

**MINUTES OF THE
SENATE COMMITTEE ON REVENUE AND ECONOMIC DEVELOPMENT**

**Eightieth Session
March 19, 2019**

The Senate Committee on Revenue and Economic Development was called to order by Chair Marilyn Dondero Loop at 1:30 p.m. on Tuesday, March 19, 2019, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Marilyn Dondero Loop, Chair
Senator Julia Ratti, Vice Chair
Senator David R. Parks
Senator Ben Kieckhefer
Senator Heidi Seevers Gansert

GUEST LEGISLATORS PRESENT:

Senator Yvanna D. Cancela, Senatorial District No. 10

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Barbara Williams, Committee Secretary
Lex Thompson, Committee Secretary

OTHERS PRESENT:

Riana Durrett, Nevada Dispensary Association
Alisa Nave-Worth, Nevada Dispensary Association
Brandon Wiegand, Director of Operations, Nevada Organic Remedies; The Source Dispensaries
David Goldwater, Inyo Fine Cannabis Dispensary
Krystal Saab, Nevada Organic Remedies; The Source Dispensaries
Mark Fiorentino, TGIG, LLC, dba The Grove

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Chris Anderson, Surterra Wellness; Apothecary Shoppe
Michael Pelham, Nevada Taxpayers Association
Joelle Gutman, Washoe County Health District
Melanie Young, Executive Director, Department of Taxation

CHAIR DONDERO LOOP:

I will open the hearing on Senate Bill 238.

SENATE BILL 238: Revises provisions relating to marijuana. (BDR 32-133)

SENATOR YVANNA D. CANCELA (Senatorial District No. 10):

Senate Bill 238 deals with the safety and integrity of the marijuana industry.

RIANA DURRETT (Nevada Dispensary Association):

I am here on behalf of the Nevada Dispensary Association (NDA) which represents 90 percent of operating dispensaries throughout the State. Many of those are vertically integrated—they own and operate cultivation and production facilities. A large number of industry licensees support this bill.

Medical marijuana was legalized in Nevada in 2000. The framework for legal sales was enacted in 2013 when former Senator Tick Segerblom sponsored S.B. No. 374 of the 77th Session. The bill outlined the dispensary sales model focusing on inventory tracking and control, vetting of owners, regulatory oversight, patient access and education, collection of tax revenue, and other facets that continue to form the basis of Nevada's regulatory regime.

In 2016, the voters passed State Question 2—the Nevada Marijuana Legalization Initiative. Legislators, regulators and stakeholders worked diligently during the 2017 Session discussing and adopting several bills that significantly impacted the industry, including A.B. No. 422 of the 79th Session relating to preservation of the medical program; S.B. No. 487 of the 79th Session imposing excise taxes; and S.B. No. 344 of the 79th Session imposing strict advertising, packaging and labeling rules. The NDA and its members supported each of those bills.

During the 2017 Session, former Governor Brian Sandoval convened the Governor's Task Force on the Implementation of Ballot Question 2: The Regulation and Taxation of Marijuana Act to deliberate on the best approaches for implementing and regulating the legalized marijuana adult-use market. The

Task Force held over 60 meetings with representatives from the Department of Taxation (NDT), Department of Health and Human Services (DHHS), the Governor's Office, Legislators, law enforcement, youth and adult drug use prevention representatives, local government, marijuana industry representatives, medical marijuana patients and Nevada's Chief Medical Officer.

As a result of the Task Force, many recommendations submitted to the Governor were ultimately adopted as regulations in early 2018 and continue to govern the adult-use marijuana program. Many recommendations were carried over from the medical marijuana laws and regulations. Lawmakers, regulators, industry and other stakeholders recognized our medical marijuana program had a strong foundation and felt adult-use marijuana should be just as regulated—and in some cases—more regulated than medical marijuana.

That background helps recognize the extensive work building a strong foundation for cannabis regulation in Nevada. As we learn and the industry grows, adjustments and improvements will need to be made each Legislative Session, including bills like S.B. 238.

Thank you for taking the time to hear potential improvements to ensure the integrity and efficiency of our regulatory framework. This bill aims to maximize tax revenues while continuing to prioritize public and consumer safety. We appreciate Senator Cancela for her time—meeting with industry representatives and various stakeholders—and thought put into the proposed provisions and amendments ([Exhibit C](#)) to S.B. 238.

SENATOR CANCELA:

I will go through the sections of the bill and the proposed amendments.

There are more marijuana dispensaries in my district than anywhere else in the State. Approximately 25 percent of all Nevada's dispensaries are in Senate District 10. It is important we not only preserve the integrity of the industry but we are thoughtful about the growing and changing industry. As a State, we are figuring out the regulatory structure appropriate for the marijuana industry. I am cognizant of the discussions happening surrounding marijuana in other bills and through the Governor's Advisory Committee. It is important to note this bill assumes the status quo of marijuana regulations.

Section 1 deals with the Nevada Tax Commission. The Tax Commission has individuals with experience in certain fields—real property, utility business, agriculture and livestock business, finance, and mining. Section 1, subsection 2 of S.B. 238 adds that a person has at least 5 years of experience in the field of legalized marijuana. We have heard concerns of the specificity in the language surrounding this individual. It is important the individual chosen does have experience in the field of marijuana taxation, but we are open to discussion around whether legalized marijuana is the appropriate description for that experience.

Sections 2 through 8 create a program, the Responsible Use of Marijuana Public Education Committee, within DHHS to help the industry and users of marijuana. The Committee will consist of seven members including the Executive Director of the Department of Taxation or designee, and the Chief Medical Officer of the Department of Health and Human Services or designee. The Executive Director will appoint the five remaining positions. This includes a licensed physician, a Nevada resident with at least five years' experience in the field of public health, a Nevada resident who represents medical marijuana or marijuana establishments, a Nevada resident with a background in media or marketing sufficient to advise the Committee in carrying out its duties, and a Nevada resident who holds a valid registry identification card.

The intent of the Committee is to develop and carry out, in collaboration with a marketing or advertising agency, an effective and comprehensive media-based public information program to educate, promote and engage Nevadans concerning the responsible use of marijuana. There is a strong focus on public health based on the composition of the Committee. We need to not only look at the potential health benefits of marijuana but to ensure we are informing the public of what appropriate use of marijuana looks like. Colorado's campaign, Responsibility Grows Here, talks about safe use and making sure folks who have not engaged with marijuana in the past understand what safe use looks like. We are broadly discussing differences between marijuana use and other substance use, as well as the proper use of marijuana.

The Committee will emphasize marijuana and marijuana related products be kept away from children. Also, edible marijuana products could have a delayed effect—some folks may take a gummy and assume they will be high immediately. The product does not work that way. It is vital this information be distributed in a public fashion, including information conveying that marijuana

and marijuana-related products should only be purchased from a legal source. It is important to highlight legal vendors in the State.

One challenge in Nevada is the market for illegal sales and distribution. It is not illegal sales with a person standing on a corner offering a joint. It is the problematic form when product is brought into the State, illegally branded with Nevada dispensaries or production companies and then sold illegally. There is not a forum for a business owner to report their logo appearing on products not Nevada-certified or that has had Nevada testing. The business owner could call NDT who may refer the owner to Las Vegas Metro Police Department (LVMPD). The intent of section 9 is to figure out appropriate consumer protection. The language changes through the proposed amendment No. 3 regarding a hotline in the Attorney General's (AG) Consumer Protection Office. We are amending, with permissive language, within the Consumer Protection Office. This will allow for the AG and his team to convene a group of stakeholders to discuss the appropriate law enforcement action when circumstances like this arise. This is happening and needs to be dealt with.

Sections 10 and 15 deal with the transfer of medical marijuana registration certificate or license to operate a marijuana establishment to a party who is acquiring the certificate or license. An entity may have both medical and recreational marijuana sales capabilities. These sections deal with maintaining an inventory control system with dual license entities and making sure those streams can be melded together within the institution.

Sections 11 and 17 authorize the dual licensee to combine the inventory of the establishments and report the inventory under a single entity. The language for section 11, subsection 5, paragraphs (a) through (c) and section 17, subsection 11, paragraphs (a) through (c) is referred in the proposed amendment to ensure it actually addresses this intent.

Finally, sections 12, 13 and 17 deal with illegal deliveries. Unlicensed companies come into the State and set up shop to deliver marijuana. It is a problem not only for consumers—they may not be getting the product they expect—it is also a problem for the companies who go through the process of being licensed and legally working with the State to deliver product. The language in sections 12, 13 and 17 prohibit licensed or certified entities to sell marijuana or marijuana-related products through any business that does not hold the appropriate license or certificate. A licensed entity cannot subvert laws

working with an unlicensed entity; it has to work with a licensed delivery company. The bill also prohibits licensed or certified entities from contracting with a third party to advertise delivery to consumers.

ALISA NAVE-WORTH (Nevada Dispensary Association):

I am here to speak directly to section 12, subsection 4 on the bill and the proposed amendment. This specifically relates to third-party vendors to provide a digital platform-based delivery system to deliver marijuana and marijuana-based products. This is technology we are all familiar with when we order food, goods and services on third-party digital platforms.

Senate Bill 238 is necessary because the application of this type of technology to the sale of marijuana is contrary to the gold-standard laws and regulations this Body has put into place in Nevada. The language of section 12, subsection 4 has already been vetted and adopted by the NDT, the Tax Commission and the Legislative Commission through the regulatory process. Allowing a third-party digital platform to interface in the marijuana industry is confusing to law enforcement, in large part because Nevada has a finite number of brick-and-mortar facilities and strict delivery regulations.

The proposed amendment adds subsection 6 to section 12. It is necessary to clarify the same laws and regulations apply not only to dispensaries, but to unlicensed third-party vendors that pursue this venture independent of dispensaries.

SENATOR SEEVERS GANSERT:

When you have dual licensure and a single inventory, the wholesale tax is the same, so they can be kept together. The proposed amendment states marijuana does not become medical marijuana until it is sold.

MS. DURRETT:

That is correct. It is to preserve that single stream of products this Legislature enacted last Session.

SENATOR KIECKHEFER:

Is there any difference in inventory tracking when it exceeds the 100 milligrams THC limit?

MS. DURRETT:

It needs to be designated at the point of sale (POS). The proposed amendment states designation of medical versus adult use needs to be documented.

SENATOR KIECKHEFER:

It does not need to be associated with a specific license at that point under the proposed amendment? We want to track medical sales to a medical license. The proposed amendment states you do not have to associate a particular sale with a specific license.

MS. DURRETT:

The intent of this language is to ensure there is no particular license designated up until the POS. It allows for those sales through one of the licenses. If you require inventory to be recorded through two different licenses, the inventory would have to be separated once it comes into the dispensary creating two different inventories. You would have to have two different businesses running in one location. This would make medical marijuana expensive to maintain. With only 17,000 medical marijuana patients in Nevada, it would be difficult for some businesses to continue to sell medical marijuana with an entirely different business operation having a separate stream for medical marijuana products. This bill allows the business to keep the inventory together and designate the product at the POS. It is not practical to report them under two different licenses. We would have to rely on the person making the sale to make proper documentation of who it was sold to versus going into the Marijuana Enforcement Tracking Reporting and Compliance (METRC) account and reporting under one license versus the other.

SENATOR KIECKHEFER:

The businesses already have to keep a separate inventory system for products that are above the 1-milligram threshold. If you only have a retail dispensary license, there is no point in having a 500-milligram bar in your facility. However, if you are a dual licensee, could the business have products they are not allowed to sell to certain people?

MS. DURRETT:

They do have both of those products in the stores. If you have a retail store and you have a 500-milligram product, you are responsible for ensuring that does not get sold to a patient. There would be mechanisms in the METRC software. I discussed that with the Governor's Advisory Panel when it heard the audit. I

would be happy to discuss dealings we had with METRC and the ability to conform to Nevada regulations. I cannot speak for METRC, but it should be able to code software to ensure you are putting in a patient number if you are selling a 500-milligram bar so it is not being sold to a nonmedical marijuana user.

SENATOR KIECKHEFER:

I worry if you have a dual licensee and all transactions are processed under their recreational license for ease of doing business, we lose track of medical sales. The system is supposed to tag individual patients as they come in as a way of monitoring, but I do not know how that tracks back into the METRC system for reviewing on an ongoing basis.

SENATOR RATTI:

We have that data available to us based on the differentiation in taxation. The question whether that differentiation of taxation has been attached to individual medical marijuana user's license is a different question, but we should be able to know the amount of medical sales. There would not have been a retail excise tax placed on that sale. We need to make sure this is happening. Unless you have presented a medical card, you should not be able to get the retail excise tax discount.

Ms. DURRETT:

That is correct. At the POS you can ensure this will not be sold to anybody other than a medical patient. I will defer to NDT on whether or not it can reference the sale through the tax.

SENATOR RATTI:

The question of whether the 500-milligram bar can be sold to a medical patient needs to be solved.

We should be able to track how much marijuana is being sold to medical patients because they did not pay a retail excise tax.

Ms. DURRETT:

I will defer to NDT for confirmation.

SENATOR KIECKHEFER:

When you go to the pharmacy and purchase three things off the shelf and three prescriptions, it outlines those that are taxable and those that are not.

Does the same thing happen at a dispensary when I have one transaction where part is taxable and part is not? Is that tracked within the dispensary system as well as shown on my receipt?

MS. DURRETT:

We have operators familiar with this issue that can answer this question.

SENATOR KIECKHEFER:

Madame Chair, the audit found we were not always restricting sales of medical products exclusively to medical patients. It was early in the implementation of the METRC system. There were challenges within the data, and the audit raised a lot of questions.

MS. DURRETT:

On behalf of NDA, we would be happy to work on ensuring these are being properly tracked and only sold to medical marijuana patients.

CHAIR DONDERO LOOP:

Do all dual license stores combine their product, or is it based on what the operator wants to do?

MS. DURRETT:

Most, if not all, dual licensees combine their inventory from seed to sale and then designate at POS. In 2016, the Nevada delegation of regulators and lawmakers went to Colorado for advice. They received guidance on the best practices going forward with adult use. Colorado recommended not having two different tracks of inventory. It hurts the medical program, making it too expensive for the smaller fledgling portion of the business, which is down to 17,000 patients in Nevada. We worked with Senator Ratti to ensure wholesale taxes were aligned. Everything could be combined and not have two separate tracks.

CHAIR DONDERO LOOP:

Are most of the products given a barcode so when the consumer checks out, the barcode is scanned, similar to when you purchase toilet paper or Kleenex? That would designate what consumers are purchasing, or is it not that simple?

MS. DURRETT:

I will defer to one of the operators who can address the question.

SENATOR SEEVERS GANSERT:

I am not seeing where funding is available. In section 7, subsections 1 through 3, it states "to the extent that money is available." What are your expectations for the funds available for that type of program? It says without limitations. What are the limitations? You have to have an initial budget.

When looking at section 7, subsection 1, paragraph (b), in trying to do a plan, should it be each year? It is difficult to do an annual plan due four months into each year. Just a consideration to whether you want to do a plan each year or every other year.

SENATOR CANCELA:

That is something to take under consideration. We do not want the Committee to be bogged down in planning instead of doing.

On the funding question, the idea is for any administrative costs associated with the Committee not to exceed 20 percent of any annual expenditures by the Committee. We do not have a cap on how much money can be accepted through donations or grants. Ideally, we would first get the Committee set up and figure out what the cost would be. We would then look for grants and donations to be solicited in order to set up the program. We may need to come to the Legislature to seek funding.

SENATOR SEEVERS GANSERT:

The goals are positive but trying to figure out what that is going to cost you is difficult because you cannot do a request for proposal unless you have a budget. At some point in time you will have to figure out the budget. Is the intent to come back to the Legislature for a budget or Interim Finance Committee to set aside money?

SENATOR CANCELA:

Within the DHHS, there may be public health awareness dollars that may be available for this as a public health campaign. Grants may be available specifically to do with public health work on marijuana. The Committee would be exploring different funding possibilities.

SENATOR SEEVERS GANSERT:

The idea of grants is bright, and there may even be federal grants. I do not know if this is written where staff has the ability to apply for grants and accept gifts.

SENATOR CANCELA:

It is written to be able to accept donations, gifts and grants, but it is not yet written to have staff. It would be voluntary work on behalf of the Committee members to do grant applications. The Committee may rely on the DHHS where it is housed for expertise in grant assistance.

SENATOR KIECKHEFER:

The way I read section 12, subsection 5, medical marijuana dispensaries shall not be able to advertise delivery at all. Are they not allowed to deliver? It sounds like you cannot have a third party deliver. Also the way I read this as written, you cannot hire an advertising agency to advertise delivery.

Ms. DURRETT:

You are correct about the intent. It is a fine line—how do you say sales need to only come from licensees without preventing advertising. This language was vetted and adopted by the Tax Commission and Legislative Commission. It has done its purpose and this language is working well. We would welcome suggestions on how to further narrow it down.

SENATOR KIECKHEFER:

Can you advertise for delivery as a medical marijuana facility, and can you hire an advertising agency to advertise for your facility?

Ms. DURRETT:

Yes.

SENATOR KIECKHEFER:

The way I read the language indicates you should not be able to. In regard to the Nevada Tax Commission members, you would be hard-pressed to find someone with five years' experience in the field of legalized marijuana to sit on the Tax Commission. From the commission perspective, NDT under the Tax Commission collects the majority of taxes in our State aside from gaming. Marijuana is a small piece. We should evaluate whether we want specific

expertise called out for this industry that generates such a small amount of revenue as compared to others.

The way I read the accounting mechanism in section 8, subsection 4, paragraph (a), the public information program that includes advertising and the administrative overhead of the Department should not exceed 20 percent of the annual expenditures of the money accounted for separately in subsection 1. That is the carveout from the wholesale, but it is an artificial cap. The Director decides how much money NDT swipes in from the wholesale cap. There is 20 percent of an unlimited amount capped only by the amount of wholesale tax we collect. The way I read it, it is a blank check, and I would like to get our arms around it. A comprehensive Statewide media-based advertising campaign is easily \$1 million a year. When we take it from the wholesale excise tax, \$1 million less is going into the Distributive School Account, which means another \$1 million of General Fund needs to be deposited. The fiscal implications are real. I want to understand how those pieces move.

SENATOR CANCELA:

I do not disagree there are real fiscal implications. We will discuss that in the Finance Committee as it makes its way there. Certainly the intent is not to have a blank check to allow for an advertising campaign to take place. It is intended to be a real and robust campaign. It is an area where we have work to do in terms of dissemination of public health information related to marijuana. The intent is enough openness to allow for a real and robust campaign, but I am interested in ensuring there are caps so we do not have a program spending more money than needed.

SENATOR SEEVERS GANSERT:

In referring to section 8, subsection 4, it says to pay any costs incurred by the Department in administering the provisions of sections 4 through 8, but such costs must not exceed 20 percent of the annual expenditures of the money. Twenty percent was not the big pool but the charge for the cost of administering the new program.

SENATOR CANCELA:

The intent of the 20 percent cap is to ensure the money actually goes into the campaign and not into staffing or overhead. I am open to 20 percent is too much or too little in terms of expenditures for administrative costs. The intent

was to put in a cap to what could be spent on administrative work so the rest went to media buys and doing the work required of the public campaign.

SENATOR SEEVERS GANSERT:

Can we take time to understand what the Commission does? You removed the Office of Consumer Protection (CPO) and added the Commission. Is the Commission going to be ongoing, and what does that look like? In the proposed amendment there was a hotline that is going away and creating a Commission, but there is not any more information.

SENATOR CANCELA:

The intent of the language in the bill is to deal with the illegal sales and deliveries. I am cognizant that cannabis enforcement is headed into whatever regulatory body gets created out of Governor Steve Sisolak's executive order. There may be a better house for this kind of work than the AG's CPO. In the meantime, we do not want to leave the issue ignored. The proposed amendment intent is to create language allowing the AG through the CPO to pool together law enforcement, industry representatives, NDT and different entities that are dealing with the results of these illegal sales and deliveries. Also, we need to start the conversation about what kinds of regulatory work can be done to address this problem with the understanding this is an unaddressed problem happening today and may be addressed by some future body.

SENATOR SEEVERS GANSERT:

Are you planning to provide any more details in the eventual amendment?

SENATOR CANCELA:

Yes, we will outline not only the intent but also potential composition of the Commission. We want to leave leeway for the CPO and for the AG's Office to insert their expertise into the process deciding who should be at the table.

CHAIR DONDERO LOOP:

I have a question on section 10, subsection 2. What is the difference between transfer and ownership versus transfer of the certificate?

Ms. DURRETT:

Section 10, subsection 2 clarifies a license is an asset that can be sold. The language it is clarifying indicates only sales of ownership of a company are

allowed to be sold, but I believe that was not the intent when an amendment was made to this language in 2015. This clarifies a medical marijuana registration certificate, retail store license or any other license in the industry is an asset that can be sold.

David Goldwater and Brandon Wiegand can explain the capabilities of making sure the medical products are only going to medical patients.

BRANDON WIEGAND (Director of Operations, Nevada Organic Remedies; The Source Dispensaries):

There are three categories of product. One is medical-only product, sold only to medical customers and tracked under a medical tag in METRC. It is kept through a single supply chain through medical transactions. Next are recreational products sold to recreational customers only and tracked through the recreational tag and recreational supply stream. What is in contention is this kind of Venn diagram of customers who are medical customers purchasing recreational products. Those are products tracked through the recreational system but sold to a medical customer. Medical customers can purchase those products on their own. The benefit is not being taxed at a recreational level.

If we get rid of dual inventory or a single supply stream inventory, we are going to preclude medical customers from the ability to purchase recreational products. The cost will be too high for the dispensaries. We will have to track those through a single supply chain on each side.

CHAIR DONDERO LOOP:

Do all medical customers show their medical card when they come in and by doing so, they do not pay taxes?

MR. WIEGAND:

Yes, every medical customer must show a medical card in order to qualify for no tax.

CHAIR DONDERO LOOP:

If medical customers are purchasing recreational product, would it still be considered medical because it may work for them in some way? Why would we not just charge them for the medical sale with no taxes and charge them tax on the recreational sale?

DAVID GOLDWATER (Inyo Fine Cannabis Dispensary):

In practice, that is what happens. There is one product at the patient or customer level—that is high dose edibles—that cannot be sold to a recreational customer. What Mr. Wiegand is talking about is on the supply chain from cultivators. There are some cultivators who have a medical-only license and only grow medical product. Those can only be sold to a licensee with a medical license. Those products can be sold only to a medical patient who has a complete package on record at the dispensary.

SENATOR KIECKHEFER:

The issue is not the product as it relates to its efficacy dosage. It depends on the source. If it is grown by a medical-only cultivator, you can only sell it to a medical patient. Are there also recreational-only growers, and their products cannot be sold to a medical patient? Or is it just one way and not the other?

MR. WIEGAND:

Just one way, not the other way. Medical customers are allowed to purchase any of the recreational products, but for recreational customers, there are specific products that cannot be purchased by a recreational user.

MR. GOLDWATER:

The goal was not to put the tax at the wholesale level; the goal was to make the tax event at the POS for the differentiation between medical and recreational.

SENATOR KIECKHEFER:

When medical consumers come in your store, they give you their cards and everything is excise tax-free. Do you process the transaction under your medical license or your recreational license? Can you switch back and forth within your system? If you cannot switch back and forth in the system, that is where we are having the problem.

MR. GOLDWATER:

I will walk you through a bit of the METRC system. The METRC system has three parts—the State, POS and physical inventory. All three parts work together to form the METRC system that reports to the State and allows the retailer to report back to you. The taxable event is at the POS. We have tried not to be forced by METRC to run two separate POS systems for medical and recreational. It has been a point of contention early on with METRC and very

difficult with the division. We combined them into one. The way we pay attention to it is through the tax rate. If you see a 10 percent excise tax-free transaction, that should be associated with a patient with the documentation for a patient kept on record at the retail level.

MR. WIEGAND:

The industry supported the 15 percent excise tax at the wholesale level to prevent us from having to carry 2 different supply streams. We are willing to pay a higher tax rate in order to avoid the additional cost that would be burdened by two different supply streams. Under METRC and the way it works, there is flexibility in what your POS system can be, but METRC reporting requires we transact on those sales. We report if it was a medical customer purchasing a medical product.

On the back end for METRC, if you are reporting a product sold to a customer without a medical record, that will be a flag in the system and will result in a demerit or audit from NDT to verify those transactions were medical or not.

SENATOR KIECKHEFER:

Is there a benefit as a dual licensee from purchasing from a medical cultivator? If you are running two different supply chains, you would run into the problem of having to split your inventory. If you are a dual licensee, you are only buying from recreational cultivators except for a limited number of edibles?

MR. GOLDWATER:

There are not many medical-only cultivators. I do not know if they will continue.

MR. WIEGAND:

In theory that is how it should work. We have broached this topic with METRC. In order for the system to work the way it is being described, we have to separate our inventory. We would still purchase from recreational suppliers—cultivators and producers—but we would have to purchase that product and log it under a medical dispensary license rather than carry it in a dual license category. In order to transact and serve our medical customers, it requires we have completely separate inventories for recreational and medical and a separate inventory just for recreational. This completely defies the logic in keeping a dual stream inventory and the reason we agreed to pay a higher tax rate.

CHAIR DONDERO LOOP:

Section 12, subsection 5 states the medical dispensary shall not contract with a third-party or intermediary business to advertise delivery to consumers. If I have a billboard or wrap a car driving around town, I have contracted with a third party and am advertising delivery of product which may not be physical. The language is vague, and I need clarification.

MS. NAVE-WORTH:

Section 12, subsection 5 was language negotiated and adopted through regulation by NDT, the Tax Commission and the Legislative Commission. It was aimed at disabling third-party companies using digital platform sources to solicit delivery of goods. For example, you are on Instagram or Facebook and a third-party digital platform is facilitating a sale or delivery of a product. It is specifically trying to get companies operating in California with a business model that use systems similar to Postmates. You Postmate your food, contact Postmates and pay a pass-through fee. A third-party unlicensed person picks up the food and delivers. Another model has been proposed for dispensaries. The dispensaries are delivering but going through a third-party platform to deliver the pot. There may be dispensaries roving around with pot preloaded in a car so they can deliver quickly.

The language is trying to get at this model. It has grown largely in California because of a proliferation of illegal, unlicensed, brick-and-mortar businesses. California is trying to bring it back to the center. Nevada has done a better job under your leadership ensuring there is a finite number of licensed brick-and-mortar businesses. We agree there is some confusion. It is not meant to capture a billboard or someone that wraps a car advertising delivery. We need better language on this section, but that is the point of the section.

CHAIR DONDERO LOOP:

It was stated the new Committee was under DHHS, but it appears as drafted, the Committee could be under NDT. Can you clarify?

MS. DURRETT:

We are looking at funding from already allocated dollars to public education from the DHHS. The Education Committee will be under NDT or whichever entity regulates legalized marijuana after the end of Session.

SENATOR KIECKHEFER:

Who has enforcement protocol for an unlicensed company operating outside of the scope of law and regulation?

MS. NAVE-WORTH:

No one in particular, possibly LVMPD. It is another conversation NDA would like regarding people who choose to operate illegally and not go through the licensure process. That does not benefit the citizens of Nevada.

SENATOR KIECKHEFER:

Is this happening now?

MS. NAVE-WORTH:

We do not believe it is happening now, but there have been conversations such people could come to Nevada. They are operating in California, and there is argument there is ambiguity under *Nevada Revised Statutes* (NRS) that they could operate in Nevada because of the lack of this language. Should this Committee choose not to put in this portion of the bill, it would open the door for the ambiguity, even though it is in regulatory. That is the reason for adding it to the NRS.

SENATOR RATTI:

We have focused on section 12, subsections 4 and 5 already in the bill and that is negotiated language through the regulatory process. What does subsection 6 in the proposed amendment do that adds greater clarity?

MS. NAVE-WORTH:

Subsections 4 and 5 state a medical marijuana dispensary shall not sell marijuana through a third party. It clarifies the dispensaries themselves are prohibited from doing that.

SENATOR RATTI:

That is the state of the law, but only in regulatory. We want to put it into NRS. What does subsection 6 add?

MS. NAVE-WORTH:

That is correct. Subsection 6 says a third party shall not contract either and it penalizes the third party. It adds not only the dispensary, but the third party as

well. The onus of legality is not only on the dispensary, but on the third-party vendor that contracts with the dispensary.

SENATOR RATTI:

Did we solve the distributor problem? Are there enough distributors? Is there another bill that solves that problem?

MS. DURRETT:

That is still being litigated, but there are 28 distribution licenses distributed to alcohol licensees and medical marijuana establishments. There is a sufficient amount of licenses, but it was pretty damaging to the industry overall. There is nothing legislatively that needs to be done on that end.

KRYSTAL SABB (Nevada Organic Remedies; The Source Dispensaries):

On behalf of Nevada Organic Remedies and The Source Dispensaries, we would like to testify on Senate Bill 238 regarding provisions seeking to strengthen the regulations against unlicensed third-party brokers selling cannabis to citizens and visitors. We are a vertically integrated cannabis company focused on serving the needs of Nevadans.

The Source was one of the first five dispensaries to open in Nevada in 2015. Since opening, The Source has contributed over \$8.3 million in tax revenue to Nevada. We employ over 220 team members Statewide who earn close to 2 times minimum wage or more. Nevada is well on its way to becoming the gold standard for regulation of the cannabis industry. Regulations require businesses involved in the cannabis industry to obtain appropriate licensure and undergo stringent vetting no matter where businesses are in the chain of production, control or sale.

If unlicensed third-party companies are allowed to independently advertise cannabis products, take orders for those cannabis products and then deliver those products, they become de facto unlicensed dispensaries. Unlicensed and unregulated activity leads to a host of safety and regulatory issues.

First and most obvious, these delivery brokerage services do not have a license. Such activity flies in the face of what the public, our Legislature and our regulators have decided is appropriate for this State.

Second, allowing such third-party unlicensed dispensaries to operate in this manner creates an attractive avenue for bad actors to slip black-market product into this stream of commerce.

Finally, this activity confuses the public. If there are many different delivery companies advertising to the public, the public will not know if they are licensed and may not understand whom they are doing business with. The best way to ensure our gold-standard cannabis regulatory program runs smoothly and continues to be mindful of our citizens' safety is to keep the sales function in the dispensaries already allowed to deliver. This bill clearly eliminates the opportunities for confusion for the public and for allowing black-market product to slip into this stream of sale.

Rigorous licensing, regulation and monitoring is vital in the cannabis industry. We ask the State to be mindful when considering fundamental changes to a regulatory scheme intended to not only legalize but also legitimize an industry that has been unlawful for 70 years. It is critical we are fully cognizant of the black market potential for these delivery companies. Regulations allow existing companies to deliver. There is no need to allow roaming unlicensed dispensaries to dilute and confuse the market.

MARK FIORENTINO (TGIG, LLC, dba The Grove):

The Grove has two dispensaries in Clark County and Nye County, and a production and cultivation facility in Clark County. We support S.B. 238 and, in particular, support the sections of the bill that create the Committee on Responsible Use. It is an important matter. We agree it needs to be done in a way there are caps and controls on spending. It needs to be done in a way that minimizes, if not eliminates, the impact on the General Fund. There is some work to do on that.

We agree and support the concept of creating a separate Commission to study the illegal markets and the most effective way to attack black market activity. This is a must. There are not enough resources individually to do this—AG, local law enforcement, etc. Putting together a Committee of these different stakeholders and figuring out the best and most efficient way to do it is critical. We support those two concepts in the bill and are ready to dedicate our energy to get a format you are comfortable with.

CHRIS ANDERSON (Surterra Wellness; The Apothecary Shoppe):

This bill makes positive strides to ensure the integrity and public safety of Nevada's cannabis industry. We thank Senator Cancela for her leadership on the issue.

MICHAEL PELHAM (Nevada Taxpayers Association):

There is a concern about the Nevada Tax Commissioner that would be appointed. The bill states someone from the legal marijuana industry. The marijuana industry is not a federally legalized industry. We want to go on record that could be a problem with the person who is appointed to the Commission. We have seen bank accounts closed due to people's involvement in that industry. We do not want that to happen to the appointee.

JOELLE GUTMAN (Washoe County Health District):

I would like to thank Senator Cancela for meeting last week to discuss the Health District's request for language clarification in S.B. 238. The sponsor is aware of two minor requests. First, section 5, subsection 1, paragraph (c), subparagraph (2), we would like amended to say a public health officer. This would ensure subject matter expertise in relation to public health. Second, add language to section 7 to ensure the public information campaign includes information regarding the health effects and risks of smoking and/or consuming marijuana products.

MELANIE YOUNG (Executive Director, Department of Taxation):

We are neutral on this bill. We will continue to work with the bill sponsor on amendments that come forward to make sure they work for the Department.

SENATOR CANCELA:

This bill has required input from numerous stakeholders, and I am grateful for those who spent time to get to this point where we could have this discussion. I appreciate the feedback in commentary. I want to make sure it is on the record there is a public commitment from me to continue to work with folks to make sure the bill is as tight as possible and to address some of the issues that come up.

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CHAIR DONDERO LOOP:

Seeing no public comment, this meeting is adjourned at 2:48 p.m.

RESPECTFULLY SUBMITTED:

Lex Thompson,
Committee Secretary

APPROVED BY:

Senator Marilyn Dondero Loop, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	4		Attendance Roster
S.B. 238	C	2	Senator Yvanna D. Cancela	Proposed Amendment