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ASSEMBLY BILL NO. 3—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA LEAGUE OF
CITIES AND MUNICIPALITIES)

PREFILED NOVEMBER 15, 2018

Referred to Committee on Judiciary

SUMMARY—Authorizes the Department of Taxation to issue additional licenses for retail marijuana stores and certificates for medical marijuana dispensaries upon the request of a city. (BDR 40-431)

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 the Department of Taxation to issue additional medical marijuana establishment registration certificates for medical marijuana dispensaries located in an incorporated city upon the request of the governing body of the incorporated city; authorizing the Department of Taxation to issue additional licenses to operate a retail marijuana store located in an incorporated city upon the request of the governing body of the incorporated city; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law establishes certain limits on the number of medical marijuana
2 establishment registration certificates issued by the Department of Taxation for the
3 operation of medical marijuana dispensaries in each county or incorporated city.
4 (NRS 453A.324) **Section 1** of this bill authorizes the Department to issue, upon the
5 request of the governing body of an incorporated city, additional medical marijuana
6 establishment registration certificates for the operation of a medical marijuana
7 dispensary within the incorporated city. Similarly, existing law establishes certain
8 limits on the number of licenses issued by the Department of Taxation for the
9 operation of retail marijuana stores in each county unless the county government
10 requests the issuance of additional licenses for the operation of retail marijuana
11 stores. (NRS 453D.210) **Section 3** of this bill similarly authorizes the Department



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to issue, upon the request of the governing body of an incorporated city, additional licenses for the operation of a retail marijuana store within the incorporated city.

Existing law prohibits any one local government in a county whose population is 100,000 or more (currently Clark and Washoe Counties) from containing more than 25 percent of the total number of medical marijuana dispensaries certified in the county unless the board of county commissioners for the county adopts a higher limit. (NRS 453A.326) **Section 2** of this bill exempts medical marijuana establishment registration certificates issued at the request of the governing body of an incorporated city from this limitation.

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

Section 1. NRS 453A.324 is hereby amended to read as follows:

453A.324 1. Except as otherwise provided in this section and NRS 453A.326, the Department shall issue medical marijuana establishment registration certificates for medical marijuana dispensaries in the following quantities for applicants who qualify pursuant to NRS 453A.322:

(a) In a county whose population is 700,000 or more, 40 certificates;

(b) In a county whose population is 100,000 or more but less than 700,000, ten certificates;

(c) In a county whose population is 55,000 or more but less than 100,000, two certificates;

(d) In each other county, one certificate; and

(e) For each incorporated city in a county whose population is less than 100,000, one certificate.

2. Notwithstanding the provisions of subsection 1, the Department:

(a) ~~shall~~ *Except as otherwise provided in this paragraph or paragraph (c), shall* not issue medical marijuana establishment registration certificates for medical marijuana dispensaries in such a quantity as to cause the existence within the applicable county of more than one medical marijuana dispensary for every ten pharmacies that have been licensed in the county pursuant to chapter 639 of NRS. The Department may issue medical marijuana establishment registration certificates for medical marijuana dispensaries in excess of the ratio otherwise allowed pursuant to this paragraph if to do so is necessary to ensure that the Department issues at least one medical marijuana establishment registration certificate in each county of this State and, pursuant to paragraph (e) of subsection 1, each incorporated city of this State in which the Department has approved an application for such an establishment to operate.



(b) Shall, for any county for which no applicants qualify pursuant to NRS 453A.322, within 2 months after the end of the period during which the Department accepts applications pursuant to subsection 5, reallocate the certificates provided for that county pursuant to subsection 1 to the other counties specified in subsection 1 in the same proportion as provided in subsection 1.

(c) May, upon the request of the governing body of an incorporated city and in addition to any medical marijuana establishment registration certificates required to be issued pursuant to subsection 1, issue one or more medical marijuana establishment registration certificates for the operation of a medical marijuana dispensary located within the incorporated city.

3. The Department:

(a) Shall not accept an application for the issuance of a medical marijuana establishment registration certificate pursuant to paragraph (e) of subsection 1 unless the application is accompanied by a letter from the incorporated city in which the proposed medical marijuana dispensary will be located endorsing the issuance of the medical marijuana establishment registration certificate;

(b) May accept such an application at any time if no medical marijuana establishment registration certificate has been issued to a medical marijuana dispensary located in the incorporated city pursuant to paragraph (e) of subsection 1; and

(c) May accept such an application on or before December 31, 2018, only from an applicant who holds a medical marijuana establishment registration certificate.

4. With respect to medical marijuana establishments that are not medical marijuana dispensaries, the Department shall:

(a) Issue a medical marijuana establishment registration certificate to at least one cultivation facility and at least one facility for the production of edible marijuana products or marijuana-infused products in each county; and

(b) Determine the appropriate number of additional such establishments in each county as are necessary to serve and supply the medical marijuana dispensaries to which the Department has granted medical marijuana establishment registration certificates and issue such a number of medical marijuana establishment registration certificates for such establishments in each county.

5. Except as otherwise provided in subsection 3, the Department shall not, for more than a total of 10 business days in any 1 calendar year, accept applications to operate medical marijuana establishments.

Sec. 2. NRS 453A.326 is hereby amended to read as follows:

453A.326 1. Except as otherwise provided in this subsection, in a county whose population is 100,000 or more, the Department



1 shall ensure that not more than 25 percent of the total number of
2 medical marijuana dispensaries that may be certified in the county,
3 ~~as set forth in~~ *pursuant to subsection 1 of* NRS 453A.324, are
4 located in any one local governmental jurisdiction within the
5 county. The board of county commissioners of the county may
6 increase the percentage described in this subsection if it determines
7 that to do so is necessary to ensure that the more populous areas of
8 the county have access to sufficient distribution of marijuana for
9 medical use. *The provisions of this subsection do not apply to*
10 *medical marijuana establishment registration certificates issued*
11 *pursuant to paragraph (c) of subsection 2 of NRS 453A.324.*

12 2. To prevent monopolistic practices, the Department shall
13 ensure, in a county whose population is 100,000 or more, that it
14 does not issue, to any one person, group of persons or entity, the
15 greater of:

16 (a) One medical marijuana establishment registration certificate;
17 or

18 (b) More than 10 percent of the medical marijuana establishment
19 registration certificates otherwise allocable in the county.

20 3. In a local governmental jurisdiction that issues business
21 licenses, the issuance by the Department of a medical marijuana
22 establishment registration certificate shall be deemed to be
23 provisional until such time as:

24 (a) The establishment is in compliance with all applicable local
25 governmental ordinances or rules; and

26 (b) The local government has issued a business license for the
27 operation of the establishment.

28 4. As used in this section, "local governmental jurisdiction"
29 means a city, town, township or unincorporated area within a
30 county.

31 **Sec. 3.** NRS 453D.210 is hereby amended to read as follows:

32 453D.210 1. No later than 12 months after January 1, 2017,
33 the Department shall begin receiving applications for marijuana
34 establishments.

35 2. For 18 months after the Department begins to receive
36 applications for marijuana establishments, the Department shall only
37 accept applications for licenses for retail marijuana stores, marijuana
38 product manufacturing facilities, and marijuana cultivation facilities
39 pursuant to this chapter from persons holding a medical marijuana
40 establishment registration certificate pursuant to chapter 453A of
41 NRS.

42 3. For 18 months after the Department begins to receive
43 applications for marijuana establishments, the Department shall
44 issue licenses for marijuana distributors pursuant to this chapter only
45 to persons holding a wholesale dealer license pursuant to chapter



369 of NRS, unless the Department determines that an insufficient number of marijuana distributors will result from this limitation.

4. Upon receipt of a complete marijuana establishment license application, the Department shall, within 90 days:

(a) Issue the appropriate license if the license application is approved; or

(b) Send a notice of rejection setting forth the reasons why the Department did not approve the license application.

5. The Department shall approve a license application if:

(a) The prospective marijuana establishment has submitted an application in compliance with regulations adopted by the Department and the application fee required pursuant to NRS 453D.230;

(b) The physical address where the proposed marijuana establishment will operate is owned by the applicant or the applicant has the written permission of the property owner to operate the proposed marijuana establishment on that property;

(c) The property is not located within:

(1) One thousand feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12 and that existed on the date on which the application for the proposed marijuana establishment was submitted to the Department; or

(2) Three hundred feet of a community facility that existed on the date on which the application for the proposed marijuana establishment was submitted to the Department;

(d) ~~The~~ *Except as otherwise provided in subsection 6, the* proposed marijuana establishment is a proposed retail marijuana store and there are not more than:

(1) Eighty licenses already issued in a county with a population greater than 700,000;

(2) Twenty licenses already issued in a county with a population that is less than 700,000 but more than 100,000;

(3) Four licenses already issued in a county with a population that is less than 100,000 but more than 55,000; *and*

(4) Two licenses already issued in a county with a population that is less than 55,000;

~~[(5) Upon request of a county government, the Department may issue retail marijuana store licenses in that county in addition to the number otherwise allowed pursuant to this paragraph.];~~

(e) The locality in which the proposed marijuana establishment will be located does not affirm to the Department that the proposed marijuana establishment will be in violation of zoning or land use rules adopted by the locality; and



(f) The persons who are proposed to be owners, officers, or board members of the proposed marijuana establishment:

(1) Have not been convicted of an excluded felony offense; and

(2) Have not served as an owner, officer, or board member for a medical marijuana establishment or a marijuana establishment that has had its registration certificate or license revoked.

6. *Notwithstanding the provisions of paragraph (d) of subsection 5, the Department may, upon the request of the governing body of a county or an incorporated city and in addition to any license applications required to be approved pursuant to paragraph (d) of subsection 5, issue one or more licenses for the operation of a retail marijuana store located within the county or the incorporated city, as applicable.*

7. When competing applications are submitted for a proposed retail marijuana store within a single county, the Department shall use an impartial and numerically scored competitive bidding process to determine which application or applications among those competing will be approved.

Sec. 4. 1. This section and sections 1 and 2 of this act become effective on July 1, 2019.

2. Section 3 of this act becomes effective on November 23, 2019.

