

Amendment No. 325

Senate Amendment to Senate Bill No. 346	(BDR 43-1065)
<b>Proposed by:</b> Senate Committee on Growth and Infrastructure	
<b>Amends:</b> Summary: Yes 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.





## SENATE BILL NO. 346—SENATOR D. HARRIS

MARCH 18, 2019

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions related to marijuana. (BDR ~~[43-1065)]~~ 40-1065)

FISCAL NOTE: Effect on Local Government: No.  
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 provisions relating to prohibited acts]~~ requiring the Department of Taxation to collect certain demographic information concerning ~~[the use of]~~ marijuana ~~[and the operation of a vehicle or vessel; requiring the Nevada Commission on Minority Affairs to conduct a study]~~ establishments and medical marijuana establishments; authorizing an independent contractor to enter into a contract with a marijuana establishment or medical marijuana establishment to provide certain training; providing for the certification of emerging small marijuana businesses by the Office of Economic Development; requiring the Office to establish the Center for Emerging Small Marijuana Business Advocacy and Services; requiring the Office to analyze certain information and prepare an annual report relating to disparities and unlawful discrimination in the licensure of marijuana establishments and medical marijuana establishments; ~~[directing the Legislative Commission to appoint a committee to conduct an interim study relating to marijuana and the levels of intoxication established by the laws of this State;]~~ and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides for the ~~[issuance of registry identification cards for persons who wish to engage in the medical use of]~~ licensure or registration of marijuana ~~[. Existing law exempts a person who holds a valid registry identification card from state prosecution for the use, possession, delivery and production of marijuana. (NRS 453A.200, 453A.210, 453A.220). Existing law provides that it is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of marijuana or marijuana metabolite in his or her blood that is equal to or greater than 2 nanograms per milliliter or 5 nanograms per milliliter, respectively. (NRS 484C.110). Section 3 of this bill raises this limit for a person who is a holder of a valid registry identification card to 100 nanograms per milliliter for both marijuana and marijuana metabolite.]~~ establishments, medical marijuana establishments and medical marijuana establishment agents by the Department of Taxation. (Chapters 453A and 453D of NRS)

~~Sections [4 and 7] 2 and 6 of this bill [make the same changes to similar provisions of existing law relating to a person driving or being in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access or operating or being in actual physical control of a vessel under power or sail on the waters of this State, respectively. Sections 5, 6 and 8-17 of this bill make conforming changes.~~

~~Existing law creates the Nevada Commission on Minority Affairs and requires the Commission, among other requirements, to study matters affecting the social and economic welfare and well-being of minorities residing in the State of Nevada. (NRS 232.852, 232.860)~~

~~Section 18 of this bill requires the Commission to conduct a study}~~ require the Department to gather and maintain comprehensive demographic information about owners and agents of each marijuana establishment and medical marijuana establishment and certain similar persons and transmit this information to the Office of Economic Development. Section 18 of this bill requires the Office to: (1) analyze this information to determine whether and to what extent disparities and unlawful discrimination exist with respect to the licensure of marijuana establishments and medical marijuana establishments and to employment in professions related to the marijuana industry.

~~Section 19 of this bill directs the Legislative Commission to appoint a committee to conduct an interim study concerning issues relating to marijuana and the levels of intoxication established by the laws of this State. The study must generally include a review of the laws of this State related to intoxication and a determination of how those laws could be amended to accurately determine the level of intoxication of a person who engages in the lawful use of marijuana.}~~ ; and (2) submit an annual report to the Governor and the Legislature detailing such information.

Sections 3 and 7 of this bill authorize an independent contractor to enter into a contract to provide training to medical marijuana establishment agents or agents of a marijuana establishment. Sections 3 and 7 require such an independent contractor to submit a plan to the Department describing the manner in which such training will be conducted.

Existing law creates the Office of Economic Development within the Office of the Governor to coordinate and oversee economic development programs in this State. (NRS 231.043, 231.055) Sections 8-15 and 17 of this bill: (1) provide for the certification of eligible emerging small marijuana businesses by the Office; (2) require the Office to post a list of the emerging small marijuana businesses on its Internet website; and (3) require the Office to adopt regulations, including regulations relating to the application form and procedure for that certification.

Section 16 of this bill requires the Executive Director of the Office of Economic Development to establish within the Office the Center for Emerging Small Marijuana Business Advocacy and Services for the purposes of: (1) assisting emerging small marijuana businesses obtain information relating to financing; (2) increasing public awareness of and advocating for marijuana-related businesses; (3) establishing an information and referral service to respond to inquiries from emerging small marijuana businesses; and (4) advising the Executive Director on certain matters relating to the marijuana industry.

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

**Delete existing sections 1 through 19 of this bill and replace with the following new sections 1 through 20:**

**Section 1. Chapter 453A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.**

**Sec. 2. 1. The Department shall gather and maintain comprehensive demographic information, including, without limitation, information regarding race, ethnicity, age and gender, concerning each:**

**(a) Owner and manager of a medical marijuana establishment.**

(b) Holder of a medical marijuana establishment agent registration card who volunteers or works at, contracts to provide labor to or is employed by an independent contractor to provide labor to a medical marijuana establishment.

(c) Applicant for a medical marijuana establishment registration certificate.

(d) Applicant for a business license, permit or any other approval required to operate a medical marijuana establishment.

2. The Department shall transmit to the Office of Economic Development in a manner prescribed by the Office the information gathered and maintained pursuant to subsection 1.

Sec. 3. 1. An independent contractor, including, without limitation, an educational institution, nonprofit organization or labor organization, may enter into a contract with a medical marijuana establishment to provide training to the medical marijuana establishment agents who volunteer or work at, contract to provide labor to or are employed by an independent contractor to provide labor to the medical marijuana establishment.

2. The Department shall issue to an independent contractor who wishes to provide training as described in subsection 1 a medical marijuana establishment agent registration card if:

(a) The independent contractor submits to the Department an organized, written plan describing the manner in which the independent contractor will conduct the training which has been agreed to by the independent contractor and the medical marijuana establishment; and

(b) The independent contractor satisfies the requirements of 453A.332.

Sec. 4. NRS 453A.370 is hereby amended to read as follows:

453A.370 The Department 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, and sections 2 and 3 of this act. 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 and 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 Department.

(f) Procedures pursuant to which a medical marijuana dispensary will be notified by the Department 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.

(g) Minimum requirements for industrial hemp, as defined in NRS 557.160, which is used by a facility for the production of edible marijuana products or

1 marijuana-infused products to manufacture edible marijuana products or marijuana-  
2 infused products or dispensed by a medical marijuana dispensary.

3 3. Establish circumstances and procedures pursuant to which the maximum  
4 fees set forth in NRS 453A.344 may be reduced over time to ensure that the fees  
5 imposed pursuant to NRS 453A.344 are, insofar as may be practicable, revenue  
6 neutral.

7 4. Set forth the amount of usable marijuana that a medical marijuana  
8 dispensary may dispense to a person who holds a valid registry identification card,  
9 including, without limitation, a designated primary caregiver, in any one 14-day  
10 period. Such an amount must not exceed the limits set forth in NRS 453A.200.

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

14 6. In cooperation with the applicable professional licensing boards, establish a  
15 system to:

16 (a) Register and track attending providers of health care who advise their  
17 patients that the medical use of marijuana may mitigate the symptoms or effects of  
18 the patient's medical condition;

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

21 (c) Provide for the progressive discipline of attending providers of health care  
22 who advise the medical use of marijuana at a rate at which the Department, in  
23 consultation with the Division, and applicable board determine and agree to be  
24 unreasonably high.

25 7. Establish different categories of medical marijuana establishment agent  
26 registration cards, including, without limitation, criteria for training and  
27 certification, for each of the different types of medical marijuana establishments at  
28 which such an agent may be employed or volunteer or provide labor as a medical  
29 marijuana establishment agent.

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

35 9. Determine whether any provision of NRS 453A.350 or 453A.352 would  
36 make the operation of a medical marijuana establishment or marijuana  
37 establishment, as defined in NRS 453D.030, by a dual licensee, as defined in NRS  
38 453D.030, unreasonably impracticable, as defined in NRS 453D.030.

39 10. Address such other matters as may assist in implementing the program of  
40 dispensation contemplated by NRS 453A.320 to 453A.370, inclusive, H, and  
41 sections 2 and 3 of this act.

42 Sec. 5. Chapter 453D of NRS is hereby amended by adding thereto the  
43 provisions set forth as sections 6 and 7 of this act.

44 Sec. 6. 1. The Department shall gather and maintain comprehensive  
45 demographic information, including, without limitation, information regarding  
46 race, ethnicity, age and gender, concerning each:

47 (a) Owner and manager of a marijuana establishment.

48 (b) Agent of a marijuana establishment who volunteers or works at,  
49 contracts to provide labor to or is employed by an independent contractor to  
50 provide labor to a marijuana establishment.

51 (c) Applicant for a license to operate a marijuana establishment.

52 (d) Applicant for a business license, permit or any other approval required to  
53 operate a marijuana establishment.

1 2. The Department shall transmit to the Office of Economic Development in  
2 a manner prescribed by the Office the information gathered and maintained  
3 pursuant to subsection 1.

4 Sec. 7. An independent contractor, including, without limitation, an  
5 educational institution, nonprofit organization or labor organization, may enter  
6 into a contract with a marijuana establishment to provide training to the agents  
7 of a marijuana establishment who volunteer or work at, contract to provide labor  
8 to or are employed by an independent contractor to provide labor to the  
9 marijuana establishment if:

10 1. The independent contractor submits to the Department an organized,  
11 written plan describing the manner in which the independent contractor will  
12 conduct the training which has been agreed to by the independent contractor and  
13 the medical marijuana establishment; and

14 2. The independent contractor satisfies any other requirements prescribed  
15 by the Department.

16 Sec. 8. Chapter 231 of NRS is hereby amended by adding thereto the  
17 provisions set forth as sections 9 to 18, inclusive, of this act.

18 Sec. 9. As used in sections 9 to 17, inclusive, of this act unless the context  
19 otherwise requires, the words and terms defined in sections 10, 11 and 12 of this  
20 act have the meanings ascribed to them in those sections.

21 Sec. 10. "Emerging small marijuana business" means a marijuana  
22 establishment or medical marijuana establishment that has been certified by the  
23 Office pursuant to section 15 of this act.

24 Sec. 11. "Marijuana establishment" has the meaning ascribed to it in NRS  
25 453D.030.

26 Sec. 12. "Medical marijuana establishment" has the meaning ascribed to it  
27 in NRS 453A.116.

28 Sec. 13. 1. To be eligible for certification as an emerging small  
29 marijuana business, a marijuana establishment or medical marijuana  
30 establishment must:

31 (a) Be in existence, operational and operated for a profit;

32 (b) Maintain its principal place of business in this State;

33 (c) Be in compliance with all applicable licensing and registration  
34 requirements in this State;

35 (d) Not be a subsidiary or parent company belonging to a group of firms that  
36 are owned or controlled by the same persons if, in the aggregate, the group of  
37 firms does not qualify pursuant to subsection 2 or 3 for designation as a tier 1  
38 firm or a tier 2 firm; and

39 (e) Qualify pursuant to subsection 2 or 3 for designation as a tier 1 firm or a  
40 tier 2 firm.

41 2. To be designated a tier 1 firm, a marijuana establishment or medical  
42 marijuana establishment:

43 (a) Must not employ more than 20 full-time or full-time equivalent  
44 employees; and

45 (b) The average annual gross receipts for the marijuana establishment or  
46 medical marijuana establishment must not exceed \$700,000 for the 3 years  
47 immediately preceding the date of application for certification as an emerging  
48 small marijuana business.

49 3. To be designated a tier 2 firm, a marijuana establishment or medical  
50 marijuana establishment:

51 (a) Must not employ more than 30 full-time or full-time equivalent  
52 employees; and

(b) The average annual gross receipts for the marijuana establishment or medical marijuana establishment must not exceed \$1.3 million for the 3 years immediately preceding the date of application for certification as an emerging small marijuana business.

4. In determining if a marijuana establishment or medical marijuana establishment qualifies for a designation as a tier 1 firm or a tier 2 firm pursuant to subsection 2 or 3, the Office shall use the criteria set forth in section 14 of this act to determine whether an employee is a full-time equivalent employee for the purposes of such a designation.

Sec. 14. To determine whether an employee is a full-time equivalent employee pursuant to section 13 of this act:

1. An owner of a marijuana establishment or medical marijuana establishment applying for certification as an emerging small marijuana business must not be considered a full-time equivalent employee;

2. The period during which the full-time equivalency of an employee is determined must be based on the same period as the tax year for the marijuana establishment or medical marijuana establishment applying for certification as an emerging small marijuana business; and

3. The hours worked by part-time and seasonal employees must be converted into full-time equivalent hours by dividing by 2,080 the total hours worked for the marijuana establishment or medical marijuana establishment applying for certification by all part-time and seasonal employees.

Sec. 15. 1. A marijuana establishment or medical marijuana establishment may apply, on a form prescribed by regulation of the Office, to the Office for certification as an emerging small marijuana business. The application must be accompanied by such proof as the Office requires to demonstrate that the applicant is in compliance with the criteria set forth in section 13 of this act and any regulations adopted pursuant to section 17 of this act.

2. Upon receipt of the application and when satisfied that the applicant meets the requirements set forth in this section, section 13 of this act, and any regulations adopted pursuant to section 17 of this act, the Office shall:

(a) Certify the marijuana establishment or medical marijuana establishment as an emerging small marijuana business; and

(b) Provide to the marijuana establishment or medical marijuana establishment, in written or electronic form, information concerning public and private programs to provide financing for small businesses that are applicable to an emerging small marijuana business and criteria for obtaining financing through such programs.

3. The Office shall compile a list of the emerging small marijuana businesses certified pursuant to this section and post the list on its Internet website.

Sec. 16. The Executive Director shall establish within the Office, the Center for Emerging Small Marijuana Business Advocacy and Services:

1. To assist emerging small marijuana businesses in obtaining information about financing and other basic resources which are necessary for success;

2. To increase public awareness of the importance of developing the marijuana industry in this State and encouraging public support for marijuana establishments and medical marijuana establishments;

3. To serve as an advocate for emerging small marijuana businesses, subject to the supervision of the Executive Director or his or her representative, both within and outside the Office;



1 4. To establish an information and referral service within the Office that is  
2 responsive to the inquiries of emerging small marijuana businesses which are  
3 directed to the Office or any entity within the Office; and

4 5. To advise the Executive Director in developing and improving programs  
5 of the Office to serve more effectively and support the growth, development and  
6 diversification of the marijuana industry in this State.

7 Sec. 17. 1. The Office shall adopt regulations prescribing the application  
8 form and procedure for certification as an emerging small marijuana business.

9 2. The Office may adopt regulations to carry out the provisions of sections 9  
10 to 17, inclusive, of this act.

11 Sec. 18. 1. The Office shall annually analyze the information submitted  
12 to the Office pursuant to sections 2 and 6 of this act to determine whether and to  
13 what extent disparities and unlawful discrimination exist with respect to:

14 (a) The licensure of marijuana establishments and medical marijuana  
15 establishments; and

16 (b) Employment in professions related to the marijuana industry, including,  
17 without limitation, medical marijuana establishment agents and agents of  
18 marijuana establishments.

19 2. On or before January 31 of each year, the Office shall submit to the  
20 Governor and to the Director of the Legislative Counsel Bureau for transmittal to  
21 the Legislature a report detailing the analysis of the Office pursuant to subsection  
22 1.

23 3. As used in this section:

24 (a) "Marijuana establishment" has the meaning ascribed to it in NRS  
25 453D.030.

26 (b) "Medical marijuana establishment" has the meaning ascribed to it in  
27 NRS 453A.116.

28 (c) "Medical marijuana establishment agent" has the meaning ascribed to it  
29 in NRS 453A.117.

30 Sec. 19. The provisions of subsection 1 of NRS 218D.380 do not apply to  
31 any provision of this act which adds or revises a requirement to submit a  
32 report to the Legislature.

33 Sec. 20. 1. This section and sections 8 to 17, inclusive, and section 19 of  
34 this act become effective:

35 (a) Upon passage and approval for the purpose of adopting any  
36 regulations and performing any other preparatory administrative tasks  
37 necessary to carry out the provisions of this act; and

38 (b) On October 1, 2019, for all other purposes.

39 2. Sections 1 to 7, inclusive, and section 18 of this act become effective on  
40 January 2, 2020.