

Amendment No. 270

Senate Amendment to Senate Bill No. 236

(BDR 20-43)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

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: 4/21/2017

S.B. No. 236—Requires a license or permit issued by a local government to operate certain businesses in which the use of marijuana is allowed or to allow the use of marijuana at certain events. (BDR 20-43)



SENATE BILL NO. 236—SENATOR SEGERBLOM

MARCH 6, 2017

Referred to Committee on Judiciary

SUMMARY—Requires a license or permit issued by a local government to operate certain businesses in which the use of marijuana is allowed or to allow the use of marijuana at certain events. (BDR 20-43)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to marijuana; authorizing a county or city to require a person who wishes to operate a business in which the use of marijuana is allowed or to hold a special event at which the use of marijuana is allowed to obtain a license or permit; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) exempts a person who holds a valid registry identification card or letter of approval from state prosecution for possession, delivery and production of marijuana; and (2) generally decriminalizes the purchase, possession and use of marijuana and marijuana paraphernalia for persons who are 21 years of age or older. (NRS 453A.200, 453A.250, 453D.110, 453D.130) Existing law also generally authorizes the regulation, taxation and licensing of businesses by local governments. (NRS 244.335-244.3525, 268.090-268.0975) **Section 1** of this bill authorizes the board of county commissioners of each county to adopt an ordinance which requires a person who wishes to operate a business in which the use of marijuana is allowed or hold a special event at which the use of marijuana is allowed in an unincorporated area of the county to obtain a license or permit, respectively, before operating the business or holding the special event. **Section 1** establishes requirements for the operation of such a business or holding of such a special event. **Section 1** allows the board of county commissioners to establish and collect a fee for such a license or permit that does not exceed the fee charged for similar businesses or special events. ~~[Section 1 prohibits a board of county commissioners from arbitrarily limiting the number of licenses or permits issued.]~~ **Section 2** of this bill establishes similar provisions for the governing body of an incorporated city for similar businesses or special events located in the incorporated city.

While existing law generally decriminalizes the purchase, possession and use of marijuana, existing law also prohibits the consumption of marijuana in a public place. (NRS 453A.300, 453D.400) For the purpose of marijuana not for medical use, existing law defines a public place as an area “in which the public is permitted regardless of age.” (NRS 453D.030) **Sections 1 and 2** prohibit the issuance of a license to a business in which the use of marijuana is allowed or a permit to a special event at which the use of marijuana is allowed to a business or special event which allows entry of persons who are less than 21 years of age. ~~[Sections 1 and 2 also exempt from state prosecution for possession, delivery and production of marijuana a person who holds a license or permit or a person who consumes marijuana at a licensed business or permitted special event if the person consumes marijuana in a place which is not~~

~~viewable from any public place. Section 2 of this bill makes a conforming change relating to the medical use of marijuana.~~

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The board of county commissioners of each county may, by ordinance, require each person who wishes to operate a business in which the use of marijuana is allowed or hold a special event at which the use of marijuana is allowed in an unincorporated area of the county to obtain a license issued by the board before the person operates the business or a permit issued by the board before the person holds the special event.*

2. *The ordinance must require each applicant for such a license or permit to submit an application for the license or permit to the board of county commissioners in a form prescribed by the board.*

3. *The board of county commissioners shall not issue a license or permit pursuant to this section if the proposed business in which the use of marijuana is allowed or special event:*

(a) *Would be located on the property of a public airport, within 1,000 feet of a public or private school or within 300 feet of a community facility;*

(b) *Would allow the consumption of marijuana at any place which is viewable from a public place; or*

(c) *Would allow any person who is less than 21 years of age to enter the business or special event.*

4. *The board of county commissioners may:*

(a) *Establish and collect a fee for the issuance or renewal of a license issued pursuant to this section which does not exceed the fee charged for a business license for similar businesses;*

(b) *Establish and collect a fee for the issuance of a permit issued pursuant to this section which does not exceed the fee charged for other special event permits;*

(c) *Grant or deny applications for licenses and permits and impose ~~reasonable~~ conditions, limitations or restrictions upon the license or permit ~~that~~ that are not unreasonably impracticable; and*

(d) *Establish any other requirements necessary to carry out the provisions of this section.*

~~5. The board of county commissioners shall not arbitrarily or unreasonably limit the number of licenses or permits issued pursuant to this section.~~

~~6. A person who holds a license or permit issued pursuant to this section or who consumes marijuana at a business in which the use of marijuana is allowed licensed pursuant to this section or a special event at which the use of marijuana is allowed which has received a permit pursuant to this section in a place which is not viewable from a public place 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.~~

~~7.)~~ As used in this section:

(a) "Business in which the use of marijuana is allowed" means a business which allows marijuana to be consumed on the premises of the business and which is licensed pursuant to this section.

(b) "Community facility" means:

(1) A facility that provides day care services for children.

(2) A public park.

(3) A playground.

(4) A public swimming pool.

(5) A center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents.

(6) A church, synagogue or other building, structure or place used for religious worship or other religious purpose.

(7) A center or facility, the primary purpose of which is the treatment or rehabilitation for the abuse of alcohol or drugs.

(c) "Marijuana" has the meaning ascribed to it in NRS 453.096.

(d) "Paraphernalia" means accessories, devices and other equipment that is necessary or useful for a person to engage in the use of marijuana.

(e) "Special event at which the use of marijuana is allowed" means a special event which allows marijuana to be consumed within the premises of the special event and which is issued a permit pursuant to this section. The term does not include a temporary event held at a location which is designed to hold special events, including, without limitation, concerts, conventions, sporting events or trade shows.

(f) "Unreasonably impracticable" means that the measures necessary to comply with the conditions, limitations or restrictions require such a high investment of risk, money, time or any other resource or asset that the operation of a business in which the use of marijuana is allowed or special event at which the use of marijuana is allowed is not worthy of being carried out in practice by a reasonably prudent businessperson.

Sec. 2. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of an incorporated city in this State, whether organized pursuant to general law or special charter, may, by ordinance, require each person who wishes to operate a business in which the use of marijuana is allowed or hold a special event at which the use of marijuana is allowed in the incorporated city to obtain a license issued by the governing body before the person operates the business or a permit issued by the governing body before the person holds the special event.

2. The ordinance must require each applicant for such a license or permit to submit an application for the license or permit to the governing body of the incorporated city in a form prescribed by the governing body.

3. The governing body of the incorporated city shall not issue a license or permit pursuant to this section if the proposed business in which the use of marijuana is allowed or special event:

(a) Would be located on the property of a public airport, within 1,000 feet of a public or private school or within 300 feet of a community facility;

(b) Would allow the consumption of marijuana at any place which is viewable from a public place; or

(c) Would allow any person who is less than 21 years of age to enter the business or special event.

4. The governing body of the incorporated city may:

(a) Establish and collect a fee for the issuance or renewal of a license issued pursuant to this section which does not exceed the fee charged for a business license for similar businesses;

(b) Establish and collect a fee for the issuance of a permit issued pursuant to this section which does not exceed the fee charged for other special event permits;

(c) Grant or deny applications for licenses and permits and impose ~~reasonable~~ conditions, limitations or restrictions upon the license or permit ~~that~~ that are not unreasonably impracticable; and

(d) Establish any other requirements necessary to carry out the provisions of this section.

~~5. The governing body of the incorporated city shall not arbitrarily or unreasonably limit the number of licenses or permits issued pursuant to this section.~~

~~6. A person who holds a license or permit issued pursuant to this section or who consumes marijuana at a business in which the use of marijuana is allowed licensed pursuant to this section or a special event at which the use of marijuana is allowed which has received a permit pursuant to this section in a place which is not viewable from a public place 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.~~

~~7. As used in this section:~~

(a) "Business in which the use of marijuana is allowed" means a business which allows marijuana to be consumed on the premises of the business and which is licensed pursuant to this section.

(b) "Community facility" means:

(1) A facility that provides day care services for children.

(2) A public park.

(3) A playground.

(4) A public swimming pool.

(5) A center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents.

(6) A church, synagogue or other building, structure or place used for religious worship or other religious purpose.

(7) A center or facility, the primary purpose of which is the treatment or rehabilitation for the abuse of alcohol or drugs.

(c) "Marijuana" has the meaning ascribed to it in NRS 453.096.

(d) *“Paraphernalia” means accessories, devices and other equipment that is necessary or useful for a person to engage in the use of marijuana.*

(e) *“Special event at which the use of marijuana is allowed” means a special event which allows marijuana to be consumed within the premises of the special event and which is issued a permit pursuant to this section. The term does not include a temporary event held at a location which is designed to hold special events, including, without limitation, concerts, conventions, sporting events or trade shows.*

(f) *“Unreasonably impracticable” means that the measures necessary to comply with the conditions, limitations or restrictions require such a high investment of risk, money, time or any other resource or asset that the operation of a business in which the use of marijuana is allowed or special event at which the use of marijuana is allowed is not worthy of being carried out in practice by a reasonably prudent businessperson.*

Sec. 3. ~~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.420, 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:~~

~~(I) [Any] Except as otherwise provided in section 1 or 2 of this act, any public place or in any place open to the public or exposed to public view; or~~

~~(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.) (Deleted by amendment.)~~

Sec. 4. This act becomes effective on July 1, 2017.