

SENATE BILL NO. 168—SENATORS LANGE, BROOKS;
D. HARRIS AND SCHEIBLE

MARCH 4, 2021

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to cannabis.
(BDR 56-135)

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 cannabis; prohibiting the Cannabis Compliance Board or a local government from imposing certain restrictions relating to the packaging of cannabis and cannabis products; authorizing a cannabis sales facility to engage in curbside pickup under certain circumstances; authorizing a cannabis establishment to satisfy certain requirements relating to the labeling of a cannabis product through certain alternative means; providing that the placement of certain signs inside a cannabis establishment does not constitute advertising by a cannabis establishment for certain purposes; requiring the Board to adopt regulations allowing for certain records of a cannabis establishment to be created and maintained in an electronic format; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure and regulation of persons and establishments involved in the cannabis industry in this State by the Cannabis Compliance Board. (Title 56 of NRS) Existing law authorizes the Board to adopt regulations imposing reasonable restrictions on signage, marketing, display and advertising of cannabis establishments, but prohibits the Board from imposing a restriction that requires a cannabis establishment to obtain the approval of the Board before using a logo, sign or advertisement. (NRS 678A.450) **Section 1** of this bill similarly authorizes the Board to adopt regulations imposing reasonable restrictions on the packaging used by cannabis establishments to package cannabis or cannabis products, but prohibits the Board from imposing a restriction that requires a cannabis establishment to obtain the approval of the Board or a local



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government before using such packaging. **Section 7** of this bill requires the Board to revise its regulations to conform with the provisions of **section 1**.

Section 3 of this bill authorizes a cannabis sales facility to engage in curbside pickup under certain circumstances. **Section 3** defines "curbside pickup" to mean the delivery of cannabis or cannabis products by a cannabis sales facility to a consumer in a motor vehicle at a designated parking space on the premises of the cannabis sales facility. **Section 3** requires a cannabis sales facility that wishes to engage in curbside pickup to submit a plan for the implementation of curbside pickup to the Board for approval. **Section 3** prescribes the required contents of such a plan, which include, among other requirements, procedures setting forth the manner in which curbside pickup will be conducted and procedures to ensure the security of the cannabis sales facility and consumers during curbside pickup. Under **section 3**, if the Board approves the plan and the cannabis sales facility is not otherwise prohibited by local ordinance or rule, the cannabis sales facility is authorized to engage in curbside pickup in accordance with the terms of the approved plan.

Existing law and regulations impose various requirements on the labeling of cannabis and cannabis products. (NRS 678B.520, 678D.420; Nevada Cannabis Compliance Regulations §§ 12.010-12.065) **Section 4** of this bill authorizes a cannabis establishment, with certain exceptions, to satisfy any requirement relating to the labeling of a cannabis product which requires the cannabis establishment to include certain information on a label affixed to a cannabis product by including the required information in a pamphlet that is clear and legible and providing the pamphlet to the purchaser of the product at the time of sale.

Existing law imposes certain restrictions on the advertising of cannabis establishments. (NRS 678B.520) **Section 5** of this bill provides that the placement of a sign inside a cannabis establishment that is not visible from outside the establishment does not constitute advertising for the purposes of such restrictions.

Existing law requires the Board to adopt regulations concerning the operation of cannabis establishments, including, without limitation, regulations setting forth minimum requirements for the keeping of records by cannabis establishments. (NRS 678B.650) **Section 6** of this bill additionally requires the Board to adopt regulations allowing for any record relating to the delivery of cannabis or cannabis products that is required to be kept by a cannabis establishment to be created and maintained in an electronic format.

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

Section 1. NRS 678A.450 is hereby amended to read as follows:

678A.450 1. The Board may adopt regulations necessary or convenient to carry out the provisions of this title. Such regulations may include, without limitation:

(a) Financial requirements for licensees.

(b) Establishing such investigative and enforcement mechanisms as the Board deems necessary to ensure the compliance of a licensee or registrant with the provisions of this title.

(c) Requirements for licensees or registrants relating to the cultivation, processing, manufacture, transport, distribution, testing, study, advertising and sale of cannabis and cannabis products.



(d) Policies and procedures to ensure that the cannabis industry in this State is economically competitive, inclusive of racial minorities, women and persons and communities that have been adversely affected by cannabis prohibition and accessible to persons of low-income seeking to start a business.

(e) Policies and procedures governing the circumstances under which the Board may waive the requirement to obtain a registration card pursuant to this title for any person who holds an ownership interest of less than 5 percent in any one cannabis establishment or an ownership interest in more than one cannabis establishment of the same type that, when added together, is less than 5 percent.

(f) Reasonable restrictions on the signage, marketing, display and advertising of cannabis establishments. Such a restriction must not require a cannabis establishment to obtain the approval of the Board before using a logo, sign or advertisement.

(g) Provisions governing the sales of products and commodities made from hemp, as defined in NRS 557.160, or containing cannabidiol by cannabis establishments.

(h) Reasonable restrictions on the packaging used by cannabis establishments to package cannabis or cannabis products. Such restrictions must not require a cannabis establishment to obtain the approval of the Board or a local government for such packaging before it is used.

2. The Board shall adopt regulations providing for the gathering and maintenance of comprehensive demographic information, including, without limitation, information regarding race, ethnicity, age and gender, concerning each:

(a) Owner and manager of a cannabis establishment.

(b) Holder of a cannabis establishment agent registration card.

3. The Board shall transmit the information gathered and maintained pursuant to subsection 2 to the Director of the Legislative Counsel Bureau for transmission to the Legislature on or before January 1 of each odd-numbered year.

4. The Board shall, by regulation, establish a pilot program for identifying opportunities for an emerging small cannabis business to participate in the cannabis industry. As used in this subsection, “emerging small cannabis business” means a cannabis-related business that:

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

(b) Maintains its principal place of business in this State; and

(c) Satisfies requirements for the number of employees and annual gross revenue established by the Board by regulation.



1 **Sec. 2.** Chapter 678B of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 3 and 4 of this act.

3 **Sec. 3. 1.** *A cannabis sales facility may engage in curbside*
4 *pickup only as provided in this section.*

5 2. *A cannabis sales facility that wishes to engage in curbside*
6 *pickup must, before engaging in that activity, submit a plan for the*
7 *implementation of curbside pickup to the Board for its approval.*
8 *The plan must include, without limitation:*

9 (a) *An identification of each parking space on the premises of*
10 *the cannabis sales facility that will be designated for curbside*
11 *pickup, including, without limitation, a diagram and photograph*
12 *of each designated parking space;*

13 (b) *Evidence sufficient to show that each parking space that*
14 *will be designated for curbside pickup is within the direct line of*
15 *sight of the video monitoring system of the cannabis sales facility;*

16 (c) *Procedures to ensure the security of the cannabis sales*
17 *facility and consumers during curbside pickup, including, without*
18 *limitation, procedures providing for:*

19 (1) *The establishment of on-site security stations;*

20 (2) *The stationing of security personnel at each parking*
21 *space designated for curbside pickup; and*

22 (3) *Video monitoring of each parking space designated for*
23 *curbside pickup in a manner that allows the video monitoring*
24 *system of the cannabis sales facility to maintain a direct line of*
25 *sight to each parking space but does not impair the ability of the*
26 *cannabis sales facility to comply with any other requirement*
27 *concerning video monitoring set forth in this title or the*
28 *regulations adopted pursuant thereto;*

29 (d) *Procedures setting forth the manner in which curbside*
30 *pickup will be conducted, including, without limitation,*
31 *procedures for the fulfillment of orders and for the notification of*
32 *consumers engaging in curbside pickup before and during*
33 *curbside pickup;*

34 (e) *Procedures to ensure that no cannabis or cannabis product*
35 *is delivered to a consumer in a motor vehicle if there is also a*
36 *person who is less than 21 years of age in the vehicle;*

37 (f) *An identification of each employee of the cannabis sales*
38 *facility, including, without limitation, security personnel, who will*
39 *be involved in curbside pickup and a description of the location,*
40 *role and responsibility of each such employee during curbside*
41 *pickup;*

42 (g) *Procedures for the handling of cannabis, cannabis*
43 *products and cash during curbside pickup to ensure the security of*
44 *those items;*



(h) Procedures for vehicular ingress and egress to and from the cannabis sales facility during curbside pickup to ensure an orderly flow of traffic; and

(i) Any other information the Board may prescribe by regulation.

3. If the Board approves a plan submitted pursuant to subsection 2 and the cannabis sales facility is not otherwise prohibited by local ordinance or rule, the cannabis sales facility may engage in curbside pickup in accordance with the terms of the approved plan. The failure of a cannabis sales facility to comply with the terms of the approved plan constitutes grounds for disciplinary action.

4. Nothing in this section shall be construed as prohibiting a local government from adopting and enforcing an ordinance or rule pertaining to zoning or land use that prohibits a cannabis sales facility from engaging in curbside pickup.

5. As used in this section, “curbside pickup” means the delivery of cannabis or cannabis products by a cannabis sales facility to a consumer in a motor vehicle located at a designated parking space on the premises of the cannabis sales facility.

Sec. 4. 1. Except as otherwise provided in this section, a cannabis establishment may satisfy any requirement relating to the labeling of a cannabis product which requires the cannabis establishment to include certain information on a label affixed to a cannabis product by including the required information in a pamphlet that is clear and legible and providing the pamphlet to the purchaser of the cannabis product at the time of sale.

2. The provisions of this section do not apply to the requirements set forth in subsections 1 and 3 of NRS 678B.520.

Sec. 5. NRS 678B.520 is hereby amended to read as follows:

678B.520 1. Each cannabis establishment shall, in consultation with the Board, cooperate to ensure that all cannabis products offered for sale:

(a) Are labeled clearly and unambiguously:

(1) As cannabis or medical cannabis with the words “THIS IS A MEDICAL CANNABIS PRODUCT” or “THIS IS A CANNABIS PRODUCT,” as applicable, in bold type; and

(2) As required by the provisions of this chapter and chapters 678C and 678D of NRS.

(b) Are not presented in packaging that contains an image of a cartoon character, mascot, action figure, balloon or toy, except that such an item may appear in the logo of the cannabis production facility which produced the product.

(c) Are regulated and sold on the basis of the concentration of THC in the products and not by weight.



(d) Are packaged and labeled in such a manner as to allow tracking by way of an inventory control system.

(e) Are not packaged and labeled in a manner which is modeled after a brand of products primarily consumed by or marketed to children.

(f) Are labeled in a manner which indicates the amount of THC in the product, measured in milligrams, and includes a statement that the product contains cannabis and its potency was tested with an allowable variance of the amount determined by the Board by regulation.

(g) Are not labeled or marketed as candy.

2. A cannabis production facility shall not produce cannabis products in any form that:

(a) Is or appears to be a lollipop.

(b) Bears the likeness or contains characteristics of a real or fictional person, animal or fruit, including, without limitation, a caricature, cartoon or artistic rendering.

(c) Is modeled after a brand of products primarily consumed by or marketed to children.

(d) Is made by applying concentrated cannabis, as defined in NRS 453.042, to a commercially available candy or snack food item other than dried fruit, nuts or granola.

3. A cannabis production facility shall:

(a) Seal any cannabis product that consists of cookies or brownies in a bag or other container which is not transparent.

(b) Affix a label to each cannabis product which includes, without limitation, in a manner which must not mislead consumers, the following information:

(1) The words “Keep out of reach of children”;

(2) A list of all ingredients used in the cannabis product;

(3) A list of all allergens in the cannabis product; and

(4) The total content of THC measured in milligrams.

(c) Maintain a hand washing area with hot water, soap and disposable towels which is located away from any area in which cannabis products are cooked or otherwise prepared.

(d) Require each person who handles cannabis products to restrain his or her hair, wear clean clothing and keep his or her fingernails neatly trimmed.

(e) Package all cannabis products produced by the cannabis production facility on the premises of the cannabis production facility.

4. A cannabis establishment shall not engage in advertising that in any way makes cannabis or cannabis products appeal to children, including, without limitation, advertising which uses an image of a cartoon character, mascot, action figure, balloon, fruit or toy.



5. Each cannabis sales facility shall offer for sale containers for the storage of cannabis and cannabis products which lock and are designed to prohibit children from unlocking and opening the container.

6. A cannabis sales facility shall:

(a) Include a written notification with each sale of cannabis or cannabis products which advises the purchaser:

(1) To keep cannabis and cannabis products out of the reach of children;

(2) That cannabis products can cause severe illness in children;

(3) That allowing children to ingest cannabis or cannabis products or storing cannabis or cannabis products in a location which is accessible to children may result in an investigation by an agency which provides child welfare services or criminal prosecution for child abuse or neglect;

(4) That the intoxicating effects of edible cannabis products may be delayed by 2 hours or more and users of edible cannabis products should initially ingest a small amount of the product, then wait at least 120 minutes before ingesting any additional amount of the product;

(5) That pregnant women should consult with a physician before ingesting cannabis or cannabis products;

(6) That ingesting cannabis or cannabis products with alcohol or other drugs, including prescription medication, may result in unpredictable levels of impairment and that a person should consult with a physician before doing so;

(7) That cannabis or cannabis products can impair concentration, coordination and judgment and a person should not operate a motor vehicle while under the influence of cannabis or cannabis products; and

(8) That ingestion of any amount of cannabis or cannabis products before driving may result in criminal prosecution for driving under the influence.

(b) Enclose all cannabis and cannabis products in opaque, child-resistant packaging upon sale.

7. A cannabis sales facility shall allow any person who is at least 21 years of age to enter the premises of the cannabis sales facility.

8. If the health authority, as defined in NRS 446.050, where a cannabis production facility or cannabis sales facility which sells edible cannabis products is located requires persons who handle food at a food establishment to obtain certification, the cannabis production facility or cannabis sales facility shall ensure that at least one employee maintains such certification.



9. A cannabis production facility may sell a commodity or product made using hemp, as defined in NRS 557.160, or containing cannabidiol to a cannabis sales facility.

10. In addition to any other product authorized by the provisions of this title, a cannabis sales facility may sell:

(a) Any commodity or product made using hemp, as defined in NRS 557.160;

(b) Any commodity or product containing cannabidiol with a THC concentration of not more than 0.3 percent; and

(c) Any other product specified by regulation of the Board.

11. A cannabis establishment:

(a) Shall not engage in advertising which contains any statement or illustration that:

(1) Is false or misleading;

(2) Promotes overconsumption of cannabis or cannabis products;

(3) Depicts the actual consumption of cannabis or cannabis products; or

(4) Depicts a child or other person who is less than 21 years of age consuming cannabis or cannabis products or objects suggesting the presence of a child, including, without limitation, toys, characters or cartoons, or contains any other depiction which is designed in any manner to be appealing to or encourage consumption of cannabis or cannabis products by a person who is less than 21 years of age.

(b) Shall not advertise in any publication or on radio, television or any other medium if 30 percent or more of the audience of that medium is reasonably expected to be persons who are less than 21 years of age.

(c) Shall not place an advertisement:

(1) Within 1,000 feet of a public or private school, playground, public park or library, but may maintain such an advertisement if it was initially placed before the school, playground, public park or library was located within 1,000 feet of the location of the advertisement;

(2) On or inside of a motor vehicle used for public transportation or any shelter for public transportation;

(3) At a sports event to which persons who are less than 21 years of age are allowed entry; or

(4) At an entertainment event if it is reasonably estimated that 30 percent or more of the persons who will attend that event are less than 21 years of age.

(d) Shall not advertise or offer any cannabis or cannabis product as "free" or "donated" without a purchase.



(e) Shall ensure that all advertising by the cannabis establishment contains such warnings as may be prescribed by the Board, which must include, without limitation, the following words:

(1) "Keep out of reach of children"; and

(2) "For use only by adults 21 years of age and older."

12. Nothing in subsection 11 shall be construed to prohibit a local government, pursuant to chapter 244, 268 or 278 of NRS, from adopting an ordinance for the regulation of advertising relating to cannabis which is more restrictive than the provisions of subsection 11 relating to:

(a) The number, location and size of signs, including, without limitation, any signs carried or displayed by a natural person;

(b) Handbills, pamphlets, cards or other types of advertisements that are distributed, excluding an advertisement placed in a newspaper of general circulation, trade publication or other form of print media;

(c) Any stationary or moving display that is located on or near the premises of a cannabis establishment; and

(d) The content of any advertisement used by a cannabis establishment if the ordinance sets forth specific prohibited content for such an advertisement.

13. If a cannabis establishment engages in advertising for which it is required to determine the percentage of persons who are less than 21 years of age and who may reasonably be expected to view or hear the advertisement, the cannabis establishment shall maintain documentation for not less than 5 years after the date on which the advertisement is first broadcasted, published or otherwise displayed that demonstrates the manner in which the cannabis establishment determined the reasonably expected age of the audience for that advertisement.

14. In addition to any other penalties provided for by law, the Board may impose a civil penalty upon a cannabis establishment that violates the provisions of subsection 11 or 13 as follows:

(a) For the first violation in the immediately preceding 2 years, a civil penalty not to exceed \$1,250.

(b) For the second violation in the immediately preceding 2 years, a civil penalty not to exceed \$2,500.

(c) For the third violation in the immediately preceding 2 years, a civil penalty not to exceed \$5,000.

(d) For the fourth violation in the immediately preceding 2 years, a civil penalty not to exceed \$10,000.

15. As used in this section, ~~["motor"]~~

(a) "Advertising" does not include the placement of a sign inside a cannabis establishment that is not visible from outside the establishment.



(b) “Motor vehicle used for public transportation” does not include a taxicab, as defined in NRS 706.124.

Sec. 6. NRS 678B.650 is hereby amended to read as follows:

678B.650 The Board shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of this chapter. 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 applications for licenses or registration cards issued pursuant to this chapter;

2. Establish procedures for the suspension or revocation of a license or registration card or other disciplinary action to be taken against a licensee or registrant;

3. Set forth rules pertaining to the safe and healthful operation of cannabis establishments, including, without limitation:

(a) The manner of protecting against diversion and theft without imposing an undue burden on cannabis establishments or compromising the confidentiality of consumers and holders of registry identification cards and letters of approval, as those terms are defined in NRS 678C.080 and 678C.070, respectively;

(b) Minimum requirements for the oversight of cannabis establishments;

(c) Minimum requirements for the keeping of records by cannabis establishments;

(d) Provisions for the security of cannabis establishments, including without limitation, requirements for the protection by a fully operational security alarm system of each cannabis establishment; and

(e) Procedures pursuant to which cannabis establishments must use the services of cannabis independent testing laboratories to ensure that any cannabis or cannabis product or commodity or product made from hemp, as defined in NRS 557.160, sold by a cannabis sales facility to an end user is tested for content, quality and potency in accordance with standards established by the Board;

4. Establish circumstances and procedures pursuant to which the maximum fees set forth in NRS 678B.390 may be reduced over time to ensure that the fees imposed pursuant to NRS 678B.390 are, insofar as may be practicable, revenue neutral;

5. Establish different categories of cannabis establishment agent registration cards, including, without limitation, criteria for issuance of a cannabis establishment agent registration card for a cannabis executive and criteria for training and certification, for each of the different types of cannabis establishments at which such an agent may be employed or volunteer or provide labor as a cannabis establishment agent;



6. 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;

7. Establish procedures and requirements to enable a dual licensee to operate a medical cannabis establishment and an adult-use cannabis establishment at the same location;

8. Determine whether any provision of this chapter or chapter 678C or 678D of NRS would make the operation of a cannabis establishment by a dual licensee unreasonably impracticable; ~~and~~

9. *Allow for any record relating to the delivery of cannabis or cannabis products that is required to be kept by a cannabis establishment to be created and maintained in an electronic format; and*

10. Address such other matters as the Board deems necessary to carry out the provisions of this title.

Sec. 7. 1. The provisions of any regulation adopted by the Cannabis Compliance Board which conflict with the provisions of NRS 678A.450, as amended by section 1 of this act, are void and must not be given effect to the extent of the conflict.

2. The Cannabis Compliance Board shall amend or repeal any of its existing regulations that conflict or are inconsistent with the provisions of NRS 678A.450, as amended by section 1 of this act, as soon as practicable after the effective date of this section.

Sec. 8. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 7, inclusive, of this act become effective:

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

(b) On January 1, 2022, for all other purposes.

