

SENATE BILL NO. 228—SENATORS  
SPEARMAN, PARKS; AND HARRIS

FEBRUARY 18, 2019

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to marijuana and industrial hemp. (BDR 54-180)

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; authorizing the medical use of marijuana or industrial hemp by certain licensed professionals or persons who provide wellness services on a patient or client; prohibiting disciplinary action against such professionals for administering or recommending the use of marijuana or industrial hemp; prohibiting certain medical professionals from refusing to prescribe certain controlled substances for the treatment of pain solely because the patient uses marijuana; creating the Cannabis Control Commission; prohibiting the Department of Taxation from issuing certain licenses related to marijuana without the approval of the Commission; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law exempts a person who holds a valid registry identification card from state prosecution for the possession, delivery and production of marijuana. (NRS 453A.200) **Section 1** of this bill authorizes a provider of health care, massage therapist, nail technologist, reflexologist, structural integration practitioner or person who provides wellness services to: (1) administer a marijuana-infused product or a similar product containing industrial hemp to a patient or client if the patient or client provides the product for administration; and (2) recommend the use of marijuana or industrial hemp by a patient or client to treat a condition. **Section 1** also exempts such licensed professionals from certain crimes for making such an administration or recommendation. Finally, **section 1** prohibits a professional licensing board from taking disciplinary action against a provider of health care, massage therapist, nail technologist, reflexologist or structural integration



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practitioner for making such an administration or recommendation. **Section 2** of this bill makes a conforming change.

Existing law imposes various requirements on a medical practitioner, other than a veterinarian, who prescribes or dispenses to a patient certain controlled substances for the treatment of pain. (NRS 639.2391-639.23916) **Section 3** of this bill prohibits a practitioner, other than a veterinarian, from refusing to prescribe or dispense certain controlled substances for the treatment of pain solely because the patient uses marijuana or any other cannabinoid compound.

Existing law requires the Department of Taxation to issue a medical marijuana establishment registration certificate authorizing its holder to operate a medical marijuana establishment to an applicant who submits an application, submits certain fees and meets certain criteria. (NRS 453A.322, 453A.328) Existing law imposes similar requirements for a license to operate a marijuana establishment. (NRS 453D.210) **Section 6** of this bill creates the Cannabis Control Commission and prescribes its membership, consisting of five members appointed by the Governor, the Majority Leader of the Senate and the Speaker of the Assembly. **Sections 8 and 12** of this bill require the Commission to approve or deny any application for a certificate or license to operate a medical marijuana establishment or marijuana establishment, respectively, and prohibit the Department from issuing such a certificate or license without the approval of the Commission. **Sections 10 and 14** of this bill require the Department to submit a recommendation for each application for such a certificate or license to the Commission recommending the approval or denial of the application.

**Section 11** of this bill makes a conforming change.

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

**Section 1.** Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. A provider of health care, massage therapist, nail technologist, reflexologist, structural integration practitioner or person who provides wellness services may:*

*(a) Administer a marijuana-infused product or a product containing industrial hemp which is intended for use or consumption by humans through means other than inhalation or oral ingestion to a patient or client if the patient or client provides the product to the provider of health care, massage therapist, nail technologist, reflexologist, structural integration practitioner or person who provides wellness services to administer to the patient or client; and*

*(b) Recommend to a patient or client the use of marijuana or industrial hemp to treat a condition.*

*2. A provider of health care, massage therapist, nail technologist, reflexologist, structural integration practitioner or person who provides wellness services who administers a marijuana-infused product or a product containing industrial hemp or recommends the use of marijuana or industrial hemp pursuant to subsection 1 is exempt from state prosecution for:*



1     (a) Possession, delivery or production of marijuana or  
2 industrial hemp;

3     (b) Possession or delivery of paraphernalia;

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

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

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

10    (f) Any other criminal offense in which the possession,  
11 delivery or production of marijuana or industrial hemp or the  
12 possession or delivery of paraphernalia is an element,

13    ↳ for such an administration or recommendation.

14    3. A professional licensing board shall not take any  
15 disciplinary action against a provider of health care, massage  
16 therapist, nail technologist, reflexologist or structural integration  
17 practitioner licensed by the board on the basis that the person has  
18 administered a marijuana-infused product or a product containing  
19 industrial hemp or recommended the use of marijuana or  
20 industrial hemp pursuant to subsection 1.

21    4. As used in this section:

22    (a) "Industrial hemp" has the meaning ascribed to it in  
23 NRS 557.040.

24    (b) "Marijuana" has the meaning ascribed to it in  
25 NRS 453.096.

26    (c) "Marijuana-infused product" has the meaning ascribed to  
27 it in NRS 453A.112.

28    (d) "Massage therapist" means a person who is licensed to  
29 engage in the practice of massage therapy pursuant to chapter  
30 640C of NRS.

31    (e) "Nail technologist" means a person who is licensed to  
32 engage in the practice of nail technology pursuant to chapter  
33 644A of NRS.

34    (f) "Paraphernalia" has the meaning ascribed to it in  
35 NRS 453A.125.

36    (g) "Reflexologist" means a person who is licensed to engage  
37 in the practice of reflexology pursuant to chapter 640C of NRS.

38    (h) "Structural integration practitioner" means a person who  
39 is licensed to engage in the practice of structural integration  
40 pursuant to chapter 640C of NRS.

41    (i) "Wellness services" has the meaning ascribed to it in  
42 NRS 629.580.

43    Sec. 2. NRS 629.580 is hereby amended to read as follows:

44    629.580 1. A person who provides wellness services in  
45 accordance with this section, but who is not licensed, certified or



1 registered in this State as a provider of health care, is not in  
2 violation of any law based on the unlicensed practice of health care  
3 services or a health care profession unless the person:

4 (a) Performs surgery or any other procedure which punctures the  
5 skin of any person;

6 (b) Sets a fracture of any bone of any person;

7 (c) Prescribes or administers X-ray radiation to any person;

8 (d) ~~Prescribes~~ *Except as otherwise provided in section 1 of*  
9 *this act, prescribes* or administers a prescription drug or device or a  
10 controlled substance to any person;

11 (e) Recommends to a client that he or she discontinue or in any  
12 manner alter current medical treatment prescribed by a provider of  
13 health care licensed, certified or registered in this State;

14 (f) Makes a diagnosis of a medical disease of any person;

15 (g) Performs a manipulation or a chiropractic adjustment of the  
16 articulations of joints or the spine of any person;

17 (h) Treats a person's health condition in a manner that  
18 intentionally or recklessly causes that person recognizable and  
19 imminent risk of serious or permanent physical or mental harm;

20 (i) Holds out, states, indicates, advertises or implies to any  
21 person that he or she is a provider of health care;

22 (j) Engages in the practice of medicine in violation of chapter  
23 630 or 633 of NRS, the practice of homeopathic medicine in  
24 violation of chapter 630A of NRS or the practice of podiatry in  
25 violation of chapter 635 of NRS, unless otherwise expressly  
26 authorized by this section;

27 (k) Performs massage therapy as that term is defined in NRS  
28 640C.060, reflexology as that term is defined in NRS 640C.080 or  
29 structural integration as that term is defined in NRS 640C.085; or

30 (l) Provides mental health services that are exclusive to the  
31 scope of practice of a psychiatrist licensed pursuant to chapter 630  
32 or 633 of NRS, or a psychologist licensed pursuant to chapter 641 of  
33 NRS.

34 2. Any person providing wellness services in this State who is  
35 not licensed, certified or registered in this State as a provider of  
36 health care and who is advertising or charging a fee for wellness  
37 services shall, before providing those services, disclose to each  
38 client in a plainly worded written statement:

39 (a) The person's name, business address and telephone number;

40 (b) The fact that he or she is not licensed, certified or registered  
41 as a provider of health care in this State;

42 (c) The nature of the wellness services to be provided;

43 (d) The degrees, training, experience, credentials and other  
44 qualifications of the person regarding the wellness services to be  
45 provided; and



(e) A statement in substantially the following form:

It is recommended that before beginning any wellness plan, you notify your primary care physician or other licensed providers of health care of your intention to use wellness services, the nature of the wellness services to be provided and any wellness plan that may be utilized. It is also recommended that you ask your primary care physician or other licensed providers of health care about any potential drug interactions, side effects, risks or conflicts between any medications or treatments prescribed by your primary care physician or other licensed providers of health care and the wellness services you intend to receive.

➤ A person who provides wellness services shall obtain from each client a signed copy of the statement required by this subsection, provide the client with a copy of the signed statement at the time of service and retain a copy of the signed statement for a period of not less than 5 years.

3. A written copy of the statement required by subsection 2 must be posted in a prominent place in the treatment location of the person providing wellness services in at least 12-point font. Reasonable accommodations must be made for clients who:

- (a) Are unable to read;
- (b) Are blind or visually impaired;
- (c) Have communication impairments; or
- (d) Do not read or speak English or any other language in which the statement is written.

4. Any advertisement for wellness services authorized pursuant to this section must disclose that the provider of those services is not licensed, certified or registered as a provider of health care in this State.

5. A person who violates any provision of this section is guilty of a misdemeanor. Before a criminal proceeding is commenced against a person for a violation of a provision of this section, a notification, educational or mediative approach must be utilized by the regulatory body enforcing the provisions of this section to bring the person into compliance with such provisions.

6. This section does not apply to or control:

(a) Any health care practice by a provider of health care pursuant to the professional practice laws of this State, or prevent such a health care practice from being performed.

(b) Any health care practice if the practice is exempt from the professional practice laws of this State, or prevent such a health care practice from being performed.



(c) A person who provides health care services if the person is exempt from the professional practice laws of this State, or prevent the person from performing such a health care service.

(d) A medical assistant, as that term is defined in NRS 630.0129 and 633.075, an advanced practitioner of homeopathy, as that term is defined in NRS 630A.015, or a homeopathic assistant, as that term is defined in NRS 630A.035.

7. As used in this section, "wellness services" means healing arts therapies and practices, and the provision of products, that are based on the following complementary health treatment approaches and which are not otherwise prohibited by subsection 1:

(a) Anthroposophy.

(b) Aromatherapy.

(c) Traditional cultural healing practices.

(d) Detoxification practices and therapies.

(e) Energetic healing.

(f) Folk practices.

(g) Gerson therapy and colostrum therapy.

(h) Healing practices using food, dietary supplements, nutrients and the physical forces of heat, cold, water and light.

(i) Herbology and herbalism.

(j) Reiki.

(k) Mind-body healing practices.

(l) Nondiagnostic iridology.

(m) Noninvasive instrumentalities.

(n) Holistic kinesiology.

**Sec. 3.** NRS 639.2391 is hereby amended to read as follows:

639.2391 1. If a practitioner, other than a veterinarian, prescribes or dispenses to a patient for the treatment of pain a quantity of controlled substance that exceeds the amount prescribed by this subsection, the practitioner must document in the medical record of the patient the reasons for prescribing that quantity. A practitioner shall document the information required by this subsection if the practitioner prescribes for or dispenses for the treatment of pain:

(a) In any period of 365 consecutive days, a larger quantity of a controlled substance listed in schedule II, III or IV than will be used in 365 days if the patient adheres to the dose prescribed; or

(b) At any one time, a larger quantity of a controlled substance listed in schedule II, III or IV than will be used in 90 days if the patient adheres to the dose prescribed.

2. A practitioner, other than a veterinarian, shall not issue an initial prescription of a controlled substance listed in schedule II, III or IV for the treatment of acute pain that prescribes:



(a) An amount of the controlled substance that is intended to be used for more than 14 days; and

(b) If the controlled substance is an opioid and a prescription for an opioid has never been issued to the patient or the most recent prescription issued to the patient for an opioid was issued more than 19 days before the date of the initial prescription for the treatment of acute pain, a dose of the controlled substance that exceeds 90 morphine milligram equivalents per day. For the purposes of this paragraph, the daily dose of a controlled substance must be calculated in accordance with the most recent guidelines prescribed by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

*3. A practitioner, other than a veterinarian, shall not refuse to prescribe or dispense to a patient a controlled substance for the treatment of pain solely because the patient uses marijuana or any other cannabinoid compound.*

**Sec. 4.** Chapter 453A of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 8, inclusive, of this act.

**Sec. 5.** *“Commission” means the Cannabis Control Commission created by section 6 of this act.*

**Sec. 6. 1.** *The Cannabis Control Commission is hereby created.*

*2. The Commission consists of five members as follows:*

*(a) Three members appointed by the Governor as follows:*

*(1) One member who possesses knowledge, skill and experience in the marijuana industry.*

*(2) One member who has at least 10 years’ experience in the field of investment, finance or banking.*

*(3) One member who possesses knowledge, skill and experience in matters relating to health care and public health.*

*(b) One member appointed by the Majority Leader of the Senate.*

*(c) One member appointed by the Speaker of the Assembly.*

*3. In appointing the members of the Commission, the Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall coordinate the appointments when practicable so that the members of the Commission represent the ethnic and geographical diversity of this State.*

*4. A person is ineligible for appointment to or continued service on the Commission if the person or the spouse of the person owns an interest in or is employed by a marijuana establishment or medical marijuana establishment.*

*5. After the initial terms, each member of the Commission serves for a term of 4 years. A vacancy on the Commission must be*



1 *filled in the same manner as the original appointment. A member*  
2 *may be reappointed to the Commission.*

3 *6. The members of the Commission serve without*  
4 *compensation, except that the members are entitled to receive the*  
5 *per diem allowance and travel expenses provided for state officers*  
6 *and employees generally while engaged in the official business of*  
7 *the Commission.*

8 **Sec. 7. 1.** *The members of the Commission shall elect a*  
9 *Chair and Vice Chair by majority vote. After the initial election,*  
10 *the Chair and Vice Chair shall hold office for a term of 1 year*  
11 *beginning on July 1 of each year. If a vacancy occurs in the office*  
12 *of Chair or Vice Chair, the members of the Commission shall elect*  
13 *a Chair or Vice Chair from among their members to serve for the*  
14 *remainder of the unexpired term.*

15 *2. Any three members of the Commission constitute a*  
16 *quorum and a majority vote of the quorum is required to take*  
17 *action with respect to any matter.*

18 *3. The Commission shall adopt:*

19 *(a) Rules for its own management; and*  
20 *(b) Such rules of practice and procedure as are necessary to*  
21 *carry out its duties.*

22 *4. The Commission shall meet as necessary to carry out its*  
23 *duties.*

24 **Sec. 8. 1.** *The Cannabis Control Commission has the final*  
25 *authority to approve or deny an application for a medical*  
26 *marijuana establishment registration certificate. The Department*  
27 *shall not issue a medical marijuana establishment registration*  
28 *certificate without the approval of the Commission.*

29 *2. The Commission shall:*

30 *(a) Review each application for a medical marijuana*  
31 *establishment registration certificate submitted to the Department*  
32 *pursuant to NRS 453A.322.*

33 *(b) Approve or deny each application within 90 days after its*  
34 *submission.*

35 *3. In determining whether to approve or deny an application*  
36 *for a medical marijuana establishment registration certificate, the*  
37 *Commission shall consider:*

38 *(a) The recommendation of the Department.*

39 *(b) The criteria of merit set forth in NRS 453A.328.*

40 *(c) Any other criteria of merit that the Commission determines*  
41 *to be relevant.*

42 **Sec. 9.** *NRS 453A.010 is hereby amended to read as follows:*  
43 *453A.010 As used in this chapter, unless the context otherwise*  
44 *requires, the words and terms defined in NRS 453A.020 to*





453A.170, inclusive, *and section 5 of this act* have the meanings ascribed to them in those sections.

**Sec. 10.** NRS 453A.322 is hereby amended to read as follows:

453A.322 1. Each medical marijuana establishment must register with the Department.

2. A person who wishes to operate a medical marijuana establishment must submit to the Department an application on a form prescribed by the Department.

3. *The Department shall review each application submitted pursuant to this section and submit a recommendation to the Commission recommending the approval or denial of the application.*

4. Except as otherwise provided in NRS 453A.324, 453A.326, 453A.328 and 453A.340, not later than 90 days after receiving an application to operate a medical marijuana establishment, the Department shall register the medical marijuana establishment and issue a medical marijuana establishment registration certificate and a random 20-digit alphanumeric identification number if:

(a) The person who wishes to operate the proposed medical marijuana establishment has submitted to the Department all of the following:

(1) The application fee, as set forth in NRS 453A.344;

(2) An application, which must include:

(I) The legal name of the proposed medical marijuana establishment;

(II) The physical address where the proposed medical marijuana establishment will be located and the physical address of any co-owned additional or otherwise associated medical marijuana establishments, the locations of which may not be within 1,000 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 medical marijuana establishment was submitted to the Department, or within 300 feet of a community facility that existed on the date on which the application for the proposed medical marijuana establishment was submitted to the Department;

(III) Evidence that the applicant controls not less than \$250,000 in liquid assets to cover the initial expenses of opening the proposed medical marijuana establishment and complying with the provisions of NRS 453A.320 to 453A.370, inclusive;

(IV) Evidence that the applicant owns the property on which the proposed medical marijuana establishment will be located or has the written permission of the property owner to operate the proposed medical marijuana establishment on that property;



(V) For the applicant and each person who is proposed to be an owner, officer or board member of the proposed medical marijuana establishment, a complete set of the person's fingerprints and written permission of the person authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(VI) The name, address and date of birth of each person who is proposed to be an owner, officer or board member of the proposed medical marijuana establishment; and

(VII) The name, address and date of birth of each person who is proposed to be employed by or otherwise provide labor at the proposed medical marijuana establishment as a medical marijuana establishment agent;

(3) Operating procedures consistent with rules of the Department for oversight of the proposed medical marijuana establishment, including, without limitation:

(I) Procedures to ensure the use of adequate security measures; and

(II) The use of an electronic verification system and an inventory control system, pursuant to NRS 453A.354 and 453A.356;

(4) If the proposed medical marijuana establishment will sell or deliver edible marijuana products or marijuana-infused products, proposed operating procedures for handling such products which must be preapproved by the Department;

(5) If the city, town or county in which the proposed medical marijuana establishment will be located has enacted zoning restrictions, proof of licensure with the applicable local governmental authority or a letter from the applicable local governmental authority certifying that the proposed medical marijuana establishment is in compliance with those restrictions and satisfies all applicable building requirements; and

(6) Such other information as the Department may require by regulation;

(b) None of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment have been convicted of an excluded felony offense;

(c) None of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment have:

(1) Served as an owner, officer or board member for a medical marijuana establishment that has had its medical marijuana establishment registration certificate revoked; or



(2) Previously had a medical marijuana establishment agent registration card revoked; ~~and~~

(d) None of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment are under 21 years of age ~~and~~; and

*(e) The application for registration as a medical marijuana establishment has been approved by the Commission pursuant to section 8 of this act.*

~~4.4~~ 5. For each person who submits an application pursuant to this section, and each person who is proposed to be an owner, officer or board member of a proposed medical marijuana establishment, the Department shall submit the fingerprints of the person to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the criminal history of that person.

~~5.4~~ 6. Except as otherwise provided in subsection ~~6.4~~ 7, if an application for registration as a medical marijuana establishment satisfies the requirements of this section and the establishment is not disqualified from being registered as a medical marijuana establishment pursuant to this section or other applicable law, the Department shall issue to the establishment a medical marijuana establishment registration certificate. A medical marijuana establishment registration certificate expires 1 year after the date of issuance and may be renewed upon:

(a) Resubmission of the information set forth in this section, except that the fingerprints of each person who is an owner, officer or board member of a medical marijuana establishment required to be submitted pursuant to subsection ~~4.4~~ 5 must only be submitted:

(1) If such a person holds 5 percent or less of the ownership interest in any one medical marijuana establishment or an ownership interest in more than one medical marijuana establishment of the same kind that, when added together, equals 5 percent or less, once in any 5-year period; and

(2) If such a person holds more than 5 percent of the ownership interest in any one medical marijuana establishment or an ownership interest in more than one medical marijuana establishment of the same kind that, when added together, equals more than 5 percent, or is an officer or board member of a medical marijuana establishment, once in any 3-year period;

(b) Payment of the renewal fee set forth in NRS 453A.344; and

(c) If the medical marijuana establishment is an independent testing laboratory, submission of proof that the independent testing laboratory is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization.



~~{6-}~~ 7. In determining whether to issue a medical marijuana establishment registration certificate pursuant to this section, the Department shall consider the criteria of merit set forth in NRS 453A.328.

~~{7-}~~ 8. The Department:

(a) Shall not require an applicant for registration as a medical marijuana establishment or for the renewal of a medical marijuana establishment registration certificate to submit a financial statement with the application for registration or renewal; and

(b) May require a medical marijuana establishment to submit a financial statement as determined to be necessary by the Department to ensure the collection of any taxes which may be owed by the medical marijuana establishment.

~~{8-}~~ 9. As used in this section, "community facility" means:

(a) A facility that provides day care to children.

(b) A public park.

(c) A playground.

(d) A public swimming pool.

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

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

**Sec. 11.** NRS 453A.334 is hereby amended to read as follows:

453A.334 1. Except as otherwise provided in subsection 2, the following are nontransferable:

(a) A medical marijuana establishment agent registration card.

(b) A medical marijuana establishment registration certificate.

2. A medical marijuana establishment may, upon submission of a statement signed by a person authorized to submit such a statement by the governing documents of the medical marijuana establishment, transfer all or any portion of its ownership to another party, and the Department shall transfer the medical marijuana establishment registration certificate issued to the establishment to the party acquiring ownership, if the party who will acquire the ownership of the medical marijuana establishment submits:

(a) If the party will acquire the entirety of the ownership interest in the medical marijuana establishment, evidence satisfactory to the Department that the party has complied with the provisions of sub-subparagraph (III) of subparagraph (2) of paragraph (a) of subsection ~~{3-}~~ 4 of NRS 453A.322 for the purpose of operating the medical marijuana establishment.

(b) For the party and each person who is proposed to be an owner, officer or board member of the proposed medical marijuana establishment, the name, address and date of birth of the person, a



complete set of the person's fingerprints and written permission of the person authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(c) Proof satisfactory to the Department that, as a result of the transfer of ownership, no person, group of persons or entity will, in a county whose population is 100,000 or more, hold more than one medical marijuana establishment registration certificate or more than 10 percent of the medical marijuana establishment registration certificates allocated to the county, whichever is greater.

**Sec. 12.** Chapter 453D of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The Cannabis Control Commission created by section 6 of this act has the final authority to approve or deny an application for a license to operate a marijuana establishment. The Department shall not issue a license to operate a marijuana establishment without the approval of the Commission.*

*2. The Commission shall:*

*(a) Review each application for a license to operate a marijuana establishment submitted to the Department pursuant to NRS 453D.210.*

*(b) Approve or deny each application within 90 days after its submission.*

*3. In determining whether to approve or deny an application for a license to operate a marijuana establishment, the Commission shall consider:*

*(a) The recommendation of the Department.*

*(b) The criteria set forth in NRS 453D.210.*

*(c) Any other criteria that the Commission determines to be relevant.*

**Sec. 13.** NRS 453D.030 is hereby amended to read as follows: 453D.030 As used in this chapter, unless the context otherwise requires:

*1. "Commission" means the Cannabis Control Commission created by section 6 of this act.*

*2. "Community facility" means a facility licensed to provide day care to children, a public park, a public playground, a public swimming pool, a center or facility the primary purpose of which is to provide recreational opportunities or services to children or adolescents, or a church, synagogue, or other building, structure, or place used for religious worship or other religious purpose.*

~~[2.]~~ *3. "Concentrated marijuana" means the separated resin, whether crude or purified, obtained from marijuana.*



~~13~~ 4. "Consumer" means a person who is 21 years of age or older who purchases marijuana or marijuana products for use by persons 21 years of age or older, but not for resale to others.

~~14~~ 5. "Department" means the Department of Taxation.

~~15~~ 6. "Dual licensee" means a person or group of persons who possess a current, valid registration certificate to operate a medical marijuana establishment pursuant to chapter 453A of NRS and a license to operate a marijuana establishment under this chapter.

~~16~~ 7. "Excluded felony offense" means a conviction of an offense that would constitute a category A felony if committed in Nevada or convictions for two or more offenses that would constitute felonies if committed in Nevada. "Excluded felony offense" does not include:

(a) A criminal offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed more than 10 years ago; or

(b) An offense involving conduct that would be immune from arrest, prosecution, or penalty pursuant to chapter 453A of NRS, except that the conduct occurred before the effective date of chapter 453A of NRS (October 1, 2001), or was prosecuted by an authority other than the State of Nevada.

~~17~~ 8. "Locality" means a city or town, or, in reference to a location outside the boundaries of a city or town, a county.

~~18~~ 9. "Marijuana" means all parts of any plant of the genus Cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Marijuana" does not include:

(a) 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, the sterilized seed of the plant which is incapable of germination; or

(b) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

~~19~~ 10. "Marijuana cultivation facility" means an entity licensed to cultivate, process, and package marijuana, to have marijuana tested by a marijuana testing facility, and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.



~~{10-}~~ 11. “Marijuana distributor” means an entity licensed to transport marijuana from a marijuana establishment to another marijuana establishment.

~~{11-}~~ 12. “Marijuana establishment” means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a marijuana distributor, or a retail marijuana store.

~~{12-}~~ 13. “Marijuana product manufacturing facility” means an entity licensed to purchase marijuana, manufacture, process, and package marijuana and marijuana products, and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

~~{13-}~~ 14. “Marijuana products” means products comprised of marijuana or concentrated marijuana and other ingredients that are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

~~{14-}~~ 15. “Marijuana paraphernalia” means any equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repacking, storing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

~~{15-}~~ 16. “Marijuana testing facility” means an entity licensed to test marijuana and marijuana products, including for potency and contaminants.

~~{16-}~~ 17. “Process” means to harvest, dry, cure, trim, and separate parts of the marijuana plant by manual or mechanical means, such as sieving or ice water separation, but not by chemical extraction or chemical synthesis.

~~{17-}~~ 18. “Public place” means an area to which the public is invited or in which the public is permitted regardless of age. “Public place” does not include a retail marijuana store.

~~{18-}~~ 19. “Retail marijuana store” means an entity licensed to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities and retail marijuana stores, and to sell marijuana and marijuana products to consumers.

~~{19-}~~ 20. “Unreasonably impracticable” means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.



**Sec. 14.** NRS 453D.210 is hereby amended to read as follows:  
453D.210 1. No later than 12 months after January 1, 2017, the Department shall begin receiving applications for marijuana establishments.

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

3. For 18 months after the Department begins to receive applications for marijuana establishments, the Department shall issue licenses for marijuana distributors pursuant to this chapter only 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 ~~{ }~~, *review the application, submit a recommendation to the Commission recommending the approval or denial of the application and:*

(a) Issue the appropriate license if the license application is approved ~~{ }~~ *by the Commission;* or

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

5. The Department shall ~~{approve}~~ *recommend the approval of* 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 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;

(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. 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 *recommended to be* approved.

**Sec. 15.** As soon as practicable after October 1, 2019:

1. The Governor shall appoint to the Cannabis Control Commission created by section 6 of this act:

(a) The members identified in subparagraphs (1) and (2) of paragraph (a) of subsection 2 of section 6 of this act to an initial term of office which expires on June 30, 2021; and

(b) The member identified in subparagraph (3) of paragraph (a) of subsection 2 of section 6 of this act to an initial term of office which expires on June 30, 2023.

2. The Majority Leader of the Senate and the Speaker of the Assembly shall appoint to the Cannabis Control Commission created by section 6 of this act one member each to an initial term of office which expires on June 30, 2023.

**Sec. 16.** 1. This section and sections 1 to 11, inclusive, and 15 of this act become effective on October 1, 2019.



1        2. Sections 12, 13 and 14 of this act become effective on  
2    January 2, 2020.

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