

ASSEMBLY BILL NO. 240—ASSEMBLYMAN O’NEILL

MARCH 2, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the cultivation, growing or production of cannabis by certain persons. (BDR 56-509)

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 cannabis; establishing and revising certain requirements relating to the cultivation, growth or production of cannabis by certain persons; authorizing a sheriff and health authority to enforce certain provisions relating to the cultivation, growth and production of cannabis; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law exempts a person who holds a valid registry identification card from state prosecution for certain acts relating to cannabis. After a medical cannabis dispensary opens in the county of residence of a person who holds a registry identification card, existing law prohibits such a person from cultivating, growing or producing cannabis unless: (1) the person was cultivating, growing or producing cannabis in accordance with state law on or before July 1, 2013; (2) all the medical cannabis dispensaries in the county of residence of the person close or are unable to supply the quantity or strain of cannabis necessary for the medical use of the person to treat his or her specific medical condition; (3) because of illness or lack of transportation, the person is unable reasonably to travel to a medical cannabis dispensary; or (4) no medical cannabis dispensary was operating within 25 miles of the residence of the person at the time the person first applied for his or her registry identification card. (NRS 678C.200)

Section 1 of this bill requires a person who holds a valid registry identification card and wishes to cultivate, grow or produce cannabis pursuant to one of those exemptions to: (1) provide certain information to the sheriff of the county and the health authority having jurisdiction over the location in which the cannabis will be cultivated, grown or produced; and (2) consent to inspection by the sheriff and the health authority. **Section 1** also authorizes a sheriff and health authority to inspect the property where a person who holds a valid registry identification card



cultivates, grows or produces cannabis for compliance with certain provisions of existing law governing cannabis and to take certain actions if it is determined that the person is not in compliance with those provisions.

Existing law exempts a person who is 21 years of age or older from state prosecution for certain acts relating to cannabis. (NRS 678D.200) However, under existing law that exemption is subject to certain limitations. Existing law prohibits a person 21 years of age or older from cultivating cannabis within 25 miles of an adult-use cannabis retail store or under certain other conditions. (NRS 678D.310) Existing law also provides that the exemption from state prosecution applies only to the extent that the person cultivates, grows or produces not more than 6 cannabis plants: (1) within an enclosed area that is not in public view and which is equipped with certain security devices; and (2) at a residence or upon the grounds of a residence in which not more than 12 cannabis plants are cultivated, grown or produced. (NRS 678D.200)

Section 2 of this bill revises the requirements relating to the cultivation, growth or production of cannabis with which a person who is 21 years of age or older must comply to remain subject to the exemption from state prosecution for certain acts relating to cannabis. **Section 2:** (1) reduces, from 6 to 4, the number of cannabis plants such a person may possess, deliver, cultivate, grow or produce; (2) requires the cultivation, growing or production of cannabis to be within a secure structure that is sealed in such a manner that no odor of cannabis may escape; and (3) reduces, from 12 to 8, the number of cannabis plants that may be at a residence or on the grounds of a residence where cannabis plants are cultivated, grown or produced.

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

Section 1. NRS 678C.200 is hereby amended to read as follows:

678C.200 1. Except as otherwise provided in this section and NRS 678C.300, a person who holds a valid registry identification card issued to the person pursuant to NRS 678C.230 or 678C.270 is exempt from state prosecution for:

- (a) The possession, delivery or production of cannabis;
- (b) The possession or delivery of paraphernalia;
- (c) Aiding and abetting another in the possession, delivery or production of cannabis;
- (d) Aiding and abetting another in the possession or delivery of paraphernalia;
- (e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and
- (f) Any other criminal offense in which the possession, delivery or production of cannabis or the possession or delivery of paraphernalia is an element.

2. In addition to the provisions of subsections 1 and 5, no person may be subject to state prosecution for constructive possession, conspiracy or any other criminal offense solely for being



1 in the presence or vicinity of the medical use of cannabis in
2 accordance with the provisions of this title.

3 3. The exemption from state prosecution set forth in subsection
4 1 applies only to the extent that a person who holds a registry
5 identification card issued to the person pursuant to paragraph (a) of
6 subsection 1 of NRS 678C.230 and the designated primary
7 caregiver, if any, of such a person:

8 (a) Engage in or assist in, as applicable, the medical use of
9 cannabis in accordance with the provisions of this title as justified to
10 mitigate the symptoms or effects of a person's chronic or
11 debilitating medical condition; and

12 (b) Do not, at any one time, collectively possess with another
13 who is authorized to possess, deliver or produce more than:

14 (1) Two and one-half ounces of usable cannabis;

15 (2) ~~Twelve~~ **Eight** cannabis plants, irrespective of whether
16 the cannabis plants are mature or immature; and

17 (3) A maximum allowable quantity of cannabis products as
18 established by regulation of the Board.

19 ➤ The persons described in this subsection must ensure that the
20 usable cannabis and cannabis plants described in this subsection are
21 safeguarded in an enclosed, secure location.

22 4. If the persons described in subsection 3 possess, deliver or
23 produce cannabis in an amount which exceeds the amount described
24 in paragraph (b) of that subsection, those persons:

25 (a) Are not exempt from state prosecution for the possession,
26 delivery or production of cannabis.

27 (b) May establish an affirmative defense to charges of the
28 possession, delivery or production of cannabis, or any combination
29 of those acts, in the manner set forth in NRS 678C.310.

30 5. A person who holds a valid medical cannabis establishment
31 license issued to the person pursuant to NRS 678B.210, a valid
32 cannabis establishment agent registration card issued to the person
33 pursuant to NRS 678B.340, a valid cannabis establishment agent
34 registration card for a cannabis executive issued pursuant to NRS
35 678B.350 or a valid cannabis establishment agent registration card
36 for a cannabis receiver issued pursuant to NRS 678B.355 and who
37 confines his or her activities to those authorized by this title, and the
38 regulations adopted by the Board pursuant thereto, is exempt from
39 state prosecution for:

40 (a) The possession, delivery or production of cannabis;

41 (b) The possession or delivery of paraphernalia;

42 (c) Aiding and abetting another in the possession, delivery or
43 production of cannabis;

44 (d) Aiding and abetting another in the possession or delivery of
45 paraphernalia;



(e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and

(f) Any other criminal offense in which the possession, delivery or production of cannabis or the possession or delivery of paraphernalia is an element.

6. Notwithstanding any other provision of law and except as otherwise provided in this subsection, after a medical cannabis dispensary opens in the county of residence of a person who holds a registry identification card, including, without limitation, a designated primary caregiver, such a person is not authorized to cultivate, grow or produce cannabis. The provisions of this subsection do not apply if:

(a) The person who holds the registry identification card was cultivating, growing or producing cannabis in accordance with state law on or before July 1, 2013;

(b) All the medical cannabis dispensaries in the county of residence of the person who holds the registry identification card close or are unable to supply the quantity or strain of cannabis necessary for the medical use of the person to treat his or her specific medical condition;

(c) Because of illness or lack of transportation, the person who holds the registry identification card is unable reasonably to travel to a medical cannabis dispensary; or

(d) No medical cannabis dispensary was operating within 25 miles of the residence of the person who holds the registry identification card at the time the person first applied for his or her registry identification card.

7. *If a person who holds a valid registry identification card, including, without limitation, a designated primary caregiver and who is authorized to cultivate, grow or produce cannabis pursuant to subsection 6 wishes to cultivate, grow or produce cannabis, the person shall:*

(a) Before cultivating, growing or producing any cannabis:

(1) Provide to the health authority having jurisdiction over the location where the person intends to cultivate, grow or produce cannabis notice in the manner prescribed by the health authority;

(2) Provide to the sheriff of the county in which the person intends to cultivate, grow or produce cannabis, notice on a form approved by the sheriff that contains:

(I) The date of issuance and date of expiration of the valid registry identification card of the person;

(II) The date of issuance and date of expiration of each registry identification card that the person has previously held which has expired;



(III) The physical address of the property where the person intends to cultivate, grow or produce cannabis;

(IV) The identity of the legal owner of the property where the person intends to cultivate, grow or produce cannabis;

(V) If the person is not the legal owner of the property where the person intends to cultivate, grow or produce cannabis, a written acknowledgment from the legal owner of the property that he or she consents to the cultivation, growing or production of cannabis on the property; and

(VI) A written acknowledgement that the person and, if applicable, the legal owner of the property, consent to the inspection by the sheriff and the health authority pursuant to subsection 8 of the property where the cannabis is cultivated, grown or produced;

(b) Conduct all cultivation, growing or production of cannabis in a completely enclosed and secure structure; and

(c) Comply with all local ordinances requiring the mitigation or control of odor.

8. A sheriff and a health authority may enforce the provisions of this section and may:

(a) Inspect for compliance with this section any property on which cannabis is cultivated, grown or produced by a person who holds a valid registry identification card; and

(b) If the sheriff or health authority determines that a person who holds a valid registry identification card has failed to comply with the provisions of this section in cultivating, growing or producing cannabis:

(1) Provide to the person notice of the violation;

(2) Issue an order requiring the person to cease cultivating, growing or producing cannabis; and

(3) Destroy all cannabis plants found in the possession of the person.

9. As used in this section ~~the~~, “cannabis”:

(a) “Cannabis” includes, without limitation, cannabis products.

(b) “Health authority” has the meaning ascribed to it in NRS 446.050.

Sec. 2. NRS 678D.200 is hereby amended to read as follows:

678D.200 1. Except as otherwise provided in NRS 678D.300, a person who is 21 years of age or older is exempt from state prosecution for:

(a) The possession, delivery or production of cannabis;

(b) The possession or delivery of paraphernalia;

(c) Aiding and abetting another in the possession, delivery or production of cannabis;



(d) Aiding and abetting another in the possession or delivery of paraphernalia;

(e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and

(f) Any other criminal offense in which the possession, delivery or production of cannabis or the possession or delivery of paraphernalia is an element.

2. In addition to the provisions of subsections 1 and 5, no person may be subject to state prosecution for constructive possession, conspiracy or any other criminal offense solely for being in the presence or vicinity of the adult use of cannabis in accordance with the provisions of this title.

3. The exemption from state prosecution set forth in subsection 1 applies only to the extent that a person:

(a) Is 21 years of age or older;

(b) Is not employed by any agency or political subdivision of this State in a position which requires the person to be certified by the Peace Officers' Standards and Training Commission;

(c) Engages in the adult use of cannabis in accordance with the provisions of this title;

(d) Does not, at any one time, possess, deliver or produce more than:

(1) One ounce of usable cannabis;

(2) One-eighth of an ounce of concentrated cannabis;

(3) ~~Six~~ **Four** cannabis plants, irrespective of whether the cannabis plants are mature or immature; and

(4) A maximum allowable quantity of adult-use cannabis products as established by regulation of the Board;

(e) Cultivates, grows or produces not more than ~~six~~ **four** cannabis plants:

(1) Within an enclosed ~~area~~ **and secure structure** that is not exposed to public view ~~that~~ **, is sealed in such a manner that no cannabis odor may escape therefrom and** is equipped with locks or other security devices which allow access only by an authorized person; and

(2) At a residence or upon the grounds of a residence in which not more than ~~12~~ **eight** cannabis plants are cultivated, grown or produced;

(f) Delivers 1 ounce or less of usable cannabis or one-eighth of an ounce or less of concentrated cannabis without remuneration to a person who is 21 years of age or older so long as such delivery is not advertised or promoted to the public; and

(g) Assists another person who is 21 years of age or older in carrying out any of the acts described in paragraphs (a) to (f), inclusive.



4. If a person possesses, uses or produces cannabis in an amount which exceeds the amount set forth in paragraph (d) of subsection 3 or in any manner other than that set forth in subsection 3, the person is not exempt from state prosecution for the possession, delivery or production of cannabis.

5. A person who holds an adult-use cannabis establishment license issued to the person pursuant to NRS 678B.250, a cannabis establishment agent registration card issued to the person pursuant to NRS 678B.340, a cannabis establishment agent registration card for a cannabis executive issued to the person pursuant to NRS 678B.350 or a cannabis establishment agent registration card for a cannabis receiver issued to the person pursuant to NRS 678B.355, and confines his or her activities to those authorized by this title, and the regulations adopted by the Board pursuant thereto, is exempt from state prosecution for:

(a) The possession, delivery or production of cannabis;

(b) The possession or delivery of paraphernalia;

(c) Aiding and abetting another in the possession, delivery or production of cannabis;

(d) Aiding and abetting another in the possession or delivery of paraphernalia;

(e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and

(f) Any other criminal offense in which the possession, delivery or production of cannabis or the possession or delivery of paraphernalia is an element.

6. The commission of any act by a person for which the person is exempt from state prosecution pursuant to this section must not be used as the basis for the seizure or forfeiture of any property of the person or for the imposition of a civil penalty.

Sec. 3. A person who, on July 1, 2023:

1. Holds a valid registry identification card issued to the person pursuant to NRS 678C.230 or 678C.270;

2. Is authorized to cultivate, grow or produce cannabis pursuant to subsection 6 of NRS 678C.200; and

3. Is engaged in the cultivation, growing or production of cannabis,

➤ shall provide each notice required by paragraph (a) of subsection 7 of NRS 678C.200, as amended by section 1 of this act, as soon as reasonably practicable after July 1, 2023.

Sec. 4. This act becomes effective on July 1, 2023.

