

SENATE BILL NO. 281—SENATOR NEAL

MARCH 18, 2021

Referred to Committee on Revenue and
Economic Development

SUMMARY—Enacts provisions relating to certain products containing hemp. (BDR 32-974)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 hemp; imposing an excise tax on retail sales of consumable hemp products; providing for the administration and enforcement of the excise tax; prohibiting a person from selling or offering to sell a consumable hemp product unless the product satisfies certain requirements established by the State Department of Agriculture; requiring the Department to establish certain requirements relating to the testing and labeling of consumable hemp products; authorizing the Department to take certain actions against a person who violates such requirements; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides for the regulation of growers and handlers of hemp and
2 producers of agricultural hemp seed by the State Department of Agriculture.
3 (Chapter 557 of NRS) However, existing law requires the Department of Health
4 and Human Services to establish requirements for the testing and labeling of
5 commodities and products that contain hemp which are intended for human
6 consumption. (NRS 439.532) **Section 40** of this bill repeals the requirement that the
7 Department of Health and Human Services regulate commodities and products that
8 contain hemp which are intended for human consumption. **Sections 25-37** of this
9 bill provide, instead, for the regulation of consumable hemp products by the State
10 Department of Agriculture. **Section 26** of this bill defines “consumable hemp
11 product” generally to mean a commodity or product that contains hemp and: (1) has



* S B 2 8 1 *

a THC concentration that does not exceed the maximum THC concentration for hemp established by federal law; and (2) is intended for human consumption.

Section 31 of this bill prohibits a person from selling or offering to sell a consumable hemp product unless the product has been tested and labeled in accordance with requirements set forth by the State Department of Agriculture.

Section 32 of this bill requires a person who wishes to sell a consumable hemp product to first submit that product to the Department or a cannabis independent testing laboratory for testing. **Section 39** of this bill authorizes a cannabis independent testing laboratory to perform such testing. **Section 32** also requires the Department to adopt certain regulations relating to the testing of consumable hemp products and the standards that such products must satisfy. **Section 33** of this bill requires the Department to adopt regulations establishing requirements for the labeling of consumable hemp products.

Section 34 of this bill authorizes the Department to investigate apparent violations of the provisions of **sections 25-37** and authorizes representatives of the Department to inspect any premises at which a consumable hemp product is sold.

Section 35 of this bill authorizes the Department to bring an action to enjoin violations of the provisions of **sections 25-37**. **Section 36** of this bill makes it a misdemeanor to violate any provision of **sections 25-37** and authorizes the Department to impose an administrative fine of not more than \$2,500 for such a violation. **Section 38** of this bill makes a conforming change to reflect the repeal of the authority of the Department of Health and Human Services to regulate commodities and products that contain hemp.

Section 4 of this bill defines "consumable hemp product retailer" to mean a person who makes any retail sales of consumable hemp products. **Section 11** of this bill imposes an excise tax on each retail sale of consumable hemp products by a consumable hemp product retailer at the rate of 1 percent of the sales price of the consumable hemp products. Under **section 11**, the revenues collected from the excise tax are required to be distributed: (1) to the State Department of Agriculture in an amount necessary to carry out the provisions of **sections 25-37**; and (2) if any money remains, to the State Education Fund. **Section 23** of this bill makes a conforming change to account for the addition of such revenue in the State Education Fund.

Sections 2-10 and 12-20 of this bill provide generally for the administration and enforcement of the excise tax on consumable hemp products. **Section 8** of this bill adopts by reference provisions of general applicability relating to the payment, collection, administration and enforcement of taxes. **Sections 9 and 10** of this bill require a consumable hemp product retailer to maintain certain records and provide for the inspection of those records by the Department of Taxation. **Sections 12-14, 21 and 22** of this bill adopt provisions governing penalties for failures to pay, claims for refunds and credits and the payment of interest on any overpayment of the excise tax on consumable hemp products. **Section 15** of this bill sets forth the procedure by which the denial of a claim for a refund or credit may be appealed to the Nevada Tax Commission. **Section 16** of this bill denies standing to commence or maintain a proceeding for judicial review to anyone other than the person who made the disputed payment. If judgment is rendered for the claimant in such a proceeding, **section 17** of this bill provides for the allowance and computation of interest on the amount found to have been erroneously or illegally collected. **Section 18** of this bill prohibits proceedings to prevent or enjoin the collection of the tax and requires that a timely claim for a refund or credit be made as a prerequisite to any proceeding for the recovery of a refund. **Section 19** of this bill makes it a gross misdemeanor for any person to file a false or fraudulent return or engage in other conduct with intent to defraud the State or evade payment of the tax. **Section 20** of this bill provides that the remedies of the State relating to the administration of the tax are cumulative.



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

1 **Section 1.** Title 32 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 20, inclusive, of this act.

4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 to 7, inclusive,*
6 *of this act have the meanings ascribed to them in those sections.*

7 **Sec. 3.** *“Consumable hemp product” has the meaning*
8 *ascribed to it in section 26 of this act.*

9 **Sec. 4. 1.** *“Consumable hemp product retailer” means any*
10 *person who makes any retail sale or sales of consumable hemp*
11 *products.*

12 2. *The term does not include a cannabis establishment, as*
13 *defined in NRS 678A.095.*

14 **Sec. 5.** *“Excise tax on consumable hemp products” means*
15 *the excise tax imposed by section 11 of this act.*

16 **Sec. 6.** *“Retail sale” means any sale for any purposes other*
17 *than for resale.*

18 **Sec. 7.** *“Sales price” has the meaning ascribed to it in*
19 *NRS 372A.247.*

20 **Sec. 8.** *The provisions of chapter 360 of NRS relating to the*
21 *payment, collection, administration and enforcement of taxes,*
22 *including, without limitation, any provisions relating to the*
23 *imposition of penalties and interest, shall be deemed to apply to*
24 *the payment, collection, administration and enforcement of the*
25 *excise tax on consumable hemp products to the extent that those*
26 *provisions do not conflict with the provisions of this chapter.*

27 **Sec. 9. 1.** *Each person responsible for maintaining the*
28 *records of a consumable hemp product retailer shall:*

29 (a) *Keep such records as may be necessary to determine the*
30 *amount of the liability of the consumable hemp product retailer*
31 *pursuant to the provisions of this chapter;*

32 (b) *Preserve those records for 4 years or until any litigation or*
33 *prosecution pursuant to the provisions of this chapter is finally*
34 *determined, whichever is longer; and*

35 (c) *Make the records available for inspection by the*
36 *Department upon demand at reasonable times during regular*
37 *business hours.*

38 2. *Any person who violates the provisions of subsection 1 is*
39 *guilty of misdemeanor.*

40 **Sec. 10. 1.** *To verify the accuracy of any return filed by a*
41 *consumable hemp product retailer or, if no return is filed, to*
42 *determine the amount required to be paid, the Department, or any*



1 *person authorized in writing by the Department, may examine the*
2 *books, papers and records of any person who may be liable for the*
3 *excise tax on consumable hemp products.*

4 *2. Any person who may be liable for the excise tax on*
5 *consumable hemp products and who keeps outside of this State*
6 *any books, papers and records relating thereto shall pay to the*
7 *Department an amount equal to the allowance provided for state*
8 *officers and employees generally while traveling outside of the*
9 *State for each day or fraction thereof during which an employee*
10 *of the Department is engaged in examining those documents, plus*
11 *any other actual expenses incurred by the employee while he or*
12 *she is absent from his or her regular place of employment to*
13 *examine those documents.*

14 **Sec. 11.** *1. An excise tax is hereby imposed on each retail*
15 *sale in this State of consumable hemp products by a consumable*
16 *hemp product retailer at the rate of 1 percent of the sales price of*
17 *the consumable hemp products. The excise tax imposed pursuant*
18 *to this subsection:*

19 *(a) Is the obligation of the consumable hemp product retailer;*
20 *and*

21 *(b) Is separate from and in addition to any general and local*
22 *sales and use taxes that apply to retail sales of tangible personal*
23 *property.*

24 *2. The revenues collected from the excise tax imposed*
25 *pursuant to subsection 1 must be distributed to:*

26 *(a) The State Department of Agriculture in an amount*
27 *determined to be necessary by the State Department of Agriculture*
28 *to pay the costs of carrying out the provisions of the chapter*
29 *consisting of sections 25 to 37, inclusive, of this act; and*

30 *(b) If any money remains after the revenues are distributed*
31 *pursuant to paragraph (a), to the State Treasurer to be deposited*
32 *to the credit of the State Education Fund.*

33 **Sec. 12.** *If the Department determines that the excise tax on*
34 *consumable hemp products or any penalty or interest has been*
35 *paid more than once or has been erroneously or illegally collected*
36 *or computed, the Department shall set forth that fact in the*
37 *records of the Department and certify to the State Board of*
38 *Examiners the amount collected in excess of the amount legally*
39 *due and the person from whom it was collected or by whom it was*
40 *paid. If approved by the State Board of Examiners, the excess*
41 *amount collected or paid must, after being credited against any*
42 *amount then due from the person in accordance with NRS*
43 *360.236, be refunded to the person or his or her successors in*
44 *interest.*



Sec. 13. 1. *Except as otherwise provided in NRS 360.235 and 360.395:*

(a) No refund of the excise tax on consumable hemp products may be allowed unless a claim for refund is filed with the Department within 3 years after the last day of the month following the month for which the overpayment was made.

(b) No credit may be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Department within that period.

2. *Each claim must be in writing and must state the specific grounds upon which the claim is founded.*

3. *The failure to file a claim within the time prescribed in subsection 1 constitutes a waiver of any demand against the State on account of any overpayment.*

Sec. 14. 1. *Except as otherwise provided in subsection 2, NRS 360.320 or any other specific statute, interest must be paid upon any overpayment of the excise tax on consumable hemp products at the rate set forth in, and in accordance with the provisions of, NRS 360.2937.*

2. *If the Department determines that any overpayment has been made intentionally or by reason of carelessness, the Department shall not allow any interest on the overpayment.*

Sec. 15. 1. *Within 30 days after rejecting a claim for refund or credit in whole or in part, the Department shall serve written notice of its action on the claimant in the manner prescribed for service of a notice of deficiency determination. Within 30 days after the date of service of the notice, a claimant who is aggrieved by the action of the Department may file an appeal with the Nevada Tax Commission.*

2. *If the Department fails to serve notice of its action on a claim for refund or credit within 6 months after the claim is filed, the claimant may consider the claim to be disallowed and file an appeal with the Nevada Tax Commission within 30 days after the last day of the 6-month period.*

3. *The final decision of the Nevada Tax Commission on an appeal is a final decision for the purposes of judicial review pursuant to chapter 233B of NRS.*

Sec. 16. 1. *A proceeding for judicial review of a decision of the Nevada Tax Commission may not be commenced or maintained by an assignee of the claimant or by any other person other than the person who paid the amount at issue in the claim.*

2. *The failure of a claimant to file a timely petition for judicial review constitutes a waiver of any demand against the State on account of any overpayment.*



Sec. 17. 1. *If judgment is rendered for the claimant in a proceeding for judicial review, any amount found by the court to have been erroneously or illegally collected must first be credited to any tax due from the claimant. The balance of the amount must be refunded to the claimant.*

2. *In any such judgment, interest must be allowed at the rate of 3 percent per annum upon any amount found to have been erroneously or illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Department.*

Sec. 18. 1. *No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this State or against any officer of the State to prevent or enjoin the collection of the excise tax on consumable hemp products or any amount of tax, penalty or interest required to be collected.*

2. *No suit or proceeding, including, without limitation, a proceeding for judicial review, may be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been filed within the time prescribed in section 13 of this act.*

Sec. 19. 1. *A person shall not, with intent to defraud the State or evade payment of the excise tax on consumable hemp products or any part of the tax:*

(a) Make, cause to be made or permit to be made any false or fraudulent return or declaration or false statement in any return or declaration.

(b) Make, cause to be made or permit to be made any false entry in books, records or accounts.

(c) Keep, cause to be kept or permit to be kept more than one set of books, records or accounts.

2. *Any person who violates the provisions of subsection 1 is guilty of a gross misdemeanor.*

Sec. 20. *The remedies of the State provided for in this chapter are cumulative, and no action taken by the Department or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in those sections.*

Sec. 21. NRS 360.2937 is hereby amended to read as follows:
360.2937 **1.** Except as otherwise provided in this section, NRS 360.320 or any other specific statute, and notwithstanding the provisions of NRS 360.2935, interest must be paid upon an overpayment of any tax provided for in chapter 362, 363A, 363B,



363C, 369, 370, 372, 372B, 374, 377, 377A, 377C or 377D of NRS *or the chapter consisting of sections 2 to 20, inclusive, of this act*, any of the taxes provided for in NRS 372A.290, any fee provided for in NRS 444A.090 or 482.313, or any assessment provided for in NRS 585.497, at the rate of 0.25 percent per month from the last day of the calendar month following the period for which the overpayment was made.

2. No refund or credit may be made of any interest imposed on the person making the overpayment with respect to the amount being refunded or credited.

3. The interest must be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if the person has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or the amount against which the credit is applied.

Sec. 22. NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, 363B, 363C, 369, 370, 372, 372B, 374, 377, 377A, 377C, 377D, 444A or 585 of NRS *or the chapter consisting of sections 2 to 20, inclusive, of this act*, any of the taxes provided for in NRS 372A.290, or any fee provided for in NRS 482.313, and any person or governmental entity that fails to pay any fee provided for in NRS 360.787, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 0.75 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.

Sec. 23. NRS 387.1212 is hereby amended to read as follows:

387.1212 1. The State Education Fund is hereby created as a special revenue fund to be administered by the Superintendent of Public Instruction for the purpose of supporting the operation of the public schools in this State. The interest and income earned on the



1 money in the Fund, after deducting any applicable charges, must be
2 credited to the Fund.

3 2. Money which must be deposited for credit to the State
4 Education Fund includes, without limitation:

5 (a) All money derived from interest on the State Permanent
6 School Fund, as provided in NRS 387.030;

7 (b) The proceeds of the tax imposed pursuant to NRS 244.33561
8 and any applicable penalty or interest, less any amount retained by
9 the county treasurer for the actual cost of collecting and
10 administering the tax;

11 (c) The proceeds of the tax imposed pursuant to subsection 1 of
12 NRS 387.195;

13 (d) The portion of the money in each special account created
14 pursuant to subsection 1 of NRS 179.1187 which is identified in
15 paragraph (d) of subsection 2 of NRS 179.1187;

16 (e) The money identified in subsection 1 of NRS 328.450;

17 (f) The money identified in subsection 1 of NRS 328.460;

18 (g) The money identified in paragraph (a) of subsection 2 of
19 NRS 360.850;

20 (h) The money identified in paragraph (a) of subsection 2 of
21 NRS 360.855;

22 (i) The money required to be paid over to the State Treasurer for
23 deposit to the credit of the State Education Fund pursuant to
24 subsection 4 of NRS 362.170;

25 (j) The portion of the proceeds of the tax imposed pursuant to
26 subsection 1 of NRS 372A.290 identified in paragraph (b) of
27 subsection 4 of NRS 372A.290;

28 (k) The proceeds of the tax imposed pursuant to subsection 3 of
29 NRS 372A.290;

30 (l) The proceeds of the fees, taxes, interest and penalties
31 imposed pursuant to chapter 374 of NRS, as transferred pursuant to
32 subsection 3 of NRS 374.785;

33 (m) The money identified in paragraph (b) of subsection 3 of
34 NRS 678B.390;

35 (n) The portion of the proceeds of the excise tax imposed
36 pursuant to subsection 1 of NRS 463.385 identified in paragraph (c)
37 of subsection 5 of NRS 463.385;

38 (o) The money required to be distributed to the State Education
39 Fund pursuant to subsection 3 of NRS 482.181;

40 (p) The portion of the net profits of the grantee of a franchise,
41 right or privilege identified in NRS 709.110;

42 (q) The portion of the net profits of the grantee of a franchise
43 identified in NRS 709.230;

44 (r) The portion of the net profits of the grantee of a franchise
45 identified in NRS 709.270; ~~and~~



(s) *The portion of the proceeds of the tax imposed pursuant to subsection 1 of section 11 of this act identified in paragraph (b) of subsection 2 of section 11 of this act; and*

(t) The direct legislative appropriation from the State General Fund required by subsection 3.

3. In addition to money from any other source provided by law, support for the State Education Fund must be provided by direct legislative appropriation from the State General Fund in an amount determined by the Legislature to be sufficient to fund the operation of the public schools in this State for kindergarten through grade 12 for the next ensuing biennium for the population reasonably estimated for that biennium. Money in the State Education Fund does not revert to the State General Fund at the end of a fiscal year, and the balance in the State Education Fund must be carried forward to the next fiscal year.

4. Money in the Fund must be paid out on claims as other claims against the State are paid.

5. The Superintendent of Public Instruction may create one or more accounts in the State Education Fund for the purpose of administering any money received from the Federal Government for the support of education and any State money required to be administered separately to satisfy any requirement imposed by the Federal Government. The money in any such account must not be considered when calculating the statewide base per pupil funding amount or appropriating money from the State Education Fund pursuant to NRS 387.1214. The interest and income earned on the money in any such account, after deducting any applicable charges, must be credited to the account.

Sec. 24. Title 49 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 25 to 37, inclusive, of this act.

Sec. 25. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 26 to 29, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 26. *“Consumable hemp product” means a commodity or product that contains hemp and:*

1. *Has a THC concentration that does not exceed the maximum THC concentration established by federal law for hemp; and*

2. *Is intended for ingestion or inhalation by a human or for topical application to the skin or hair of a human.*

Sec. 27. *“Department” means the State Department of Agriculture.*



1 **Sec. 28.** *“Hemp” has the meaning ascribed to it in*
2 *NRS 557.160.*

3 **Sec. 29.** *“THC” has the meaning ascribed to it in*
4 *NRS 453.139.*

5 **Sec. 30.** *The provisions of this chapter do not apply to a*
6 *cannabis establishment, as defined in NRS 678A.095.*

7 **Sec. 31.** *A person shall not sell or offer to sell a consumable*
8 *hemp product in this State unless the consumable hemp product:*

9 1. *Has been tested in accordance with section 32 of this act*
10 *and satisfies the requirements set forth in that section; and*

11 2. *Is labeled in accordance with the requirements set forth by*
12 *regulation of the Department pursuant to section 33 of this act.*

13 **Sec. 32.** 1. *Each consumable hemp product sold in this*
14 *State must:*

15 (a) *Have a THC concentration that does not exceed the*
16 *maximum THC concentration established by federal law for*
17 *hemp; and*

18 (b) *Meet all standards for content, quality and potency*
19 *established by regulation of the Department pursuant to*
20 *subsection 3.*

21 2. *A person who wishes to sell a consumable hemp product*
22 *shall, before the sale, submit the product to the Department or a*
23 *cannabis independent testing laboratory approved by the*
24 *Department for testing to determine whether the product satisfies*
25 *the requirements set forth in subsection 1. The Department may*
26 *adopt regulations relating to such testing which include, without*
27 *limitation:*

28 (a) *Protocols and procedures for the testing of a consumable*
29 *hemp product; and*

30 (b) *A requirement that a cannabis independent testing*
31 *laboratory provide the results of the testing directly to the*
32 *Department in a manner prescribed by the Department.*

33 3. *The Department shall adopt regulations establishing*
34 *standards for content, quality and potency of consumable hemp*
35 *products sold in this State.*

36 4. *As used in this section, “cannabis independent testing*
37 *laboratory” has the meaning ascribed to it in NRS 678A.115.*

38 **Sec. 33.** *The Department shall adopt regulations establishing*
39 *requirements for the labeling of consumable hemp products. Such*
40 *regulations must require, without limitation, a consumable hemp*
41 *product to be labeled in a manner that is not false or misleading in*
42 *accordance with the applicable provisions of chapters 446 and 585*
43 *of NRS.*



Sec. 34. 1. *The Department shall receive reports and may investigate apparent violations of the provisions of this chapter or the regulations adopted pursuant thereto.*

2. *Any duly authorized officer, employee or representative of the Department may enter into and inspect at any reasonable time any premises at which a consumable hemp product is sold for purposes of ascertaining compliance with the provisions of this chapter.*

3. *A person shall not:*

(a) Refuse entry or access to any authorized representative of the Department who requests entry for the purposes of inspection, as provided in this section, and who presents appropriate credentials; or

(b) Obstruct, hamper or interfere with any such inspection.

Sec. 35. 1. *If the Department determines that a person has violated or is about to violate any provision of this chapter, the Department may bring an action in a court of competent jurisdiction to enjoin the person from engaging in or continuing the violation.*

2. *An injunction:*

(a) May be issued without proof of actual damage sustained by any person.

(b) Does not prohibit the criminal prosecution and punishment of the person who commits the violation.

Sec. 36. *Any person violating the provisions of this chapter, or the regulations adopted pursuant thereto, is guilty of a misdemeanor and, in addition to any criminal penalty, shall pay to the Department an administrative fine of not more than \$2,500 per violation. If an administrative fine is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Department.*

Sec. 37. *The Department shall adopt such regulations as it determines are necessary to carry out the provisions of this chapter.*

Sec. 38. NRS 557.270 is hereby amended to read as follows:

557.270 1. A grower, handler or producer may submit hemp or a commodity or product made using hemp ~~[, other than a commodity or product described in subsection 1 of NRS 439.532,]~~ to a cannabis independent testing laboratory for testing pursuant to this section and a cannabis independent testing laboratory may perform such testing.

2. A grower or producer shall, before harvesting, submit a sample of each crop to the Department or a cannabis independent testing laboratory approved by the Department to determine whether the crop has a THC concentration that exceeds the maximum THC



1 concentration established by federal law for hemp. The Department
2 may adopt regulations relating to such testing which include,
3 without limitation:

4 (a) Protocols and procedures for the testing of a crop, including,
5 without limitation, determining appropriate standards for sampling
6 and for the size of batches for testing; and

7 (b) A requirement that a cannabis independent testing laboratory
8 provide the results of the testing directly to the Department in a
9 manner prescribed by the Department.

10 3. A crop which is harvested before the testing required by
11 subsection 2 is completed shall be deemed to have failed the testing
12 and may be detained, seized or embargoed by the Department. The
13 Department shall not renew the registration of a grower or producer
14 who harvests a crop before the testing required by subsection 2 is
15 completed.

16 4. Except as otherwise provided in subsection 3 and by federal
17 law, a grower or producer whose crop fails a test prescribed by the
18 Department pursuant to this section may submit that same crop for
19 retesting. The Department shall adopt regulations establishing
20 protocols and procedures for such retesting.

21 5. As used in this section, “cannabis independent testing
22 laboratory” has the meaning ascribed to it in NRS 678A.115.

23 **Sec. 39.** NRS 678B.290 is hereby amended to read as follows:

24 678B.290 1. The Board shall establish standards for and
25 certify one or more cannabis independent testing laboratories to:

26 (a) Test cannabis for adult use and adult-use cannabis products
27 that are to be sold in this State;

28 (b) Test cannabis for medical use and medical cannabis products
29 that are to be sold in this State; and

30 (c) In addition to the testing described in paragraph (a) or (b),
31 test ~~commodities~~:

32 *(1) Commodities* or products containing hemp, as defined in
33 NRS 557.160, or cannabidiol which are intended for human or
34 animal consumption and sold by a cannabis establishment ~~[-]; and~~

35 *(2) Consumable hemp products, as defined in section 26 of*
36 *this act, in accordance with the provisions of the chapter*
37 *consisting of sections 25 to 37, inclusive, of this act.*

38 2. Such a cannabis independent testing laboratory must be able
39 to:

40 (a) Determine accurately, with respect to cannabis or cannabis
41 products that are sold or will be sold at cannabis sales facilities in
42 this State:

43 (1) The concentration therein of THC and cannabidiol.

44 (2) The presence and identification of microbes, molds and
45 fungi.



- 1 (3) The composition of the tested material.
2 (4) The presence of chemicals in the tested material,
3 including, without limitation, pesticides, heavy metals, herbicides or
4 growth regulators.
5 (b) Demonstrate the validity and accuracy of the methods used
6 by the cannabis independent testing laboratory to test cannabis and
7 cannabis products.
8 3. To obtain a license to operate a cannabis independent testing
9 laboratory, an applicant must:
10 (a) Apply successfully as required pursuant to NRS 678B.210 or
11 678B.250, as applicable.
12 (b) Pay the fees required pursuant to NRS 678B.390.
13 (c) Agree to become accredited pursuant to standard ISO/IEC
14 17025 of the International Organization for Standardization within 1
15 year after licensure.
16 **Sec. 40.** NRS 439.532 is hereby repealed.
17 **Sec. 41.** This act becomes effective on January 1, 2022.

TEXT OF REPEALED SECTION

439.532 Testing and labeling of certain products containing cannabidiol; regulations.

1. Unless federal law or regulation otherwise requires, a person shall not sell or offer to sell any commodity or product containing hemp which is intended for human consumption or any other commodity or product that purports to contain cannabidiol with a THC concentration that does not exceed the maximum THC concentration established by federal law for hemp unless such a commodity or product:

(a) Has been tested by an independent testing laboratory and meets the standards established by regulation of the Department pursuant to subsection 3; and

(b) Is labeled in accordance with the regulations adopted by the Department pursuant to subsection 3.

2. A person who produces or offers for sale a commodity or product described in subsection 1 may submit such a commodity or product to a cannabis independent testing laboratory for testing pursuant to this section and a cannabis independent testing laboratory may perform such testing.

3. The Department shall adopt regulations requiring the testing and labeling of any commodity or product described in subsection 1. Such regulations must:



(a) Set forth protocols and procedures for the testing of the commodities and products described in subsection 1; and

(b) Require that any commodity or product described in subsection 1 is labeled in a manner that is not false or misleading in accordance with the applicable provisions of chapters 446 and 585 of NRS.

4. As used in this section:

(a) “Cannabis independent testing laboratory” has the meaning ascribed to it in NRS 678A.115.

(b) “Hemp” has the meaning ascribed to it in NRS 557.160.

(c) “Intended for human consumption” means intended for ingestion or inhalation by a human or for topical application to the skin or hair of a human.

(d) “THC” has the meaning ascribed to it in NRS 453.139.

