

SENATE BILL NO. 447—COMMITTEE ON JUDICIARY

MARCH 23, 2015

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to marijuana.
(BDR 15-85)

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 marijuana; revising the crime of counterfeiting or forging a registry identification card for the medical use of marijuana; defining certain terms, including “concentrated cannabis”; revising the definition of marijuana for certain purposes; making it unlawful to extract concentrated cannabis; providing for the issuance of a letter of approval to certain children that allows such children to engage in the medical use of marijuana; revising certain exemptions from state prosecution for marijuana related offenses; revising provisions governing the return of seized marijuana, paraphernalia or related property from certain persons; providing that certain records created by the Division of Public and Behavioral Health of the Department of Health and Human Services relating to the medical use of marijuana are not confidential; authorizing the Division to issue a registry identification card; authorizing law enforcement agencies to adopt policies and procedures governing the medical use of marijuana by employees; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law makes it a crime, punishable as a category E felony, for a person
- 2 to counterfeit or forge or attempt to counterfeit or forge a registry identification
- 3 card, which is the instrument that indicates a bearer is entitled to engage in the
- 4 medical use of marijuana. (NRS 207.335) **Section 1** of this bill makes it unlawful
- 5 to: (1) counterfeit or forge or attempt to counterfeit or forge a letter of approval; or
- 6 (2) possess with the intent to use any such counterfeit or forged registry



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identification card or letter of approval. Existing law defines marijuana for the purposes of the regulation of controlled substances. (NRS 453.096) Existing law also provides criminal penalties for various acts involving a schedule I controlled substance, including, without limitation, possession, manufacture, compounding, importation, distribution, sale, transfer, trafficking or driving under the influence. (NRS 453.316-453.348, 484C.110, 484C.120, 488.410) In addition to criminal penalties, existing law provides for civil penalties against a person who engages in certain acts involving the unlawful manufacture, distribution or sale of a schedule I controlled substance. (NRS 453.553-453.5533)

Sections 1.2-1.5 and 2 of this bill define certain terms, including “concentrated cannabis,” and revise the definition of marijuana for the purposes of regulating controlled substances. **Section 8** of this bill makes it unlawful to knowingly or intentionally extract concentrated cannabis. A person who violates such a provision is guilty of a category C felony.

Existing law exempts a person who holds a valid registry identification card from state prosecution for possession, delivery and production of marijuana. (NRS 453A.200) The Division of Public and Behavioral Health of the Department of Health and Human Services may either issue a registry identification card that has been prepared by the Department of Motor Vehicles to a person who meets certain qualifications or designate the Department of Motor Vehicles to issue a registry identification card to such a person. (NRS 453A.210, 453A.220, 453A.740) A person under the age of 18 years can obtain a registry identification card if the custodial parent or legal guardian with responsibility for health care decisions for the person agrees to serve as the designated primary caregiver for the person and the person meets certain other requirements. (NRS 453A.210) **Sections 17 and 18** of this bill require the Division to issue a letter of approval to an applicant who is under 10 years of age stating that the Division has approved the person’s application to be exempted from state prosecution for engaging in the medical use of marijuana if the applicant meets these requirements instead of requiring the applicant to obtain a registry identification card that is prepared or issued by the Department. **Section 18** also prescribes the required contents of a letter of approval.

Section 13 of this bill provides that a person who obtains a letter of approval is exempt from certain offenses relating to the possession of marijuana or paraphernalia, but not offenses relating to the delivery and production of marijuana. **Sections 17 and 22** of this bill require the custodial parent or legal guardian of a child under the age of 10 years who obtains a letter of approval to agree to serve as the designated primary caregiver for the child. **Section 18** requires the Division to issue a registry identification card to the designated primary caregiver of the holder of a letter of approval. **Sections 25-27** of this bill authorize a medical marijuana establishment to acquire marijuana from and dispense marijuana to the designated primary caregiver of a person who holds a letter of approval in the same manner as for a patient who holds a registry identification card.

Sections 19-23 of this bill make certain provisions concerning the revocation and expiration of a registry identification card, the designation of a primary caregiver and acts for which the holder of a registry identification card is not exempt from state prosecution applicable to the holder of a letter of approval. **Sections 29 and 30** of this bill authorize a patient who holds a valid letter of approval and his or her designated primary caregiver to select one medical marijuana dispensary to serve as his or her designated medical marijuana dispensary. **Sections 31-34** of this bill make certain rights and protections for persons who hold a registry identification card and persons who assist such persons in the medical use of marijuana applicable to a person who holds a letter of approval and a person who assists a person who holds a letter of approval as well.

Existing law provides certain acts for which the holder of a registry identification card is not exempt from state prosecution for certain offenses relating



to marijuana. (NRS 453A.300) **Section 23** provides that such a person is not exempt from state prosecution for possessing marijuana or paraphernalia on school property.

The Nevada Constitution requires the Legislature to provide by law for protection of the plant of the genus *Cannabis* for medical purposes and property related to its use from forfeiture except upon conviction or plea of guilty or nolo contendere. (Nev. Const. Art. 4 § 38) Existing law requires a district attorney of the county in which marijuana, drug paraphernalia or other related property was seized, or the district attorney's designee, to make a determination that a person is engaging in or assisting in the medical use of marijuana under certain circumstances. (NRS 453A.400) **Section 31** removes the requirement to make such a determination and instead requires law enforcement to return any usable marijuana, marijuana plants, drug paraphernalia and other related property that was seized upon: (1) a decision not to prosecute; (2) the dismissal of the charges; or (3) acquittal.

Section 34 also provides that the Division shall not disclose the contents of any tool used by the Division to evaluate an applicant or affiliate or certain other information regarding an applicant or affiliate.

Section 35 of this bill authorizes the Division to issue a registry identification card rather than requiring that the card be prepared by the Department of Motor Vehicles. **Section 35** further provides that the Division will issue a letter of approval to a qualified person and authorizes a fee for providing an application and processing a letter of approval in the same amount as for a registry identification card.

Existing law does not require an employer to modify the job or working conditions of an employee who engages in the medical use of marijuana, but does require that an employer must attempt to make reasonable accommodations for the employee under certain circumstances. (NRS 453A.800) **Section 36** of this bill provides that a law enforcement agency is not prohibited from adopting policies or procedures that preclude an employee from engaging in the medical use of marijuana.

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

Section 1. NRS 207.335 is hereby amended to read as follows:

207.335 1. It is unlawful for any person to ~~counterfeit~~ :

(a) *Counterfeit* or forge or attempt to counterfeit or forge a registry identification card ~~or~~ *or letter of approval; or*

(b) *Have in his or her possession with the intent to use any counterfeit or forged registry identification card or letter of approval.*

2. Any person who violates the provisions of subsection 1 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

3. As used in this section ~~["registry"]~~ :

(a) *"Letter of approval" has the meaning ascribed to it in section 12 of this act.*

(b) *"Registry identification card" has the meaning ascribed to it in NRS 453A.140.*



Sec. 1.1. Chapter 453 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.2 to 1.5, inclusive, of this act.

Sec. 1.2. *“CBD” means cannabidiol, which is a primary phytocannabinoid compound found in marijuana.*

Sec. 1.3. *“Concentrated cannabis” means the extracted or separated resin, whether crude or purified, containing THC or CBD from marijuana.*

Sec. 1.4. *“Extraction” means the process or act of extracting THC or CBD from marijuana, including, without limitation, pushing, pulling or drawing out THC or CBD from marijuana.*

Sec. 1.5. *“THC” means:*

- 1. Delta-9-tetrahydrocannabinol;*
- 2. Delta-8-tetrahydrocannabinol; and*
- 3. The optical isomers of such substances.*

Sec. 1.6. NRS 453.016 is hereby amended to read as follows:
453.016 As used in this chapter, the words and terms defined in NRS 453.021 to 453.141, inclusive, *and sections 1.2 to 1.5, inclusive, of this act* have the meanings ascribed to them in those sections except in instances where the context clearly indicates a different meaning.

Sec. 2. NRS 453.096 is hereby amended to read as follows:
453.096 1. “Marijuana” means:

(a) All parts of any plant of the genus Cannabis, whether growing or not;

(b) The seeds thereof;

(c) The resin extracted from any part of the plant ~~H~~, *including concentrated cannabis*; and

(d) Every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

2. “Marijuana” does not include the mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stems (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 453.3353 is hereby amended to read as follows:

453.3353 1. Unless a greater penalty is provided by law, and except as otherwise provided in this section and NRS 193.169, if:

(a) A person violates NRS 453.322, 453.3385 or 453.3395, and the violation involves the manufacturing or compounding of any controlled substance other than marijuana; and

(b) During the discovery or cleanup of the premises at, on or in which the controlled substance was manufactured or compounded,



1 another person suffers substantial bodily harm other than death as
2 the proximate result of the manufacturing or compounding of the
3 controlled substance,

4 ➔ the person who committed the offense shall be punished by
5 imprisonment in the state prison for a term equal to and in addition
6 to the term of imprisonment prescribed by statute for the offense.
7 The sentence prescribed by this subsection runs consecutively with
8 the sentence prescribed by statute for the offense.

9 2. Unless a greater penalty is provided by law, and except as
10 otherwise provided in NRS 193.169, if:

11 (a) A person violates NRS 453.322, 453.3385 or 453.3395, and
12 the violation involves the manufacturing or compounding of any
13 controlled substance other than marijuana; and

14 (b) During the discovery or cleanup of the premises at, on or in
15 which the controlled substance was manufactured or compounded,
16 another person suffers death as the proximate result of the
17 manufacturing or compounding of the controlled substance,

18 ➔ the offense shall be deemed a category A felony and the person
19 who committed the offense shall be punished by imprisonment in
20 the state prison:

21 (1) For life without the possibility of parole;

22 (2) For life with the possibility of parole, with eligibility for
23 parole beginning when a minimum of 20 years has been served; or

24 (3) For a definite term of 50 years, with eligibility for parole
25 beginning when a minimum of 20 years has been served.

26 3. Subsection 1 does not create a separate offense but provides
27 an additional penalty for the primary offense, the imposition of
28 which is contingent upon the finding of the prescribed fact.
29 Subsection 2 does not create a separate offense but provides an
30 alternative penalty for the primary offense, the imposition of which
31 is contingent upon the finding of the prescribed fact.

32 4. As used in this section : [~~“premises”~~ means:]

33 (a) *“Marijuana” does not include concentrated cannabis.*

34 (b) *“Premises” means:*

35 (1) Any temporary or permanent structure, including, without
36 limitation, any building, house, room, apartment, tenement, shed,
37 carport, garage, shop, warehouse, store, mill, barn, stable, outhouse
38 or tent; or

39 [~~(b)~~] (2) Any conveyance, including, without limitation, any
40 vessel, boat, vehicle, airplane, glider, house trailer, travel trailer,
41 motor home or railroad car,

42 ➔ whether located aboveground or underground and whether
43 inhabited or not.



Sec. 5. NRS 453.336 is hereby amended to read as follows:

453.336 1. Except as otherwise provided in subsection 5, a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practice registered nurse or veterinarian while acting in the course of his or her professional practice, or except as otherwise authorized by the provisions of NRS 453.005 to 453.552, inclusive ~~and~~ *and sections 1.2 to 1.5, inclusive, of this act.*

2. Except as otherwise provided in subsections 3 and 4 and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385, 453.339 or 453.3395, a person who violates this section shall be punished:

(a) For the first or second offense, if the controlled substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I, II, III or IV, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.

(c) For the first offense, if the controlled substance is listed in schedule V, for a category E felony as provided in NRS 193.130.

(d) For a second or subsequent offense, if the controlled substance is listed in schedule V, for a category D felony as provided in NRS 193.130.

3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

4. Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:

(a) For the first offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$600; or

(2) Examined by an approved facility for the treatment of abuse of drugs to determine whether the person is a drug addict and is likely to be rehabilitated through treatment and, if the examination



1 reveals that the person is a drug addict and is likely to be
2 rehabilitated through treatment, assigned to a program of treatment
3 and rehabilitation pursuant to NRS 453.580.

4 (b) For the second offense, is guilty of a misdemeanor and shall
5 be:

6 (1) Punished by a fine of not more than \$1,000; or

7 (2) Assigned to a program of treatment and rehabilitation
8 pursuant to NRS 453.580.

9 (c) For the third offense, is guilty of a gross misdemeanor and
10 shall be punished as provided in NRS 193.140.

11 (d) For a fourth or subsequent offense, is guilty of a category E
12 felony and shall be punished as provided in NRS 193.130.

13 5. It is not a violation of this section if a person possesses a
14 trace amount of a controlled substance and that trace amount is in or
15 on a hypodermic device obtained from a sterile hypodermic device
16 program pursuant to NRS 439.985 to 439.994, inclusive.

17 6. As used in this section:

18 (a) "Controlled substance" includes flunitrazepam, gamma-
19 hydroxybutyrate and each substance for which flunitrazepam or
20 gamma-hydroxybutyrate is an immediate precursor.

21 (b) *"Marijuana" does not include concentrated cannabis.*

22 (c) "Sterile hypodermic device program" has the meaning
23 ascribed to it in NRS 439.986.

24 **Sec. 6.** NRS 453.3385 is hereby amended to read as follows:

25 453.3385 **1.** Except as otherwise authorized by the provisions
26 of NRS 453.011 to 453.552, inclusive, *and sections 1.2 to 1.5,*
27 *inclusive, of this act,* a person who knowingly or intentionally sells,
28 manufactures, delivers or brings into this State or who is knowingly
29 or intentionally in actual or constructive possession of
30 flunitrazepam, gamma-hydroxybutyrate, any substance for which
31 flunitrazepam or gamma-hydroxybutyrate is an immediate precursor
32 or any controlled substance which is listed in schedule I, except
33 marijuana, or any mixture which contains any such controlled
34 substance, shall be punished, unless a greater penalty is provided
35 pursuant to NRS 453.322, if the quantity involved:

36 ~~1-1~~ (a) Is 4 grams or more, but less than 14 grams, for a
37 category B felony by imprisonment in the state prison for a
38 minimum term of not less than 1 year and a maximum term of not
39 more than 6 years and by a fine of not more than \$50,000.

40 ~~1-2~~ (b) Is 14 grams or more, but less than 28 grams, for a
41 category B felony by imprisonment in the state prison for a
42 minimum term of not less than 2 years and a maximum term of not
43 more than 15 years and by a fine of not more than \$100,000.

44 ~~1-3~~ (c) Is 28 grams or more, for a category A felony by
45 imprisonment in the state prison:



~~[(a)]~~ (1) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

~~[(b)]~~ (2) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served, and by a fine of not more than \$500,000.

2. As used in this section, "marijuana" does not include concentrated cannabis.

Sec. 7. NRS 453.339 is hereby amended to read as follows:

453.339 1. Except as otherwise provided in NRS 453.011 to 453.552, inclusive, *and sections 1.2 to 1.5, inclusive, of this act*, a person who knowingly or intentionally sells, manufactures, delivers or brings into this State or who is knowingly or intentionally in actual or constructive possession of marijuana shall be punished, if the quantity involved:

(a) Is 100 pounds or more, but less than 2,000 pounds, for a category C felony as provided in NRS 193.130 and by a fine of not more than \$25,000.

(b) Is 2,000 pounds or more, but less than 10,000 pounds, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years and by a fine of not more than \$50,000.

(c) Is 10,000 pounds or more, for a category A felony by imprisonment in the state prison:

(1) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served; or

(2) For a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served,

and by a fine of not more than \$200,000.

2. For the purposes of this section:

(a) "Marijuana" means all parts of any plant of the genus Cannabis, whether growing or not. *The term does not include concentrated cannabis.*

(b) The weight of marijuana is its weight when seized or as soon as practicable thereafter.

Sec. 8. NRS 453.3393 is hereby amended to read as follows:

453.3393 1. A person shall not knowingly or intentionally manufacture, grow, plant, cultivate, harvest, dry, propagate or process marijuana, except as specifically authorized by the provisions of this chapter or chapter 453A of NRS.

2. Unless a greater penalty is provided in *subsection 3 or* NRS 453.339, a person who violates subsection 1, if the quantity involved is more than 12 marijuana plants, irrespective of whether the marijuana plants are mature or immature, is guilty of a category E felony and shall be punished as provided in NRS 193.130.



3. *A person shall not knowingly or intentionally extract concentrated cannabis, except as specifically authorized by the provisions of chapter 453A of NRS. Unless a greater penalty is provided in NRS 453.339, a person who violates this subsection is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

4. In addition to any punishment imposed pursuant to ~~[subsection 2.]~~ *this section*, the court shall order a person convicted of a violation of ~~[subsection 1.]~~ *this section* to pay all costs associated with any necessary cleanup and disposal related to the manufacturing, growing, planting, cultivation, harvesting, drying, propagation or processing of the marijuana ~~[.]~~ *or the extraction of concentrated cannabis.*

Sec. 9. NRS 453.401 is hereby amended to read as follows:

453.401 1. Except as otherwise provided in subsections 3 and 4, if two or more persons conspire to commit an offense which is a felony under the Uniform Controlled Substances Act or conspire to defraud the State of Nevada or an agency of the State in connection with its enforcement of the Uniform Controlled Substances Act, and one of the conspirators does an act in furtherance of the conspiracy, each conspirator:

(a) For a first offense, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

(b) For a second offense, or if, in the case of a first conviction of violating this subsection, the conspirator has previously been convicted of a felony under the Uniform Controlled Substances Act or of an offense under the laws of the United States or of any state, territory or district which if committed in this State, would amount to a felony under the Uniform Controlled Substances Act, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

(c) For a third or subsequent offense, or if the conspirator has previously been convicted two or more times of a felony under the Uniform Controlled Substances Act or of an offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to a felony under the Uniform Controlled Substances Act, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$20,000 for each offense.

2. Except as otherwise provided in subsection 3, if two or more persons conspire to commit an offense in violation of the Uniform



Controlled Substances Act and the offense does not constitute a felony, and one of the conspirators does an act in furtherance of the conspiracy, each conspirator shall be punished by imprisonment, or by imprisonment and fine, for not more than the maximum punishment provided for the offense which they conspired to commit.

3. If two or more persons conspire to possess more than 1 ounce of marijuana unlawfully, except for the purpose of sale, and one of the conspirators does an act in furtherance of the conspiracy, each conspirator is guilty of a gross misdemeanor.

4. If the conspiracy subjects the conspirators to criminal liability under NRS 207.400, the persons so conspiring shall be punished in the manner provided in NRS 207.400.

5. The court shall not grant probation to or suspend the sentence of a person convicted of violating this section and punishable pursuant to paragraph (b) or (c) of subsection 1.

6. As used in this section, "marijuana" does not include concentrated cannabis.

Sec. 10. NRS 453.5531 is hereby amended to read as follows:

453.5531 1. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving marijuana, to a civil penalty in an amount:

(a) Not to exceed \$350,000, if the quantity involved is 100 pounds or more, but less than 2,000 pounds.

(b) Not to exceed \$700,000, if the quantity involved is 2,000 pounds or more, but less than 10,000 pounds.

(c) Not to exceed \$1,000,000, if the quantity involved is 10,000 pounds or more.

2. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving a controlled substance, except marijuana, which is listed in schedule I or a substitute therefor, to a civil penalty in an amount:

(a) Not to exceed \$350,000, if the quantity involved is 4 grams or more, but less than 14 grams.

(b) Not to exceed \$700,000, if the quantity involved is 14 grams or more, but less than 28 grams.

(c) Not to exceed \$1,000,000, if the quantity involved is 28 grams or more.

3. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving a controlled substance which is listed in schedule II or III or a substitute therefor, to a civil penalty in an amount:

(a) Not to exceed \$350,000, if the quantity involved is 28 grams or more, but less than 200 grams.



(b) Not to exceed \$700,000, if the quantity involved is 200 grams or more, but less than 400 grams.

(c) Not to exceed \$1,000,000, if the quantity involved is 400 grams or more.

4. Unless a greater civil penalty is authorized by another provision of this section, the State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving any act or transaction in violation of the provisions of NRS 453.3611 to 453.3648, inclusive, to a civil penalty in an amount not to exceed \$350,000.

5. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving any act or transaction in violation of the provisions of NRS 453.324, 453.354, 453.355 or 453.357, to a civil penalty in an amount not to exceed \$250,000 for each violation.

6. As used in this section, "marijuana" does not include concentrated cannabis.

Sec. 11. Chapter 453A of NRS is hereby amended by adding thereto the provisions set forth as sections 12 and 13 of this act.

Sec. 12. *"Letter of approval" means a document issued by the Division to an applicant who is under 10 years of age pursuant to NRS 453A.220 which provides that the applicant is exempt from state prosecution for engaging in the medical use of marijuana.*

Sec. 13. 1. *Except as otherwise provided in this section and NRS 453A.300, a person who holds a valid letter of approval issued pursuant to NRS 453A.220 is exempt from state prosecution for:*

(a) Possession of marijuana;

(b) Possession of paraphernalia;

(c) Any combination of the acts described in paragraphs (a) and (b); and

(d) Any other criminal offense in which the possession of marijuana or paraphernalia is an element.

2. *The exemption from state prosecution set forth in subsection 1 applies only to the extent that the person who holds a letter of approval:*

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

(b) Does not, at any one time, collectively possess with his or her designated primary caregiver an amount of marijuana for medical purposes that exceeds the limits set forth in NRS 453A.200.



3. As used in this section, “marijuana” includes, without limitation, edible marijuana products and marijuana-infused products.

Sec. 14. 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 section 12 of this act* have the meanings ascribed to them in those sections.

Sec. 15. NRS 453A.116 is hereby amended to read as follows:
453A.116 “Medical marijuana establishment” means:
1. An independent testing laboratory;
2. A cultivation facility;
3. A facility for the production of edible marijuana products or marijuana-infused products; *or*
4. A medical marijuana dispensary . ~~§ or~~

~~—5. A business that has registered with the Division and paid the requisite fees to act as more than one of the types of businesses listed in subsections 2, 3 and 4.]~~

Sec. 16. NRS 453A.200 is hereby amended to read as follows:
453A.200 1. Except as otherwise provided in this section and NRS 453A.300, a person who holds a valid registry identification card issued to the person pursuant to NRS 453A.220 or 453A.250 is exempt from state prosecution for:

- (a) Possession, delivery or production of marijuana;
- (b) Possession or delivery of paraphernalia;
- (c) Aiding and abetting another in the possession, delivery or production of marijuana;
- (d) Aiding and abetting another in the possession or delivery of paraphernalia;
- (e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and
- (f) Any other criminal offense in which the possession, delivery or production of marijuana or the possession or delivery of paraphernalia is an element.

2. In addition to the provisions of subsections 1 and 5, 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. The exemption from state prosecution set forth in subsection 1 applies only to the extent that a person 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~~ a person's chronic or debilitating medical condition; and

(b) Do not, at any one time, collectively possess ~~H~~ with another who is authorized to possess, deliver or produce more than:

(1) Two and one-half ounces of usable marijuana in any one 14-day period;

(2) Twelve marijuana plants, irrespective of whether the marijuana plants are mature or immature; and

(3) A maximum allowable quantity of edible marijuana products and marijuana-infused products as established by regulation of the Division.

↪ The persons described in this subsection must ensure that the usable marijuana and marijuana plants described in this subsection are safeguarded in an enclosed, secure location.

4. If the persons described in subsection 3 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.

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

5. A person who holds a valid medical marijuana establishment registration certificate issued to the person pursuant to NRS 453A.322 or a valid medical marijuana establishment agent registration card issued to the person pursuant to NRS 453A.332, and who confines his or her activities to those authorized by NRS 453A.320 to 453A.370, inclusive, and the regulations adopted by the Division pursuant thereto, is exempt from state prosecution for:

(a) Possession, delivery or production of marijuana;

(b) Possession or delivery of paraphernalia;

(c) Aiding and abetting another in the possession, delivery or production of marijuana;

(d) Aiding and abetting another in the possession or delivery of paraphernalia;

(e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and

(f) Any other criminal offense in which the possession, delivery or production of marijuana or the possession or delivery of paraphernalia is an element.

6. Notwithstanding any other provision of law and except as otherwise provided in this subsection, after a medical marijuana dispensary opens in the county of residence of a person who holds a



1 registry identification card ~~{or his or her}~~ , *including, without*
2 *limitation, a* designated primary caregiver, ~~{if any,}~~ such ~~{persons~~
3 ~~are}~~ *a person is* not authorized to cultivate, grow or produce
4 marijuana. The provisions of this subsection do not apply if:

5 (a) The person who holds the registry identification card ~~{or his~~
6 ~~or her designated primary caregiver, if any,}~~ was cultivating,
7 growing or producing marijuana in accordance with this chapter on
8 or before July 1, 2013;

9 (b) All the medical marijuana dispensaries in the county of
10 residence of the person who holds the registry identification card ~~{or~~
11 ~~his or her designated primary caregiver, if any,}~~ close or are unable
12 to supply the quantity or strain of marijuana necessary for the
13 medical use of the person to treat his or her specific medical
14 condition;

15 (c) Because of illness or lack of transportation, the person who
16 holds the registry identification card ~~{and his or her designated~~
17 ~~primary caregiver, if any, are}~~ *is* unable reasonably to travel to a
18 medical marijuana dispensary; or

19 (d) No medical marijuana dispensary was operating within 25
20 miles of the residence of the person who holds the registry
21 identification card at the time the person first applied for his or her
22 registry identification card.

23 7. As used in this section, “marijuana” includes, without
24 limitation, edible marijuana products and marijuana-infused
25 products.

26 **Sec. 17.** NRS 453A.210 is hereby amended to read as follows:

27 453A.210 1. The Division shall establish and maintain a
28 program for the issuance of registry identification cards *and letters*
29 *of approval* to persons who meet the requirements of this section.

30 2. Except as otherwise provided in subsections 3 and 5 and
31 NRS 453A.225, the Division or its designee shall issue a registry
32 identification card to a person who is a resident of this State and
33 who submits an application on a form prescribed by the Division
34 accompanied by the following:

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

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

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

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

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



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

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

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

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

(2) A written, signed statement from the person's attending physician in which the attending physician approves of the designation of the primary caregiver; and

(f) If the person elects to designate a medical marijuana dispensary at the time of application, the name of the medical marijuana dispensary.

3. The Division or its designee shall issue a registry identification card to a person who is ~~under~~ *at least 10 years of age but less than 18 years of age or a letter of approval to a person who is less than 10 years of age* if:

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

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

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

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

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

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

4. The form prescribed by the Division to be used by a person applying for a registry identification card *or letter of approval* 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:



- 1 (a) Record on the application the date on which it was received;
2 (b) Retain one copy of the application for the records of the
3 Division; and
4 (c) Distribute the other four copies of the application in the
5 following manner:
6 (1) One copy to the person who submitted the application;
7 (2) One copy to the applicant's designated primary caregiver,
8 if any;
9 (3) One copy to the Central Repository for Nevada Records
10 of Criminal History; and
11 (4) One copy to:
12 (I) If the attending physician of the applicant is licensed
13 to practice medicine pursuant to the provisions of chapter 630 of
14 NRS, the Board of Medical Examiners; or
15 (II) If the attending physician of the applicant is licensed
16 to practice osteopathic medicine pursuant to the provisions of
17 chapter 633 of NRS, the State Board of Osteopathic Medicine.
18 ➤ The Central Repository for Nevada Records of Criminal History
19 shall report to the Division its findings as to the criminal history, if
20 any, of an applicant within 15 days after receiving a copy of an
21 application pursuant to subparagraph (3) of paragraph (c). The
22 Board of Medical Examiners or the State Board of Osteopathic
23 Medicine, as applicable, shall report to the Division its findings as to
24 the licensure and standing of the applicant's attending physician
25 within 15 days after receiving a copy of an application pursuant to
26 subparagraph (4) of paragraph (c).
27 5. The Division shall verify the information contained in an
28 application submitted pursuant to this section and shall approve or
29 deny an application within 30 days after receiving the application.
30 The Division may contact an applicant, the applicant's attending
31 physician and designated primary caregiver, if any, by telephone to
32 determine that the information provided on or accompanying the
33 application is accurate. The Division may deny an application only
34 on the following grounds:
35 (a) The applicant failed to provide the information required
36 pursuant to subsections 2 and 3 to:
37 (1) Establish the applicant's chronic or debilitating medical
38 condition; or
39 (2) Document the applicant's consultation with an attending
40 physician regarding the medical use of marijuana in connection with
41 that condition;
42 (b) The applicant failed to comply with regulations adopted by
43 the Division, including, without limitation, the regulations adopted
44 by the Administrator pursuant to NRS 453A.740;



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

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

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

(f) The Division has prohibited the applicant from obtaining or using a registry identification card *or letter of approval* pursuant to subsection 2 of NRS 453A.300;

(g) The Division determines that the applicant, or the applicant's designated primary caregiver, if applicable, has had a registry identification card *or letter of approval* revoked pursuant to NRS 453A.225; or

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

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

7. A person whose application has been denied may not reapply for 6 months after the date of the denial, unless the 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 *or letter of approval* 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 *or letter of approval* upon the presentation to a law enforcement officer of the copy of the application provided to him or her pursuant to subsection 4.



1 9. As used in this section, “resident” has the meaning ascribed
2 to it in NRS 483.141.

3 **Sec. 18.** NRS 453A.220 is hereby amended to read as follows:

4 453A.220 1. If the Division approves an application pursuant
5 to subsection 5 of NRS 453A.210, the Division or its designee shall,
6 as soon as practicable after the Division approves the application:

7 (a) Issue a *letter of approval or* serially numbered registry
8 identification card, *as applicable*, to the applicant; and

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

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

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

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

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

20 (d) The name of the applicant’s designated medical marijuana
21 dispensary, if any;

22 (e) Whether the applicant is authorized to cultivate, grow or
23 produce marijuana pursuant to subsection 6 of NRS 453A.200; and

24 (f) Any other information prescribed by regulation of the
25 Division.

26 3. *A letter of approval issued pursuant to paragraph (a) of*
27 *subsection 1 must set forth:*

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

29 (b) *The date of issuance and date of expiration of the registry*
30 *identification card of the designated primary caregiver;*

31 (c) *The name and address of the applicant’s designated*
32 *primary caregiver;*

33 (d) *The name of the applicant’s designated medical marijuana*
34 *dispensary, if any; and*

35 (e) *Any other information prescribed by regulation of the*
36 *Division.*

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

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

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

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



(d) The name of the designated primary caregiver's designated medical marijuana dispensary, if any;

(e) Whether the designated primary caregiver is authorized to cultivate, grow or produce marijuana pursuant to subsection 6 of NRS 453A.200; and

(f) Any other information prescribed by regulation of the Division.

~~4.1~~ 5. Except as otherwise provided in NRS 453A.225, subsection 3 of NRS 453A.230 and subsection 2 of NRS 453A.300, a registry identification card *or letter of approval* 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. 19. 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 *or letter of approval* 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 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 *or letter of approval* 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 *or letter of approval* pursuant to this section:

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



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

4. The decision of the Division to revoke a registry identification card *or letter of approval* pursuant to this section is a final decision for the purposes of judicial review.

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

Sec. 20. NRS 453A.230 is hereby amended to read as follows:

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

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

(b) Submit annually to the Division:

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

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

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

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

(2) If the person elects to designate a primary caregiver for the subsequent year and the primary caregiver so designated was not the person's designated primary caregiver during the previous year:

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

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

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



3. If a person fails to comply with the provisions of subsection 1 or 2, the registry identification card *or letter of approval* issued to the person shall be deemed expired. If the registry identification card *or letter of approval* of a person to whom the Division or its designee issued the card *or letter* 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 *or letter of approval* pursuant to this subsection:

(a) The Division shall send, by certified mail, return receipt requested, notice to the person whose registry identification card *or letter of approval* 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 *or letter of approval* to the Division within 7 days after receiving the notice sent pursuant to paragraph (a).

Sec. 21. NRS 453A.240 is hereby amended to read as follows:

453A.240 If a person to whom the Division or its designee has issued a registry identification card *or letter of approval* pursuant to paragraph (a) of subsection 1 of NRS 453A.220 is diagnosed by the person's attending physician as no longer having a chronic or debilitating medical condition, the person *shall return his or her registry identification card or letter of approval* and his or her designated primary caregiver, if any, shall return ~~their~~ *his or her* registry identification ~~cards~~ *card* to the Division within 7 days after notification of the diagnosis.

Sec. 22. 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 letter of approval* or to whom the Division or its designee has issued a registry identification card *or letter of approval* pursuant to paragraph (a) of subsection 1 of NRS 453A.220 desires *or is required* 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 *or letter of approval* 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 designated primary caregiver 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 ~~§~~ *or letter of approval*, 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. 23. NRS 453A.300 is hereby amended to read as follows:

453A.300 1. A person who holds a registry identification card *or letter of approval* 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:

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

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

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

(d) Possessing marijuana in violation of NRS 453.336 or possessing paraphernalia in violation of NRS 453.560 or 453.566 ~~§~~ *§*:

(1) *If* the possession of the marijuana or paraphernalia is discovered because the person engaged or assisted in the medical use of marijuana in:

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

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

(2) *If the possession of the marijuana or paraphernalia occurs on school property.*

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

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

2. Except as otherwise provided in NRS 453A.225 and in addition to any other penalty provided by law, if the Division determines that a person has willfully violated a provision of this



chapter or any regulation adopted by the Division to carry out the provisions of this chapter, the Division may, at its own discretion, prohibit the person from obtaining or using a registry identification card *or letter of approval* for a period of up to 6 months.

3. As used in this section, “school property” means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

Sec. 24. NRS 453A.310 is hereby amended to read as follows:

453A.310 1. Except as otherwise provided in this section and NRS 453A.300, it is an affirmative defense to a criminal charge of possession, delivery or production of marijuana, or any other criminal offense in which possession, delivery or production of marijuana is an element, that the person charged with the offense:

(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 or produces marijuana only in the amount described in paragraph (b) of subsection 3 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; or

(b) Is a person who:

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

(2) Possesses, delivers or produces marijuana only in the amount described in paragraph (b) of subsection 3 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.

2. A person need not hold a registry identification card *or letter of approval* 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



1 with a crime pertaining to the medical use of marijuana is not
2 precluded from:

3 (a) Asserting a defense of medical necessity; or

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

6 ➤ if the amount of marijuana at issue is not greater than the amount
7 described in paragraph (b) of subsection 3 of NRS 453A.200 and the
8 person has taken steps to comply substantially with the provisions of
9 this chapter.

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

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

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

18 ➤ A defendant who fails to provide notice of his or her intent to
19 claim an affirmative defense as required pursuant to this subsection
20 may not assert the affirmative defense at trial unless the court, for
21 good cause shown, orders otherwise.

22 **Sec. 25.** NRS 453A.340 is hereby amended to read as follows:

23 453A.340 The following acts constitute grounds for immediate
24 revocation of a medical marijuana establishment registration
25 certificate:

26 1. Dispensing, delivering or otherwise transferring marijuana
27 to a person other than a medical marijuana establishment agent,
28 another medical marijuana establishment, a ~~{patient}~~ *person* who
29 holds a valid registry identification card ~~{or the}~~, *including, without*
30 *limitation, a* designated primary caregiver. ~~{of such a patient.}~~

31 2. Acquiring usable marijuana or mature marijuana plants from
32 any person other than a medical marijuana establishment agent,
33 another medical marijuana establishment, a ~~{patient}~~ *person* who
34 holds a valid registry identification card ~~{or the}~~, *including, without*
35 *limitation, a* designated primary caregiver. ~~{of such a patient.}~~

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

39 **Sec. 26.** NRS 453A.342 is hereby amended to read as follows:

40 453A.342 The following acts constitute grounds for the
41 immediate revocation of the medical marijuana establishment agent
42 registration card of a medical marijuana establishment agent:

43 1. Having committed or committing any excluded felony
44 offense.



2. Dispensing, delivering or otherwise transferring marijuana to a person other than a medical marijuana establishment agent, another medical marijuana establishment, a ~~[patient]~~ *person* who holds a valid registry identification card ~~[or the]~~, *including without limitation, a* 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 agent registration card.

Sec. 27. NRS 453A.352 is hereby amended to read as follows:

453A.352 1. The operating documents of a medical marijuana establishment must include procedures:

(a) For the oversight of the medical marijuana establishment; and

(b) To ensure accurate recordkeeping, including, without limitation, the provisions of NRS 453A.354 and 453A.356.

2. Except as otherwise provided in this subsection, a medical marijuana establishment:

(a) That is a medical marijuana dispensary must have a single entrance for patrons, which must be secure, and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

(b) That is not a medical marijuana dispensary must have a single secure entrance and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

↪ The provisions of this subsection do not supersede any state or local requirements relating to minimum numbers of points of entry or exit, or any state or local requirements relating to fire safety.

3. A medical marijuana establishment is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to:

(a) Directly or indirectly assist patients who possess valid registry identification cards; and

(b) Assist patients who possess valid registry identification cards *or letters of approval* by way of those patients' designated primary caregivers.

↪ For the purposes of this subsection, a person shall be deemed to be a patient who possesses a valid registry identification card *or letter of approval* if he or she qualifies for nonresident reciprocity pursuant to NRS 453A.364.

4. All cultivation or production of marijuana that a cultivation facility carries out or causes to be carried out must take place in an enclosed, locked facility at the physical address provided to the Division during the registration process for the cultivation facility.



Such an enclosed, locked facility must be accessible only by medical marijuana establishment agents who are lawfully associated with the cultivation facility, except that limited access by persons necessary to perform construction or repairs or provide other labor is permissible if such persons are supervised by a medical marijuana establishment agent.

5. A medical marijuana dispensary and a cultivation facility may acquire usable marijuana or marijuana plants from a ~~[patient]~~ *person* who holds a valid registry identification card, ~~[or the]~~ , *including, without limitation, a designated primary caregiver . [of such a patient.]* Except as otherwise provided in this subsection, the patient or caregiver, as applicable, must receive no compensation for the marijuana. A patient who holds a valid registry identification card, and the designated primary caregiver of such a patient, *or the designated primary caregiver of a person who holds a letter of approval* may sell usable marijuana to a medical marijuana dispensary one time and may sell marijuana plants to a cultivation facility one time.

6. A medical marijuana establishment shall not allow any person to consume marijuana on the property or premises of the establishment.

7. Medical marijuana establishments are subject to reasonable inspection by the Division at any time, and a person who holds a medical marijuana establishment registration certificate must make himself or herself, or a designee thereof, available and present for any inspection by the Division of the establishment.

Sec. 28. NRS 453A.364 is hereby amended to read as follows:

453A.364 1. The State of Nevada and the medical marijuana dispensaries in this State which hold valid medical marijuana establishment registration certificates will recognize a nonresident card only under the following circumstances:

(a) The state or jurisdiction from which the holder or bearer obtained the nonresident card grants an exemption from criminal prosecution for the medical use of marijuana;

(b) The state or jurisdiction from which the holder or bearer obtained the nonresident card requires, as a prerequisite to the issuance of such a card, that a physician advise the person that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition;

(c) The nonresident card has an expiration date and has not yet expired;

(d) The holder or bearer of the nonresident card signs an affidavit in a form prescribed by the Division which sets forth that the holder or bearer is entitled to engage in the medical use of marijuana in his or her state or jurisdiction of residence; and



(e) The holder or bearer of the nonresident card agrees to abide by, and does abide by, the legal limits on the possession of marijuana for medical purposes in this State, as set forth in NRS 453A.200.

2. For the purposes of the reciprocity described in this section:

(a) The amount of medical marijuana that the holder or bearer of a nonresident card is entitled to possess in his or her state or jurisdiction of residence is not relevant; and

(b) Under no circumstances, while in this State, may the holder or bearer of a nonresident card possess marijuana for medical purposes in excess of the limits set forth in NRS 453A.200.

3. As used in this section, “nonresident card” means a card or other identification that:

(a) Is issued by a state or jurisdiction other than Nevada; and

(b) Is the functional equivalent of a registry identification card **or letter of approval**, as determined by the Division.

Sec. 29. NRS 453A.366 is hereby amended to read as follows:

453A.366 1. A patient who holds a valid registry identification card **or letter of approval** and his or her designated primary caregiver, if any, may select one medical marijuana dispensary to serve as his or her designated medical marijuana dispensary at any one time.

2. A patient who designates a medical marijuana dispensary as described in subsection 1:

(a) Shall communicate the designation to the Division within the time specified by the Division.

(b) May change his or her designation not more than once in a 30-day period.

Sec. 30. 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 **or letters of approval**.

(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 *or letter of approval* 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, ~~for the~~ *including, without limitation, a* designated primary caregiver, ~~for such a person,~~ in any one 14-day period. Such an amount must not exceed the limits set forth in NRS 453A.200.

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

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

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

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

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



7. Establish different categories of medical marijuana establishment agent registration cards, including, without limitation, criteria for training and certification, for each of the different types of medical marijuana establishments at which such an agent may be employed or volunteer.

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

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

Sec. 31. NRS 453A.400 is hereby amended to read as follows:

453A.400 1. The fact that a person possesses a registry identification card *or letter of approval* issued to the person by the Division or its designee pursuant to NRS 453A.220 or 453A.250, a medical marijuana establishment registration certificate issued to the person by the Division or its designee pursuant to NRS 453A.322 or a medical marijuana establishment agent registration card issued to the person by the Division or its designee pursuant to NRS 453A.332 does not, alone:

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

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

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

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

(b) Any property interest of the person from whom the marijuana, 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, paraphernalia or other related property was seized, or the district attorney's designee, that the person from whom the marijuana, 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]~~:

(1) A decision not to prosecute;



(2) *The dismissal of charges; or*

(3) *Acquittal,*

↳ *the* law enforcement agency shall ~~immediately~~, *to the extent permitted by law*, return to that person any usable marijuana, marijuana plants, 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. For the purposes of paragraph (c) of subsection 2, 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. 32. NRS 453A.500 is hereby amended to read as follows:

453A.500 The Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, shall not take any disciplinary action against an attending physician on the basis that the attending physician:

1. Advised a person whom the attending physician has diagnosed as having a chronic or debilitating medical condition, or a person whom the attending physician knows has been so diagnosed by another physician licensed to practice medicine pursuant to the provisions of chapter 630 of NRS or licensed to practice osteopathic medicine pursuant to the provisions of chapter 633 of NRS:

(a) About the possible risks and benefits of the medical use of marijuana; or

(b) That the medical use of marijuana may mitigate the symptoms or effects of the person's chronic or debilitating medical condition,

↳ if the advice is based on the attending physician's personal assessment of the person's medical history and current medical condition.

2. Provided the written documentation required pursuant to paragraph (a) of subsection 2 of NRS 453A.210 for the issuance of a registry identification card *or letter of approval* or pursuant to subparagraph (1) of paragraph (b) of subsection 1 of NRS 453A.230 for the renewal of a registry identification card ~~or~~ *or letter of approval* if:

(a) Such documentation is based on the attending physician's personal assessment of the person's medical history and current medical condition; and



(b) The physician has advised the person about the possible risks and benefits of the medical use of marijuana.

Sec. 33. 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 *or letter of approval* issued to him or her pursuant to paragraph (a) of subsection 1 of NRS 453A.220.

Sec. 34. NRS 453A.700 is hereby amended to read as follows:

453A.700 1. Except as otherwise provided in this section, NRS 239.0115 and subsection 4 of NRS 453A.210, the Division ~~[and any designee of the Division shall maintain the confidentiality of and]~~ shall not disclose:

(a) The contents of any ~~[applications, records or other written documentation that]~~ *tool used by* the Division ~~[or its designee creates or receives pursuant to the provisions of this chapter; or]~~ *to evaluate an applicant or its affiliate.*

(b) *Any information, documents or communications provided to the Division by an applicant or its affiliate pursuant to the provisions of this chapter, without the prior written consent of the applicant or affiliate or pursuant to a lawful court order after timely notice of the proceedings has been given to the applicant or affiliate.*

(c) The name or any other identifying information of:

(1) An attending physician; or

(2) A person who has applied for or to whom the Division or its designee has issued a registry identification card ~~[]~~ *or letter of approval.*

↳ Except as otherwise provided in NRS 239.0115, the items of information described in this subsection are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

2. Notwithstanding the provisions of subsection 1, the Division or its designee may release the name and other identifying information of a person to whom the Division or its designee has issued a registry identification card *or letter of approval* to:

(a) Authorized employees of the Division or its designee as necessary to perform official duties of the Division; and

(b) Authorized employees of state and local law enforcement agencies, only as necessary to verify that a person is the lawful



holder of a registry identification card *or letter of approval* issued to him or her pursuant to NRS 453A.220 or 453A.250.

Sec. 35. 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 ~~it~~ *issue a registry identification card or letter of approval or*, 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 *or letter of approval* 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. *That if the Division issues a registry identification card pursuant to subsection 1, the Division may charge and collect any fee authorized for the issuance of an identification card described in NRS 483.810 to 483.890, inclusive.*

3. Fees for:

(a) Providing to an applicant an application for a registry identification card ~~it~~ *or letter of approval*, which fee must not exceed \$25; and

(b) Processing and issuing a registry identification card ~~it~~ *or letter of approval*, which fee must not exceed \$75.

Sec. 36. 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 service to pay for or reimburse a person for costs associated with the medical use of marijuana.

2. Require any employer to allow the medical use of marijuana in the workplace.



1 3. ~~Require~~ *Except as otherwise provided in subsection 4,*
2 *require* an employer to modify the job or working conditions of a
3 person who engages in the medical use of marijuana that are based
4 upon the reasonable business purposes of the employer but the
5 employer must attempt to make reasonable accommodations for the
6 medical needs of an employee who engages in the medical use of
7 marijuana if the employee holds a valid registry identification card,
8 provided that such reasonable accommodation would not:

9 (a) Pose a threat of harm or danger to persons or property or
10 impose an undue hardship on the employer; or

11 (b) Prohibit the employee from fulfilling any and all of his or
12 her job responsibilities.

13 4. *Prohibit a law enforcement agency from adopting policies*
14 *and procedures that preclude an employee from engaging in the*
15 *medical use of marijuana.*

16 5. *As used in this section, “law enforcement agency” means:*

17 (a) *The Office of the Attorney General, the office of a district*
18 *attorney within this State or the State Gaming Control Board and*
19 *any attorney, investigator, special investigator or employee who is*
20 *acting in his or her professional or occupational capacity for such*
21 *an office or the State Gaming Control Board; or*

22 (b) *Any other law enforcement agency within this State and*
23 *any peace officer or employee who is acting in his or her*
24 *professional or occupational capacity for such an agency.*

25 **Sec. 37.** This act becomes effective on July 1, 2015.

