

ASSEMBLY BILL NO. 519—COMMITTEE ON  
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE STATE DEPARTMENT OF AGRICULTURE)

MARCH 29, 2005

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Referred to Committee on Judiciary

SUMMARY—Requires State Department of Agriculture to, in certain circumstances, revoke registry identification cards issued to participants in medical marijuana program. (BDR 40-273)

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.

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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certain falsified information; providing for the notification of a person whose registry identification card has been revoked; providing for the return to the Department of revoked registry identification cards; and providing other matters properly relating thereto.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:

- 1     **Section 1.** Chapter 453A of NRS is hereby amended by  
2     adding thereto a new section to read as follows:  
3     ***1. If, at any time after the Department or its designee has***  
4     ***issued a registry identification card to a person pursuant to***  
5     ***paragraph (a) of subsection 1 of NRS 453A.220, the Department***



1 *determines, on the basis of official documents or records or other*  
2 *credible evidence, that the person:*

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

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

9 *↳ the Department shall immediately revoke the registry*  
10 *identification card issued to that person and shall immediately*  
11 *revoke the registry identification card issued to that person's*  
12 *designated primary caregiver, if any.*

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

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

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

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

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

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

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

40 **453A.210** 1. The Department shall establish and maintain a  
41 program for the issuance of registry identification cards to persons  
42 who meet the requirements of this section.

43 2. Except as otherwise provided in *section 1 of this act and*  
44 *subsections 3 and 5* **H** *of this section*, the Department or its  
45 designee shall issue a registry identification card to a person who is



1 a resident of this State and who submits an application on a form  
2 prescribed by the Department accompanied by the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (4) The custodial parent or legal guardian with responsibility  
45 for health care decisions for the person under 18 years of age agrees



1 to control the acquisition of marijuana and the dosage and frequency  
2 of use by the person under 18 years of age.

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

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

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

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

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

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

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

18 (4) One copy to:

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

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

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

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

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

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



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

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

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

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

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

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

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

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

27 6. The decision of the Department to deny an application for a  
28 registry identification card is a final decision for the purposes of  
29 judicial review. Only the person whose application has been denied  
30 or, in the case of a person under 18 years of age whose application  
31 has been denied, the person's parent or legal guardian, has standing  
32 to contest the determination of the Department. A judicial review  
33 authorized pursuant to this subsection must be limited to a  
34 determination of whether the denial was arbitrary, capricious or  
35 otherwise characterized by an abuse of discretion and must be  
36 conducted in accordance with the procedures set forth in chapter  
37 233B of NRS for reviewing a final decision of an agency.

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

42 8. Except as otherwise provided in this subsection, if a person  
43 has applied for a registry identification card pursuant to this section  
44 and the Department has not yet approved or denied the application,  
45 the person, and his designated primary caregiver, if any, shall be



1 deemed to hold a registry identification card upon the presentation  
2 to a law enforcement officer of the copy of the application provided  
3 to him pursuant to subsection 4. A person may not be deemed to  
4 hold a registry identification card for a period of more than 30 days  
5 after the date on which the Department received the application.

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

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

9 453A.220 1. If the Department approves an application  
10 pursuant to subsection 5 of NRS 453A.210, the Department or its  
11 designee shall, as soon as practicable after the Department approves  
12 the application:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 453A.300 1. A person who holds a registry identification  
45 card issued to him pursuant to NRS 453A.220 or 453A.250 is not



1 exempt from state prosecution for, nor may he establish an  
2 affirmative defense to charges arising from, any of the following  
3 acts:

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

7 (b) Engaging in any other conduct prohibited by NRS 484.379,  
8 484.3795, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or  
9 493.130.

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

12 (d) Possessing marijuana in violation of NRS 453.336 or  
13 possessing drug paraphernalia in violation of NRS 453.560 or  
14 453.566, if the possession of the marijuana or drug paraphernalia is  
15 discovered because the person engaged or assisted in the medical  
16 use of marijuana in:

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

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

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

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

29 2. ~~Has~~ *Except as otherwise provided in section 1 of this act*  
30 *and in* addition to any other penalty provided by law, if the  
31 Department determines that a person has willfully violated a  
32 provision of this chapter or any regulation adopted by the  
33 Department or Division to carry out the provisions of this chapter,  
34 the Department may, at its own discretion, prohibit the person from  
35 obtaining or using a registry identification card for a period of up to  
36 6 months.

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



