

ASSEMBLY BILL NO. 130—COMMITTEE ON NATURAL RESOURCES,
AGRICULTURE, AND MINING

(ON BEHALF OF THE DEPARTMENT OF AGRICULTURE)

FEBRUARY 14, 2003

Referred to Committee on Natural Resources,
Agriculture, and MiningSUMMARY—Makes various changes relating to State Department
of Agriculture. (BDR 50-569)FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the State Department of Agriculture; authorizing the Director of the State Department of Agriculture and the Department to impose and collect certain fees; making various changes to the program of medical marijuana administered by the Department; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 561.153 is hereby amended to read as follows:
- 2 561.153 The Director may by regulation ~~adopt~~ :
- 3 1. *Prescribe, in addition to any other fees prescribed by the*
- 4 *Director pursuant to titles 49, 50 and 51 of NRS, a fee to cover the*
- 5 *costs incurred by the Department for any service, product or*
- 6 *publication provided by the Department pursuant to titles 49, 50*
- 7 *and 51 of NRS or the regulations adopted pursuant thereto; and*
- 8 2. *Adopt* such procedures as he may deem appropriate for the
- 9 billing or collection of *such* fees . ~~[for any service or any~~
- 10 ~~publication or other product provided by the Department under~~
- 11 ~~Titles 49, 50 and 51 of NRS for which fees are collectible.]~~



1 **Sec. 2.** NRS 564.080 is hereby amended to read as follows:
2 564.080 Except as otherwise provided in NRS 564.010 to
3 564.150, inclusive, the Department may establish and collect
4 reasonable fees for:

- 5 1. The recording of brands or brands and marks;
- 6 2. The rerecording of brands or brands and marks;
- 7 3. The recording of instruments transferring ownership of
8 brands or brands and marks; ~~{or}~~
- 9 4. Certificates of recordation or rerecording of brands or
10 brands and marks ~~{;}~~ ; or

11 5. *The processing and continuing administration of a security*
12 *agreement, provisional assignment or legal lien relating to a brand*
13 *or brand and mark or marks of record for purposes of*
14 *NRS 564.110.*

15 **Sec. 3.** NRS 453A.030 is hereby amended to read as follows:
16 453A.030 “Attending physician” means a physician who:

- 17 1. Is licensed to practice ~~{medicine}~~ ;
- 18 (a) *Medicine* pursuant to the provisions of chapter 630 of NRS;
- 19 or

20 (b) *Osteopathic medicine pursuant to the provisions of chapter*
21 *633 of NRS;* and

- 22 2. Has ~~{primary}~~ responsibility for the care and treatment of a
23 person diagnosed with a chronic or debilitating medical condition.

24 **Sec. 4.** NRS 453A.160 is hereby amended to read as follows:

25 453A.160 1. “Usable marijuana” means ~~{the}~~ :

26 (a) *The* dried leaves and flowers of a plant of the genus
27 *Cannabis*, and any mixture or preparation thereof, that are
28 appropriate for the medical use of marijuana ~~{;}~~ ; and

29 (b) *The seeds of a plant of the genus Cannabis.*

- 30 2. The term does not include the ~~{seeds,}~~ stalks and roots of the
31 plant.

32 **Sec. 5.** NRS 453A.210 is hereby amended to read as follows:

33 453A.210 1. The Department shall establish and maintain a
34 program for the issuance of registry identification cards to persons
35 who meet the requirements of this section.

36 2. Except as otherwise provided in subsections 3 and 5, the
37 Department or its designee shall issue a registry identification card
38 to a person who *is a resident of this state and who* submits an
39 application on a form prescribed by the Department accompanied by
40 the following:

41 (a) Valid, written documentation from the person’s attending
42 physician stating that:

- 43 (1) The person has been diagnosed with a chronic or
44 debilitating medical condition;



1 (2) The medical use of marijuana may mitigate the symptoms
2 or effects of that condition; and

3 (3) The attending physician has explained the possible risks
4 and benefits of the medical use of marijuana;

5 (b) The name, address, telephone number, social security
6 number and date of birth of the person;

7 (c) *Proof satisfactory to the Department that the person is a*
8 *resident of this state;*

9 (d) The name, address and telephone number of the person's
10 attending physician; and

11 ~~11~~ (e) If the person elects to designate a primary caregiver at
12 the time of application:

13 (1) The name, address, telephone number and social security
14 number of the designated primary caregiver; and

15 (2) A written, signed statement from his attending physician
16 in which the attending physician approves of the designation of the
17 primary caregiver.

18 3. The Department or its designee shall issue a registry
19 identification card to a person who is under 18 years of age if:

20 (a) The person submits the materials required pursuant to
21 subsection 2; and

22 (b) The custodial parent or legal guardian with responsibility for
23 health care decisions for the person under 18 years of age signs a
24 written statement setting forth that:

25 (1) The attending physician of the person under 18 years of
26 age has explained to that person and to the custodial parent or legal
27 guardian with responsibility for health care decisions for the person
28 under 18 years of age the possible risks and benefits of the medical
29 use of marijuana;

30 (2) The custodial parent or legal guardian with responsibility
31 for health care decisions for the person under 18 years of age
32 consents to the use of marijuana by the person under 18 years of age
33 for medical purposes;

34 (3) The custodial parent or legal guardian with responsibility
35 for health care decisions for the person under 18 years of age agrees
36 to serve as the designated primary caregiver for the person under 18
37 years of age; and

38 (4) The custodial parent or legal guardian with responsibility
39 for health care decisions for the person under 18 years of age agrees
40 to control the acquisition of marijuana and the dosage and frequency
41 of use by the person under 18 years of age.

42 4. The form prescribed by the Department to be used by a
43 person applying for a registry identification card pursuant to this
44 section must be a form that is in quintuplicate. Upon receipt of an



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1 application that is completed and submitted pursuant to this section,
2 the Department shall:

3 (a) Record on the application the date on which it was received;
4 (b) Retain one copy of the application for the records of the
5 Department; and

6 (c) Distribute the other four copies of the application in the
7 following manner:

8 (1) One copy to the person who submitted the application;

9 (2) One copy to the applicant's designated primary caregiver,
10 if any;

11 (3) One copy to the Central Repository for Nevada Records
12 of Criminal History; and

13 (4) One copy to :

14 *(I) If the attending physician of the applicant is licensed*
15 *to practice medicine pursuant to the provisions of chapter 630 of*
16 *NRS, the Board of Medical Examiners ~~is~~; or*

17 *(II) If the attending physician of the applicant is*
18 *licensed to practice osteopathic medicine pursuant to the*
19 *provisions of chapter 633 of NRS, the State Board of Osteopathic*
20 *Medicine.*

21 The Central Repository for Nevada Records of Criminal History
22 shall report to the Department its findings as to the criminal history,
23 if any, of an applicant within 15 days after receiving a copy of an
24 application pursuant to subparagraph (3) of paragraph (c). The
25 Board of Medical Examiners *or the State Board of Osteopathic*
26 *Medicine, as applicable*, shall report to the Department its findings
27 as to the licensure and standing of the applicant's attending
28 physician within 15 days after receiving a copy of an application
29 pursuant to subparagraph (4) of paragraph (c).

30 5. The Department shall verify the information contained in an
31 application submitted pursuant to this section and shall approve or
32 deny an application within 30 days after receiving the application.
33 The Department may contact an applicant, his attending physician
34 and designated primary caregiver, if any, by telephone to determine
35 that the information provided on or accompanying the application is
36 accurate. The Department may deny an application only on the
37 following grounds:

38 (a) The applicant failed to provide the information required
39 pursuant to subsections 2 and 3 to:

40 (1) Establish his chronic or debilitating medical condition; or

41 (2) Document his consultation with an attending physician
42 regarding the medical use of marijuana in connection with that
43 condition;



1 (b) The applicant failed to comply with regulations adopted by
2 the Department, including, without limitation, the regulations
3 adopted by the Director pursuant to NRS 453A.740;

4 (c) The Department determines that the information provided by
5 the applicant was falsified;

6 (d) The Department determines that the attending physician of
7 the applicant is not licensed to practice medicine *or osteopathic*
8 *medicine* in this state or is not in good standing, as reported by the
9 Board of Medical Examiners ~~or~~ *or the State Board of Osteopathic*
10 *Medicine, as applicable;*

11 (e) The Department determines that the applicant, or his
12 designated primary caregiver, if applicable, has been convicted of
13 knowingly or intentionally selling a controlled substance;

14 (f) The Department has prohibited the applicant from obtaining
15 or using a registry identification card pursuant to subsection 2 of
16 NRS 453A.300; or

17 (g) In the case of a person under 18 years of age, the custodial
18 parent or legal guardian with responsibility for health care decisions
19 for the person has not signed the written statement required pursuant
20 to paragraph (b) of subsection 3.

21 6. The decision of the Department to deny an application for a
22 registry identification card is a final decision for the purposes of
23 judicial review. Only the person whose application has been denied
24 or, in the case of a person under 18 years of age whose application
25 has been denied, the person's parent or legal guardian, has standing
26 to contest the determination of the Department. A judicial review
27 authorized pursuant to this subsection must be limited to a
28 determination of whether the denial was arbitrary, capricious or
29 otherwise characterized by an abuse of discretion and must be
30 conducted in accordance with the procedures set forth in chapter
31 233B of NRS for reviewing a final decision of an agency.

32 7. A person whose application has been denied may not
33 reapply for 6 months after the date of the denial, unless the
34 Department or a court of competent jurisdiction authorizes
35 reapplication in a shorter time.

36 8. Except as otherwise provided in this subsection, if a person
37 has applied for a registry identification card pursuant to this section
38 and the Department has not yet approved or denied the application,
39 the person, and his designated primary caregiver, if any, shall be
40 deemed to hold a registry identification card upon the presentation
41 to a law enforcement officer of the copy of the application provided
42 to him pursuant to subsection 4. A person may not be deemed to
43 hold a registry identification card for a period of more than 30 days
44 after the date on which the Department received the application.



1 **9. As used in this section, "resident" has the meaning**
2 **ascribed to it in NRS 483.141.**

3 **Sec. 6.** NRS 453A.250 is hereby amended to read as follows:

4 453A.250 1. If a person who applies to the Department for a
5 registry identification card or to whom the Department or its
6 designee has issued a registry identification card pursuant to
7 paragraph (a) of subsection 1 of NRS 453A.220 desires to designate
8 a primary caregiver, the person must:

9 (a) To designate a primary caregiver at the time of application,
10 submit to the Department the information required pursuant to
11 paragraph ~~(d)~~ (e) of subsection 2 of NRS 453A.210; or

12 (b) To designate a primary caregiver after the Department or its
13 designee has issued a registry identification card to him, submit to
14 the Department the information required pursuant to subparagraph
15 (2) of paragraph (b) of subsection 1 of NRS 453A.230.

16 2. A person may have only one designated primary caregiver at
17 any one time.

18 3. If a person designates a primary caregiver after the time that
19 he initially applies for a registry identification card, the Department
20 or its designee shall, except as otherwise provided in subsection 5 of
21 NRS 453A.210, issue a registry identification card to the designated
22 primary caregiver as soon as practicable after receiving the
23 information submitted pursuant to paragraph (b) of subsection 1.

24 **Sec. 7.** NRS 453A.500 is hereby amended to read as follows:

25 453A.500 The Board of Medical Examiners *or the State Board*
26 *of Osteopathic Medicine, as applicable*, shall not take any
27 disciplinary action against an attending physician on the basis that
28 the attending physician:

29 1. Advised a person whom the attending physician has
30 diagnosed as having a chronic or debilitating medical condition, or a
31 person whom the attending physician knows has been so diagnosed
32 by another physician licensed to practice medicine pursuant to the
33 provisions of chapter 630 of NRS ~~(4)~~ *or licensed to practice*
34 *osteopathic medicine pursuant to the provisions of chapter 633 of*
35 *NRS:*

36 (a) About the possible risks and benefits of the medical use of
37 marijuana; or

38 (b) That the medical use of marijuana may mitigate the
39 symptoms or effects of the person's chronic or debilitating medical
40 condition,
41 if the advice is based on the attending physician's personal
42 assessment of the person's medical history and current medical
43 condition.

44 2. Provided the written documentation required pursuant to
45 paragraph (a) of subsection 2 of NRS 453A.210 for the issuance of a



1 registry identification card or pursuant to subparagraph (1) of
2 paragraph (b) of subsection 1 of NRS 453A.230 for the renewal of a
3 registry identification card, if:

4 (a) Such documentation is based on the attending physician's
5 personal assessment of the person's medical history and current
6 medical condition; and

7 (b) The physician has advised the person about the possible risks
8 and benefits of the medical use of marijuana.

9 **Sec. 8.** NRS 453A.740 is hereby amended to read as follows:

10 453A.740 The Director of the Department shall adopt such
11 regulations as the Director determines are necessary to carry out the
12 provisions of this chapter. The regulations must set forth, without
13 limitation:

14 1. Procedures pursuant to which the State Department of
15 Agriculture will, in cooperation with the Department of Motor
16 Vehicles, cause a registry identification card to be prepared and
17 issued to a qualified person as a type of identification card described
18 in NRS 483.810 to 483.890, inclusive. The procedures described in
19 this subsection must provide that the State Department of
20 Agriculture will:

21 (a) Issue a registry identification card to a qualified person after
22 the card has been prepared by the Department of Motor Vehicles; or

23 (b) Designate the Department of Motor Vehicles to issue a
24 registry identification card to a person if:

25 (1) The person presents to the Department of Motor Vehicles
26 valid documentation issued by the State Department of Agriculture
27 indicating that the State Department of Agriculture has approved the
28 issuance of a registry identification card to the person; and

29 (2) The Department of Motor Vehicles, before issuing the
30 registry identification card, confirms by telephone or other reliable
31 means that the State Department of Agriculture has approved the
32 issuance of a registry identification card to the person.

33 2. Criteria for determining whether a marijuana plant is a
34 mature marijuana plant or an immature marijuana plant.

35 **3. Fees for:**

36 (a) *Providing to an applicant an application for a registry*
37 *identification card, which fee must not exceed \$50; and*

38 (b) *Processing and issuing a registry identification card, which*
39 *fee must not exceed \$150.*

40 **Sec. 9.** NRS 633.521 is hereby amended to read as follows:

41 633.521 An osteopathic physician is not subject to disciplinary
42 action solely for ~~prescribing~~:

43 **1. Prescribing** or administering to a patient under his care:

44 ~~1-~~ (a) Amygdalin (laetrile), if the patient has consented to the
45 use of the substance.



1 ~~(2)~~ (b) Procaine hydrochloride with preservatives and
2 stabilizers (Gerovital H3).

3 ~~(3)~~ (c) A controlled substance which is listed in schedule II, III,
4 IV or V by the State Board of Pharmacy pursuant to NRS 453.146,
5 if the controlled substance is lawfully prescribed or administered for
6 the treatment of intractable pain in accordance with accepted
7 standards for the practice of osteopathic medicine.

8 *2. Engaging in any activity in accordance with the provisions*
9 *of chapter 453A of NRS.*

10 **Sec. 10.** This act becomes effective on July 1, 2003.

