

ASSEMBLY BILL NO. 438—ASSEMBLYMEN GOEDHART, AIZLEY;
CARLTON, HARDY, OHRENSCHALL AND SEGERBLOM

MARCH 21, 2011

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the medical use of
marijuana. (BDR 40-1066)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 controlled substances; revising provisions
governing the medical use of marijuana; and providing
other matters properly relating thereto.

Legislative Counsel's Digest:

Existing state law provides for the medical use of marijuana by setting forth a limited exemption from state and local prosecution for persons with qualifying medical conditions, and their designated primary caregivers, who possess, deliver or produce marijuana in prescribed quantities. Existing state law provides no mechanism by which persons authorized to engage in the medical use of marijuana are to obtain marijuana. (Chapter 453A of NRS) Under existing state law, the chapter pertaining to the medical use of marijuana is not subject to the laws of this State pertaining to controlled substances to the extent that those laws on controlled substances are inconsistent with the medical use of marijuana. (NRS 453.005)

This bill provides for: (1) the registration and regulation of producers of marijuana by the State Department of Agriculture; (2) the registration and regulation of manufacturers of marijuana and medical marijuana facilities by the Health Division of the Department of Health and Human Services; (3) the imposition of fees to register as a producer of marijuana, manufacturer of marijuana or medical marijuana facility; (4) the creation of a Medical Marijuana Regulatory Board that will evaluate, monitor and report upon various matters of importance to patients who use marijuana for medicinal purposes; (5) the imposition of civil penalties against and the suspension or termination of the certificate of registration of producers of marijuana, manufacturers of marijuana and medical marijuana facilities that operate in violation of the provisions of this bill; (6) certain civil protections for persons engaged in the medical use of marijuana or assisting in the medical use of marijuana; (7) expansion of the permissible activities in which persons involved in the medical use of marijuana may engage; and (8) the taxation of marijuana sold in connection with the medical use of marijuana.



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 the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *“Business applicant” means a natural person, corporation, partnership, limited-liability company, organization, association or other entity, or any combination thereof, that seeks registration pursuant to:*

1. Section 11 of this act as a manufacturer of marijuana.

2. Section 12 of this act as a medical marijuana facility.

3. Section 13 of this act as a producer of marijuana.

Sec. 3. *“Department” means the State Department of Agriculture.*

Sec. 4. *1. “Manufacturer of marijuana” means an entity:*

(a) Which is registered with the Division pursuant to section 11 of this act; and

(b) Which manufactures edible or otherwise consumable medications, tinctures, topical preparations or other concentrates of marijuana exclusively for sale to medical marijuana facilities.

2. The term does not include an entity that:

(a) Engages in the planting, cultivation, growing or harvesting of a plant from which a controlled substance is derived; or

(b) Delivers, transfers, transports, supplies, sells or dispenses marijuana for medical use to a person who holds a registry identification card issued to the person pursuant to NRS 453A.220 or 453A.250.

Sec. 5. *“Marijuana plant” means the fully rooted, growing plant of the genus Cannabis.*

Sec. 6. *“Medical marijuana facility” means an entity:*

1. Which is registered with the Division pursuant to section 12 of this act; and

2. Which acquires, possesses, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana for medical use, or related supplies, to a person who holds a registry identification card issued to the person pursuant to NRS 453A.220 or 453A.250.

Sec. 7. *“Producer of marijuana” means an entity:*

1. Which is registered with the Department pursuant to section 13 of this act; and

2. Which engages in the production of marijuana for medical use exclusively for sale to medical marijuana facilities or manufacturers of marijuana, or both.



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1 **Sec. 8.** *“Qualified patient” means a person who is deemed to*
2 *be a qualified patient pursuant to section 9 of this act.*

3 **Sec. 9.** 1. *Except as otherwise provided in subsection 2, if a*
4 *person has received from his or her attending physician the*
5 *documentation described in paragraph (a) of subsection 2 of NRS*
6 *453A.210 but has yet to submit to the Division or its designee the*
7 *application for a registry identification card required by that*
8 *section, the person shall be deemed a qualified patient.*

9 2. *A person described in subsection 1 ceases to be deemed a*
10 *qualified patient if, on the 31st day after the person has received*
11 *from his or her attending physician the documentation described*
12 *in paragraph (a) of subsection 2 of NRS 453A.210, the person has*
13 *still not submitted to the Division or its designee the application*
14 *for a registry identification card required by that section.*

15 **Sec. 10.** 1. *The Medical Marijuana Regulatory Board is*
16 *hereby created under the Division.*

17 2. *The Medical Marijuana Regulatory Board must consist of*
18 *not less than five or more than nine members.*

19 3. *The members of the Medical Marijuana Regulatory Board*
20 *must:*

21 (a) *Be appointed by the Division; and*

22 (b) *Insofar as is practicable, represent equally the interests of:*

23 (1) *Patients suffering from chronic or debilitating medical*
24 *conditions; and*

25 (2) *The medical community.*

26 4. *The Medical Marijuana Regulatory Board shall:*

27 (a) *Monitor best practices in other states that allow the medical*
28 *use of marijuana.*

29 (b) *Make and update recommendations for the reasonable*
30 *regulation of:*

31 (1) *Manufacturers of marijuana.*

32 (2) *Medical marijuana facilities.*

33 (3) *Producers of marijuana.*

34 (c) *Monitor and report upon scientific research relating to the*
35 *medical use of marijuana.*

36 (d) *At least annually, review and make recommendations to*
37 *the Division as to whether additional diseases or conditions should*
38 *be included among the diseases and conditions that qualify as*
39 *chronic or debilitating medical conditions pursuant to*
40 *NRS 453A.050.*

41 (e) *Meet at least twice annually to:*

42 (1) *Conduct public hearings; and*

43 (2) *Assist the Division in evaluating petitions submitted in*
44 *accordance with NRS 453A.710.*



(f) *In consultation with the Department or the Division, as applicable, evaluate and make reasonable annual adjustments to the registration fees described in sections 11, 12 and 13 of this act.*

Sec. 11. 1. A manufacturer of marijuana must:

(a) *Be registered with the Division pursuant to subsection 3.*

(b) *If organized as a business entity, be duly organized pursuant to the applicable provisions of chapter 78, 78A, 82, 86, 87, 87A or 88 of NRS.*

(c) *Subject to the conditions set forth in subsection 2, obtain any applicable licenses required by this State or a local government of this State.*

2. *Except as otherwise provided in this subsection, a local government shall not ban, prohibit or otherwise restrict the operation of a manufacturer of marijuana, whether through zoning regulations or otherwise. A local government may adopt reasonable ordinances or regulations governing the licensing and operation of manufacturers of marijuana if such ordinances or regulations are:*

(a) *Consistent with any recommendations made by the Medical Marijuana Regulatory Board; and*

(b) *Constructed and applied so as to provide qualified patients and persons holding registry identification cards with reasonable access to marijuana for medical use.*

3. *Except as otherwise provided in subsections 4 and 5, the Division shall, within 30 days after submittal, issue a certificate of registration indicating status as a registered manufacturer of marijuana to an eligible business applicant who submits to the Division:*

(a) *A registration fee paid to the Division in an amount determined initially by the Division, but not to exceed \$3,000. After the initial year of registration, the registration fee must be set for subsequent years by the Medical Marijuana Regulatory Board.*

(b) *The legal name under which the business applicant will operate as a manufacturer of marijuana.*

(c) *The physical address at which the business applicant will operate as a manufacturer of marijuana.*

(d) *Such other information as the Division may deem reasonably necessary to carry out the process of registration and to determine the business applicant's eligibility pursuant to subsection 4.*

4. *The Division shall not issue a certificate of registration as a manufacturer of marijuana to a business applicant unless the applicant provides to the Division reasonable proof showing that:*



1 (a) Neither the business applicant nor any owner thereof, if
2 applicable, has been convicted in the immediately preceding 10-
3 year period of a felony for knowingly or intentionally selling a
4 controlled substance; and

5 (b) If the business applicant is:

6 (1) An individual, the individual is a resident of the State of
7 Nevada and holds a valid driver's license or identification card
8 issued by the Department of Motor Vehicles; or

9 (2) A business entity:

10 (I) The business entity is formed under the laws of this
11 State; and

12 (II) At least 51 percent of the business entity is owned by
13 one or more residents of the State of Nevada who each hold a
14 valid driver's license or identification card issued by the
15 Department of Motor Vehicles.

16 5. The Division may refuse the application of a business
17 applicant for registration as a manufacturer of marijuana if the
18 Division reasonably determines that the business applicant
19 knowingly provided materially falsified information on the
20 application.

21 6. A manufacturer of marijuana is prohibited from acquiring,
22 possessing, cultivating, manufacturing, delivering, transferring,
23 transporting, supplying or dispensing marijuana for any purpose,
24 except as necessary to assist another manufacturer of marijuana
25 or a medical marijuana facility with the manufacture or provision
26 of marijuana for medical use.

27 7. The Division shall adopt regulations governing the
28 operations of registered manufacturers of marijuana and the
29 manner in which the Division considers applications for the initial
30 registration and renewed registration of manufacturers of
31 marijuana, including, without limitation:

32 (a) The required form and content of those applications.

33 (b) Minimum requirements for the oversight of manufacturers
34 of marijuana, including, without limitation, consumer protections
35 consistent with requirements imposed by this State and the local
36 governments of this State for the production and labeling of food.

37 (c) Minimum requirements for the keeping of records by
38 manufacturers of marijuana.

39 (d) Procedures pursuant to which the certificate of registration
40 of a manufacturer of marijuana may be suspended or terminated
41 for violating a provision of this section or a regulation adopted
42 pursuant thereto.

43 **Sec. 12. 1. A medical marijuana facility must:**

44 (a) Be registered with the Division pursuant to subsection 3.



1 (b) If organized as a business entity, be duly organized
2 pursuant to the applicable provisions of chapter 78, 78A, 82, 86,
3 87, 87A or 88 of NRS.

4 (c) Subject to the conditions set forth in subsection 2, obtain
5 any applicable licenses required by this State or a local
6 government of this State.

7 2. Except as otherwise provided in this subsection, a local
8 government shall not ban, prohibit or otherwise restrict the
9 operation of a medical marijuana facility, whether through zoning
10 regulations or otherwise. A local government may adopt
11 reasonable ordinances or regulations governing the licensing and
12 operation of medical marijuana facilities if such ordinances or
13 regulations are:

14 (a) Consistent with any recommendations made by the Medical
15 Marijuana Regulatory Board; and

16 (b) Constructed and applied so as to provide qualified patients
17 and persons holding registry identification cards with reasonable
18 access to marijuana for medical use.

19 ➡ The provisions of this subsection do not prohibit a local
20 government from imposing limits or quotas on the number of
21 medical marijuana facilities that may be located or operated
22 within a designated area, provided that such limits or quotas are
23 constructed and applied so as to provide qualified patients and
24 persons holding registry identification cards with reasonable
25 access to marijuana for medical use.

26 3. Except as otherwise provided in subsections 4 and 5, the
27 Division shall, within 30 days after submittal, issue a certificate of
28 registration indicating status as a medical marijuana facility to an
29 eligible business applicant who submits to the Division:

30 (a) A registration fee paid to the Division in an amount
31 determined initially by the Division, but not to exceed \$10,000.
32 After the initial year of registration, the registration fee must be
33 set for subsequent years by the Medical Marijuana Regulatory
34 Board.

35 (b) The legal name under which the business applicant will
36 operate as a medical marijuana facility.

37 (c) The physical address at which the business applicant will
38 operate as a medical marijuana facility.

39 (d) Such other information as the Division may deem
40 reasonably necessary to carry out the process of registration and
41 to determine the business applicant's eligibility pursuant to
42 subsection 4.

43 4. The Division shall not issue a certificate of registration as
44 a medical marijuana facility to a business applicant unless the
45 applicant provides to the Division reasonable proof showing that:



(a) Neither the business applicant nor any owner thereof, if applicable, has been convicted in the immediately preceding 10-year period of a felony for knowingly or intentionally selling a controlled substance; and

(b) If the business applicant is:

(I) An individual, the individual is a resident of the State of Nevada and holds a valid driver's license or identification card issued by the Department of Motor Vehicles; or

(2) A business entity:

(I) The business entity is formed under the laws of this State; and

(II) At least 51 percent of the business entity is owned by one or more residents of the State of Nevada who each hold a valid driver's license or identification card issued by the Department of Motor Vehicles.

5. The Division may refuse the application of a business applicant for registration as a medical marijuana facility if the Division reasonably determines that the business applicant knowingly provided materially falsified information on the application.

6. The Division shall adopt regulations governing the operations of medical marijuana facilities and the manner in which the Division considers applications for the initial registration and renewed registration of medical marijuana facilities, including, without limitation:

(a) The required form and content of those applications.

(b) Minimum requirements for the oversight of medical marijuana facilities, including, without limitation, consumer protections consistent with requirements imposed by this State and the local governments of this State for the production and labeling of food.

(c) Minimum requirements for the keeping of records by medical marijuana facilities.

(d) Procedures pursuant to which the certificate of registration of a medical marijuana facility may be suspended or terminated for violating a provision of this section or a regulation adopted pursuant thereto.

Sec. 13. 1. A producer of marijuana must:

(a) Be registered with the Department pursuant to subsection 3.

(b) If organized as a business entity, be duly organized pursuant to the applicable provisions of chapter 78, 78A, 82, 86, 87, 87A or 88 of NRS.



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1 (c) Subject to the conditions set forth in subsection 2, obtain
2 any applicable licenses required by this State or a local
3 government of this State.

4 2. Except as otherwise provided in this subsection, a local
5 government shall not ban, prohibit or otherwise restrict the
6 operation of a producer of marijuana, whether through zoning
7 regulations or otherwise. A local government may adopt
8 reasonable ordinances or regulations governing the licensing and
9 operation of producers of marijuana if such ordinances or
10 regulations are:

11 (a) Consistent with any recommendations made by the Medical
12 Marijuana Regulatory Board; and

13 (b) Constructed and applied so as to provide qualified patients
14 and persons holding registry identification cards with reasonable
15 access to marijuana for medical use.

16 3. Except as otherwise provided in subsections 4 and 5, the
17 Department shall, within 30 days after submittal, issue a
18 certificate of registration indicating status as a producer of
19 marijuana to an eligible business applicant who submits to the
20 Department:

21 (a) A registration fee paid to the Department in an amount
22 determined initially by the Department, but not to exceed \$10,000.
23 After the initial year of registration, the registration fee must be
24 set for subsequent years by the Medical Marijuana Regulatory
25 Board.

26 (b) The legal name under which the business applicant will
27 operate as a producer of marijuana.

28 (c) The physical address at which the business applicant will
29 operate as a producer of marijuana.

30 (d) Such other information as the Department may deem
31 reasonably necessary to carry out the process of registration and
32 to determine the business applicant's eligibility pursuant to
33 subsection 4.

34 4. The Department shall not issue a certificate of registration
35 as a producer of marijuana to a business applicant unless the
36 applicant provides to the Department reasonable proof showing
37 that:

38 (a) Neither the business applicant nor any owner thereof, if
39 applicable, has been convicted in the immediately preceding 10-
40 year period of a felony for knowingly or intentionally selling a
41 controlled substance; and

42 (b) If the business applicant is:

43 (1) An individual, the individual is a resident of the State of
44 Nevada and holds a valid driver's license or identification card
45 issued by the Department of Motor Vehicles; or



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(2) A business entity:

(I) The business entity is formed under the laws of this State; and

(II) At least 51 percent of the business entity is owned by one or more residents of the State of Nevada who each hold a valid driver's license or identification card issued by the Department of Motor Vehicles.

5. The Department may refuse the application of a business applicant for registration as a producer of marijuana if the Department reasonably determines that the business applicant knowingly provided materially falsified information on the application.

6. A producer of marijuana is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose, except as necessary to assist a manufacturer of marijuana or a medical marijuana facility with the cultivation, manufacture or provision of marijuana for medical use.

7. The Department shall adopt regulations governing the operations of producers of marijuana and the manner in which the Department considers applications for the initial registration and renewed registration of producers of marijuana, including, without limitation:

(a) The required form and content of those applications.

(b) Minimum requirements for the oversight of producers of marijuana, including, without limitation, consumer protections consistent with requirements imposed by this State and the local governments of this State for the production and labeling of food.

(c) Minimum requirements for the keeping of records by producers of marijuana.

(d) Procedures pursuant to which the certificate of registration of a producer of marijuana may be suspended or terminated for violating a provision of this section or a regulation adopted pursuant thereto.

Sec. 14. *1. Except with respect to the suspension or termination of a certificate of registration to operate as a manufacturer of marijuana, medical marijuana facility or producer of marijuana, as authorized under regulations adopted pursuant to sections 11, 12 and 13 of this act, the exclusive mechanism for enforcing the provisions of those sections must be the imposition of civil penalties, which the Department and Division, as applicable, are hereby authorized to impose.*

2. The Department or Division, as applicable, shall not delegate its power of enforcement unless it determines that enforcement would be carried out more appropriately by a



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governmental entity which regulates food and beverages at the local level.

3. Any civil penalty imposed pursuant to the authority set forth in this section is subject to review by the Medical Marijuana Regulatory Board.

Sec. 15. NRS 453A.010 is hereby amended to read as follows:

453A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 453A.020 to 453A.170, inclusive, *and sections 2 to 8, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 16. NRS 453A.050 is hereby amended to read as follows:

453A.050 "Chronic or debilitating medical condition" means:

1. Acquired immune deficiency syndrome;

2. Cancer;

3. Glaucoma;

4. A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:

(a) Cachexia;

(b) Persistent muscle spasms, including, without limitation, spasms caused by multiple sclerosis;

(c) Seizures, including, without limitation, seizures caused by epilepsy;

(d) Severe nausea; or

(e) Severe pain; or

5. Any other medical condition or treatment for a medical condition that is:

(a) Classified as a chronic or debilitating medical condition by regulation of the Division; or

(b) Approved as a chronic or debilitating medical condition pursuant to ~~the~~:

(1) A recommendation made to the Division by the Medical Marijuana Regulatory Board pursuant to section 10 of this act; or

(2) A petition submitted in accordance with NRS 453A.710.

Sec. 17. NRS 453A.160 is hereby amended to read as follows:

453A.160 1. "Usable marijuana" means:

(a) The dried leaves and flowers of a plant of the genus Cannabis, and any mixture or preparation thereof, that are appropriate for the medical use of marijuana; and

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

2. The term does not include ~~the~~:

(a) The stalks and roots of the plant ~~the~~; or

(b) Any compound that may be mixed with marijuana as part of any edible or otherwise consumable medications, tinctures, topical preparations or other concentrates.



1 **Sec. 18.** NRS 453A.200 is hereby amended to read as follows:
2 453A.200 1. Except as otherwise provided in this section and
3 NRS 453A.300, a *qualified patient or a* person who holds a valid
4 registry identification card issued to the person pursuant to NRS
5 453A.220 or 453A.250 is exempt from state prosecution for:

- 6 (a) Possession, delivery or production of marijuana;
- 7 (b) Possession or delivery of drug paraphernalia;
- 8 (c) Aiding and abetting another in the possession, delivery or
9 production of marijuana;
- 10 (d) Aiding and abetting another in the possession or delivery of
11 drug paraphernalia;
- 12 (e) Any combination of the acts described in paragraphs (a) to
13 (d), inclusive; and
- 14 (f) Any other criminal offense in which the possession, delivery
15 or production of marijuana or the possession or delivery of drug
16 paraphernalia is an element.

17 2. *Except as otherwise provided in this chapter, a person who*
18 *is the employee or agent of a manufacturer of marijuana or a*
19 *medical marijuana facility is exempt from state prosecution for:*

- 20 (a) *Possession, delivery or sale of marijuana;*
- 21 (b) *Possession, delivery or sale of drug paraphernalia;*
- 22 (c) *Aiding and abetting another in the possession, delivery or*
23 *sale of marijuana;*
- 24 (d) *Aiding and abetting another in the possession, delivery or*
25 *sale of drug paraphernalia;*
- 26 (e) *Any combination of the acts described in paragraphs (a) to*
27 *(d), inclusive; and*
- 28 (f) *Any other criminal offense in which the possession,*
29 *delivery or sale of marijuana or the possession, delivery or sale of*
30 *drug paraphernalia is an element.*

31 3. *Except as otherwise provided in this chapter, a person who*
32 *is the employee or agent of a producer of marijuana is exempt*
33 *from state prosecution for:*

- 34 (a) *Possession, delivery, sale or production of marijuana;*
- 35 (b) *Possession, delivery or sale of drug paraphernalia;*
- 36 (c) *Aiding and abetting another in the possession, delivery,*
37 *sale or production of marijuana;*
- 38 (d) *Aiding and abetting another in the possession, delivery or*
39 *sale of drug paraphernalia;*
- 40 (e) *Any combination of the acts described in paragraphs (a) to*
41 *(d), inclusive; and*
- 42 (f) *Any other criminal offense in which the possession,*
43 *delivery, sale or production of marijuana or the possession,*
44 *delivery or sale of drug paraphernalia is an element.*



4. In addition to the provisions of ~~[subsection]~~ *subsections 1, 2 and 3*, no person may be subject to state prosecution for constructive possession, conspiracy or any other criminal offense solely for being in the presence or vicinity of the medical use of marijuana in accordance with the provisions of this chapter.

~~[3.]~~ 5. The exemption from state prosecution set forth in subsection 1 applies only to the extent that a person who *is a qualified patient or who* holds a registry identification card issued to the person pursuant to paragraph (a) of subsection 1 of NRS 453A.220 and the designated primary caregiver, if any, of such a person:

(a) Engage in or assist in, as applicable, the medical use of marijuana in accordance with the provisions of this chapter as justified to mitigate the symptoms or effects of the *patient's or* person's chronic or debilitating medical condition; and

(b) Do not, at any one time, collectively possess, deliver or produce more than:

(1) ~~[One ounce]~~ *Three ounces* of usable marijuana; and

(2) ~~[Three mature]~~ *Seven* marijuana plants ~~[- and~~

~~— (3) Four], whether mature or immature. [marijuana plants.~~

~~— 4.]~~ 6. *The exemptions from state prosecution set forth in subsections 2 and 3 apply only to the extent that a person who is an employee or agent of a manufacturer of marijuana, medical marijuana facility or producer of marijuana:*

(a) *Assists in the medical use of marijuana in accordance with the provisions of this chapter as justified to mitigate the symptoms or effects of a person's chronic or debilitating medical condition;*

(b) *Reasonably believes that he or she is assisting in the medical use of marijuana in accordance with the provisions of this chapter as justified to mitigate the symptoms or effects of a person's chronic or debilitating medical condition.*

7. If the persons described in subsection ~~[3.]~~ 5 possess, deliver or produce marijuana in an amount which exceeds the amount described in paragraph (b) of that subsection, those persons:

(a) Are not exempt from state prosecution for possession, delivery or production of marijuana ~~[.]~~, *unless the qualified patient or the person who holds the valid registry identification card possesses a written, signed recommendation from his or her attending physician stating that the patient or person requires a quantity of usable marijuana in excess of the amount specified in paragraph (b) of subsection 5.*

(b) May establish an affirmative defense to charges of possession, delivery, *purchase* or production of marijuana, or any combination of those acts, in the manner set forth in NRS 453A.310.



1 8. The following civil protections are declared to exist,
2 notwithstanding any other provision of law to the contrary:

3 (a) A qualified patient or a person who holds a valid registry
4 identification card must not be subject to any civil penalty,
5 including, without limitation, loss of property, eviction or
6 termination from employment, on the sole basis that the patient or
7 person, as applicable:

8 (1) Tests or tested positive for the use of marijuana; or

9 (2) Has or had the status of being a qualified patient or a
10 person who holds a valid registry identification card.

11 (b) A person must not be denied custody or visitation of a child
12 on the sole basis that the person has or had the status of being a
13 qualified patient, a person who holds a valid registry identification
14 card, a designated primary caregiver, or an employee or agent of a
15 manufacturer of marijuana, medical marijuana facility or
16 producer of marijuana.

17 (c) A person must not be subject to any civil penalty, including,
18 without limitation, loss of property, eviction or termination from
19 employment, on the sole basis that the person has or had the status
20 of being a designated primary caregiver, or an employee or agent
21 of a manufacturer of marijuana, medical marijuana facility or
22 producer of marijuana.

23 (d) Qualified patients, persons who hold valid registry
24 identification cards, designated primary caregivers or any
25 combination thereof who associate collectively or cooperatively to
26 produce marijuana for the medical use of marijuana must not on
27 the sole basis of that fact be subject to any state prosecution.

28 (e) If a designated primary caregiver:

29 (1) Provides services to a qualified patient or a person who
30 holds a valid registry identification card, including, without
31 limitation, services to assist or enable the patient or person to
32 engage in the medical use of marijuana; and

33 (2) Receives compensation for those services, including,
34 without limitation, the reimbursement of actual or out-of-pocket
35 expenses,

36 ↪ the designated primary caregiver must not on the sole basis of
37 that fact be subject to any state prosecution.

38 **Sec. 19.** NRS 453A.210 is hereby amended to read as follows:

39 453A.210 1. The Division shall establish and maintain a
40 program for the issuance of registry identification cards to persons
41 who meet the requirements of this section.

42 2. Except as otherwise provided in subsections 3 and 5 and
43 NRS 453A.225, the Division or its designee shall issue a registry
44 identification card to a person ~~[who is a resident of this State and]~~



1 who submits an application on a form prescribed *and made*
2 *available* by the Division, 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 Division that the person is a~~
14 ~~resident of]~~ *The identification number from a driver's license or*
15 *an identification card issued to the person by this State [.] or*
16 *another state;*

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

19 (e) If the person elects to designate a primary caregiver at the
20 time of application ~~[.]~~, *for each designated primary caregiver:*

21 (1) The name, address ~~[.]~~ *and* telephone number ~~[and social~~
22 ~~security number]~~ of the designated primary caregiver; ~~[and]~~

23 (2) *The identification number from a driver's license or*
24 *identification card issued to the designated primary caregiver by*
25 *this State or another state; and*

26 (3) A written, signed statement from the person's attending
27 physician in which the attending physician approves of the
28 designation of the primary caregiver.

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

31 (a) The person *or the person's attending physician* submits the
32 materials required pursuant to subsection 2; and

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

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

41 (2) The custodial parent or legal guardian with responsibility
42 for health care decisions for the person under 18 years of age
43 consents to the use of marijuana by the person under 18 years of age
44 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 Division 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 Division 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 Division; and

(c) Distribute ~~[the other four]~~ *three* 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; *and*

(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 Division 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 Division its findings as to the licensure and standing of the applicant's attending physician within ~~[15]~~ *10* days after receiving a copy of an application pursuant to subparagraph ~~[(4)]~~ *(3)* of paragraph (c).

5. The Division shall verify the information contained in an application submitted pursuant to this section, *including, without limitation, verification of the licensure of the applicant's attending physician*, and shall ~~[approve]~~ *issue* or deny ~~[an application]~~ *the registry identification card* within 30 days after receiving the application. The Division may contact an applicant, the applicant's



1 attending physician and designated primary caregiver, if any, by
2 telephone to determine that the information provided on or
3 accompanying the application is accurate. The Division may deny
4 an application only on the following grounds:

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

7 (1) Establish the applicant's chronic or debilitating medical
8 condition; or

9 (2) Document the applicant's consultation with an attending
10 physician regarding the medical use of marijuana in connection with
11 that condition;

12 (b) The applicant failed to comply with regulations adopted by
13 the Division, including, without limitation, the regulations adopted
14 by the Administrator pursuant to NRS 453A.740;

15 (c) The Division determines that the information provided by
16 the applicant was **knowingly and materially** falsified;

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

22 (e) The Division determines that the applicant, or the applicant's
23 designated primary caregiver, if applicable, has been convicted of
24 knowingly or intentionally selling a controlled substance;

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

28 ~~—(g)]~~ The Division determines that the applicant, or the
29 applicant's designated primary caregiver, if applicable, has had a
30 registry identification card revoked pursuant to NRS 453A.225; or

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

35 6. ~~[The decision of the Division to deny an application for a~~
36 ~~registry identification card is a final decision for the purposes of~~
37 ~~judicial review. Only the]~~ Any person whose application has been
38 denied or, in the case of a person under 18 years of age whose
39 application has been denied, the person's parent or legal guardian,
40 has standing to contest the determination of the Division ~~[(h)]~~ **by filing**
41 **a petition for judicial review in the manner set forth in NRS**
42 **233B.130.** A judicial review authorized pursuant to this subsection
43 ~~[must be limited to a determination of whether the denial was~~
44 ~~arbitrary, capricious or otherwise characterized by an abuse of~~
45 ~~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.] must be conducted de novo.~~

7. A person whose application has been denied may not reapply for 6 months after the date of the denial, unless the Division 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 Division has not yet approved or denied the application, the person, and the person's 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 *submitted* application provided to him or her *by the Division* 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 Division received the application.

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

Sec. 20. NRS 453A.220 is hereby amended to read as follows:

453A.220 1. If the Division approves an application pursuant to subsection 5 of NRS 453A.210, the Division or its designee shall, as soon as practicable after the Division 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 ~~[,]~~, *and the identification number from a driver's license or identification card issued to the applicant by this State or another state;*

(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 Division.

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 ~~[,]~~ *and the identification number from a driver's license or identification card issued to the designated primary caregiver by this State or another state;*



(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 Division.

4. Except as otherwise provided in NRS 453A.225 ~~[,]~~ *and* 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 Division.

Sec. 21. NRS 453A.225 is hereby amended to read as follows:

453A.225 1. If, at any time after the Division or its designee has issued a registry identification card to a person pursuant to paragraph (a) of subsection 1 of NRS 453A.220, the Division determines, on the basis of official documents or records or other credible evidence, that the person:

(a) ~~[Provided]~~ *Knowingly provided materially* falsified information on his or her application to the Division 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 Division 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 Division 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 Division 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 Division 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 Division 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 or her registry identification card to the Division within 7 days after receiving the notice sent pursuant to paragraph (a).



1 4. The decision of the Division to revoke a registry
2 identification card pursuant to this section is ~~[-a final decision for the~~
3 ~~purposes of-]~~ *subject to* judicial review ~~[-]~~ *pursuant to*
4 *NRS 233B.130.*

5 5. A person whose registry identification card has been
6 revoked pursuant to this section may not reapply for a registry
7 identification card pursuant to NRS 453A.210 for ~~[-2]~~ *6* months
8 after the date of the revocation, unless the Division or a court of
9 competent jurisdiction authorizes reapplication in a shorter time.

10 **Sec. 22.** NRS 453A.230 is hereby amended to read as follows:

11 453A.230 1. A person to whom the Division or its designee
12 has issued a registry identification card pursuant to paragraph (a) of
13 subsection 1 of NRS 453A.220 shall, in accordance with regulations
14 adopted by the Division:

15 (a) Notify the Division of any change in the person's name,
16 address, telephone number, attending physician or designated
17 primary caregiver, if any; and

18 (b) Submit annually to the Division:

19 (1) Updated written documentation from the person's
20 attending physician in which the attending physician sets forth that:

21 (I) The person continues to suffer from a chronic or
22 debilitating medical condition;

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

25 (III) The attending physician has explained to the person
26 the possible risks and benefits of the medical use of marijuana; and

27 (2) If the person elects to designate a primary caregiver for
28 the subsequent year and the primary caregiver so designated was not
29 the person's designated primary caregiver during the previous year
30 ~~[-]~~, *for each designated primary caregiver:*

31 (I) The name, address ~~[-]~~ *and* telephone number ~~[-and~~
32 ~~social security number-]~~ of the designated primary caregiver; and

33 (II) ~~[-A written, signed statement from the person's~~
34 ~~attending physician in which the attending physician approves of the~~
35 ~~designation of-]~~ *The identification number from a driver's license*
36 *or identification card issued to the designated primary caregiver [-]*
37 *by this State or another state.*

38 2. A person to whom the Division or its designee has issued a
39 registry identification card pursuant to paragraph (b) of subsection 1
40 of NRS 453A.220 or pursuant to NRS 453A.250 shall, in
41 accordance with regulations adopted by the Division, notify the
42 Division of any change in the person's name, address, telephone
43 number or the identity of the person for whom he or she acts as
44 designated primary caregiver.



3. If a person fails to comply with the provisions of subsection 1 or 2, the registry identification card issued to the person shall be deemed expired. If the registry identification card of a person to whom the Division or its designee issued the card pursuant to paragraph (a) of subsection 1 of NRS 453A.220 is deemed expired pursuant to this subsection, a registry identification card issued to the person's designated primary caregiver, if any, shall also be deemed expired. Upon the deemed expiration of a registry identification card pursuant to this subsection:

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

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

Sec. 23. NRS 453A.250 is hereby amended to read as follows:

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

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

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

2. A person may have ~~only one~~ *not more than three* designated primary ~~caregiver~~ *caregivers* at any one time.

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

Sec. 24. NRS 453A.300 is hereby amended to read as follows:

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



1 ~~[(a)]~~ 1. Driving, operating or being in actual physical control of
2 a vehicle or a vessel under power or sail while under the influence
3 of marijuana.

4 ~~[(b)]~~ *For the purposes of this subsection, a person must not be*
5 *deemed to be under the influence of marijuana on the sole basis*
6 *that the person has marijuana metabolite in his or her blood or*
7 *urine.*

8 2. Engaging in any other conduct prohibited by NRS
9 484C.110, 484C.120, 484C.130, 484C.430, subsection 2 of NRS
10 488.400, NRS 488.410, 488.420, 488.425 or 493.130.

11 ~~[(e)]~~ 3. Possessing a firearm in violation of paragraph (b) of
12 subsection 1 of NRS 202.257.

13 ~~[(d)]~~ 4. Possessing marijuana in violation of NRS 453.336 or
14 possessing drug paraphernalia in violation of NRS 453.560 or
15 453.566, if the possession of the marijuana or drug paraphernalia is
16 discovered because the person engaged or assisted in the medical
17 use of marijuana in:

18 ~~[(1)]~~ (a) Any public place or in any place open to the public
19 or exposed to public view; or

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

23 ~~[(e)]~~ 5. Delivering marijuana to another person who he or she
24 knows does not lawfully hold a registry identification card issued by
25 the Division or its designee pursuant to NRS 453A.220
26 or 453A.250.

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

31 ~~— 2. Except as otherwise provided in NRS 453A.225 and in~~
32 ~~addition to any other penalty provided by law, if the Division~~
33 ~~determines that a person has willfully violated a provision of this~~
34 ~~chapter or any regulation adopted by the Division to carry out the~~
35 ~~provisions of this chapter, the Division may, at its own discretion,~~
36 ~~prohibit the person from obtaining or using a registry identification~~
37 ~~card for a period of up to 6 months.]~~

38 **Sec. 25.** NRS 453A.310 is hereby amended to read as follows:
39 453A.310 1. Except as otherwise provided in this section and
40 NRS 453A.300, it is an affirmative defense to a criminal charge of
41 possession, delivery , *purchase, sale* or production of marijuana, or
42 any other criminal offense in which possession, delivery , *purchase,*
43 *sale* or production of marijuana is an element, that the person
44 charged with the offense:

45 (a) Is a person who:



(1) Has been diagnosed with a chronic or debilitating medical condition within the 12-month period preceding his or her arrest and has been advised by his or her attending physician that the medical use of marijuana may mitigate the symptoms or effects of that chronic or debilitating medical condition;

(2) Is engaged in the medical use of marijuana; and

(3) Possesses, delivers, *purchases* or produces marijuana only in the amount described in paragraph (b) of subsection ~~3~~ 5 of NRS 453A.200 or in excess of that amount if the person proves by a preponderance of the evidence that the greater amount is medically necessary as determined by the person's attending physician to mitigate the symptoms or effects of the person's chronic or debilitating medical condition; ~~for~~

(b) Is a person who:

(1) Is assisting a person described in paragraph (a) in the medical use of marijuana; and

(2) Possesses, delivers, *purchases* or produces marijuana only in the amount described in paragraph (b) of subsection ~~3~~ 5 of NRS 453A.200 or in excess of that amount if the person proves by a preponderance of the evidence that the greater amount is medically necessary as determined by the assisted person's attending physician to mitigate the symptoms or effects of the assisted person's chronic or debilitating medical condition.

(c) Is a person who:

(1) Is, owns or operates a manufacturer of marijuana, a medical marijuana facility or a producer of marijuana, or is an employee or agent thereof; and

(2) Possesses, delivers, purchases, sells or produces marijuana only:

(I) In connection with the medical use of marijuana; and

(II) In accordance with the limitations and requirements set forth in this chapter.

2. A person need not hold a registry identification card issued to the person by the Division or its designee pursuant to NRS 453A.220 or 453A.250 to assert an affirmative defense described in this section.

3. Except as otherwise provided in this section and in addition to the affirmative defense described in subsection 1, a person engaged or assisting in the medical use of marijuana who is charged with a crime pertaining to the medical use of marijuana is not precluded from:

(a) Asserting a defense of medical necessity; or

(b) Presenting evidence supporting the necessity of marijuana for treatment of a specific disease or medical condition,



1 ➔ if the amount of marijuana at issue is not greater than the amount
2 described in paragraph (b) of subsection ~~13~~ 5 of NRS 453A.200 and
3 the person has taken steps to comply substantially with the
4 provisions of this chapter.

5 4. A defendant who intends to offer an affirmative defense
6 described in this section shall, not less than 5 days before trial or at
7 such other time as the court directs, file and serve upon the
8 prosecuting attorney a written notice of the defendant's intent to
9 claim the affirmative defense. The written notice must:

10 (a) State specifically why the defendant believes he or she is
11 entitled to assert the affirmative defense; and

12 (b) Set forth the factual basis for the affirmative defense.

13 ➔ A defendant who fails to provide notice of his or her intent to
14 claim an affirmative defense as required pursuant to this subsection
15 may not assert the affirmative defense at trial unless the court, for
16 good cause shown, orders otherwise.

17 **Sec. 26.** NRS 453A.400 is hereby amended to read as follows:

18 453A.400 1. The fact that a person *is a qualified patient or a*
19 *person who* possesses a registry identification card issued to the
20 person by the Division or its designee pursuant to NRS 453A.220 or
21 453A.250 , *or is the employee or agent of a manufacturer of*
22 *marijuana, medical marijuana facility or producer of marijuana,*
23 does not, alone:

24 (a) Constitute probable cause to search the person or the
25 person's property; or

26 (b) Subject the person or the person's property to inspection by
27 any governmental agency.

28 2. *The fact that a person:*

29 (a) *Is a qualified patient, a person who possesses a registry*
30 *identification card issued to the person by the Division or its*
31 *designee pursuant to NRS 453A.220 or 453A.250, or is the*
32 *employee or agent of a manufacturer of marijuana, medical*
33 *marijuana facility or producer of marijuana; and*

34 (b) *Possesses marijuana or drug paraphernalia, or both,*
35 ➔ *does not, alone, constitute probable cause to search the person*
36 *or the person's property, or subject the person or the person's*
37 *property to inspection by any governmental agency.*

38 3. Except as otherwise provided in this subsection, if officers
39 of a state or local law enforcement agency seize marijuana, drug
40 paraphernalia or other related property from a person engaged or
41 assisting in the medical use of marijuana:

42 (a) The law enforcement agency shall ensure that the marijuana,
43 drug paraphernalia or other related property is not destroyed while
44 in the possession of the law enforcement agency.



(b) Any property interest of the person from whom the marijuana, drug paraphernalia or other related property was seized must not be forfeited pursuant to any provision of law providing for the forfeiture of property, except as part of a sentence imposed after conviction of a criminal offense.

(c) Upon a determination by the district attorney of the county in which the marijuana, drug paraphernalia or other related property was seized, or the district attorney's designee, that the person from whom the marijuana, drug paraphernalia or other related property was seized is engaging in or assisting in the medical use of marijuana in accordance with the provisions of this chapter, the law enforcement agency shall immediately return to that person any usable marijuana, marijuana plants, drug paraphernalia or other related property that was seized.

➔ The provisions of this subsection do not require a law enforcement agency to care for live marijuana plants.

~~[3-]~~ 4. For the purposes of paragraph (c) of subsection ~~[2-]~~ 3, the determination of a district attorney or the district attorney's designee that a person is engaging in or assisting in the medical use of marijuana in accordance with the provisions of this chapter shall be deemed to be evidenced by:

(a) A decision not to prosecute;

(b) The dismissal of charges; or

(c) Acquittal.

Sec. 27. NRS 453A.510 is hereby amended to read as follows:

453A.510 A professional licensing board shall not take any disciplinary action against a person licensed by the board on the basis that:

1. The person engages in or has engaged in the medical use of marijuana in accordance with the provisions of this chapter; ~~[or]~~

2. The person acts as or has acted as the designated primary caregiver of a person who holds a registry identification card issued to him or her pursuant to paragraph (a) of subsection 1 of NRS 453A.220 ~~[H]~~; or

3. The person provides or has provided advice or counsel concerning the interpretation or application of this chapter.

Sec. 28. NRS 453A.710 is hereby amended to read as follows:

453A.710 1. A person may submit to the Division a petition requesting that a particular disease or condition be included among the diseases and conditions that qualify as chronic or debilitating medical conditions pursuant to NRS 453A.050.

2. The Division shall adopt regulations setting forth the manner in which the Division will *, with the assistance of the Medical Marijuana Regulatory Board,* accept and evaluate petitions



submitted pursuant to this section. The regulations must provide, without limitation, that:

(a) The Division will approve or deny a petition within 180 days after the Division receives the petition; and

(b) The decision of the Division to deny a petition is a final decision for the purposes of judicial review.

Sec. 29. NRS 453A.740 is hereby amended to read as follows:

453A.740 The Administrator of the Division shall adopt such regulations as the Administrator determines are necessary to carry out the provisions of this chapter. The regulations must set forth, without limitation:

1. Procedures pursuant to which the Division will ~~[, in cooperation with the Department of Motor Vehicles,]~~ cause a registry identification card to be prepared and issued to a qualified person . ~~[as a type of identification card described in NRS 483.810 to 483.890, inclusive. The procedures described in this subsection must provide that the Division will:~~

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

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

~~—(1) The person presents to the Department of Motor Vehicles valid documentation issued by the Division indicating that the Division has approved the issuance of a registry identification card to the person; and~~

~~—(2) The Department of Motor Vehicles, before issuing the registry identification card, confirms by telephone or other reliable means that the Division has approved the issuance of a registry identification card to the person.~~

~~—2. Criteria for determining whether a marijuana plant is a mature marijuana plant or an immature marijuana plant.~~

~~—3.]~~ **2.** Fees for:

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

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

3. *That the fees described in subsection 2 will be waived if an applicant is indigent. For the purposes of this subsection, an applicant shall be deemed to be indigent if the applicant meets the criteria set forth in subsection 4 of NRS 439B.310.*

Sec. 30. NRS 453A.800 is hereby amended to read as follows:

453A.800 The provisions of this chapter do not:

1. Require an insurer, organization for managed care or any person or entity who provides coverage for a medical or health care



1 service to pay for or reimburse a person for costs associated with the
2 medical use of marijuana.

3 2. *Prohibit an insurer, organization for managed care or any*
4 *person or entity who provides coverage for a medical or health*
5 *care service from paying for or reimbursing a person for costs*
6 *associated with the medical use of marijuana.*

7 3. Require any employer to accommodate the medical use of
8 marijuana in the workplace.

9 4. *Prohibit any employer from accommodating the medical*
10 *use of marijuana in the workplace.*

11 **Sec. 31.** NRS 372A.070 is hereby amended to read as follows:

12 372A.070 1. A person shall not sell, offer to sell or possess
13 with the intent to sell a controlled substance unless he or she first:

14 (a) Registers with the Department as a dealer in controlled
15 substances and pays an annual fee of \$250; and

16 (b) Pays a tax on:

17 (1) Each gram of *usable* marijuana ~~[-]~~ *sold in connection*
18 *with the medical use of marijuana*, or portion thereof, of ~~[\$100;]~~
19 *\$1;*

20 (2) Each gram of any other controlled substance, or portion
21 thereof, of \$1,000; and

22 (3) Each 50 dosage units of a controlled substance that is not
23 sold by weight, or portion thereof, of \$2,000.

24 2. For the purpose of calculating the tax imposed by
25 subparagraphs (1) and (2) of paragraph (b) of subsection 1, the
26 controlled substance must be measured by the weight of the
27 substance in the dealer's possession. ~~[-including the weight of any~~
28 ~~material, compound, mixture or preparation that is added to the~~
29 ~~controlled substance.-]~~

30 3. *To avoid multiple taxation in the instance in which*
31 *marijuana is sold in connection with the medical use of marijuana*
32 *pursuant to chapter 453A of NRS, the tax described in*
33 *subparagraph (1) of paragraph (b) of subsection 1 must be*
34 *imposed only upon a sale of marijuana from a producer of*
35 *marijuana to:*

36 (a) *A manufacturer of marijuana; or*

37 (b) *A medical marijuana facility.*

38 4. The Department shall not require a registered dealer to give
39 his or her name, address, social security number or other identifying
40 information on any return submitted with the tax.

41 ~~[-]~~ 5. Any person who violates subsection 1 is subject to a
42 civil penalty of 100 percent of the tax in addition to the tax imposed
43 by subsection 1. Any civil penalty imposed pursuant to this
44 subsection must be collected as part of the tax.



* A B 4 3 8 *

~~[5-]~~ 6. The district attorney of any county in which a dealer resides may institute and conduct the prosecution of any action for violation of subsection 1.

~~[6-]~~ 7. Property forfeited or subject to forfeiture pursuant to NRS 453.301 must not be used to satisfy a fee, tax or penalty imposed by this section.

8. *As used in this section:*

(a) *“Manufacturer of marijuana” has the meaning ascribed to it in section 4 of this act.*

(b) *“Medical marijuana facility” has the meaning ascribed to it in section 6 of this act.*

(c) *“Medical use of marijuana” has the meaning ascribed to it in NRS 453A.120.*

(d) *“Producer of marijuana” has the meaning ascribed to it in section 7 of this act.*

(e) *“Usable marijuana” has the meaning ascribed to it in NRS 453A.160.*

Sec. 32. NRS 372A.110 is hereby amended to read as follows:

372A.110 1. All taxes and fees collected by the Department pursuant to this chapter, after deducting the actual cost of producing the stamps and administering this chapter, must be deposited with the State Treasurer for credit to the State General Fund and accounted for separately.

2. The Governor or his or her designee shall administer the money credited to the State General Fund pursuant to subsection 1. ~~[The money may be expended only for grants to county and city law enforcement agencies for the enforcement of chapter 453 of NRS.]~~

3. Any civil penalty collected by a district attorney pursuant to NRS 372A.070 must be deposited in the county treasury for the purposes of law enforcement and conducting criminal prosecutions.

Sec. 33. 1. The Health Division of the Department of Health and Human Services shall adopt the regulations required by sections 11 and 12 of this act on or before October 1, 2011.

2. The State Department of Agriculture shall adopt the regulations required by section 13 of this act on or before October 1, 2011.

Sec. 34. This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

