

Amendment No. 648

Assembly Amendment to Senate Bill No. 32 First Reprint	(BDR 32-189)
Proposed by: Assembly Committee on Taxation	
Amends: Summary: No Title: Yes 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.

JFD/BJF



Date: 4/24/2019

S.B. No. 32—Revises provisions relating to the confidentiality and privilege of certain records and files of the Department of Taxation.
(BDR 32-189)



SENATE BILL NO. 32—COMMITTEE ON REVENUE
AND ECONOMIC DEVELOPMENT

(ON BEHALF OF THE DEPARTMENT OF TAXATION)

PREFILED NOVEMBER 16, 2018

Referred to Committee on Revenue and
Economic Development

SUMMARY—Revises provisions relating to the confidentiality and privilege of certain records and files of the Department of Taxation. (BDR 32-189)

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 taxation; revising provisions relating to the confidentiality and privilege of the records and files of the Department of Taxation concerning the administration of certain taxes, fees and assessments, ~~the processing of certain applications~~ and the imposition of disciplinary action; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes confidential and privileged certain records and files of the Department of Taxation concerning the administration and collection of certain taxes, fees and assessments. However, existing law authorizes the disclosure of such records and files of the Department under certain circumstances. (NRS 360.255) **Section 1** of this bill makes confidential and privileged the records and files of the Department concerning the imposition of disciplinary action against a person to whom the Department has issued a license, registration, permit or certificate. Under **section 1**, such records and files of the Department are confidential and privileged to the same extent as the records and files of the Department concerning the administration and collections of taxes, fees and assessments. Finally, **section 1**: (1) authorizes the disclosure of the records and files of the Department concerning the administration of taxes, fees and assessments ~~the processing of applications to operate a marijuana establishment~~; or the imposition of disciplinary action to grand juries, to state and local law enforcement agencies and to local regulatory agencies under certain circumstances; (2) authorizes certain disclosures to any court in this State rather than only to courts of this State; (3) removes the requirement that certain disclosures to federal agencies, state or local law enforcement agencies and local regulatory agencies be made in confidence; and (4) authorizes certain disclosures of information relating to an application to operate a marijuana establishment or a person who is licensed to operate a marijuana establishment, including without limitation, the identity of an applicant and any owner, officer or board member of an applicant, the methodology used to rank applicants for a license to operate a marijuana establishment ~~and the score assigned to applicants~~.

Section 2 of this bill makes a conforming change to authorize the Department to disclose information provided to the Department by an applicant for a license, registration, permit or certificate related to medical marijuana, or an affiliate of such an applicant, when such disclosure is authorized by **section 1**.

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

Section 1. NRS 360.255 is hereby amended to read as follows:

360.255 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, the records and files of the Department concerning the administration or collection of any tax, fee, assessment or other amount required by law to be collected ~~for the processing of an application for a registration certificate to operate a medical marijuana establishment submitted pursuant to chapter 453A of NRS or for a license to operate a marijuana establishment submitted pursuant to chapter 453D of NRS,~~ or the imposition of disciplinary action ~~for~~ are confidential and privileged. The Department, an employee of the Department and any other person engaged in the administration or collection of any tax, fee, assessment or other amount required by law to be collected ~~for the processing of an application for a registration certificate to operate a medical marijuana establishment submitted pursuant to chapter 453A of NRS or for a license to operate a marijuana establishment submitted pursuant to chapter 453D of NRS,~~ or the imposition of disciplinary action ~~for~~ or charged with the custody of any such records or files:

(a) Shall not disclose any information obtained from those records or files; and

(b) May not be required to produce any of the records or files for the inspection of any person or governmental entity or for use in any action or proceeding.

2. The records and files of the Department concerning the administration and collection of any tax, fee, assessment or other amount required by law to be collected ~~for the processing of an application for a registration certificate to operate a medical marijuana establishment submitted pursuant to chapter 453A of NRS or for a license to operate a marijuana establishment submitted pursuant to chapter 453D of NRS,~~ or the imposition of disciplinary action ~~for~~ are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a person in any action or proceeding before the Nevada Tax Commission, the State Board of Equalization, the Department, a grand jury or any court ~~for~~ in this State if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his or her authorized representative of a copy of any document filed by the person pursuant to the provisions of any law of this State.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases, or disclosure ~~in confidence~~ to any federal agency, state or local law enforcement agency or local regulatory agency that requests the information for the use of the agency in a federal, state or local prosecution or criminal, civil or regulatory investigation.

(e) Disclosure in confidence to the Governor or his or her agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit

1 the accounts of the Department in pursuance of an audit, or to the Attorney General
2 or other legal representative of the State in connection with an action or proceeding
3 relating to a taxpayer ~~or~~ *or licensee*, or to any agency of this or any other state
4 charged with the administration or enforcement of laws relating to workers'
5 compensation, unemployment compensation, public assistance, taxation, labor or
6 gaming.

7 (f) Exchanges of information pursuant to an agreement between the Nevada
8 Tax Commission and any county fair and recreation board or the governing body of
9 any county, city or town.

10 (g) Upon written request made by a public officer of a local government,
11 disclosure of the name and address of a taxpayer *or licensee* who must file a return
12 with the Department. The request must set forth the social security number of the
13 taxpayer *or licensee* about which the request is made and contain a statement
14 signed by the proper authority of the local government certifying that the request is
15 made to allow the proper authority to enforce a law to recover a debt or obligation
16 owed to the local government. Except as otherwise provided in NRS 239.0115, the
17 information obtained by the local government is confidential and privileged and
18 may not be used or disclosed for any purpose other than the collection of a debt or
19 obligation owed to that local government. The Executive Director may charge a
20 reasonable fee for the cost of providing the requested information.

21 (h) Disclosure of information as to amounts of any unpaid tax or amounts of
22 tax required to be collected, interest and penalties to successors, receivers, trustees,
23 executors, administrators, assignees and guarantors, if directly interested.

24 (i) Disclosure of relevant information as evidence in an appeal by the taxpayer
25 from a determination of tax due if the Nevada Tax Commission has determined the
26 information is not proprietary or confidential in a hearing conducted pursuant to
27 NRS 360.247.

28 (j) Disclosure of the identity of a person and the amount of tax assessed and
29 penalties imposed against the person at any time after a determination, decision or
30 order of the Executive Director or other officer of the Department imposing upon
31 the person a penalty for fraud or intent to evade a tax imposed by law becomes final
32 or is affirmed by the Nevada Tax Commission.

33 (k) *Disclosure of the identity of a licensee against whom disciplinary action*
34 *has been taken and the type of disciplinary action imposed against the licensee at*
35 *any time after a determination, decision or order of the Executive Director or*
36 *other officer of the Department imposing upon the licensee disciplinary action*
37 *becomes final or is affirmed by the Nevada Tax Commission.*

38 (l) Disclosure of information pursuant to subsection 2 of NRS 370.257.

39 (m) ~~Disclosure of the identity of an applicant.~~ *With respect to an application*
40 *for a registration certificate to operate a medical marijuana establishment*
41 *pursuant to chapter 453A of NRS or a license to operate a marijuana*
42 *establishment pursuant to chapter 453D of NRS [who] which was submitted [the*
43 *application] on or after May 1, 2017, [and any action taken with respect to such*
44 *an application, including, without limitation, the methodology used to score and*
45 *rank applicants and any documentation or other evidence showing how that*
46 *methodology was applied and the final rankings of all applicants, except that the*
47 *Department shall not disclose:*

48 ~~(1) Investigative materials compiled by investigative staff or law~~
49 ~~enforcement, the disclosure of which would likely prejudice the effectiveness of~~
50 ~~law enforcement operations;~~

51 ~~(2) Records, including, without limitation, blueprints, plans, policies,~~
52 ~~procedures, schematic drawings which relate to internal layout and structural~~
53 ~~elements, security measures, emergency preparedness, threat or vulnerability~~

~~assessments or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation, cybersecurity or other infrastructure located within this State if, in the reasonable judgment of the custodian of the records, the disclosure of such records is likely to jeopardize public safety or cybersecurity;~~

~~===== (3) Personal information, as defined in NRS 603A.040;~~

~~===== (4) Trade secret information, as defined in subsection 5 of NRS 600A.030, if the word "confidential" or "private" or another indication of secrecy is placed in a reasonably noticeable manner on any medium or container that describes or includes any portion of the trade secret information;~~

~~===== (5) Documentation relating to finances, earnings or revenue of an applicant or any owner of the applicant; or~~

~~===== (6) Information received from law enforcement sources, confidential documents or other information disclosed to the Department based on the assurance that the information would be held in confidence and treated as confidential; and regardless of whether the application was ultimately approved, disclosure of the following information:~~

~~(1) The identity of an applicant, including, without limitation, any owner, officer or board member of an applicant;~~

~~(2) The contents of any tool used by the Department to evaluate an applicant;~~

~~(3) The methodology used by the Department to score and rank applicants and any documentation or other evidence showing how that methodology was applied; and~~

~~(4) The final ranking and scores of an applicant, including, without limitation, the score assigned to each criterion in the application that composes a part of the total score of an applicant.~~

~~(n) Disclosure of the name of a licensee and the jurisdiction of that licensee pursuant to chapter 453A or 453D of NRS, and any regulations adopted pursuant thereto.~~

3. The Executive Director shall periodically, as he or she deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which the Executive Director has a record. The list must include the mailing address of the business as reported to the Department.

4. The Executive Director may request from any other governmental agency or officer such information as the Executive Director deems necessary to carry out his or her duties with respect to the administration or collection of any tax, fee, assessment or other amount required by law to be collected ~~or the imposition of disciplinary action~~. If the Executive Director obtains any confidential information pursuant to such a request, he or she shall maintain the confidentiality of that information in the same manner and to the same extent as provided by law for the agency or officer from whom the information was obtained.

5. As used in this section:

(a) "Applicant" means any person listed on the application for a registration certificate to operate a medical marijuana establishment pursuant to chapter 453A of NRS or a license to operate a marijuana establishment pursuant to chapter 453D of NRS.

(b) "Disciplinary action" means any suspension or revocation of a license, registration, permit or certificate issued by the Department pursuant to this title or chapter 453A or 453D of NRS or any other disciplinary action against the holder of such a license, registration, permit or certificate.

(c) *“Licensee” means a person to whom the Department has issued a license, registration, permit or certificate pursuant to this title or chapter 453A or 453D of NRS. The term includes, without limitation, any owner, officer or board member of an entity to whom the Department has issued a license.*

(d) *“Records” or “files” means any records and files related to an investigation or audit ~~or~~ or a disciplinary action, financial information, correspondence, advisory opinions, decisions of a hearing officer in an administrative hearing and any other information specifically related to a taxpayer ~~or~~ or licensee.*

~~(e)~~ (e) *“Taxpayer” means a person who pays any tax, fee, assessment or other amount required by law to the Department.*

Sec. 2. NRS 453A.700 is hereby amended to read as follows:

453A.700 1. Except as otherwise provided in this section, NRS 239.0115 and 360.255 and subsection 4 of NRS 453A.210, the Division and the Department shall not disclose:

(a) ~~The contents of any tool used by the Department to evaluate an applicant or its affiliate.~~

~~(b)~~ (b) Any information, documents or communications provided to the Department 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)~~ (b) The name or any other identifying information of:

(1) An attending provider of health care; 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 ~~and~~ and 360.255, 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:

(a) Shall release the name and other identifying information of a person who has applied for a registry identification card to authorized employees of the Division of Parole and Probation of the Department of Public Safety, if notified by the Division of Parole and Probation that the applicant is on parole or probation.

(b) 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:

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

(2) 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. 3. This act becomes effective upon passage and approval.