

Assembly Bill No. 519—Committee on
Health and Human Services

CHAPTER.....

AN ACT relating to the State Department of Agriculture; requiring the Department to immediately revoke the registry identification card of a participant in the State's medical marijuana program who has been convicted of knowingly or intentionally selling a controlled substance or who has provided to the Department or its designee certain falsified information; providing for the notification of a person whose registry identification card has been revoked; providing for the return to the Department of revoked registry identification cards; and providing other matters properly relating thereto.

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

Section 1. Chapter 453A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If, at any time after the Department or its designee has issued a registry identification card to a person pursuant to paragraph (a) of subsection 1 of NRS 453A.220, the Department determines, on the basis of official documents or records or other credible evidence, that the person:

(a) Provided falsified information on his application to the Department or its designee, as described in paragraph (c) of subsection 5 of NRS 453A.210; or

(b) Has been convicted of knowingly or intentionally selling a controlled substance, as described in paragraph (e) of subsection 5 of NRS 453A.210,

↪ the Department shall immediately revoke the registry identification card issued to that person and shall immediately revoke the registry identification card issued to that person's designated primary caregiver, if any.

2. If, at any time after the Department or its designee has issued a registry identification card to a person pursuant to paragraph (b) of subsection 1 of NRS 453A.220 or pursuant to NRS 453A.250, the Department determines, on the basis of official documents or records or other credible evidence, that the person has been convicted of knowingly or intentionally selling a controlled substance, as described in paragraph (e) of subsection 5 of NRS 453A.210, the Department shall immediately revoke the registry identification card issued to that person.

3. Upon the revocation of a registry identification card pursuant to this section:

(a) The Department shall send, by certified mail, return receipt requested, notice to the person whose registry identification card has been revoked, advising the person of the requirements of paragraph (b); and

(b) The person shall return his registry identification card to the Department within 7 days after receiving the notice sent pursuant to paragraph (a).

4. The decision of the Department to revoke a registry identification card pursuant to this section is a final decision for the purposes of judicial review.

5. A person whose registry identification card has been revoked pursuant to this section may not reapply for a registry identification card pursuant to NRS 453A.210 for 12 months after the date of the revocation, unless the Department or a court of competent jurisdiction authorizes reapplication in a shorter time.

Sec. 2. NRS 453A.210 is hereby amended to read as follows:

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

2. Except as otherwise provided in *section 1 of this act and subsections 3 and 5* ~~of this section~~, the Department or its designee shall issue a registry identification card to a person who is a resident of this State and who submits an application on a form prescribed by the Department accompanied by the following:

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

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

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

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

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

(c) Proof satisfactory to the Department that the person is a resident of this State;

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

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

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

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

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

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

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

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

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

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

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

4. The form prescribed by the Department to be used by a person applying for a registry identification card pursuant to this section must be a form that is in quintuplicate. Upon receipt of an application that is completed and submitted pursuant to this section, the Department shall:

(a) Record on the application the date on which it was received;

(b) Retain one copy of the application for the records of the Department; and

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

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

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

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

(4) One copy to:

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

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

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

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

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

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

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

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

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

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

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

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

(g) *The Department determines that the applicant, or his designated primary caregiver, if applicable, has had a registry identification card revoked pursuant to section 1 of this act; or*

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

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

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

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

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

Sec. 3. NRS 453A.220 is hereby amended to read as follows:

453A.220 1. If the Department approves an application pursuant to subsection 5 of NRS 453A.210, the Department or its designee shall, as soon as practicable after the Department approves the application:

(a) Issue a serially numbered registry identification card to the applicant; and

(b) If the applicant has designated a primary caregiver, issue a serially numbered registry identification card to the designated primary caregiver.

2. A registry identification card issued pursuant to paragraph (a) of subsection 1 must set forth:

(a) The name, address, photograph and date of birth of the applicant;

(b) The date of issuance and date of expiration of the registry identification card;

(c) The name and address of the applicant's designated primary caregiver, if any; and

(d) Any other information prescribed by regulation of the Department.

3. A registry identification card issued pursuant to paragraph (b) of subsection 1 must set forth:

(a) The name, address and photograph of the designated primary caregiver;

(b) The date of issuance and date of expiration of the registry identification card;

(c) The name and address of the applicant for whom the person is the designated primary caregiver; and

(d) Any other information prescribed by regulation of the Department.

4. ~~[A]~~ *Except as otherwise provided in section 1 of this act, subsection 3 of NRS 453A.230 and subsection 2 of NRS 453A.300, a* registry identification card issued pursuant to this section is valid for a period of 1 year and may be renewed in accordance with regulations adopted by the Department.

Sec. 4. NRS 453A.300 is hereby amended to read as follows:

453A.300 1. A person who holds a registry identification card issued to him pursuant to NRS 453A.220 or 453A.250 is not exempt from state prosecution for, nor may he establish an affirmative defense to charges arising from, any of the following acts:

(a) Driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of marijuana.

(b) Engaging in any other conduct prohibited by NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 493.130.

(c) Possessing a firearm in violation of paragraph (b) of subsection 1 of NRS 202.257.

(d) Possessing marijuana in violation of NRS 453.336 or possessing drug paraphernalia in violation of NRS 453.560 or 453.566, if the possession of the marijuana or drug paraphernalia is discovered because the person engaged or assisted in the medical use of marijuana in:

(1) Any public place or in any place open to the public or exposed to public view; or

(2) Any local detention facility, county jail, state prison, reformatory or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders.

(e) Delivering marijuana to another person who he knows does not lawfully hold a registry identification card issued by the Department or its designee pursuant to NRS 453A.220 or 453A.250.

(f) Delivering marijuana for consideration to any person, regardless of whether the recipient lawfully holds a registry identification card issued by the Department or its designee pursuant to NRS 453A.220 or 453A.250.

2. ~~Ha~~ *Except as otherwise provided in section 1 of this act and in* addition to any other penalty provided by law, if the Department determines that a person has willfully violated a provision of this chapter or any regulation adopted by the Department or Division to carry out the provisions of this chapter, the Department may, at its own discretion, prohibit the person from obtaining or using a registry identification card for a period of up to 6 months.

Sec. 5. This act becomes effective on July 1, 2005.

