

SENATE BILL NO. 63—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE STATE DEPARTMENT OF AGRICULTURE)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to hemp. (BDR 49-264)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: No.

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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 hemp; requiring the submission of an application for registration as a grower, handler or producer of hemp to the State Department of Agriculture on or before July 1 of any year; requiring a complete set of fingerprints to accompany an application for registration as a grower, handler or producer in certain circumstances; setting forth certain requirements for the sampling and testing of hemp; authorizing a grower to perform remediation activities on a growing crop of hemp that has a THC concentration that exceeds federal limits to render the crop compliant; revising the circumstances under which the Department is authorized to refuse to issue or renew, suspend or revoke a registration as a grower, handler or producer; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law authorizes the growing and handling of hemp and the production
- 2 of agricultural hemp seed by persons registered with the State Department of
- 3 Agriculture. (NRS 557.200) **Section 1** of this bill requires that an application for
- 4 registration as a grower, handler or producer be submitted to the Department on or
- 5 before July 1 of any year and requires the applicant to submit a complete set of the
- 6 applicant's fingerprints and written permission authorizing the Department to
- 7 forward the fingerprints to the Central Repository for Nevada Records of Criminal
- 8 History and the Federal Bureau of Investigation for processing. In lieu of
- 9 submitting a complete set of fingerprints, **section 1** authorizes an applicant to
- 10 submit any document or other information required by the Department to perform a



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background check to verify eligibility in accordance with federal regulations. (7 C.F.R. § 990.6)

Existing federal law authorizes the production of hemp under the primary jurisdiction of a state or Indian tribe if the state or Indian tribe submits to the United States Secretary of Agriculture a plan that satisfies certain requirements. (7 U.S.C. § 1639p) Existing federal regulations set forth requirements for such a plan. (7 C.F.R. §§ 990.2-990.8)

Existing law authorizes the Department to inspect any growing crop of a grower and take a representative sample for analysis in the field. The Department may detain, seize or embargo the crop if the testing of such a sample determines that the crop contains a THC concentration that exceeds the maximum THC concentration established by federal law for hemp. (NRS 557.240) **Section 1.5** of this bill removes the authority of the Department to detain, seize or embargo the crop pursuant to such an analysis and instead provides the grower with the option to submit a plan to perform remediation activities in order to render the crop compliant. If the grower fails to submit or comply with such a remediation plan or the remediation fails, the Department may detain, seize or embargo the crop.

Existing federal law and regulations require a state plan to include certain procedures for the sampling and testing of hemp. (7 U.S.C. § 1639p; 7 C.F.R. § 990.3) Existing state law requires a grower or producer to submit to the Department or a cannabis independent testing laboratory approved by the Department a sample of each crop of hemp for testing before harvesting. (NRS 557.270) **Section 2** of this bill revises this requirement to instead require the Department to collect a sample of each crop of hemp for testing before it is harvested. **Section 2** then requires a grower or producer to harvest a crop within a specified period of time after the Department collects such a sample. If a grower or producer does not harvest a crop within that period of time, **section 2** prohibits the grower or producer from harvesting the crop until the Department has collected a new sample. **Section 2** further requires such a sample to be tested and a report of the results of such testing to be issued to the grower or producer. Under **section 2**, if a grower or producer harvests a crop before a sample has been collected by the Department: (1) the crop is deemed to have failed the required testing; and (2) the Department is prohibited from renewing the registration of the grower or producer.

Existing federal regulations require a state plan to exclude from participation in the state's program for the production of hemp any person who materially falsifies any information contained in an application to participate in the program. (7 C.F.R. § 990.6) **Section 3** of this bill authorizes the Department to refuse to issue or renew, suspend or revoke the registration of a grower, handler or producer who materially falsifies any information in an application for registration submitted to the Department. Additionally, **section 3** authorizes the Department to take such action against a person who: (1) grows, handles or produces hemp in a manner that is inconsistent with the information submitted to the Department in the approved application for registration; or (2) fails to comply with applicable local ordinances or rules. Finally, **section 3** authorizes the Department to refuse to issue a registration as a grower, handler or producer to a person who has previously had such a registration refused or revoked for certain specified reasons.



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

Section 1. NRS 557.200 is hereby amended to read as follows:

557.200 1. A person shall not grow or handle hemp or produce agricultural hemp seed unless the person is registered with the Department as a grower, handler or producer, as applicable.

2. A person who wishes to grow or handle hemp must register with the Department as a grower or handler, as applicable.

3. A person who wishes to produce agricultural hemp seed must register with the Department as a producer unless the person is:

(a) A grower registered pursuant to subsection 2 who retains agricultural hemp seed solely pursuant to subsection 3 of NRS 557.250; or

(b) A grower or handler registered pursuant to subsection 2 who processes seeds of any plant of the genus *Cannabis* which are incapable of germination into commodities or products.

➤ A person may not register as a producer unless the person is also registered as a grower or handler.

4. A person who wishes to register with the Department as a grower, handler or producer must *, on or before July 1 of any year,* submit to the Department the fee established pursuant to subsection 8 and an application, on a form prescribed by the Department, which includes:

(a) The name and address of the applicant;

(b) The name and address of the applicant's business in which hemp or agricultural hemp seed will be grown, handled or produced, if different than that of the applicant;

(c) Information concerning the land and crop management practices of the applicant; and

(d) Such other information as the Department may require by regulation.

5. Registration as a grower, handler or producer expires on December 31 of each year and may be renewed upon submission of an application for renewal containing:

(a) Proof satisfactory to the Department that the applicant complied with the provisions of this chapter and the regulations adopted pursuant thereto relating to testing of hemp;

(b) Proof satisfactory to the Department that the land and crop management practices of the applicant are adequate, consistent with any previous information submitted to the Department and do not negatively affect natural resources; and

(c) Such other information as the Department may require by regulation.



6. A grower, handler or producer who intends to surrender or not renew a registration must notify the Department not less than 30 days before the registration is surrendered or expires and submit to the Department a plan for the effective disposal or eradication of any existing live plants, viable seed or harvested crop.

7. The Department shall adopt regulations that authorize the transfer of a registration as a grower, handler or producer and establish conditions for such a transfer. The regulations must include, without limitation, provisions which allow a grower, handler or producer which changes its business name or the ownership of the grower, handler or producer to transfer its registration to the new entity.

8. The Department shall establish by regulation fees for the issuance and renewal of registration as a grower, handler or producer and for any other service performed by the Department in an amount necessary to cover the costs of carrying out this chapter.

9. For the purpose of demonstrating compliance with 7 C.F.R. § 990.6, each applicant to register as a grower, handler or producer or to transfer such a registration must submit with his or her application a complete set of the applicant's fingerprints and written permission authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints of the applicant.

10. In lieu of submitting a complete set of his or her fingerprints and written permission pursuant to subsection 9, an applicant may, in accordance with regulations adopted by the Department, submit any document or other information required by the Department to perform a background check of the applicant to verify the eligibility of the applicant in accordance with 7 C.F.R. § 990.6.

Sec. 1.5. NRS 557.240 is hereby amended to read as follows:

557.240 1. A grower or handler shall keep and maintain for a period of not less than 3 years such records as the Department may prescribe by regulation and, upon 3 days' notice, make such records available to the Department for inspection during normal business hours. The Department may inspect records pursuant to this subsection to determine whether a person has complied with the provisions of this chapter, the regulations adopted pursuant thereto and any lawful order of the Department.

2. The Department may inspect any growing crop of a grower and take a representative sample for analysis in the field. If the testing of such a sample in the field determines that the crop contains a THC concentration that exceeds the maximum THC concentration established by federal law for hemp ☞



~~—(a) The Department may detain, seize or embargo the crop; and~~
~~—(b) The~~ , the grower shall submit a plan for the effective disposal *or remediation* of the crop to the Department for its approval.

3. *If a crop has been determined pursuant to subsection 2 to contain a THC concentration that exceeds the maximum THC concentration established by federal law for hemp, the grower of the crop may elect to perform remediation activities to render the crop compliant. After a grower performs remediation activities pursuant to a plan for the effective remediation of a crop approved pursuant to subsection 2, an additional inspection, sampling and testing of the crop must be conducted to determine the THC concentration of the crop.*

4. If a grower fails to submit an approved plan to the Department pursuant to ~~paragraph (b) of~~ subsection 2 or fails to follow the provisions of such a plan, *or if a crop continues to contain a THC concentration that exceeds the maximum THC concentration established by federal law for hemp after remediation pursuant to subsection 3*, the Department may:

(a) Impose any additional requirement it determines necessary upon the grower;

(b) Suspend or revoke the registration of the grower;

(c) Impose an administrative fine pursuant to NRS 557.280 on the grower;

(d) Report the grower to the appropriate local law enforcement agency for investigation of a violation of the provisions of chapter 453 of NRS ~~453~~; *or*

(e) Detain, seize or embargo the crop.

~~453~~ 5. If the Department determines that the land or crop management practices of a grower, handler or producer are inadequate, inconsistent with the information concerning such practices submitted to the Department pursuant to NRS 557.200 or negatively affect natural resources, the Department may impose an administrative fine pursuant to NRS 557.280.

Sec. 2. 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]~~
Before the harvest of any crop, the Department shall collect a sample of [each] the crop . [to the] A grower or producer must harvest a crop in a timely manner after the collection of such a



sample and within the period of time prescribed in the regulations promulgated by the Secretary of Agriculture of the United States pursuant to 7 U.S.C. § 1639r. A grower or producer who does not harvest a crop within that period of time shall not harvest the crop before the Department has collected a new sample of the crop.

3. The Department or a cannabis independent testing laboratory approved by the Department *shall test each sample collected pursuant to subsection 2* to determine whether the crop has a THC concentration that exceeds the maximum THC concentration established by federal law for hemp. The Department may adopt regulations relating to such testing which include, without limitation:

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

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

~~[3-]~~ **4.** *When the Department has obtained the results of the testing required by subsection 3, the Department shall issue to the grower or producer of the crop a report of the results of the testing which must include, without limitation, the THC concentration of the crop.*

5. A crop which is harvested before ~~[the testing required by]~~ *a sample has been collected by the Department pursuant to subsection 2* ~~[is completed]~~ shall be deemed to have failed the testing *required by subsection 3* and may be detained, seized or embargoed by the Department. The Department shall not renew the registration of a grower or producer who harvests a crop before ~~[the testing required by]~~ *a sample has been collected by the Department pursuant to subsection 2.* ~~[is completed].~~

~~—4-]~~ **6.** Except as otherwise provided in subsection ~~[3]~~ **5** and by federal law, a grower or producer whose crop fails a test prescribed by the Department pursuant to this section may ~~[submit]~~ *request that the Department collect a new sample of* that same crop for retesting. The Department shall adopt regulations establishing protocols and procedures for such retesting.

~~[5-]~~ **7.** As used in this section, “cannabis independent testing laboratory” has the meaning ascribed to it in NRS 678A.115.

Sec. 3. NRS 557.280 is hereby amended to read as follows:

557.280 1. The Department may refuse to issue or renew, suspend or revoke the registration of a grower, handler or producer for :

(a) *Materially falsifying any information in an application for registration as a grower, handler or producer;*



(b) *Growing or handling hemp or producing agricultural hemp seed in a manner that is inconsistent with the information submitted to the Department in an approved application for registration as a grower, handler or producer;*

(c) *Failing to comply with all applicable local governmental ordinances or rules; or*

(d) *Committing* a violation of any provision of this chapter, the regulations adopted pursuant thereto or any lawful order of the Department.

2. *In addition to any other lawful reason, the Department may refuse to issue a registration as a grower, handler or producer to a person who has previously had such a registration refused or revoked pursuant to paragraph (a) or (b) of subsection 1.*

3. The Department shall impose an administrative fine in an amount not to exceed \$2,500 on any person who fails to comply with the provisions of subsection 6 of NRS 557.200.

~~[3.]~~ 4. Except as otherwise provided in subsection ~~[2.]~~ 3 and in addition to any other penalty provided by law, the Department may impose an administrative fine on any person who violates any of the provisions of this chapter, the regulations adopted pursuant thereto or any lawful order of the Department in an amount not to exceed \$2,500.

~~[4.]~~ 5. All fines collected by the Department pursuant to subsections ~~[2.]~~ 3 and ~~[3.]~~ 4 must be deposited with the State Treasurer for credit to the State General Fund.

Sec. 4. This act becomes effective upon passage and approval.

