

(Reprinted with amendments adopted on April 22, 2019)

FIRST REPRINT

S.B. 346

SENATE BILL NO. 346—SENATOR D. HARRIS

MARCH 18, 2019

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions related to marijuana.
(BDR 40-1065)

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

~

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

AN ACT relating to marijuana; requiring the Department of Taxation to collect certain demographic information concerning marijuana 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; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure or registration of marijuana establishments, medical marijuana establishments and medical marijuana establishment agents by the Department of Taxation. (Chapters 453A and 453D of NRS) **Sections 2 and 6** of this bill 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;



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.

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

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

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

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

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

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

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

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

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

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

8. Provide for the maintenance of a log by the Department, in consultation with the Division, of each person who is authorized to cultivate, grow or produce marijuana pursuant to subsection 6 of NRS 453A.200. The Department shall ensure that the contents of



the log are available for verification by law enforcement personnel 24 hours a day.

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

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

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

Sec. 6. 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 marijuana establishment.

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

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

(d) Applicant for a business license, permit or any other approval required to operate a 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. 7. An independent contractor, including, without limitation, an educational institution, nonprofit organization or labor organization, may enter into a contract with a marijuana establishment to provide training to the agents of a marijuana establishment who volunteer or work at, contract to provide labor to or are employed by an independent contractor to provide labor to the marijuana establishment if:

1. 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

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



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

4 **Sec. 9.** *As used in sections 9 to 17, inclusive, of this act*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 10, 11 and 12 of this act have the meanings ascribed to*
7 *them in those sections.*

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

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

13 **Sec. 12.** *"Medical marijuana establishment" has the*
14 *meaning ascribed to it in NRS 453A.116.*

15 **Sec. 13. 1.** *To be eligible for certification as an emerging*
16 *small marijuana business, a marijuana establishment or medical*
17 *marijuana establishment must:*

18 (i) *Be in existence, operational and operated for a profit;*
19 (ii) *Maintain its principal place of business in this State;*
20 (iii) *Be in compliance with all applicable licensing and*
21 *registration requirements in this State;*

22 (iv) *Not be a subsidiary or parent company belonging to a*
23 *group of firms that are owned or controlled by the same persons if,*
24 *in the aggregate, the group of firms does not qualify pursuant to*
25 *subsection 2 or 3 for designation as a tier 1 firm or a tier 2 firm;*
26 *and*

27 (v) *Qualify pursuant to subsection 2 or 3 for designation as a*
28 *tier 1 firm or a tier 2 firm.*

29 **2.** *To be designated a tier 1 firm, a marijuana establishment*
30 *or medical marijuana establishment:*

31 (a) *Must not employ more than 20 full-time or full-time*
32 *equivalent employees; and*

33 (b) *The average annual gross receipts for the marijuana*
34 *establishment or medical marijuana establishment must not*
35 *exceed \$700,000 for the 3 years immediately preceding the date of*
36 *application for certification as an emerging small marijuana*
37 *business.*

38 **3.** *To be designated a tier 2 firm, a marijuana establishment*
39 *or medical marijuana establishment:*

40 (a) *Must not employ more than 30 full-time or full-time*
41 *equivalent employees; and*

42 (b) *The average annual gross receipts for the marijuana*
43 *establishment or medical marijuana establishment must not*
44 *exceed \$1.3 million for the 3 years immediately preceding the date*



1 of application for certification as an emerging small marijuana
2 business.

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

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

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

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

20 3. The hours worked by part-time and seasonal employees
21 must be converted into full-time equivalent hours by dividing by
22 2,080 the total hours worked for the marijuana establishment or
23 medical marijuana establishment applying for certification by all
24 part-time and seasonal employees.

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

33 2. Upon receipt of the application and when satisfied that the
34 applicant meets the requirements set forth in this section, section
35 13 of this act, and any regulations adopted pursuant to section 17
36 of this act, the Office shall:

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

39 (b) Provide to the marijuana establishment or medical
40 marijuana establishment, in written or electronic form,
41 information concerning public and private programs to provide
42 financing for small businesses that are applicable to an emerging
43 small marijuana business and criteria for obtaining financing
44 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;

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

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

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

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

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

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

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

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

3. As used in this section:

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



1 (b) *“Medical marijuana establishment” has the meaning*
2 *ascribed to it in NRS 453A.116.*

3 (c) *“Medical marijuana establishment agent” has the meaning*
4 *ascribed to it in NRS 453A.117.*

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

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

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

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

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

