In Lieu of (Turkey Law) Schedule III, IV, V	None (New Legislation)	<u>1st Offense, 2nd Offense and 3rd Offense</u> , same imprisonment in County Jail for 1 yr. or 1-5 State Prison	<u>1st Offense, 2nd Offense and 3rd Offense</u> , imprisonment in County Jail for not more than 1 yr. or imprisonment in State Prison 1-5 yrs., plus possible \$5,000 fine.
S.B. 268 - SEC. 5 Establishes procedures in handling prior felony convictions	No penalty per se, only establishes procedure in alleging previous convictions.	No penalty per se, only establishes procedure in alleging previous convictions.	Pg. 3, L. 6, Sec. 5 amended from the <u>accusatory pleading</u> to <u>indictment or information</u> . Pg. 3, L. 9, Sec. 5 amended from <u>for impeachment purposes</u> to <u>as otherwise prescribed by law</u> . *Asst. D.A. Tom Beatty requests this change. Would cover knowledge, impeachment, etc.
S.B. 268 - SEC. 6 Entering or remaining where controlled substances unlawfully sold or used is unlawful.	None (New Legislation)	No specified penalty, therefore NRS 193.170 would apply, making this misdemeanor.	Note: The appropriate section would be under NRS 453.316 - Common Nuisance should become part of Section 10 of this Bill. Senator Sheerin suggested we strike portions of Pg. 3, L. 16-17 unless he has lawful business in such place. We agree.
S.B. 268 - SEC. 7 Definitions	None - Merely applies definitions to include changes in S.B. 268. Refer NRS 453.016 - Definitions	None - Merely applies definitions to include changes in S.B. 268. Refer NRS 453.016 - Definitions	No changes required.

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COMPARISON--OFFENSES AND PENALTIES  
CHAPTER 453 OF NRS AND S.B. 268

S.B. 268 OFFENSE	NEVADA REVISED STATUTES	PENALTY IN S.B. 268	AMENDED AS SET FORTH BELOW
<p>S.B. 268 - SEC. 8 Forfeitures Controlled Substances, records, materials, conveyances, etc. Sub-Section 5</p> <p>Sub-Section 5, Para. C specifies the amount required before convey- ance subject to forfeiture</p>	<p>NRS 453.301 - Forfeiture</p> <p>NRS 453.301 - Forfeiture Sub-Section 5, Paragraph C states not subject to for- feiture under NRS 453.336, regardless of the amount of controlled substance.</p>	<p>Forfeiture</p> <p>S.B. 268, Section 8, Sub-Section 5, Paragraph C specifies an amount of 1 kilogram of controlled substance (Unrealistic and this change was made by the bill drafters, unknown why.)</p>	<p>Sub-Section 5, p. 3, L. 41 amended to read....to facilitate the transportation, for the purpose of sale, <i>possession for sale</i>, or receipt of property described in Subsections 1 or 2, except that;.... (This allows for forfeiture for possession for sale)</p> <p>Sub-Section 5, Paragraph C - In hearings before Senate Judiciary Committee, we ex- plained the problems with 1 kilogram of controlled sub- stance. The amendment fur- nished to each committee member specified 8 ounces of marijuana. This amount and the drug specified (marijuana) could be lowered but we do not recommend any other drug or the increasing of the amount of marijuana.</p>
<p>S.B. 268 - SEC. 8 Sub-Section 5, Para. D - Forfeitures - cont'd</p>	<p>MRS. 453.301 - Forfeiture</p>	<p>Forfeiture - Para. D amended to permit Law Enforcement agency, with consent of holder of security interest to pay off existing balance and retain conveyance for official use.</p>	<p>Washoe Co. D.A. Larry Hicks indicated his office had been following this practice any- way. Asst. D.A. Tom Beatty feels it is better to include as amended in S.B. 268. D.A. Hicks has no problem with this.</p>



COMPARISON--OFFENSES AND PENALTIES  
CHAPTER 453 OF NRS AND S.B. 268

S.B. 268 OFFENSE	NEVADA REVISED STATUTES	PENALTY IN S.B. 268	AMENDED AS SET FORTH BELOW
S.B. 268 - SEC. 8 New paragraph under Sub-Section 5 deals with third party interests.	None. (New paragraph.)	Forfeiture, this paragraph would provide for the forfeiture of vehicles against third party interests.	This paragraph would read as follows. <i>No person, other than a holder of community property interest, whose name or interest does not appear on the certificate of registration or title for such conveyance shall be a proper party to any forfeiture proceedings.</i> *We have changed the wording of this paragraph to hopefully provide for the protection of community property. This was a concern of Senator Dodge and other members of the Committee.
S.B. 268 - SEC. 9 Forfeiture Proceedings	NRS 453.306 - Forfeiture	Forfeiture, Sub-Section 3 amended to give forfeiture proceedings a priority over other civil proceedings.	No other changes recommended. This change is very necessary as explained in testimony before your Committee.
S.B. 268 - SEC. 10 Opening or maintaining a place for sale or distribution of a controlled substance (Amended to a felony)	NRS 453.316 - Place resorted to by narcotics addicts prohibited. Misdemeanor.	<u>1st Offense</u> , 1-10 yrs. (Suspension of probation allowed.)	The penalties under Section 10 seem adequate. As indicated previously, Sections 6 and 10 should come under NRS 453.316-Common Nuisance.
S.B. 268 - SEC. 10 Sub-Section 2 pertains to prior convictions	None	<u>2nd Offense</u> , 2-20 yrs. (No suspension of probation.)	Provides for penalties for prior convictions. Seem adequate.

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COMPARISON--OFFENSES AND PENALTIES  
CHAPTER 453 OF NRS AND S.B. 268

S.B. 268 OFFENSE	NEVADA REVISED STATUTES	PENALTY IN S.B. 268	AMENDED AS SET FORTH BELOW
<p>S.B. 268 - SEC. 10 Sub-Section 3 does not apply to rehabilitation clinics, established or licensed by Health Division of Department of Human Resources</p>	<p>NRS 453.316 No penalty - same as Sub-Section 2 of existing statute.</p>	<p>None.</p>	<p>This is basically the same wording as presently used in NRS 453.316, Section 3.</p>
<p>S.B. 268 - SEC. 11 Sub-Section 1, p. 5, L. 30-33; p. 6, L. 36-37 - Definition of Sale.  Sub-Section 2 provides for penalties for Schedule I, II  <u>Amended Legislation</u> Age eliminated.</p>	<p>NRS 453.321 - Sale Controlled Substance, 21 yrs. or over to someone under 21 yrs. <u>1st Offense</u>, life with possible parole at 7 yrs., plus possible \$5,000 fine. <u>2nd Offense</u>, life without possible parole (previous conviction eliminates suspension of sentence or probation.)  21 yrs. or older selling to someone 21 yrs. or older. <u>1st Offense</u>, 1-20 yrs. plus possible \$5,000 fine. <u>2nd Offense</u>, life without parole plus possible \$5,000 fine. (Previous conviction for drugs eliminates suspension of sentence or probation.)</p>	<p>Schedule I or II - Any of prohibited acts by anyone, no age classification. <u>1st Offense</u>, 5 yrs. to life, parole possible at 3 yrs., possible \$20,000 fine. <u>2nd Offense</u>, 10 yrs. to life, parole possible at 10 yrs., possible \$20,000 fine. <u>3rd Offense</u>, 15 yrs. to life, parole possible at 15 yrs., possible \$20,000 fine. (Suspension of sentence or probation prohibited for all of the above.)  Penalty remains the same regardless of age.</p>	<p><u>1st Offense</u>, 1-20 yrs., plus possible \$5,000 fine.  <u>2nd Offense</u>, 5-20 yrs., plus possible \$10,000 fine. (No suspension of sentence or probation.)  <u>3rd Offense</u>, 15 yrs. to life, plus possible \$20,000 fine. (No suspension of sentence or probation.)  The above penalties are for Sale of Controlled Substances under Schedule I and II. These penalties are more in line with the present penalties. As indicated in testimony before your Committee, S.B. 268 removes the age and therefore, it is no longer an element of the offense.</p>

COMPARISON--OFFENSES AND PENALTIES  
CHAPTER 453 OF NRS AND S.B. 268

S.B. 268 OFFENSE	NEVADA REVISED STATUTES	PENALTY IN S.B. 268	AMENDED AS SET FORTH BELOW
<p>S.B. 268 - SEC. 11 Sub-Section 5 Schedule III, IV, V</p>	<p>NRS 453.321 - Sale Controlled Substance, Schedule III, IV, V Seller 21 yrs. or older, age of buyer irrelevant. <u>1st Offense</u>, 1-6 yrs., plus possible \$2,000 fine. <u>2nd Offense</u>, (including conviction for drugs), 1-10 yrs., plus possible \$2,000 fine.</p>	<p><u>1st Offense</u>, 5 yrs. to life, parole possible at 3 yrs. <u>2nd Offense</u>, 5 yrs. to life, parole possible at 5 yrs. <u>3rd Offense</u>, 10 yrs. to life, parole possible at 10 yrs.. (Suspension of sentence or probation prohibited.)</p>	<p><u>1st Offense</u>, 1-<sup>10</sup> yrs., plus possible \$2,500 fine. <u>2nd Offense</u>, <del>2-15</del> yrs., plus possible \$5,000 fine. (No suspension of sentence or probation.) <u>3rd Offense</u>, <del>5-10</del> yrs., plus possible \$10,000 fine. (No suspension of sentence or probation.).</p> <p>More in line with current penalties for Sale of Schedule III, IV, V drugs.</p>
<p>S.B. 268 - SEC. 12 Possession of Controlled Substance. Sub-Section 4, Para. A &amp; B wording change does not effect penalty. (Sub-Section 6 thru Sub-Section 9 deleted by bill drafters, unknown why.)</p>	<p>NRS 453.336 No change per se in penalties. Sub-Section 6 thru Sub-Section 9 very beneficial to prosecutors and courts.</p>	<p>No change per se in penalties.</p>	<p>As per our discussions in Committee hearings, we agreed to retain Sub-Section 6 thru Sub-Section 9. On pg. 9, L. 7, should add word <i>simple</i> before possession since possession for sale statute is included in S.B. 268. This was requested by Asst. D.A. Tom Beatty and he feels it should help distinguish between the Possession for Sale vs. Simple Possession statutes. (NRS 453.336)</p>

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COMPARISON--OFFENSES AND PENALTIES  
CHAPTER 453 OF NRS AND S.B. 268

S.B. 268 OFFENSE	NEVADA REVISED STATUTES	PENALTY IN S.B. 268	AMENDED AS SET FORTH BELOW
S.B. 268 - SEC. 13 Sub-Section 1-4 Conspiracy Statute (New wording more defined.)	NRS 453.401 Inducing Unlawful Acts, Conspiracy Penalty in this section under NRS. 453.421, 1-6 yrs. all offenses.	<p><u>1st Offense</u>, 1-6 yrs. or up to \$10,000 fine or both.</p> <p><u>2nd Offense</u>, 10 yrs. to life, parole possible at 6 yrs., plus possible \$10,000 fine.</p> <p><u>3rd Offense</u>, 15 yrs. to life, parole possible at 15 yrs., plus possible \$10,000 fine.</p>	<p><u>1st Offense</u>, 1-6 yrs., possible \$5,000 fine.</p> <p><u>2nd Offense</u>, 1-10 yrs., possible \$10,000 fine. (No suspension of sentence or probation.)</p> <p><u>3rd Offense</u>, 5-20 yrs., possible \$20,000 fine. (No suspension of sentence or probation.)</p>
S.B. 268 - SEC. 13 Sub-Section 5 Conspiracy to commit an act not classified as felony (p. 10, L.14)	None.	Penalty provides for punishment by imprisonment or by imprisonment and fine for not more than the maximum punishment provided for the offense which they conspired to commit.	<p>Sec. 13 - Sub-Section 5, p. 10, L. 17 should be amended to read...each conspirator shall be punished by <i>imprisonment in the County Jail for up to 1 yr. or fine of \$1,000 or both fine and imprisonment.</i></p> <p>Asst. D.A. Tom Beatty recommends this be classified as a Gross Misdemeanor, since two or more persons should be more socially responsible.</p>
S.B. 268 - SEC. 13 Sub-Section 6 prohibits granting probation to or sus- pending sentence.	None.	Sub-Section 6 - (No suspension of sentence or probation.)	<p>Recommend Sub-Section 6 be deleted, p. 10, L.20-21. This would permit anyone convicted of a first offense the possibility of being granted probation.</p>

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COMPARISON--OFFENSES AND PENALTIES  
CHAPTER 453 OF NRS AND S.B. 268

S.B. 268 OFFENSE	NEVADA REVISED STATUTES	PENALTY IN S.B. 268	AMENDED AS SET FORTH BELOW
S.B. 268 - SEC. 14 Penalties - deletes NRS 453.401 which as proposed, will have 2nd and 3rd offense penalties.	NRS 453.421 Penalties defined now includes 453.401. All offenses, 1-6 yrs.	NRS 453.421 Amended, Section 14 deletes NRS 453.401 to provide for new conspiracy statute which has 1st, 2nd and 3rd offense penalties.	No comments necessary.
S.B. 268 - SEC. 15 amends NRS 199.480 to provide for punishment of conspiracy under Uniform Controlled Substance Act.	NRS 199.480. All offenses 1-6 yrs.	Section 15 provides for punishment of conspiracy to commit violations of Controlled Substance Act, specified under Section 13.	No comments necessary.
S.B. 268 - SEC. 16 amends NRS 205.380 to allow for the In Lieu of Statute as proposed in S.B. 268, Sec. 4.	NRS 205.380 Value over \$100.00 - 1-10 yrs., plus possible \$5,000 fine or both, and sen- tenced to restore property fraudulently obtained. Value under \$100.00 - Guilty of misdemeanor plus restore property fraudulently obtained.	Refer to Section 4 of S.B. 268, In Lieu of Statute.	No comments necessary.

§ 11354

HEALTH AND SAFETY CODE

drug, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison \* \* \*

(b) \* \* \* This section is not intended to affect the jurisdiction of the juvenile court.

(Amended by Stats.1976, c. 1139, p. —, § 69, operative July 1, 1977.)

1976 amendment operative July 1, 1977

1976 Amendment. Deleted following "state prison", the words "for a period of not less than five years": and deleted subd. (c), (d).

§ 11355. Sale or furnishing substance falsely represented to be a controlled substance; punishment

Every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give (1) any controlled substance specified in subdivision (b) or (c) of Section 11051, specified in paragraph (10), (11), (12), or (17) of subdivision (d) of Section 11051, or specified in subdivision (b) or (c) of Section 11055 or, (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug to any person, or offers, arranges, or negotiates to have any such controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and then sells, delivers, furnishes, transports, administers, or gives, or offers, arranges, or negotiates to have sold, delivered, transported, furnished, administered, or given to any person any other liquid, substance or material in lieu of any such controlled substance shall be punished by imprisonment in the county jail for not more than one year, or in the state prison \* \* \*

(Amended by Stats.1976, c. 1139, p. —, § 70, operative July 1, 1977.)

1976 amendment operative July 1, 1977

1976 Amendment. Deleted, following "state prison", the words "for not more than 10 years".

Supplementary Index to Notes

Aid and abet 5.5  
Conspiracy 5.7

3. Purpose

This section which makes it illegal to agree to sell a narcotic and then to deliver instead a nonnarcotic substance was designed to discourage anyone from engaging or appearing to engage in narcotics traffic rather than to define the contractual rights of the pusher and his victim. People v. Ernst (1975) 121 Cal.Rptr. 857, 48 C.A.3d 785.

5. Elements of offense

Sale of substitute in lieu of restricted dangerous drug is a general intent crime and thus defendant's specific intent to sell substance other than a controlled substance did not have to be shown to establish her violation of this section: overruling People v. Contreras, 226 Cal.App.2d 791, 35 Cal. Rptr. 338, and People v. Sweet, 257 Cal. App.2d 167, 65 Cal.Rptr. 31. People v. Lechinski (1976) 131 Cal.Rptr. 791, 69 C.A. 3d 785.

Apparent tender of narcotics for which parties had negotiated and accepted invitation to sample an amount sufficient to satisfy the buyer constituted adequate delivery of the substance to require defendants to plead to information which charged them with agreeing to sell a narcotic and instead delivering a nonnarcotic substance. People v. Ernst (1975) 121 Cal.Rptr. 857, 48 C.A.3d 785.

5.5 Aid and abet

Evidence that defendant and codefendant told undercover agent that they had co-

caine in defendant's apartment and that they were in the process of packaging it in preparation for a trip and that codefendant then proceeded to complete arrangements for sale of the cocaine and proceeded to meet with the undercover agent to sell him a substance represented to be cocaine was sufficient to demonstrate probable cause to believe that defendant aided and abetted in sale of a substance represented to be a narcotic although in fact nonnarcotic. People v. Ernst (1975) 121 Cal.Rptr. 857, 48 C.A.3d 785.

5.7 Conspiracy

Even if one defendant did at all times contemplate a sale of genuine cocaine, where he was engaged in criminal conspiracy with two others, he was responsible for any substantive crimes which were the natural and reasonable consequence of that conspiracy and could be convicted of agreeing to sell a narcotic substance and instead delivering a nonnarcotic substance even if it were only his codefendants who decided to substitute the innocuous substance for the cocaine: it was immaterial that the information did not charge a conspiracy. People v. Ernst (1975) 121 Cal.Rptr. 857, 48 C.A.3d 785.

8. Witnesses

Uncontroverted testimony of officer, a percipient witness, that defendant on two separate occasions was involved in sale of cocaine in direct violation of condition of probation for possession for sale of restricted dangerous drug and for furnishing substance falsely represented to be a controlled substance justified revoking probation and revocation was not arbitrary or capricious or an abuse of discretion. People v. Hawkins (1975) 119 Cal.Rptr. 51, 44 C.A.3d 958.

Underline indicates changes or additions by amendment

Sec. 11354

11355

Law 5 (1977)

§ 11355

Law 5 (1977)

Law 5 (1977)

Law 5 (1977)

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Law 5 (1977)

# CALIF. HEALTH (SAFETY) CODE

## § 11355 UNIFORM CONTROLLED SUBSTANCES Div. 10

### § 11355. Sale or furnishing substance falsely represented to be a controlled substance; punishment

Every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give (1) any controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (10), (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055 or, (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug to any person, or offers, arranges, or negotiates to have any such controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and then sells, delivers, furnishes, transports, administers, or gives, or offers, arranges, or negotiates to have sold, delivered, transported, furnished, administered, or given to any person any other liquid, substance, or material in lieu of any such controlled substance shall be punished by imprisonment in the county jail for not more than one year, or in the state prison for not more than 10 years.

(Added by Stats.1972, c. 1407, p. 3014, § 3. Amended by Stats.1973, c. 1078, p. 2176, § 7, eff. Oct. 1, 1973).

#### Historical Note

The 1973 amendment designated conditions (1) and (2); inserted in the first condition the words "specified in subdivision (b) or (c) of section 11054 or specified in subdivision in paragraph (10), (11), (12) or (17) of subdivision (d) of section 11054, or specified in subdivision (b) or (c) of section 11055 or."; substituted the words "any controlled substance classified in Schedule III, IV, or V which is a narcotic drug to any person, or offers, arranges, or negotiates to have any such controlled substance" for "any controlled substance classified in Schedule I

or II to any person, or offers, arranges, or negotiates to have any controlled substance classified in Schedule I or II" at the beginning of condition (2); and substituted the words "such controlled substance" for the words "any controlled substance classified in Schedule I or II" near the end of the second condition.

Resentencing for violations between March 7, 1973, and October 1, 1973, see Historical Note under section 11350.

Derivation: Former section 11503, added by Stats.1959, c. 1112, p. 3194, § 6.

#### Cross References

Arrest of alien for violation of this section, notice to federal agency, see § 11369.  
Conviction of aliens, notice to federal agency, see § 11369.  
Denial of probation or suspension of sentence after conviction of violation of this section, prior conviction of certain offenses, see § 11370.  
Expenditures to secure evidence, see § 11451.  
Fine in addition to imprisonment for conviction of violation of this section, see § 11372.  
Narcotics offense defined as violation of this section for purposes of Education Code, see Education Code § 12912.5.  
Probation or suspension of sentence, previous convictions, see § 11370.  
Recovery of funds expended in investigations, see § 11501.  
Registration as controlled substance offender, conviction of offense defined in this section, see § 11590 et seq.  
School employees, notice to school authorities upon arrest for violation of this section, see § 11591.

#### Library References

Drugs and Narcotics ⇨68, 133.

C.J.S. Drugs and Narcotics §§ 164, 165, 167, 168, 173, 225 to 229.



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## 1. Validity

Former section 11503 (now this section) was not unconstitutional as vague, uncertain, and arbitrary. *People v. Hicks* (1963) 35 Cal.Rptr. 149, 222 C.A.2d 265.

## 2. In general

This section is a "narcotic or marijuana law" within federal statute providing that one who has been convicted under such a law may not depart from or enter United States without registering. *Haserot v. U. S.* (C.A.1963) 321 F.2d 582.

In view of fact that former § 11503, (now this section), prohibiting sale or furnishing of substances falsely represented to be narcotics is properly included in Health and Safety Code as narcotic offense whether or not it requires proof of intent to cheat, conviction under former § 11503 was properly treated as prior narcotics conviction under the second paragraph of former § 11500 (now § 11350) imposing increased penalty for subsequent narcotics convictions. *People v. Harris* (1971) 93 Cal.Rptr. 285, 15 C.A.3d 498.

A defendant may be convicted of offense of offering to sell a narcotic, and delivering to purchaser a nonnarcotic in lieu of the narcotic offered, regardless of whether defendant either before or at the time of delivery of the nonnarcotic substance intends to deliver a narcotic or some innocuous material, and this section is violated if there is an offer of a narcotic and a subsequent delivery of a nonnarcotic substance. *People v. House* (1969) 74 Cal.Rptr. 496, 268 C.A.2d 922.

Provisions of this section imply a substitution by accused of nonnarcotic for promised narcotic, and implies conscious replacing of one thing with another, and specific intent to commit offense must be proved. *People v. Sweet* (1967) 65 Cal. Rptr. 31, 257 C.A.2d 167.

What is generally regarded as "bunco" may be defined as narcotics offense when it occurs in connection with offer to sell narcotics. *People v. Hicks* (1963) 35 Cal.Rptr. 149, 222 C.A.2d 265.

Defendant, who was charged with illegally agreeing to sell heroin and selling another substance in lieu of heroin, was liable as a principal even though he was not present at time that codefendant delivered capsules which did not contain heroin and received money from police officer. *People v. Lopez* (1963) 28 Cal. Rptr. 912, 213 C.A.2d 668.

Defendant's acquittal on a conspiracy count did not invalidate conviction for aiding and abetting in violation of the narcotics law which was a separate and distinct offense from that of conspiracy. *People v. Dalton* (1959) 341 P.2d 793, 172 C.A.2d 15.

## 3. Purpose

Aim of this section is not simply to proscribe fraudulent narcotics traffic, but rather to prohibit anyone from appearing to engage in narcotics traffic. *People v. Medina* (1972) 103 Cal.Rptr. 721, 27 C.A.3d 473.

## 4. Indictment and information

Under Pen.C. § 17, choice between treatment of charge of offering to sell narcotic and delivering or arranging to deliver nonnarcotic substance, as felony or as misdemeanor, lay with prosecuting attorney in first instance and then with magistrate at preliminary hearing with concurrence of prosecuting attorney; superior court had power to reduce grade of particular offense by pronouncing misdemeanor sentence, but did not on its own motion and over objection of people have power to "amend" information properly filed and charging felony so as to charge misdemeanor. *People v. Clark* (1971) 95 Cal.Rptr. 411, 17 C.A.3d 890.

## 5. Elements of offense

Under this section, intent of individual in delivering nonnarcotic substance is irrelevant; the crime is not a specific intent crime, and offense is complete at time of delivery regardless of intent with which it is done. *People v. Medina* (1972) 103 Cal.Rptr. 721, 27 C.A.3d 473.

Fraudulent intent is not an element of offense of offering to sell a narcotic and delivering to the purchaser a nonnarcotic in lieu of the narcotic offered. *People v. House* (1969) 74 Cal.Rptr. 496, 268 C.A. 2d 922.

## § 11355 UNIFORM CONTROLLED SUBSTANCES

Div. 10

### Note 5

It is immaterial to violation of this section whether defendant either before or at time of delivery of nonnarcotic substance intends to deliver a narcotic or some innocuous material and the section is violated if there is offer of narcotic and subsequent delivery of nonnarcotic substance. *People v. Northern* (1967) 64 Cal.Rptr. 15, 256 C.A.2d 28.

Violation of this section requires only that defendant agree, consent and offer to unlawfully sell and furnish any narcotic, and then sell, deliver and furnish any other substance or material in lieu thereof. *People v. Lewis* (1962) 23 Cal.Rptr. 495, 206 C.A.2d 82.

This section does not encompass an offer to sell a narcotic and the subsequent failure to deliver anything. *People v. Brown* (1961) 9 Cal.Rptr. 816, 357 P.2d 1049, 55 C.2d 64, certiorari denied 81 S. Ct. 1932, 366 U.S. 970, 6 L.Ed.2d 1259.

### 6. Entrapment

Entrapment concerning sale of substance represented to be narcotic to undercover agent investigating possible narcotics violations was not shown as matter of law. *People v. Arzola* (1968) 65 Cal.Rptr. 372, 258 C.A.2d 124.

Test to determine whether there has been entrapment is called the "origin-of-intent test," and if person who claims to have been entrapped can establish that police generated in his mind the original intent to commit criminal acts which he would not have committed but for such inducement, his defense of "entrapment" is good, but if acts of police merely furnished occasion on which he chooses to act on a pre-existing criminal intent, then defense of "entrapment" fails. *People v. Sweet* (1967) 65 Cal.Rptr. 31, 257 C.A.2d 167.

This section, providing punishment for selling or furnishing substance falsely represented to be narcotics, does not permit or countenance entrapment. *People v. Hicks* (1963) 35 Cal.Rptr. 149, 222 C.A.2d 265.

### 7. Burden of proof

In prosecution for having delivered a different substance after defendant had unlawfully sold and agreed to deliver heroin, defendant had burden of proof to show claimed entrapment by police employee. *People v. Taylor* (1957) 316 P.2d 425, 154 C.A.2d 368.

### 8. Witnesses

Where there was no substantial conflict between testimony of defendant and that of informant on issues determinative of guilt, and where defendant had opportuni-

ty to and did engage in pretrial and trial cross-examination of informer on every phase of the case except his address, defendant was not deprived of his right to confront or to cross-examine by failure of state to disclose address of informant. *People v. Patejdl* (1973) 111 Cal.Rptr. 191, 35 C.A.3d 936.

Statement by prosecution witness during his cross-examination which could be construed as reference to past criminal record of defendant was not prejudicial, where question was propounded by defense counsel, record suggested that statement was one anticipated and defendant had taken stand thus subjecting himself to impeachment by establishment of a past felony conviction. *People v. Arzola* (1968) 65 Cal.Rptr. 372, 258 C.A.2d 124.

### 9. Cross-examination

Where person connected with undercover agent was called as witness by defendant, charged with furnishing of substance other than narcotic after having agreed to furnish narcotic, and witness testified to connection with agent in detail, people were entitled to cross-examine witness to show defendant's specific intent to furnish nonnarcotic. *People v. Contreras* (1964) 38 Cal.Rptr. 338, 226 C.A.2d 700.

### 10. Evidence

State was not required to show that substance delivered by defendant, charged with offering unlawfully to sell and furnish narcotic and delivering substance other than the narcotic, contained no other narcotic than marijuana in case wherein issue had been narrowed to question whether defendant offered to sell marijuana and delivered something other than marijuana. *People v. Hicks* (1963) 35 Cal.Rptr. 149, 222 C.A.2d 265.

There was no showing of a suppression of evidence because of prosecution's inability to produce informer in defendant's prosecution for agreeing to sell narcotics and for delivering a non-narcotic substance. *People v. Harris* (1963) 28 Cal.Rptr. 766, 213 C.A.2d 365.

### 11. Sufficiency of evidence

Evidence was sufficient to sustain conviction for offering to sell a narcotic, and delivering to the purchaser a nonnarcotic in lieu of the narcotic offered. *People v. House* (1969) 71 Cal.Rptr. 196, 268 C.A.2d 922.

Evidence that defendant knew the nature of substance in capsules which codefendant delivered to police officers was sufficient to sustain conviction on charge of unlawfully agreeing to sell heroin and selling another substance in lieu of heroin. *People v. Lopez* (1963) 28 Cal.Rptr. 912, 213 C.A.2d 668.

Finding that there was no unlawful entrapment of accused, charged with agreeing to sell narcotic and furnishing a non-narcotic substance, was sustained by evidence showing that at most officer and informer merely furnished defendant the opportunity to commit crime. *People v. Harris* (1963) 28 Cal.Rptr. 765, 213 C.A.2d 365.

In prosecution for offering to unlawfully sell and furnish a narcotic and then delivering another substance in lieu thereof, evidence sufficiently established that defendant knew that buyer desired to purchase narcotic and that defendant intended to sell narcotic. *People v. Lewis* (1962) 23 Cal.Rptr. 495, 206 C.A.2d 82.

Evidence sustained conviction for agreeing unlawfully to sell heroin and selling another substance in lieu of heroin. *People v. Red* (1960) 8 Cal.Rptr. 726, 186 C.A.2d 176.

In prosecution for violation of section 11502 (repealed. See, now, § 11353) evidence was sufficient to establish the corpus delicti. *People v. Dalton* (1959), 341 P.2d 793, 172 C.A.2d 15.

Evidence sustained conviction for selling and furnishing a substance falsely represented to be a narcotic. *People v. Jackson* (1958) 329 P.2d 329, 163 C.A.2d 355.

Evidence on issue of identity of defendant sustained conviction for agreeing to furnish and sell heroin and thereafter selling a substance in lieu of heroin. *People v. Williams* (1957) 309 P.2d 525, 150 C.A.2d 171.

#### 12. Instructions

In prosecution for offering to sell mescaline and then furnishing nonnarcotic, court properly refused to instruct that specific intent to deliver nonnarcotic was required, and was not required to instruct that defendant had to have specific intent to offer to sell mescaline. *People v. Medina* (1972) 103 Cal.Rptr. 721, 27 C.A.3d 173.

Defendant charged with agreeing to unlawfully give narcotic and then giving a nonnarcotic was not prejudiced by instruction imposing additional requirement of

intent to furnish narcotic or failure to instruct that fraudulent intent was necessary. *People v. Northern* (1967) 64 Cal.Rptr. 15, 256 C.A.2d 28.

In prosecution for furnishing substance falsely represented to be a narcotic and delivering a nonnarcotic in lieu thereof, instruction concerning entrapment was erroneous and prejudicial requiring reversal, in that by endorsing second factor of crime, that is, intent to and delivery of a nonnarcotic, as possibly emanating anywhere but in mind of defendant the offense could not have been committed. *People v. Arzola* (1968) 65 Cal.Rptr. 372, 258 C.A.2d 124.

Instructions that all persons who either actively commit an act constituting a crime or knowingly aid in its commission are regarded as principals and are equally guilty sufficiently informed jury that before there could be a conviction of defendant, who was charged with illegally agreeing to sell heroin and selling another substance in lieu of heroin, it would be necessary to prove not only that defendant aided in commission of offense but did so with a guilty knowledge that a non-narcotic substance was delivered to police officer by codefendant. *People v. Lopez* (1963) 28 Cal.Rptr. 912, 213 C.A.2d 668.

#### 13. Comments and conduct of court

Court's response to jury's question concerning entrapment and which was reasonably subject to construction that it did not matter if informer did the entrapping, in that his acts could be disregarded when considering such question, was prejudicial to defendant's theory of entrapment, although response was also susceptible to construction that it did not matter if informer and officer were working together on case and that entrapment by either was likewise an entrapment by the other. *People v. Arzola* (1968) 65 Cal.Rptr. 372, 258 C.A.2d 124.

#### 14. Review

Under record, conviction of agreeing to sell heroin and thereafter another substance in lieu of heroin would be affirmed. *People v. Shephard* (1959) 337 P.2d 214, 169 C.A.2d 283.

## § 11356. "Felony offense" and offense "punishable as a felony" defined

As used in this article "felony offense," and "offense punishable as a felony" refer to an offense for which the law prescribes imprisonment in the state prison as either an alternative or the sole penalty, regardless of the sentence the particular defendant received.

STATE OF NEVADA

MIKE O'CALLAGHAN  
Governor



JAMES A. BARRETT  
Director

John W. Peevers  
~~XXXXXXXXXXXX~~  
Chief

DEPARTMENT OF LAW ENFORCEMENT ASSISTANCE  
IDENTIFICATION AND COMMUNICATIONS DIVISION  
CAPITOL COMPLEX  
430 JEANELL DRIVE  
CARSON CITY, NEVADA 89710  
TELEPHONE (702) 885-4400

February 8, 1977

Senate Judiciary Committee  
Carson City,  
Nevada

Gentlemen:

Enclosed please find a recent copy of statistics compiled on drug arrests in the State through November, 1976.

We felt with the up-coming legislation in this area, you might find these statistics useful.

If there are any questions or other information needed, please contact the Department of Law Enforcement Assistance, UCR Section, 430 Jeanell Dr., Carson City, Nevada 89701.

Sincerely,

Jack M. McNutt  
Comprehensive Data Systems Supervisor

By:

A handwritten signature in cursive script, appearing to read "Thomas S. Gardner".

Thomas S. Gardner  
Crime Data Technician

JMM/TSG/jlg  
Enclosure

515  
Exhibit 81

UNIFORM CRIME REPORTING  
(As pertains to drug arrests)

1975 Summary  
1976 Regional Verification

## DRUG AND ALCOHOL OFFENSES

Information collected by the UCR Program on drug and alcohol offenses is limited to arrest and disposition data only. However, due to the interest in these categories of crime, this information merits separate analysis.

### Drug Arrests

There were 3,345 arrests made in 1975 for possession or sale of prohibited drugs, a decrease of 12 percent from the 1974 drug arrest figure. These arrests represent 6.9 percent of all arrests made in 1975, a figure which is down from 7.8 percent of all arrests in 1974. The 1975 data do not indicate as to how many arrests were for possession and how many were for sale or manufacture, but preliminary data for 1976 indicate that over 90 percent of the arrests were for possession.

Data on the type of drug for which persons were arrested are available from UCR. The categories used for reporting are (1) marijuana; (2) opium, cocaine and their derivatives, including heroin and morphine; (3) synthetic narcotics, such as demerol and methadone; and (4) other dangerous non-narcotic drugs, including amphetamines, barbiturates, and hallucinogens. The distribution of drug arrests by category is shown in the table below.

DRUG ARRESTS BY TYPE OF DRUG

Type of Drug	Number	Percent
Total Drug Arrests	3,345	100
Marijuana	2,491	74
Opium, Cocaine, and Derivatives	334	10
Synthetic Narcotics	207	6
Other Dangerous Drugs	313	9

Some significant changes are found in comparing these figures with those for 1974. Marijuana arrests dropped 13 percent; "hard" drug arrests (opium, cocaine, and derivatives) decreased by 16 percent; arrests for synthetic narcotics went up 214 percent; and arrests for other dangerous drugs went down 33 percent.

Nine out of ten persons arrested for drug law violations in 1975 were under 30 years of age, but most of these (64 percent) were young adults between the ages of 18 and 29. Juveniles made up only 25 percent of those arrested, about the same fraction which juveniles constitute of all arrests. It should be kept in mind that juveniles may be less cautious in their drug use and more likely to be arrested than adults. As a result, they may be over-represented in the arrest data. Persons over 29 account for only 11 percent of all drug arrests.

The age pattern varies according to the type of drug. Of all arrests for opium, cocaine and derivatives, only eight percent were juveniles but 26 percent were in the over 29 age group. Marijuana shows an opposite pattern, accounting for 83 percent of the juvenile arrests and 60 percent of the over 29 arrests.

The ethnic distribution of total drug arrests shows that whites constitute 84 percent of all drug arrests while Blacks account for 15 percent. For the "hard" drug category however, blacks constitute 42 percent of the arrests while whites make up 58 percent. These "hard" drug figures show a significant shift from 1974 when Blacks made up 36 percent and whites, 64 percent.

American Indians are seldom arrested for drug offenses, accounting for less than one percent of the total drug arrests.

Females accounted for 18 percent of those arrested for drug law violations in 1975. They represented 20 percent of those arrested for hard drugs, (compared to 30 percent in 1974) and 16 percent of the marijuana arrests.

Three fourths of the total drug arrests were made in Clark County; Washoe County had 13 percent; the Carson/Douglas share was five percent and the Rural Region accounted for 9 percent. Eighty-nine percent of the "hard" drug arrests and 94 percent of the arrests for "other dangerous drugs" were made in Clark County whereas Washoe County accounted for 84 percent of the arrests for synthetic narcotics. The Rural region was responsible for 11 percent of the marijuana arrests. The complete distribution is shown in the table below.

PERCENT OF DRUG ARRESTS BY REGION  
1975

Type of Drug	Clark	Washoe	Carson/ Douglas	Rural
Total Drug Arrests	74	13	5	9
Marijuana	74	9	6	11
Opium, Cocaine & Derivatives	87	7	2	3
Synthetic Narcotics	13	84	1	2
Other Dangerous Drugs	94	4	0	1



### Dispositions of Persons Charged with Drug Offenses

Of a sample of 2,891 persons charged with drug law violations, ten percent were adults found guilty of the offense charged, three percent were adults found guilty of a lesser offense, 46 percent were acquitted or otherwise dismissed and 23 percent were referred to juvenile probation departments. The remaining 18 percent are persons whose cases were pending etc.

Regionally, the distributions show significant differences.

#### DISTRIBUTION OF DRUG OFFENSE DISPOSITIONS BY REGION

Disposition	Clark	Washoe	Rural
Total Cases Sampled	2,060	683	148
Adults Guilty of Offense Charged	4%	23%	34%
Adults Guilty of Lesser Offense	2%	3%	10%
Acquitted or Dismissed	54%	26%	21%
Referred to Juvenile Probation	30%	3%	16%
Other (Pending, Etc.)	9%	45%	19%

### Liquor Law Violation Arrests

The liquor law violations category covers all offenses involving alcohol except drunkenness and driving while intoxicated. The most common of these offenses were probably furnishing liquor to a minor and having open liquor in a vehicle. The other major alcohol-related offense is Driving Under the Influence (DUI) and will be discussed below.

There were 1,777 arrests for liquor law violations in 1975, up 20 percent over 1974, and representing four percent of all arrests. Thirty-four percent of the arrests involved juveniles, as opposed to 50 percent for young adults

TALLY SHEET (continued)  
AGE, SEX AND RACE OF PERSONS ARRESTED - UNDER 18 YEARS OF AGE

Offense	Sex	AGE							RACE					
		10 and under	11-12	13-14	15	16	17	Total under 18	White	Negro	Indian	Chinese	Japanese	Other
12. Drug Abuse Violations	M			14	2	3	2	21						
Grand Total	F	1		2	1	1		5	24	1	1			
(1) Sale-Manufacturing	M			1	1			2						
Subtotal	F								2					
a. Opium or cocaine and their derivatives (morphine, heroin, codeine)	M			1	1			2						
b. Marijuana	F								2					
c. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Demerol, Methadone)	M													
d. Other - dangerous non-narcotic drugs (barbiturates, benzodrine, etc.)	F													
(2) Possession	M			13	1	3	2	19						
Subtotal	F	1		2	1	1		5	22	1	1			
a. Opium or cocaine and their derivatives (morphine, heroin, codeine)	M			13	1	3	2	19						
b. Marijuana	F	1		2	1			4	21	1	1			
c. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Demerol, Methadone)	M													
d. Other - dangerous non-narcotic drugs (barbiturates, benzodrine, etc.)	F					1		1	1					
19. Gambling	M													
Total	F													
a. Bookmaking (horse and sport book)	M													
b. Numbers and lottery	F													
c. All other	M													
20. Offenses against the family and children	F				1		1	2	2					
21. Driving under the influence	M						1	1	1					
22. Liquor laws	F													
23. Disorderly conduct	M	1		1	4		3	9	10	1				
24. Disorderly conduct	F		2	4		7	2	15	16	1				
25. Vagrancy	M													
26. All other offenses (except traffic)	F													
27. Suspicion	M	1	2	7	7	11	12	40						
28. Curfew and loitering laws (except traffic)	F	3	2	5	6	3	4	23	50	8	5			
29. Intoxication	M			4	3	9	8	24						
30. Intoxication	F			3	3	2	3	8	25	4	3			
31. Intoxication	M	1	3	2	3	8	4	21						
32. Intoxication	F			4	3			7	27	1				
TOTAL	F	9	18	84	50	53	50	264	227	24	11		2	

Additional copies of this report may be obtained by addressing a request to Uniform Crime Reports, Federal Bureau of Investigation, U. S. Department of Justice, Washington, D. C. 20535

TALLY SHEET (continued)  
AGE, SEX AND RACE OF PERSONS ARRESTED - 18 YEARS OF AGE AND OVER

Offense	Sex	AGE																RACE								
		16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 and over	Total 18 and over	White	Negro	Indian	Hispanic	Other	
18. Drug Abuse Violations Grand Total	M	2	5	7	2	3	1	2	10	1	1	1								35						
	F		2	3			2	2	1											10	41	3	1			
(1) Sale/Manufacturing Subtotal	M	2	1			2			3		1									9						
	F																				8	1				
a. Opium or cocaine and their derivatives (morphine, heroin, etc.)	M					1														1						
	F																					1				
b. Marijuana	M	2	1			1			3		1									8						
	F																				8					
c. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Valium, Miltaine, etc.)	M																									
	F																									
d. Other - dangerous narcotic drugs (Barbiturates, benzodrine, etc.)	M																									
	F																									
(2) Possession Subtotal	M		4	7	2	1	1	2	7	1		1								26						
	F		2	3			2	2	1											10	33	2	1			
e. Opium or cocaine and their derivatives (morphine, heroin, etc.)	M																									
	F																									
f. Marijuana	M		3	7	2	1	1	2	7	1		1								25						
	F		1	2			2	2	1											8	30	2	1			
g. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Valium, Miltaine, etc.)	M																									
	F																									
h. Other - dangerous narcotic drugs (Barbiturates, benzodrine, etc.)	M		1																	1						
	F		1	1																2	3					

(Continued on reverse side)

TALLY SHEET (continued)  
AGE, SEX AND RACE OF PERSONS ARRESTED - UNDER 12 YEARS OF AGE

Offense	Sex	AGE							RACE						
		10 and under	11-12	13-14	15	16	17	Total under 18	White	Colo	Indian	Chinese	Japanese	Other	
13. Drug Abuse Violations	M	1	2	52	98	153	257	563							
Crash Total	F		4	30	34	36	41	145	642	62	1				3
(1) Sale/manufacturing	M			2			9	10							
Subtotal	F					2		2	11	1					
a. Opium or cocaine and their derivatives (heroin, heroin, cocaine)	M														
	F														
b. Marijuana	M														
	F														
c. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Demerol, Methadone)	M														
	F														
d. Other - dangerous non-narcotic drugs (barbiturates, benzedrine, etc.)	M														
	F														
(2) Possession	M	1	2	50	98	153	249	553							
Subtotal	F		4	30	34	34	41	143	631	61	1				3
e. Opium or cocaine and their derivatives (heroin, heroin, cocaine)	M														
	F														
f. Marijuana	M														
	F														
g. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Demerol, Methadone)	M														
	F														
h. Other - dangerous non-narcotic drugs (barbiturates, benzedrine, etc.)	M														
	F														
17. Gambling Total	M				1	2	1	4	4						
	F														
a. Bookmaking (house and sport book)	M														
	F														
b. Numbers and lottery	M														
	F														
c. All other	M				1	2	1	4	4						
	F														
20. Offenses against the family and children	M														
	F														
21. Driving under the influence	M			1	2	15	26	44							
	F					1	4	5	47	2					
22. Liquor laws	M		1	11	30	71	90	203							
	F			5	20	11	22	58	251	7	1	1			1
23. Drunkenness	M	41	10	14	10	10	11	96							
	F	21	9	10	5	7	5	51	138	15					
24. Disorderly conduct	M		4	11	11	14	24	69							
	F	2		11	3	6	6	28	82	15					
25. Vagrancy	M	1	9	42	33	53	45	183							
	F		1	6	2	4	4	17	164	34					
26. All other offenses (except traffic)	M	7	16	42	48	61	84	258							
	F	5	5	12	15	20	20	77	254	81					
27. Suspicion	M														
	F														
28. Curfew and loitering laws and others	M	1	13	58	74	131	151	428							
	F	1	2	25	22	24	30	104	481	50					1
29. Loitering	M	15	18	80	88	95	97	393							
	F	5	19	128	131	123	73	479	757	110	4				1
	M														
TOTAL	F	196	362	1277	1198	1492	1646	6171	4958	1167	16	3	3		24

JANUARY - NOVEMBER  
SOUTHERN NEVADA REGIONAL REPORT

TALLY SHEET (continued)  
AGE, SEX AND RACE OF PERSONS ARRESTED - 18 YEARS OF AGE AND OVER

Offense	Sex	AGE															RACE						
		18	19	20	21+	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 and over	Total 18 and over	White	Negro	Indian	Hispanic	Other
18. Drug Abuse Violations Grand Total	M	235	226	167	100	106	93	103	299	102	53	24	16	5	5	1	1535						
	F	44	45	41	34	25	27	23	73	23	16	6	3		1		361	1425	460	6	2	1	2
(1) Sale/Manufacturing Subtotal	M	14	18	23	9	11	2	7	28	11	4	7	2		2		138						
	F	3	2	5	3	2	2		6	4	1		1				29	130	35	1	1		
a. Opium or cocaine and their derivatives (morphine, heroin, codeine)	M																						
	F																						
b. Marijuana	M																						
	F																						
c. Synthetic narcotics and manufactured narcotics which can cause true drug addiction (Valium, Miltalgest)	M																						
	F																						
d. Other - dangerous narcotic drugs (barbiturates, benzodrine, etc.)	M																						
	F																						
(2) Possession Subtotal	M	221	208	144	91	95	91	96	271	91	49	17	14	5	3	1	1397						
	F	41	48	36	31	23	25	23	67	19	15	6	2		1		332	1295	425	5	1	1	2
e. Opium or cocaine and their derivatives (morphine, heroin, codeine)	M																						
	F																						
f. Marijuana	M																						
	F																						
g. Synthetic narcotics and manufactured narcotics which can cause true drug addiction (Valium, Miltalgest)	M																						
	F																						
h. Other - dangerous narcotic drugs (barbiturates, benzodrine, etc.)	M																						
	F																						

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(Continued on reverse side)

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JANUARY - NOVEMBER  
CARSON/DOUGLAS REGIONAL REPORT

TALLY SHEET (continued)

AGE, SEX AND RACE OF PERSONS ARRESTED - UNDER 18 YEARS OF AGE

Offense	Sex	AGE							RACE						
		10 and under	11-12	13-14	15	16	17	Total under 18	White	Negro	Indian	Chinese	Japanese	Other	
13. Drug Abuse Violations	M			8	5	15	23	51							
Grand Total	F			1	2	4	3	10	52	1	6			2	
(1) Sale Manufacturing	M				2	5	3	10							
Subtotal	F				1		2	3	8		3			2	
a. Opium or cocaine and their derivatives (heroin, heroin, cocaine)	M														
	F														
b. Marijuana	M				2	5	3	10							
	F				1		3	3	8		3			2	
c. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Demerol, Methadone)	M														
	F														
d. Other - dangerous non-narcotic drugs (barbiturates, benzodrine, etc.)	M														
	F														
(2) Possession	M			8	3	10	18	39							
Subtotal	F			1	1	4	1	7	44	1	3				
e. Opium or cocaine and their derivatives (heroin, heroin, cocaine)							1	1	2	2					
f. Marijuana	M			8	3	8	16	35							
	F			1	1	3		6	38	1	3				
g. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Demerol, Methadone)	M					2	2	4							
	F								4						
h. Other - dangerous non-narcotic drugs (barbiturates, benzodrine, etc.)	M														
	F														
17. Gambling	M			1		3	7	11	11						
Total	F														
a. Bookmaking (horse and sport book)	M														
	F														
b. Numbers and Lottery	M			1		3	7	11	11						
	F														
c. All other	M				1			1							
	F				1			1	2						
20. Offense against the family and children	M			1	2	2	8	13	12		1				
	F														
21. Driving under the influence	M		1	5	6	19	23	54							
	F			3	7	3	8	21	61		13			1	
22. Liquor laws	M			3	2	2	4	9							
	F		1		2	2	2	7	10		6				
23. Drunkenness	M			3	3	3	13	22							
	F				2	3	2	7	17		12				
24. Disorderly conduct	M			2	3	2	1	8							
	F				1		1	2	10						
25. Vagrancy	M		2	21	26	26	22	97							
	F	1	7	13	10	5	9	45	120	7	14			1	
26. All other offenses (except traffic)	M														
	F														
27. Suspicion	M		3	6	12	15	15	51							
	F			5	7	2	5	19	58	1	9			2	
28. Curfew and Loitering Law Violations	M		1	13	12	17	7	50							
	F		8	14	17	10	4	53	90	4	8			1	
29. Truancy	M														
	F														
1974	T	4	40	154	165	185	211	759	631	21	98	1		8525	

JANUARY - NOVEMBER  
CARSON/DOUGLAS REGIONAL REPORT

TALLY SHEET (continued)  
AGE, SEX AND RACE OF PERSONS ARRESTED - 18 YEARS OF AGE AND OVER

Offense	Sex	AGE															RACE						
		16	17	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 and over	Total 18 and over	White	Negro	Indian	Other Race	
18. Drug Abuse Violations Grand Total	M	22	6	18	10	13	9	6	27	15	3	4	2		1			136					
	F	4	1	4	2		2	2	3	3	2							23	151	3	4		1
(1) Sale/Manufacturing Subtotal	M	5	2	3	1	3	4	1	6	2	1	2	1					31					
	F	1		1					1		1							4	34		1		
a. Opium or cocaine and their derivatives (morphine, heroin, codeine)	M								1	1								2					
	F																		2				
b. Marijuana	M	4	1	1		2	3		5	1	1	2	1					21					
	F	1		1					1									3	23		1		
c. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Mescaline, Methaqualone)	M	1		1														2					
	F																		2				
d. Other dangerous non-narcotic drugs (Barbiturates, benzodrine, etc.)	M		1	1	1	1	1	1										6					
	F										1							1	7				
(2) Possession Subtotal	M	17	4	15	9	10	5	5	21	13	2	2	1		1			105					
	F	3	1	3	2		2	2	2	3	1							19	118	3	3		1
e. Opium or cocaine and their derivatives (morphine, heroin, codeine)	M																	2					
	F	2																	2	2			
f. Marijuana	M	14	4	15	8	10	5	5	18	12	2	2	1		1			97					
	F	1	1	2	1		2	2	2	3	1							14	105	3	3		1
g. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Mescaline, Methaqualone)	M	1							1	1								3					
	F			1	1													2	5				
h. Other dangerous non-narcotic drugs (Barbiturates, benzodrine, etc.)	M	2			1				2									5					
	F							1										1	6				

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TALLY SHEET (continued)  
AGE, SEX AND RACE OF PERSONS ARRESTED - UNDER 12 YEARS OF AGE

Offense	Sex	AGE						RACE						
		10 and under	11-12	13-14	15	16	17	Total under 18	White	Negro	Indian	Chinese	Jap.	Other
15. Drug Abuse Violations	M		5	24	38	47	37	151						
Grand Total	F		2	14	10	2	8	36	180	4	1			2
(1) Sale Manufacturing	M			2	3	4	1	10						
Subtotal	F		1	1		1	2	5	15					
a. Opium or cocaine and derivatives (heroin, morphine, cocaine)	M													
	F													
b. Marijuana	M			2	3	4	1	10						
	F		1	1		1	2	5	15					
c. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Mekscaval, Methakonal)	M													
	F													
d. Other dangerous psychotropic drugs (Phenothiazine, barbiturates, etc.)	M													
	F													
(2) Possession	M		5	22	35	43	36	141						
Subtotal	F		1	13	10	1	6	31	165	4	1			2
e. Opium or cocaine and derivatives (heroin, morphine, cocaine)	M													
	F													
f. Marijuana	M		2	10	13	18	19	62						
	F			4	2		1	7	63	3	1			2
g. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Mekscaval, Methakonal)	M		2	11	20	24	16	73						
	F			9	8	1	5	23	95	1				
h. Other dangerous psychotropic drugs (Phenothiazine, barbiturates, etc.)	M		1	1	2	1	1	6						
	F		1					1	7					
17. Gambling	M						1	1						
Total	F								1					
a. Bookmaking (house and sport book)	M													
	F													
b. Numbers and lottery	M													
	F													
c. All other	M													
	F													
19. Offenses against the family and children	M	3	1		1			5						
	F	3	2	1	1			7	11	1				
21. Driving under the influence	M			2	1	12	18	33						
	F					2	1	3	36					
22. Liquor laws	M		2	15	20	42	66	145						
	F			13	11	12	9	46	167		18			6
23. Disorderly	M	1		3	2	4	4	14						
	F			1	1	2	2	6	15	1	2			
24. Disorderly conduct	M	1		4	3	5	5	18						
	F		2	2	2	2	2	6	23		1			
25. Vagrancy	M			1	1	5	6	13						
	F			1			1	2	15					
26. All other offenses (except traffic)	M	22	40	108	94	92	71	427						
	F	5	12	93	69	56	34	269	661	14	13			8
27. Suspense	M													
	F													
28. Curfew and loitering (except traffic)	M	4	4	22	30	49	45	154						
	F	2	1	16	22	21	14	76	214	4	9	1		2
29. Traffic	M	2	7	52	44	64	47	216						
	F		13	99	110	51	35	308	502	9	6			7
1944	F	131	270	800	674	664	612	3151	2953	97	67	1		33



TALLY SHEET (continued)  
AGE, SEX AND RACE OF PERSONS ARRESTED - 18 YEARS OF AGE AND OVER

Offense	Sex	AGE															Total 18 and over	RACE					
		16	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64		65 and over	White	Negro	Indian	Other	
18. Drug Abuse Violations Grand Total	M	38	30	22	27	13	15	15	42	24	9	7	4			1		247					
	F	5	8	2	1	4	1	4	13	1	2	3	2					46	268	20	4		1
(1) Sales/Manufacturing Subtotal	M	1	5	1	6	3	1	1	9	1		1	1				30						
	F							1	1								2	27	4	1			
a. Opium or cocaine and their deriva- tives (morphine, heroin, etc.)	M								2	1							3						
	F								1								1	2	1	1			
b. Marijuana	M		2		4	1	1										8						
	F																	8					
c. Synthetic prepara- tions - manufactured preparations which can cause the drug addiction (Barbiturates, Mephobarbital)	M	1	3	1	2	2		1	7			1	1				19						
	F							1									1	17	3				
d. Other - Dangerous narcotic drugs (Barbiturates, benzodrine, etc.)	M																						
	F																						
(2) Possession Subtotal	M	37	25	21	21	10	14	14	33	23	9	6	3			1	217						
	F	5	8	2	1	4	1	3	12	1	2	3	2				44	241	16	3			1
e. Opium or cocaine and their deriva- tives (morphine, heroin, etc.)	M	1						1	1	3	1						7						
	F								1								1	8					
f. Marijuana	M	22	7	6	11	6	4	7	6	5	2	3	1				80						
	F	2	3	2	1	1		1	3			1	1				15	89	4	1			1
g. Synthetic prepara- tions - manufactured preparations which can cause the drug addiction (Barbiturates, Mephobarbital)	M	14	18	15	10	4	8	6	24	17	7	3	2			1	129						
	F	3	5			3	1	2	8	1	1	3	1				28	143	12	2			
h. Other - Dangerous narcotic drugs (Barbiturates, benzodrine, etc.)	M						1										1						
	F																	1	1				

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REGION FIVE

TALLY SHEET (continued)  
AGE, SEX AND RACE OF PERSONS ARRESTED - UNDER 12 YEARS OF AGE

Offense	Sex	AGE						RACE						
		10 and under	11-12	13-14	15	16	17	Total under 18	White	Negro	Indian	Chinese	Japanese	Other
13. Drug Abuse Violations	M			3	4	3	13	23						
Grand Total	F					1	2	3	26					
(1) Sale/Manufacturing	M			2			3	5						
Subtotal	F								5					
a. Opium or cocaine and their derivatives (heroin, cocaine)	M													
	F													
b. Marijuana	M			2			2	4	4					
	F													
c. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Barbiturates, Methamphetamines)	M													
	F													
d. Other dangerous narcotic drugs (Barbiturates, benzodrine, etc.)	M						1	1						
	F								1					
(2) Possession	M			1	4	3	10	18						
Subtotal	F					1	2	3	16					
e. Opium or cocaine and their derivatives (heroin, cocaine)														
f. Marijuana	M													
	F													
g. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Barbiturates, Methamphetamines)	M													
	F													
h. Other dangerous narcotic drugs (Barbiturates, benzodrine, etc.)	M													
	F													
19. Gambling	M			1				1						
Total	F				1			1	2					
a. Bookmaking (race and sport book)	M													
	F													
b. Numbers and Lottery	M			1				1						
	F								2					
c. All other	M													
	F													
20. Offenses against the family and children	M													
	F													
21. Driving under the influence	M				1	2	7	10	10		1			
	F					1								
22. Liquor laws	M		1	5	10	16	19	51	56	1	14			
	F			2	2	8	8	20						
23. Intoxicants	M			1	1	6	4	12	14					
	F					1	1	2						
24. Disorderly conduct	M				1		5	6						
	F					1		1	6		1			
25. Vagrancy	M													
	F													
26. All other offenses (except traffic)	M	4	1	6	10	3	15	39						
	F		2	2		3	2	9	46		2			
27. Suspicion	M													
	F													
28. Order and Licensing Law violations	M		2	5	7	10	12	36	56		7			
	F		2	2	9	8	8	29					2	
29. Firearms	M	1	3	9	15	22	13	53	114	3	9		6	
	F		1	12	21	22	13	69						
16734	M													
Total	F	11	26	79	111	122	163	512	457	5	42		8	

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TALLY SHEET (continued)  
AGE, SEX AND RACE OF PERSONS ARRESTED - 18 YEARS OF AGE AND OVER

Offense	Sex	AGE															RACE							
		16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 and over	Total 18 and over	White	Negro	Hispanic	Other
18. Drug Abuse Violations Grand Total	M	17	12	22	8	9	9	3	10	1	3								94					
	F					1	2	1	1	2					1				8	93		6		3
(1) Sale/Manufacturing Subtotal	M	5	4	5	1	3	4	2	1	1									26					
	F					1	1		1										3	29				
a. Opium or cocaine and their derivatives (morphine, heroin, etc.)	M																							
	F																							
b. Marijuana	M	5	4	5	1	3	4	2	1	1									26					
	F					1	1		1										3	29				
c. Synthetic narcotics - manufactured substances which can cause true drug addiction (Mescal, Methaqual)	M																							
	F																							
d. Other - dangerous non-narcotic drugs (Barbiturates, benzodrine, etc.)	M																							
	F																							
(2) Possession Subtotal	M	12	8	17	7	6	5	1	9		3								68					
	F						1	1		2					1				5	64		6		3
e. Opium or cocaine and their derivatives (morphine, heroin, etc.)	M		1																1					
	F																			1				
f. Marijuana	M	12	7	16	7	6	5	1	8		3								65					
	F						1	1		1					1				4	60		6		3
g. Synthetic narcotics - manufactured substances which can cause true drug addiction (Mescal, Methaqual)	M			1					1										2					
	F									1									1	3				
h. Other - dangerous non-narcotic drugs (Barbiturates, benzodrine, etc.)	M																							
	F																							

(Continued on reverse side)

TALLY SHEET (continued)  
AGE, SEX AND RACE OF PERSONS ARRESTED - UNDER 18 YEARS OF AGE

Offense	Sex	AGE							RACE					
		10 and under	11-12	13-14	15	16	17	Total under 18	White	Negro	Indian	Chinese	Japanese	Other
18. Drug Abuse Violations	M			1		1	3	5						
Grand Total	F				1	2	3	6	11					
(1) Sale, Manufacturing	M						1	1						
Subtotal	F								1					
a. Opium or cocaine and their derivatives (heroin, heroin, codiene)	M						1	1						
b. Marijuana	F								1					
c. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Demerol, Methadone)	M													
d. Other - dangerous narcotic drugs (barbiturates, benzodrine, etc.)	F													
(2) Possession	M			1		1	2	4						
Subtotal	F				1	2	3	6	10					
e. Opium or cocaine and their derivatives (heroin, heroin, codiene)	M													
f. Marijuana	F			1		1	2	4						
g. Synthetic narcotics - manufactured narcotics which can cause true drug addiction (Demerol, Methadone)	M													
h. Other - dangerous narcotic drugs (barbiturates, benzodrine, etc.)	F				1	2	3	6	10					
19. Gambling - Total	M													
a. Bookmaking (horse and sport track)	F													
b. Numbers and lottery	M													
c. All other	F													
20. Offenses against the family and children	M													
21. Driving under the influence	F				2		2	4	2					2
22. Liquor laws	M			2	3	22	17	44	55					4
Civil Prot Cus.	F				4		11	15						
23. Drunkenness	M			1		2	1	4	4					
24. Disorderly conduct	F		5		6	3	1	15	14		3			
25. Vagrancy	M													
26. All other offenses (except traffic)	F			3	2	4	2	11						
27. Suspicion	M			2	1	3	1	7	16		1			1
28. Curfew and following for violations	F					12	38	17	67					
29. Firearms	M													
	F													
TOTAL	F	19	22	59	64	126	93	383	344		19			331

TALLY SHEET  
AGE, SEX AND RACE OF PERSONS ARRESTED IN YEARS OF AGE AND OVER

Offense	Sex	AGE																RACE						
		18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 and over	Total 13 and over	White	Negro	Indian	Hispanic	Other	
1) Divg Abuse Violations Grand Total	M	3	7	2	1	7	5		9	4		1						39						
	F	3	1															4	42	1				
2) Sale/Manufacturing Subtotal	M		3	1		3	2		1	2								12						
	F	3																3	14	1				
a. Opium or opiate and their derivatives (Morphine, Heroin, codeine)	M																							
	F																							
b. Marijuana	M		3	1		3	2		1	2								12						
	F	1																1	12	1				
c. Synthetic narcotic or manufactured substance which can make true drug addicts (Narcob, Methadone)	M																							
	F	2																2	2					
d. Other dangerous non-narcotic drugs (Barbiturates, benzodrine, etc.)	M																							
	F																							
2) Possession Subtotal	M	3	4	1	1	4	3		8	2		1						27						
	F		1															1	28					
e. Opium or opiate and their derivatives (Morphine, Heroin, codeine)	M					1												1						
	F																		1					
f. Marijuana	M	3	4		1	3	3		6	1		1						22						
	F		1															1	23					
g. Synthetic narcotic or manufactured substance which can make true drug addicts (Narcob, Methadone)	M				1					1								2						
	F																		2					
h. Other dangerous non-narcotic drugs (Barbiturates, benzodrine, etc.)	M								1	1								2						
	F																		2					

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NOTES

January - November (Year-to-Date) Statewide 1976

Narcotics (all included)

Sale	335
Possession	3,217

Marijuana Breakdown With Exception on Clark County\*

Sale	117
Possession	481

\*Clark County no longer gives drug breakdown.  
However, in 1975 Clark County represented 74% of total drug arrests involving marijuana.