

REQUIRES TWO-THIRDS MAJORITY VOTE

(§§ 12, 29, 31, 33)

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FIRST REPRINT

A.B. 70

ASSEMBLY BILL NO. 70—COMMITTEE ON TAXATION

(ON BEHALF OF THE DEPARTMENT OF TAXATION)

PREFILED DECEMBER 20, 2014

Referred to Committee on Taxation

SUMMARY—Provides for the administration and enforcement of various provisions relating to medical marijuana. (BDR 32-322)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 medical marijuana; providing for the administration and enforcement of taxes on the sale of marijuana, edible marijuana products and marijuana-infused products by medical marijuana establishments; eliminating certain duties of the Department of Taxation relating to the rates of such taxes; providing for the collection of a fee by an agency of a local government from a medical marijuana establishment for certain costs of the agency; authorizing an independent contractor to provide labor to a medical marijuana establishment in certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes taxes on: (1) the sale of controlled substances, which are defined to exclude marijuana, edible marijuana products and marijuana-infused products; and (2) the wholesale and retail sales of marijuana, edible marijuana products and marijuana-infused products by medical marijuana establishments. (NRS 372A.070, 372A.075) **Sections 4-21** of this bill generally provide for the administration and enforcement of the taxes imposed on sales by medical marijuana establishments. **Section 10** adopts by reference provisions of general applicability relating to the payment, collection, administration and enforcement of taxes.



Sections 11 and 12 require that a taxpayer maintain certain records and provide for the inspection of those records by the Department of Taxation or its authorized representative. **Sections 1 and 2** of this bill and **sections 13-15** adopt provisions governing penalties for failure to pay, claims for refunds and credits, and the payment of interest on any overpayment of the tax on medical marijuana. **Section 16** sets forth the procedure by which the denial of a claim for a refund or credit may be appealed to the Nevada Tax Commission and provides that the Commission's final decision on an appeal is a final decision for the purposes of judicial review pursuant to the Nevada Administrative Procedure Act. **Section 17** denies standing to commence or maintain a proceeding for judicial review to anyone other than the person who made the disputed payment. If judgment is rendered for the claimant in such a proceeding, **section 18** provides for the allowance and computation of interest on the amount found to have been erroneously or illegally collected. **Section 19** prohibits proceedings to prevent or enjoin the collection of the tax and requires that a timely claim for a refund or credit be made as a prerequisite to any proceeding for the recovery of a refund. **Section 20** makes it a gross misdemeanor for any person to file a false or fraudulent return or engage in other conduct with intent to defraud the State or evade payment of the tax. **Section 21** provides that the remedies of the State relating to the administration of the tax are cumulative, meaning that the pursuit of one remedy by the Department or the Attorney General does not preclude the pursuit of any other authorized remedy.

Under existing law, the Department is required regularly to review the rates of the taxes imposed on sales by medical marijuana establishments and make recommendations to the Legislature regarding adjustments of those rates. (NRS 372A.075) **Section 23** of this bill eliminates that requirement. With that exception, **sections 22-28** of this bill reflect a reorganization of the provisions of chapter 372A of NRS, but make no substantive changes.

Under existing law, an applicant for the issuance or renewal of a medical marijuana establishment registration certificate must submit proof that it has complied with the zoning restrictions and applicable building requirements of the local governmental authority for the place it will be located. (NRS 453A.322) Additionally, in a local governmental jurisdiction that issues business licenses, the issuance of a medical marijuana establishment registration certificate is provisional until the establishment complies with all applicable local governmental ordinances or rules and receives a business license. (NRS 453A.326) **Section 29** of this bill requires an agency of a local government that performs inspections, reviews or other tasks related to ensuring that a medical marijuana establishment complies with all applicable local governmental ordinances or rules to maintain records of: (1) the hours its employees spend on these inspections, reviews and tasks; (2) the rate of pay of such employees; and (3) the share of any costs for equipment for the agency attributable to the establishment. **Section 29** requires the agency to provide these records to the establishment within 30 days after performing such inspections, reviews or tasks and requires the establishment to pay a fee to the agency equal to the actual costs of the agency to perform the inspections, reviews and tasks. **Section 29** requires that the proceeds of such a fee be expended only to pay the costs to perform such inspections, reviews and tasks and prohibits the proceeds from supplanting other support for the agency.

Under existing law, a person must register with the Division of Public and Behavioral Health of the Department of Health and Human Services as a medical marijuana establishment agent before volunteering or working at a medical marijuana establishment. (NRS 453A.332) **Sections 30, 31 and 33** of this bill allow an independent contractor and its employees to register as medical marijuana establishment agents and provide labor to a medical marijuana establishment.



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

Section 1. NRS 360.2937 is hereby amended to read as follows:

360.2937 1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, and notwithstanding the provisions of NRS 360.2935, interest must be paid upon an overpayment of any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377, 377A or 377C of NRS, *any of the taxes provided for in NRS 372A.075*, any fee provided for in NRS 444A.090 or 482.313, or any assessment provided for in NRS 585.497, at the rate of 0.25 percent per month from the last day of the calendar month following the period for which the overpayment was made.

2. No refund or credit may be made of any interest imposed on the person making the overpayment with respect to the amount being refunded or credited.

3. The interest must be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if the person has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or the amount against which the credit is applied.

Sec. 2. NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377, 377A, 377C, 444A or 585 of NRS, *any of the taxes provided for in NRS 372A.075*, or any fee provided for in NRS 482.313, and any person or governmental entity that fails to pay any fee provided for in NRS 360.787, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 0.75 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated



1 schedule adopted by the Nevada Tax Commission which takes into
2 consideration the length of time the tax or fee remained unpaid.

3 **Sec. 3.** Chapter 372A of NRS is hereby amended by adding
4 thereto the provisions set forth as sections 4 to 21, inclusive, of this
5 act.

6 **Sec. 4.** *As used in NRS 372A.075 and sections 4 to 21,*
7 *inclusive, of this act, unless the context otherwise requires, the*
8 *words and terms defined in sections 5 to 9, inclusive, of this act*
9 *have the meanings ascribed to them in those sections.*

10 **Sec. 5.** *“Cultivation facility” has the meaning ascribed to it*
11 *in NRS 453A.056.*

12 **Sec. 6.** *“Excise tax on medical marijuana” means any of the*
13 *excise taxes imposed by NRS 372A.075.*

14 **Sec. 7.** *“Facility for the production of edible marijuana*
15 *products or marijuana-infused products” has the meaning*
16 *ascribed to it in NRS 453A.105.*

17 **Sec. 8.** *“Medical marijuana dispensary” has the meaning*
18 *ascribed to it in NRS 453A.115.*

19 **Sec. 9.** *“Taxpayer” means a:*

20 1. *Cultivation facility;*

21 2. *Facility for the production of edible marijuana products or*
22 *marijuana-infused products; or*

23 3. *Medical marijuana dispensary.*

24 **Sec. 10.** *The provisions of chapter 360 of NRS relating to the*
25 *payment, collection, administration and enforcement of taxes,*
26 *including, without limitation, any provisions relating to the*
27 *imposition of penalties and interest, shall be deemed to apply to*
28 *the payment, collection, administration and enforcement of the*
29 *excise tax on medical marijuana to the extent that those provisions*
30 *do not conflict with the provisions of NRS 372A.075 and sections 4*
31 *to 21, inclusive, of this act.*

32 **Sec. 11.** 1. *Each person responsible for maintaining the*
33 *records of a taxpayer shall:*

34 (a) *Keep such records as may be necessary to determine the*
35 *amount of the liability of the taxpayer pursuant to the provisions*
36 *of NRS 372A.075 and sections 4 to 21, inclusive, of this act;*

37 (b) *Preserve those records for 4 years or until any litigation or*
38 *prosecution pursuant to NRS 372A.075 and sections 4 to 21,*
39 *inclusive, of this act is finally determined, whichever is longer;*
40 *and*

41 (c) *Make the records available for inspection by the*
42 *Department upon demand at reasonable times during regular*
43 *business hours.*

44 2. *Any person who violates the provisions of subsection 1 is*
45 *guilty of a misdemeanor.*



* A B 7 0 R 1 *

1 **Sec. 12. 1.** *To verify the accuracy of any return filed by a*
2 *taxpayer or, if no return is filed, to determine the amount required*
3 *to be paid, the Department, or any person authorized in writing by*
4 *the Department, may examine the books, papers and records of*
5 *any person who may be liable for the excise tax on medical*
6 *marijuana.*

7 **2.** *Any person who may be liable for the excise tax on medical*
8 *marijuana and who keeps outside of this State any books, papers*
9 *and records relating thereto shall pay to the Department an*
10 *amount equal to the allowance provided for state officers and*
11 *employees generally while traveling outside of the State for each*
12 *day or fraction thereof during which an employee of the*
13 *Department is engaged in examining those documents, plus any*
14 *other actual expenses incurred by the employee while he or she is*
15 *absent from his or her regular place of employment to examine*
16 *those documents.*

17 **Sec. 13.** *If the Department determines that the excise tax on*
18 *medical marijuana or any penalty or interest has been paid more*
19 *than once or has been erroneously or illegally collected or*
20 *computed, the Department shall set forth that fact in the records of*
21 *the Department and certify to the State Board of Examiners the*
22 *amount collected in excess of the amount legally due and the*
23 *person from whom it was collected or by whom it was paid. If*
24 *approved by the State Board of Examiners, the excess amount*
25 *collected or paid must, after being credited against any amount*
26 *then due from the person in accordance with NRS 360.236, be*
27 *refunded to the person or his or her successors in interest.*

28 **Sec. 14. 1.** *Except as otherwise provided in NRS 360.235*
29 *and 360.395:*

30 **(a)** *No refund of the excise tax on medical marijuana may be*
31 *allowed unless a claim for refund is filed with the Department*
32 *within 3 years after the last day of the month following the month*
33 *for which the overpayment was made.*

34 **(b)** *No credit may be allowed after the expiration of the period*
35 *specified for filing claims for refund unless a claim for credit is*
36 *filed with the Department within that period.*

37 **2.** *Each claim must be in writing and must state the specific*
38 *grounds upon which the claim is founded.*

39 **3.** *The failure to file a claim within the time prescribed in*
40 *subsection 1 constitutes a waiver of any demand against the State*
41 *on account of any overpayment.*

42 **Sec. 15. 1.** *Except as otherwise provided in subsection 2,*
43 *NRS 360.320 or any other specific statute, interest must be paid*
44 *upon any overpayment of the excise tax on medical marijuana at*



1 the rate set forth in, and in accordance with the provisions of,
2 NRS 360.2937.

3 2. If the Department determines that any overpayment has
4 been made intentionally or by reason of carelessness, the
5 Department shall not allow any interest on the overpayment.

6 **Sec. 16.** 1. Within 30 days after rejecting a claim for refund
7 or credit in whole or in part, the Department shall serve written
8 notice of its action on the claimant in the manner prescribed for
9 service of a notice of deficiency determination. Within 30 days
10 after the date of service of the notice, a claimant who is aggrieved
11 by the action of the Department may file an appeal with the
12 Nevada Tax Commission.

13 2. If the Department fails to serve notice of its action on a
14 claim for refund or credit within 6 months after the claim is filed,
15 the claimant may consider the claim to be disallowed and file an
16 appeal with the Nevada Tax Commission within 30 days after the
17 last day of the 6-month period.

18 3. The final decision of the Nevada Tax Commission on an
19 appeal is a final decision for the purposes of judicial review
20 pursuant to chapter 233B of NRS.

21 **Sec. 17.** 1. A proceeding for judicial review of a decision of
22 the Nevada Tax Commission may not be commenced or
23 maintained by an assignee of the claimant or by any other person
24 other than the person who paid the amount at issue in the claim.

25 2. The failure of a claimant to file a timely petition for
26 judicial review constitutes a waiver of any demand against the
27 State on account of any overpayment.

28 **Sec. 18.** 1. If judgment is rendered for the claimant in a
29 proceeding for judicial review, any amount found by the court to
30 have been erroneously or illegally collected must first be credited
31 to any tax due from the claimant. The balance of the amount must
32 be refunded to the claimant.

33 2. In any such judgment, interest must be allowed at the rate
34 of 3 percent per annum upon any amount found to have been
35 erroneously or illegally collected from the date of payment of the
36 amount to the date of allowance of credit on account of the
37 judgment, or to a date preceding the date of the refund warrant by
38 not more than 30 days. The date must be determined by the
39 Department.

40 **Sec. 19.** 1. No injunction, writ of mandate or other legal or
41 equitable process may issue in any suit, action or proceeding in
42 any court against this State or against any officer of the State to
43 prevent or enjoin the collection of the excise tax on medical
44 marijuana or any amount of tax, penalty or interest required to be
45 collected.



2. No suit or proceeding, including, without limitation, a proceeding for judicial review, may be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been filed within the time prescribed in section 14 of this act.

Sec. 20. 1. A person shall not, with intent to defraud the State or evade payment of the excise tax on medical marijuana or any part of the tax:

(a) Make, cause to be made or permit to be made any false or fraudulent return or declaration or false statement in any return or declaration.

(b) Make, cause to be made or permit to be made any false entry in books, records or accounts.

(c) Keep, cause to be kept or permit to be kept more than one set of books, records or accounts.

2. Any person who violates the provisions of subsection 1 is guilty of a gross misdemeanor.

Sec. 21. The remedies of the State provided for in NRS 372A.075 and sections 4 to 21, inclusive, of this act are cumulative, and no action taken by the Department or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in those sections.

Sec. 22. NRS 372A.060 is hereby amended to read as follows:
372A.060 1. ~~[This chapter does]~~ The provisions of this section, NRS 372A.070 and 372A.080 to 372A.130, inclusive, do not apply to:

(a) Any person who is registered or exempt from registration pursuant to NRS 453.226 or any other person who is lawfully in possession of a controlled substance; or

(b) ~~[Except as otherwise provided in NRS 372A.075, any]~~ Any person who acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana for the medical use of marijuana as authorized pursuant to chapter 453A of NRS.

2. Compliance with the provisions of this ~~[chapter]~~ section, NRS 372A.070 and 372A.080 to 372A.130, inclusive, does not immunize a person from criminal prosecution for the violation of any other provision of law.

Sec. 23. NRS 372A.075 is hereby amended to read as follows:
372A.075 1. An excise tax is hereby imposed on each wholesale sale in this State of marijuana by a cultivation facility to another medical marijuana establishment at the rate of 2 percent of the sales price of the marijuana. The excise tax imposed pursuant to this subsection is the obligation of the cultivation facility.



2. An excise tax is hereby imposed on each wholesale sale in this State of edible marijuana products or marijuana-infused products by a facility for the production of edible marijuana products or marijuana-infused products to another medical marijuana establishment at the rate of 2 percent of the sales price of those products. The excise tax imposed pursuant to this subsection is the obligation of the facility for the production of edible marijuana products or marijuana-infused products which sells the edible marijuana products or marijuana-infused products to the other medical marijuana establishment.

3. An excise tax is hereby imposed on each retail sale in this State of marijuana, edible marijuana products or marijuana-infused products by a medical marijuana dispensary at the rate of 2 percent of the sales price of the marijuana, edible marijuana products or marijuana-infused products. The excise tax imposed pursuant to this subsection:

(a) Is the obligation of the medical marijuana dispensary.

(b) Is separate from and in addition to any general state and local sales and use taxes that apply to retail sales of tangible personal property.

(c) Must be considered part of the total retail price to which general state and local sales and use taxes apply.

4. The revenues collected from the excise taxes imposed pursuant to subsections 1, 2 and 3 must be distributed as follows:

(a) Seventy-five percent must be paid over as collected to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.

(b) Twenty-five percent must be expended to pay the costs of the Division of Public and Behavioral Health of the Department of Health and Human Services in carrying out the provisions of NRS 453A.320 to 453A.370, inclusive.

~~5. [The Department shall review regularly the rates of the excise taxes imposed pursuant to subsections 1, 2 and 3 and make recommendations to the Legislature, as appropriate, regarding adjustments that the Department determines would benefit the residents of this State.~~

~~—6.]~~ As used in this section:

(a) ~~["Cultivation facility" has the meaning ascribed to it in NRS 453A.056.~~

~~—(b)]~~ "Edible marijuana products" has the meaning ascribed to it in NRS 453A.101.

~~[(c) "Facility for the production of edible marijuana products or marijuana-infused products" has the meaning ascribed to it in NRS 453A.105.~~



1 ~~—(d)~~ (b) “Marijuana-infused products” has the meaning ascribed
2 to it in NRS 453A.112.

3 ~~[(e) “Medical marijuana dispensary” has the meaning ascribed~~
4 ~~to it in NRS 453A.115.~~

5 ~~—(f)~~ (c) “Medical marijuana establishment” has the meaning
6 ascribed to it in NRS 453A.116.

7 **Sec. 24.** NRS 372A.080 is hereby amended to read as follows:

8 372A.080 1. Except as otherwise provided in NRS 239.0115,
9 all information which is submitted to the Department by or on
10 behalf of a dealer in controlled substances pursuant to ~~[(this chapter)]~~
11 **NRS 372A.060, 372A.070 and 372A.080 to 372A.130, inclusive,**
12 and all records of the Department which contain the name, address
13 or any other identifying information concerning a dealer are
14 confidential.

15 2. No criminal prosecution may be initiated on the basis of:

16 (a) Information which was submitted to the Department; or

17 (b) Evidence derived from information submitted to the
18 Department, pursuant to ~~[(this chapter)]~~ **NRS 372A.060, 372A.070**
19 **and 372A.080 to 372A.130, inclusive,** or any regulation adopted
20 pursuant thereto.

21 3. No information described in paragraph (a) or (b) of
22 subsection 2 is admissible in a criminal prosecution, unless the
23 prosecution shows that the information:

24 (a) Was independently discovered; or

25 (b) Inevitably would have been discovered based on
26 independent information.

27 4. This section does not prohibit the Department from
28 publishing statistics that do not disclose the identity of a dealer or
29 the contents of a particular return or report submitted to the
30 Department by a dealer.

31 5. Any person who releases or reveals confidential information
32 in violation of this section is guilty of a gross misdemeanor.

33 **Sec. 25.** NRS 372A.090 is hereby amended to read as follows:

34 372A.090 1. The Department shall:

35 (a) Design suitable stamps for the purpose of ~~[(this chapter)]~~
36 **NRS 372A.060, 372A.070 and 372A.080 to 372A.130, inclusive.**

37 (b) Have as many stamps printed as may be required.

38 (c) Sell the stamps to dealers in controlled substances who are
39 registered.

40 2. The stamps must be serially numbered and the Department
41 shall maintain a record of the number of each stamp with the name
42 of the dealer to whom it was sold.

43 **Sec. 26.** NRS 372A.110 is hereby amended to read as follows:

44 372A.110 1. All taxes and fees collected by the Department
45 pursuant to ~~[(this chapter)]~~ **NRS 372A.060, 372A.070 and 372A.080**



1 *to 372A.130, inclusive*, after deducting the actual cost of producing
2 the stamps and administering ~~{this chapter,}~~ *the provisions of those*
3 *sections*, must be deposited with the State Treasurer for credit to the
4 State General Fund and accounted for separately.

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

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

12 **Sec. 27.** NRS 372A.120 is hereby amended to read as follows:

13 372A.120 1. The Department shall immediately deliver any
14 controlled substances which come into its possession in the course
15 of administering ~~{this chapter,}~~ *NRS 372A.060, 372A.070 and*
16 *372A.080 to 372A.130, inclusive*, with a full accounting to the
17 Investigation Division of the Department of Public Safety.

18 2. The Investigation Division of the Department of Public
19 Safety and every other law enforcement agency shall notify the
20 Department of each person it discovers having possession of a
21 controlled substance and the serial number of any stamps affixed.

22 **Sec. 28.** NRS 372A.130 is hereby amended to read as follows:

23 372A.130 No person may bring suit to enjoin the assessment or
24 collection of any taxes, interest or civil penalties imposed by ~~{this~~
25 ~~chapter,}~~ *NRS 372A.060, 372A.070 and 372A.080 to 372A.130,*
26 *inclusive.*

27 **Sec. 29.** Chapter 453A of NRS is hereby amended by adding
28 thereto a new section to read as follows:

29 1. *Each agency of a local government which performs*
30 *inspections, reviews or other tasks related to ensuring that a*
31 *medical marijuana establishment is in compliance with all*
32 *applicable local governmental ordinances or rules pursuant to*
33 *NRS 453A.326 shall maintain records of the hours its employees*
34 *spend performing these inspections, reviews and tasks, the rate of*
35 *pay of each such employee and the share of any costs for*
36 *equipment for the agency which is attributable to the*
37 *establishment.*

38 2. *Each agency of a local government shall provide records*
39 *maintained pursuant to subsection 1 to the medical marijuana*
40 *establishment not less than 30 days after the agency performs an*
41 *inspection, review or other related task.*

42 3. *Except as otherwise provided in subsection 5:*

43 (a) *A medical marijuana establishment shall pay a fee to an*
44 *agency of a local government which provides records of its costs to*
45 *the establishment pursuant to subsection 2 in an amount equal to*



1 *the actual costs of the agency to perform the inspection, review or*
2 *other related task.*

3 *(b) If a medical marijuana establishment fails to pay the fee*
4 *imposed by this subsection within 30 days after receipt of the*
5 *records provided pursuant to subsection 2, the agency may charge*
6 *a penalty of \$500 and assess interest on the fee at a rate of 7*
7 *percent per year commencing 30 days after receipt of the records.*

8 *4. Any revenue generated from a fee imposed pursuant to*
9 *subsection 3:*

10 *(a) Must be expended only to pay the costs of the agency of a*
11 *local government to perform an inspection, review or other task*
12 *related to ensuring the medical marijuana establishment is in*
13 *compliance with all applicable local governmental ordinances or*
14 *rules; and*

15 *(b) Must not supplant any other support provided to the agency*
16 *of a local government by the local government.*

17 *5. A medical marijuana establishment may appeal a fee*
18 *imposed pursuant to subsection 3 to the appropriate local*
19 *government by submitting a written request to the local*
20 *government not more than 30 days after the imposition of the fee*
21 *which includes documentation sufficient to show that the amount*
22 *of the fee is unsubstantiated or erroneous. The obligation of the*
23 *medical marijuana establishment to pay the fee is suspended until*
24 *such an appeal is dismissed or the amount of the fee is*
25 *redetermined pursuant to subsection 7.*

26 *6. A local government which receives a written request*
27 *pursuant to subsection 5 shall administratively dismiss the request*
28 *if it is not accompanied by documentation sufficient to show that*
29 *the amount of the fee is unsubstantiated or erroneous.*

30 *7. A local government shall hold a hearing to determine the*
31 *appropriate amount of a fee imposed pursuant to subsection 3 if*
32 *the documentation which accompanies a written request submitted*
33 *pursuant to subsection 5 shows that the amount of the fee was*
34 *unsubstantiated or erroneous. The local government may revise*
35 *the amount of the fee only if it determines that the records*
36 *maintained by the agency of the local government do not support*
37 *the amount of the fee imposed.*

38 **Sec. 30.** NRS 453A.117 is hereby amended to read as follows:

39 453A.117 "Medical marijuana establishment agent" means an
40 owner, officer, board member, employee or volunteer of a medical
41 marijuana establishment ~~that~~ *, an independent contractor who*
42 *provides labor relating to the cultivation or processing of*
43 *marijuana or the production of usable marijuana, edible*
44 *marijuana products or marijuana-infused products for a medical*



marijuana establishment or an employee of such an independent contractor.

Sec. 31. NRS 453A.332 is hereby amended to read as follows:

453A.332 1. Except as otherwise provided in this section, a person shall not volunteer or work at, *contract to provide labor to or be employed by an independent contractor to provide labor to* a medical marijuana establishment as a medical marijuana establishment agent unless the person is registered with the Division pursuant to this section.

2. A medical marijuana establishment that wishes to retain as a volunteer or employ a medical marijuana establishment agent shall submit to the Division an application on a form prescribed by the Division. The application must be accompanied by:

(a) The name, address and date of birth of the prospective medical marijuana establishment agent;

(b) A statement signed by the prospective medical marijuana establishment agent pledging not to dispense or otherwise divert marijuana to any person who is not authorized to possess marijuana in accordance with the provisions of this chapter;

(c) A statement signed by the prospective medical marijuana establishment agent asserting that he or she has not previously had a medical marijuana establishment agent registration card revoked;

(d) A complete set of the fingerprints and written permission of the prospective medical marijuana establishment agent authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(e) The application fee, as set forth in NRS 453A.344; and

(f) Such other information as the Division may require by regulation.

3. *A medical marijuana establishment that wishes to contract with an independent contractor to provide labor as a medical marijuana establishment agent shall submit to the Division an application on a form prescribed by the Division for the registration of the independent contractor and each employee of the independent contractor who will provide labor as a medical marijuana establishment agent. The application must be accompanied by:*

(a) The name, address and, if the prospective medical marijuana establishment agent has a state business license, the state business license number assigned by the Secretary of State upon compliance with the provisions of chapter 76 of NRS;

(b) The name, address and date of birth of each employee of the prospective medical marijuana establishment agent who will provide labor as a medical marijuana establishment agent;



(c) A statement signed by the prospective medical marijuana establishment agent pledging not to dispense or otherwise divert marijuana to, or allow any of its employees to dispense or otherwise divert marijuana to, any person who is not authorized to possess marijuana in accordance with the provisions of this chapter;

(d) A statement signed by the prospective medical marijuana establishment agent asserting that it has not previously had a medical marijuana establishment agent registration card revoked and that none of its employees who will provide labor as a medical marijuana establishment agent have previously had a medical marijuana establishment agent registration card revoked;

(e) A complete set of the fingerprints of each employee of the prospective medical marijuana establishment agent who will provide labor as a medical marijuana establishment agent and written permission of the prospective medical marijuana establishment agent and each employee of the prospective medical marijuana establishment agent authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(f) The application fee, as set forth in NRS 453A.344; and

(g) Such other information as the Division may require by regulation.

4. A medical marijuana establishment shall notify the Division within 10 days after a medical marijuana establishment agent ceases to be employed by , ~~for~~ volunteer at *or provide labor as a medical marijuana establishment agent to* the medical marijuana establishment.

~~4.1~~ 5. A person who:

(a) Has been convicted of an excluded felony offense; or

(b) Is less than 21 years of age,

➤ shall not serve as a medical marijuana establishment agent.

~~5.1~~ 6. The Division shall submit the fingerprints of an applicant for registration as a medical marijuana establishment agent to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the criminal history of the applicant.

~~6.1~~ 7. The provisions of this section do not require a person who is an owner, officer or board member of a medical marijuana establishment to resubmit information already furnished to the Division at the time the establishment was registered with the Division.

~~7.1~~ 8. If an applicant for registration as a medical marijuana establishment agent satisfies the requirements of this section and is



not disqualified from serving as such an agent pursuant to this section or any other applicable law, the Division shall issue to the person *and, for an independent contractor, to each person identified in the independent contractor's application for registration as an employee who will provide labor as a medical marijuana establishment agent*, a medical marijuana establishment agent registration card. If the Division does not act upon an application for a medical marijuana establishment agent registration card within 30 days after the date on which the application is received, the application shall be deemed conditionally approved until such time as the Division acts upon the application. A medical marijuana establishment agent registration card expires 1 year after the date of issuance and may be renewed upon:

- (a) Resubmission of the information set forth in this section; and
- (b) Payment of the renewal fee set forth in NRS 453A.344.

Sec. 32. NRS 453A.340 is hereby amended to read as follows:
453A.340 The following acts constitute grounds for immediate revocation of a medical marijuana establishment registration certificate:

1. Dispensing, delivering or otherwise transferring marijuana to a person other than a medical marijuana establishment agent, another medical marijuana establishment, a patient who holds a valid registry identification card or the designated primary caregiver of such a patient.

2. Acquiring usable marijuana or mature marijuana plants from any person other than a medical marijuana establishment agent, another medical marijuana establishment, a patient who holds a valid registry identification card or the designated primary caregiver of such a patient.

3. Violating a regulation of the Division, the violation of which is stated to be grounds for immediate revocation of a medical marijuana establishment registration certificate.

4. *Failure to pay a fee imposed pursuant to section 29 of this act.*

Sec. 33. NRS 453A.344 is hereby amended to read as follows:
453A.344 1. Except as otherwise provided in subsection 2, the Division shall collect not more than the following maximum fees:

For the initial issuance of a medical marijuana establishment registration certificate for a medical marijuana dispensary	\$30,000
For the renewal of a medical marijuana establishment registration certificate for a medical marijuana dispensary	5,000



For the initial issuance of a medical marijuana establishment registration certificate for a cultivation facility	\$3,000
For the renewal of a medical marijuana establishment registration certificate for a cultivation facility	1,000
For the initial issuance of a medical marijuana establishment registration certificate for a facility for the production of edible marijuana products or marijuana-infused products	3,000
For the renewal of a medical marijuana establishment registration certificate for a facility for the production of edible marijuana products or marijuana-infused products	1,000
For <i>each person identified in an application for</i> the initial issuance of a medical marijuana establishment agent registration card	75
For <i>each person identified in an application for</i> the renewal of a medical marijuana establishment agent registration card	75
For the initial issuance of a medical marijuana establishment registration certificate for an independent testing laboratory.	5,000
For the renewal of a medical marijuana establishment registration certificate for an independent testing laboratory.	3,000

2. In addition to the fees described in subsection 1, each applicant for a medical marijuana establishment registration certificate must pay to the Division:

- (a) A one-time, nonrefundable application fee of \$5,000; and
- (b) The actual costs incurred by the Division in processing the application, including, without limitation, conducting background checks.

3. Any revenue generated from the fees imposed pursuant to this section:

- (a) Must be expended first to pay the costs of the Division in carrying out the provisions of NRS 453A.320 to 453A.370, inclusive; and
- (b) If any excess revenue remains after paying the costs described in paragraph (a), such excess revenue must be paid over to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.



Sec. 34. NRS 453A.370 is hereby amended to read as follows:
453A.370 The Division shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of NRS 453A.320 to 453A.370, inclusive. Such regulations are in addition to any requirements set forth in statute and must, without limitation:

1. Prescribe the form and any additional required content of registration and renewal applications submitted pursuant to NRS 453A.322 and 453A.332.

2. Set forth rules pertaining to the safe and healthful operation of medical marijuana establishments, including, without limitation:

(a) The manner of protecting against diversion and theft without imposing an undue burden on medical marijuana establishments or compromising the confidentiality of the holders of registry identification cards.

(b) Minimum requirements for the oversight of medical marijuana establishments.

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

(d) Provisions for the security of medical marijuana establishments, including, without limitation, requirements for the protection by a fully operational security alarm system of each medical marijuana establishment.

(e) Procedures pursuant to which medical marijuana dispensaries must use the services of an independent testing laboratory to ensure that any marijuana, edible marijuana products and marijuana-infused products sold by the dispensaries to end users are tested for content, quality and potency in accordance with standards established by the Division.

(f) Procedures pursuant to which a medical marijuana dispensary will be notified by the Division if a patient who holds a valid registry identification card has chosen the dispensary as his or her designated medical marijuana dispensary, as described in NRS 453A.366.

3. Establish circumstances and procedures pursuant to which the maximum fees set forth in NRS 453A.344 may be reduced over time:

(a) To ensure that the fees imposed pursuant to NRS 453A.344 are, insofar as may be practicable, revenue neutral; and

(b) To reflect gifts and grants received by the Division pursuant to NRS 453A.720.

4. Set forth the amount of usable marijuana that a medical marijuana dispensary may dispense to a person who holds a valid registry identification card, or the designated primary caregiver of



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1 such a person, in any one 14-day period. Such an amount must not
2 exceed the limits set forth in NRS 453A.200.

3 5. As far as possible while maintaining accountability, protect
4 the identity and personal identifying information of each person who
5 receives, facilitates or delivers services in accordance with this
6 chapter.

7 6. In cooperation with the Board of Medical Examiners and the
8 State Board of Osteopathic Medicine, establish a system to:

9 (a) Register and track attending physicians who advise their
10 patients that the medical use of marijuana may mitigate the
11 symptoms or effects of the patient's medical condition;

12 (b) Insofar as is possible, track and quantify the number of times
13 an attending physician described in paragraph (a) makes such an
14 advisement; and

15 (c) Provide for the progressive discipline of attending physicians
16 who advise the medical use of marijuana at a rate at which the
17 Division and Board determine and agree to be unreasonably high.

18 7. Establish different categories of medical marijuana
19 establishment agent registration cards, including, without limitation,
20 criteria for training and certification, for each of the different types
21 of medical marijuana establishments at which such an agent may be
22 employed or volunteer **or provide labor as a medical marijuana**
23 **establishment agent.**

24 8. Provide for the maintenance of a log by the Division of each
25 person who is authorized to cultivate, grow or produce marijuana
26 pursuant to subsection 6 of NRS 453A.200. The Division shall
27 ensure that the contents of the log are available for verification by
28 law enforcement personnel 24 hours a day.

29 9. Address such other matters as may assist in implementing
30 the program of dispensation contemplated by NRS 453A.320 to
31 453A.370, inclusive.

32 **Sec. 35.** This act becomes effective on July 1, 2015.

