

Amendment No. 863

Senate Amendment to Assembly Bill No. 70

(BDR 32-322)

Proposed by: Senate Committee on Finance

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 70 (§§ 12, 29, 31, 33).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~purple double-strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

AAK/BJE



Date: 5/21/2015

A.B. No. 70—Provides for the administration and enforcement of excise taxes on medical marijuana. (BDR 32-322)



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 ~~taxes on~~ 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 ~~taxation;~~ 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 schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.

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

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

Sec. 5. *"Cultivation facility" has the meaning ascribed to it in NRS 453A.056.*

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

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

Sec. 8. *"Medical marijuana dispensary" has the meaning ascribed to it in NRS 453A.115.*

Sec. 9. *"Taxpayer" means a:*

1. Cultivation facility;

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

3. Medical marijuana dispensary.

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

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

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

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

4 (c) Make the records available for inspection by the Department upon
5 demand at reasonable times during regular business hours.

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

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

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

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

30 Sec. 14. 1. Except as otherwise provided in NRS 360.235 and 360.395:

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

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

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

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

42 Sec. 15. 1. Except as otherwise provided in subsection 2, NRS 360.320 or
43 any other specific statute, interest must be paid upon any overpayment of the
44 excise tax on medical marijuana at the rate set forth in, and in accordance with
45 the provisions of, NRS 360.2937.

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

49 Sec. 16. 1. Within 30 days after rejecting a claim for refund or credit in
50 whole or in part, the Department shall serve written notice of its action on the
51 claimant in the manner prescribed for service of a notice of deficiency
52 determination. Within 30 days after the date of service of the notice, a claimant

1 *who is aggrieved by the action of the Department may file an appeal with the*
2 *Nevada Tax Commission.*

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

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

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

13 *2. The failure of a claimant to file a timely petition for judicial review*
14 *constitutes a waiver of any demand against the State on account of any*
15 *overpayment.*

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

20 *2. In any such judgment, interest must be allowed at the rate of 3 percent*
21 *per annum upon any amount found to have been erroneously or illegally*
22 *collected from the date of payment of the amount to the date of allowance of*
23 *credit on account of the judgment, or to a date preceding the date of the refund*
24 *warrant by not more than 30 days. The date must be determined by the*
25 *Department.*

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

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

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

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

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

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

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

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

51 *Sec. 22. NRS 372A.060 is hereby amended to read as follows:*

52 *372A.060 1. ~~{This chapter does}~~ The provisions of this section, NRS*
53 *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.

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

~~1 (e) "Medical marijuana dispensary" has the meaning ascribed to it in NRS~~
~~2 453A.115.~~

~~3 (d) (c) "Medical marijuana establishment" has the meaning ascribed to it in~~
~~4 NRS 453A.116.~~

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

6 372A.080 1. Except as otherwise provided in NRS 239.0115, all
7 information which is submitted to the Department by or on behalf of a dealer in
8 controlled substances pursuant to ~~this chapter~~ **NRS 372A.060, 372A.070 and**
9 **372A.080 to 372A.130, inclusive**, and all records of the Department which contain
10 the name, address or any other identifying information concerning a dealer are
11 confidential.

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

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

14 (b) Evidence derived from information submitted to the Department, pursuant
15 to ~~this chapter~~ **NRS 372A.060, 372A.070 and 372A.080 to 372A.130, inclusive**,
16 or any regulation adopted pursuant thereto.

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

20 (a) Was independently discovered; or

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

22 4. This section does not prohibit the Department from publishing statistics
23 that do not disclose the identity of a dealer or the contents of a particular return or
24 report submitted to the Department by a dealer.

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

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

28 372A.090 1. The Department shall:

29 (a) Design suitable stamps for the purpose of ~~this chapter~~ **NRS 372A.060,**
30 **372A.070 and 372A.080 to 372A.130, inclusive.**

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

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

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

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

37 372A.110 1. All taxes and fees collected by the Department pursuant to
38 ~~this chapter~~ **NRS 372A.060, 372A.070 and 372A.080 to 372A.130, inclusive**,
39 after deducting the actual cost of producing the stamps and administering ~~this~~
40 ~~chapter~~ **the provisions of those sections**, must be deposited with the State
41 Treasurer for credit to the State General Fund and accounted for separately.

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

46 3. Any civil penalty collected by a district attorney pursuant to NRS
47 372A.070 must be deposited in the county treasury for the purposes of law
48 enforcement and conducting criminal prosecutions.

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

50 372A.120 1. The Department shall immediately deliver any controlled
51 substances which come into its possession in the course of administering ~~this~~
52 ~~chapter~~ **NRS 372A.060, 372A.070 and 372A.080 to 372A.130, inclusive**, with a
53 full accounting to the Investigation Division of the Department of Public Safety.

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

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

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

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

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

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

3. Except as otherwise provided in subsection 5:

(a) A medical marijuana establishment shall pay a fee to an agency of a local government which provides records of its costs to the establishment pursuant to subsection 2 in an amount equal to the actual costs of the agency to perform the inspection, review or other related task.

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

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

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

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

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

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

7. A local government shall hold a hearing to determine the appropriate amount of a fee imposed pursuant to subsection 3 if the documentation which accompanies a written request submitted pursuant to subsection 5 shows that the amount of the fee was unsubstantiated or erroneous. The local government may

revise the amount of the fee only if it determines that the records maintained by the agency of the local government do not support the amount of the fee imposed.

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

453A.117 “Medical marijuana establishment agent” means an owner, officer, board member, employee or volunteer of a medical marijuana establishment, +, an independent contractor who provides labor relating to the cultivation or processing of marijuana or the production of usable marijuana, edible 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 ~~or~~ volunteer at or provide labor as a medical marijuana establishment agent to the medical marijuana establishment.

~~4+ 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+ 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+ 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+ 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

1 establishment, a patient who holds a valid registry identification card or the
2 designated primary caregiver of such a patient.

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

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

7 **Sec. 33. NRS 453A.344 is hereby amended to read as follows:**

8 453A.344 1. Except as otherwise provided in subsection 2, the Division
9 shall collect not more than the following maximum fees:

10		
11	For the initial issuance of a medical marijuana	
12	establishment registration certificate for a medical	
13	marijuana dispensary	\$30,000
14	For the renewal of a medical marijuana establishment	
15	registration certificate for a medical marijuana	
16	dispensary	5,000
17	For the initial issuance of a medical marijuana	
18	establishment registration certificate for a cultivation	
19	facility	3,000
20	For the renewal of a medical marijuana establishment	
21	registration certificate for a cultivation facility	1,000
22	For the initial issuance of a medical marijuana	
23	establishment registration certificate for a facility for	
24	the production of edible marijuana products or	
25	marijuana-infused products	3,000
26	For the renewal of a medical marijuana establishment	
27	registration certificate for a facility for the production	
28	of edible marijuana products or marijuana-infused	
29	products	1,000
30	For <u>each person identified in an application for</u>	
31	the initial issuance of a medical marijuana	
32	establishment agent registration card	75
33	For <u>each person identified in an application for</u>	
34	the renewal of a medical marijuana	
35	establishment agent registration card	75
36	For the initial issuance of a medical marijuana establishment registration	
37	certificate for an independent testing laboratory	5,000
38	For the renewal of a medical marijuana establishment	
39	registration certificate for an independent testing	
40	laboratory	3,000
41		

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

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

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

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

53 **Sec. 34. NRS 453A.370 is hereby amended to read as follows:**

1 453A.370 The Division shall adopt such regulations as it determines to be
2 necessary or advisable to carry out the provisions of NRS 453A.320 to 453A.370,
3 inclusive. Such regulations are in addition to any requirements set forth in statute
4 and must, without limitation:

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

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

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

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

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

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

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

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

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

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

32 (b) To reflect gifts and grants received by the Division pursuant to NRS
33 453A.720.

34 4. Set forth the amount of usable marijuana that a medical marijuana
35 dispensary may dispense to a person who holds a valid registry identification card,
36 or the designated primary caregiver of such a person, in any one 14-day period.
37 Such an amount must not exceed the limits set forth in NRS 453A.200.

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

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

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

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

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

51 7. Establish different categories of medical marijuana establishment agent
52 registration cards, including, without limitation, criteria for training and
53 certification, for each of the different types of medical marijuana establishments at

1 which such an agent may be employed or volunteer ~~or~~ or provide labor as a
2 medical marijuana establishment agent.

3 8. Provide for the maintenance of a log by the Division of each person who is
4 authorized to cultivate, grow or produce marijuana pursuant to subsection 6 of NRS
5 453A.200. The Division shall ensure that the contents of the log are available for
6 verification by law enforcement personnel 24 hours a day.

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

9 ~~Sec. 29.~~ **Sec. 35.** This act becomes effective on July 1, 2015.