

An Initiative to Establish a Regulated Market for Marijuana

(Nevada, 2012)

WHEREAS, The United States Centers for Disease Control reports that approximately 33,000 Americans die annually from the health effects of alcohol use, while no deaths are attributed to the health effects of marijuana use; and

WHEREAS, The United States Department of Justice reports that 25 to 30 percent of violent crimes are alcohol-related, but does not describe marijuana use as a significant contributing factor in violent crime; and

WHEREAS, A 2009 study in Canada found that the per person health care cost to society was more than eight times greater for alcohol users than for marijuana users; and

The existing unregulated system of marijuana distribution makes it easier for minors to purchase marijuana without proof of age and exposes minors to a market where drugs like heroin and cocaine are available; and

WHEREAS, A regulated system of state-licensed marijuana suppliers and retail stores would shift profits from the sale of marijuana from the criminal market to taxpaying businesses in Nevada and would likely create thousands of new jobs in the State; and

WHEREAS, A regulated system of marijuana distribution would allow for the establishment of labeling requirements, ensuring that people who use marijuana know exactly what they are getting when they make a purchase; and

WHEREAS, If certain portions of this initiative are found to be inoperable or unconstitutional, it is the intent of the people of the State of Nevada to implement as much of the initiative as possible; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA

DO ENACT AS FOLLOWS:

Section 1. Title 40 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 19, inclusive, of this act.

Sec. 2. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, a specified person.

Sec. 4. "Marijuana" means any part of any plant of the genus Cannabis, whether growing or not. The term does not include seeds of the plant, the resin extracted from any part of the plant, any compound, manufacture, salt, derivative, mixture or preparation of the plant, the mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant or the sterilized seed of the plant which is incapable of germination.

Sec. 5. "Marijuana paraphernalia" means objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana into the human body.

Sec. 6. "Original package" means a sealed container or receptacle first used by a supplier for holding marijuana.

Sec. 7. "Restricted supplier" means an establishment licensed pursuant to sections 25 to 48, inclusive, of this act to cultivate, prepare and package marijuana and to sell marijuana which is contained in an original package to a retail marijuana store which is an affiliate of the establishment but not to sell marijuana to consumers.

Sec. 8. "Retail marijuana store" means an establishment licensed pursuant to sections 25 to 48, inclusive, of this act to purchase marijuana which is contained in an original package from a restricted supplier which is an affiliate of the establishment or from an unrestricted supplier and to sell marijuana which is contained in an original package and marijuana paraphernalia to consumers.

Sec. 9. "State prosecution" means prosecution initiated or maintained by the State of Nevada or an agency or political subdivision of the State of Nevada.

Sec. 10. "Supplier" means a restricted supplier or an unrestricted supplier.

Sec. 11. "Unrestricted supplier" means an establishment licensed pursuant to sections 25 to 48, inclusive, of this act to cultivate, prepare and package marijuana and to sell marijuana which is contained in an original package to retail marijuana stores and unrestricted suppliers but not to consumers.

Sec. 12. Except as otherwise provided in this chapter:

1. A person who is 21 years of age or older is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for the following acts:

(a) Possession, transportation or use of 1 ounce or less of marijuana.

(b) Possession, transportation or use of the resin extracted from marijuana or any compound, manufacture, salt, derivative, mixture or preparation of marijuana if the compound, manufacture, salt, derivative, mixture or preparation was derived from 1 ounce or less of marijuana.

(c) Possession, transportation or use of marijuana paraphernalia.

(d) Transfer of 1 ounce or less of marijuana without remuneration to a person who is 21 years of age or older.

(e) Transfer of any substance described in paragraph (b) without remuneration to a person who is 21 years of age or older.

(f) Transfer of marijuana paraphernalia without remuneration to a person who is 21 years of age or older.

(g) Aiding and abetting another person who is 21 years of age or older in the possession, transportation or use of 1 ounce or less of marijuana.

(h) Aiding and abetting another person who is 21 years of age or older in the possession, transportation or use of any substance described in paragraph (b).

(i) Aiding and abetting another person who is 21 years of age or older in the possession, transportation or use of marijuana paraphernalia.

(j) Any combination of the acts described in paragraphs (a) to (i), inclusive.

2. A person who is 21 years of age or older is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for the following acts:

(a) Manufacture or possession of any equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, storing or containing marijuana or for ingesting, inhaling or otherwise introducing marijuana into the human body.

(b) Delivery or sale to a retail marijuana store of any equipment, products and materials of any kind which are used, intended for use or designed for use in storing or containing marijuana or for ingesting, inhaling or otherwise introducing marijuana into the human body.

(c) Delivery or sale to a supplier of any equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, storing or containing marijuana or for ingesting, inhaling or otherwise introducing marijuana into the human body.

3. A retail marijuana store or any person who is 21 years of age or older and acting in his or her capacity as an owner, employee or agent of a retail marijuana store is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for the following acts:

(a) Possession or transportation of marijuana which is contained in an original package.

(b) Possession or transportation of marijuana paraphernalia.

(c) Purchasing marijuana which is contained in an original package from a restricted supplier which is an affiliate of the retail marijuana store or from an unrestricted supplier.

(d) Purchasing marijuana paraphernalia.

(e) Selling marijuana which is contained in an original package to a person who is 21 years of age or older.

(f) Selling marijuana paraphernalia to a person who is 21 years of age or older.

(g) Aiding and abetting any person who is 21 years of age or older in the possession, transportation or use of 1 ounce or less of marijuana.

(h) Aiding and abetting another person who is 21 years of age or older in the possession, transportation or use of marijuana paraphernalia.

(i) Any combination of the acts described in paragraphs (a) to (h), inclusive.

4. A supplier or any person who is 21 years of age or older and acting in his or her capacity as an owner, employee or agent of a supplier is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for the following acts:

(a) Cultivating, packing, processing, transporting or manufacturing marijuana.

(b) Possession of marijuana or seeds of marijuana.

(c) Possession of equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, producing, preparing, testing, analyzing, packaging, storing or containing marijuana.

(d) If the supplier is an unrestricted supplier, selling marijuana which is contained in an original package to a retail marijuana store or unrestricted supplier.

(e) If the supplier is a restricted supplier, selling marijuana which is contained in an original package to a retail marijuana store which is an affiliate of the restricted supplier.

(f) Purchasing seeds of marijuana.

(g) If the supplier is an unrestricted supplier, purchasing marijuana which is contained in an original package from an unrestricted supplier.

(h) Aiding and abetting any person who is 21 years of age or older in the possession, transportation or use of 1 ounce or less of marijuana.

(i) Any combination of the acts described in paragraphs (a) to (h), inclusive.

Sec. 13.

1. In a prosecution for selling, giving or otherwise furnishing marijuana or marijuana paraphernalia to any person who is under 21 years of age, it is a complete defense if:

(a) The person who sold, gave or otherwise furnished marijuana or marijuana paraphernalia to a person who is under 21 years of age was a retail marijuana store or was acting in his or her capacity as an owner, employee or agent of a retail marijuana store at the time the marijuana or marijuana paraphernalia was sold, given or otherwise furnished to the person; and

(b) Before selling, giving or otherwise furnishing marijuana or marijuana paraphernalia to a person who is under 21 years of age, the person who sold, gave or otherwise furnished the marijuana or marijuana paraphernalia:

(1) Demanded that the person present a valid driver's license or other written or documentary evidence which showed that the person was 21 years of age or older at the time the marijuana or marijuana paraphernalia was sold, given or otherwise furnished to the person;

(2) Was presented a valid driver's license or other written or documentary evidence which showed that the person was 21 years of age or older at the time the marijuana or marijuana paraphernalia was sold, given or otherwise furnished to the person; and

(3) Reasonably relied upon the driver's license or written or documentary evidence presented by the person.

2. If an employee of a retail marijuana store sold, gave or otherwise furnished marijuana or marijuana paraphernalia to a person who is under 21 years of age, the owner of the retail marijuana store shall be deemed to be in compliance with the provisions of this chapter if the owner:

(a) Had no actual knowledge of the transaction in which the employee of the retail marijuana store sold, gave or otherwise furnished marijuana or marijuana paraphernalia to the person; and

(b) At the time the marijuana or marijuana paraphernalia was sold, given or otherwise furnished to the person, had established and was carrying out a continuing program of training for employees of the retail marijuana store which was reasonably designed to prevent the selling, giving or furnishing of marijuana and marijuana paraphernalia to persons who are under 21 years of age.

Sec. 14

1. A retail marijuana store, a supplier and a person who is 21 years of age or older and acting in his or her capacity as an owner, employee or agent of a retail marijuana store or supplier is not exempt from civil penalty and discipline by any state or local licensing board for any act which violates the provisions of sections 25 to 48, inclusive, of this act or any regulations adopted pursuant thereto or for any act which violates an ordinance adopted by the board of county commissioners of a county pursuant to section 22 of this act or by an incorporated city pursuant to section 23 of this act.

2. A retail marijuana store or supplier is not exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for any act which violates section 43 or 44 of this act.

Sec. 15 The provisions of this chapter do not authorize, and no person is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for any of the following acts:

1. Driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of marijuana.

2. Engaging in any other conduct prohibited by NRS 484.379, 484.3795, 484.37955 or 484.379778, subsection 2 of NRS 488.400, or NRS 488.410, 488.420, 488.425 or 493.130.

3. Possessing a firearm in violation of paragraph (b) of subsection 1 of NRS 202.257.

4. Possessing marijuana if the person is a prisoner. As used in this subsection, "prisoner" has the meaning ascribed to it in NRS 208.085.

5. Possessing marijuana in violation of NRS 453.336 or possessing drug paraphernalia in violation of NRS 453.560 or 453.566, if the possession of the marijuana or drug paraphernalia is discovered because the person engaged in the use of marijuana in:

(a) Any local detention facility, county jail, state prison, reformatory or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders; or

(b) Any public school or private school.

6. Possessing marijuana in violation of NRS 453.336 or possessing drug paraphernalia in violation of NRS 453.560 or 453.566, if the possession of the marijuana or drug paraphernalia is discovered because the person smoked marijuana in the presence of a person who is under 18 years of age.

7. Possessing, using, transferring, transporting, selling or cultivating marijuana or committing any other act involving marijuana in violation of the provisions of this chapter.

8. As used in this section:

(a) "Private school" has the meaning ascribed to it in NRS 394.103.

(b) "Public school" has the meaning ascribed to it in NRS 385.007.

Sec. 16. The provisions of this chapter do not require employers to accommodate the use, possession or being under the influence of marijuana in a place of employment.

Sec. 17. A person who consumes marijuana in public is guilty of a misdemeanor and shall be punished by a fine of not more than \$600.

Sec. 18. Any person under 21 years of age who falsely represents himself or herself to be 21 years of age or older in order to obtain any marijuana or marijuana paraphernalia pursuant to this chapter is guilty of a misdemeanor.

Sec. 19. Any person acting in his or her capacity as an owner, employee or agent of a retail marijuana store who knowingly allows or permits any person under 21 years of age to be present on the premises of the retail marijuana store is guilty of a misdemeanor and shall be punished by a fine of not more than \$500.

Sec. 20. NRS 453.005 is hereby amended to read as follows:

453.005. 1. The provisions of this chapter do not apply to 453.005 the extent that they are inconsistent with the provisions of chapter 453A of NRS [.] or sections 2 to 19, inclusive, of this act.

Sec. 21. NRS 453.321 is hereby amended to read as follows:

453.321. 1. Except as authorized by the provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for a person to:

(a) Import, transport, sell, exchange, barter, supply, prescribe, dispense, give away or administer a controlled or counterfeit substance;

(b) Manufacture or compound a counterfeit substance; or

(c) Offer or attempt to do any act set forth in paragraph (a) or (b).

2. Unless a greater penalty is provided in NRS 453.333 or 453.334, if a person violates subsection 1 and the controlled substance is classified in schedule I or II [,] and is not marijuana, the person is guilty of a category B felony and shall be punished:

(a) For the first offense, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$20,000.

(b) For a second offense, or if, in the case of a first conviction under this subsection, the offender has previously been convicted of an offense under this section or of any offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to an offense under this section, by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$20,000.

(c) For a third or subsequent offense, or if the offender has previously been convicted two or more times under this section or of any offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to an offense under this section, by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$20,000 for each offense.

3. The court shall not grant probation to or suspend the sentence of a person convicted under subsection 2 and punishable pursuant to paragraph (b) or (c) of subsection 2.

4. Unless a greater penalty is provided in NRS 453.333 or 453.334, if a person violates subsection 1 and the controlled substance is marijuana:

(a) For the first offense, the person is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$20,000, except that the court may in its discretion deem the person

to be guilty of a gross misdemeanor and punish the person for a gross misdemeanor as provided in NRS 193.140.

(b) For a second offense, or if, in the case of a first conviction under this subsection, the offender has previously been convicted of an offense under this section or of any offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to an offense under this section, the person is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$20,000.

(c) For a third or subsequent offense, or if the offender has previously been convicted two or more times under this section or of any offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to an offense under this section, the person is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$20,000 for each offense.

5. The court shall not grant probation to or suspend the sentence of a person convicted under subsection 4 and punishable pursuant to paragraph (b) or (c) of subsection 4.

6. Unless a greater penalty is provided in NRS 453.333. or 453.334, if a person violates subsection 1, and the controlled substance is classified in schedule III, IV or V, the person shall be punished:

(a) For the first offense, for a category C felony as provided in NRS 193.130.

(b) For a second offense, or if, in the case of a first conviction of violating this subsection, the offender has previously been convicted of violating this section or of any offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to a violation of this section, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$15,000.

(c) For a third or subsequent offense, or if the offender has previously been convicted two or more times of violating this section or of any offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to a violation of this section, for a category B felony by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$20,000 for each offense.

[5.] 7. The court shall not grant probation to or suspend the sentence of a person convicted under subsection [4] 6 and punishable pursuant to paragraph (b) or (c) of subsection [4.] 6.

Sec. 22 Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of county commissioners of a county may adopt ordinances requiring a person to obtain a license from the county before operating a retail marijuana store in an area of the county which is not within the boundaries of an incorporated city and establishing rules, restrictions and standards for the issuance of such a license. Any rules, restrictions or standards adopted by a board of county commissioners pursuant to this subsection may not be more restrictive than the rules, restrictions or standards applied by the county to a person applying for the issuance of a package liquor license.

2. The board of county commissioners of a county may adopt ordinances establishing rules, restrictions and standards governing the operation of a retail marijuana store in an area of the county which is not within the boundaries of an incorporated city, including, without limitation, rules, restrictions and standards relating to zoning and land use. Any rules, restrictions or standards adopted by a board of county commissioners pursuant to this subsection may not be more restrictive than the rules, restrictions or standards applied by the county to the holder of a package liquor license.

3. As used in this section; 3.

(a) "Package liquor license" means a license that authorizes the holder of the license to sell liquor in unopened original containers for consumption off the premises where the liquor is sold. As used in this paragraph, "liquor" has the meaning ascribed to it in NRS 369.040.

(b) "Retail marijuana store" has the meaning ascribed to it in section 8 of this act.

Sec. 23. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of an incorporated city, whether organized under general law or special charter, may adopt ordinances requiring a person to obtain a license from the incorporated city before operating a retail marijuana store in the incorporated city and establishing rules, restrictions and standards for the issuance of such a license. Any rules, restrictions or standards adopted by a governing body pursuant to this subsection may not be more restrictive than the rules, restrictions or standards applied by the incorporated city to a person applying for the issuance of a package liquor license.

2. The governing body of an incorporated city, whether organized under general law or special charter, may adopt ordinances establishing rules, restrictions and standards

governing the operation of retail marijuana stores within the boundaries of the incorporated city, including, without limitation, rules, restrictions and standards relating to zoning and land use. Any rules, restrictions or standards adopted by a governing body pursuant to this subsection may not be more restrictive than the rules, restrictions or standards applied by the incorporated city to the holder of a package liquor license.

3. As used in this section: 3.

(a) “Package liquor license” has the meaning ascribed to it in section 22 of this act.

(b) “Retail marijuana store” has the meaning ascribed to it in section 8 of this act.

Sec. 24. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 25 to 48, 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 33, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 26. “Affiliate” has the meaning ascribed to it in section 3 of this act.

Sec. 27. “Marijuana” has the meaning ascribed to it in section 4 of this act.

Sec. 28. “Marijuana paraphernalia” has the meaning ascribed to it in section 5 of this act.

Sec. 29. “Original package” has the meaning ascribed to it in section 6 of this act.

Sec. 30. “Restricted supplier” has the meaning ascribed to it in section 7 of this act.

Sec. 31. “Retail marijuana store” has the meaning ascribed to it in section 8 of this act.

Sec. 32. “Supplier” has the meaning ascribed to it in section 10 of this act.

Sec. 33. “Unrestricted supplier” has the meaning ascribed to it in section 11 of this act.

Sec. 34.

1. The Department shall administer and carry out the provisions of this chapter.
2. The Department may adopt regulations that are necessary to administer and carry out the provisions of this chapter.
3. The Department shall:
 - (a) Adopt regulations that:

(1) Set forth the procedures for the application for and issuance of a license to operate a retail marijuana store, a license to act as a restricted supplier and a license to act as an unrestricted supplier, including, without limitation, the content and form for an application to be licensed to operate a retail marijuana store, to act as a restricted supplier or to act as an unrestricted supplier.

(2) Set forth the qualifications for the issuance of a license to operate a retail marijuana store, a license to act as a restricted supplier and a license to act as an unrestricted supplier. Any qualifications adopted pursuant to this paragraph must be demonstrably related to the operation of a retail marijuana store, a restricted supplier or an unrestricted supplier.

(3) Specify the contents of a license to operate a retail marijuana store, a license to act as a restricted supplier and a license to act as an unrestricted supplier.

(4) Specify the procedures for the collection of taxes levied pursuant to this chapter.

(5) Specify the content, form and timing of reports which must be submitted to the Department by a retail marijuana store, a restricted supplier and an unrestricted supplier, including, without limitation, a requirement that information on sales, expenses, inventory and taxes collected must be reported to the Department.

(6) Establish requirements concerning the records that must be created and maintained by a retail marijuana store, a restricted supplier and an unrestricted supplier, except that the Department may not require a retail marijuana store to create or maintain records that may be used to identify a customer.

(7) Specify the requirements for the packaging and labeling of marijuana.

(8) Specify the minimum security requirements for a retail marijuana store, a restricted supplier and an unrestricted supplier.

(9) Require the posting or display of the license of a retail marijuana store, a restricted supplier and an unrestricted supplier.

(10) Establish the procedures for inspecting and auditing the records or premises of a retail marijuana store, restricted supplier or unrestricted supplier.

(11) Set forth the procedures for hearings to contest the denial of an application for a license to operate a retail marijuana store, a license to act as a restricted supplier or a license to act as an unrestricted supplier.

(12) Set forth the procedures for suspending or revoking the license of a retail marijuana store, restricted supplier or unrestricted supplier for a violation of any provision of this chapter, the regulations adopted pursuant to this section or an ordinance adopted pursuant to section 22 or 23 of this act, including, without limitation, the procedures for hearings to contest the suspension or revocation of the license.

(13) Establish reasonable controls on restricted suppliers and unrestricted suppliers which are no more restrictive than is necessary to protect adjoining and nearby properties and persons from unwanted exposure to suppliers and to protect the public health and welfare, including, without limitation, limits on the location and hours of operation of a supplier. Any controls established pursuant to this paragraph must ensure adequate competition among suppliers and an adequate distribution of marijuana throughout the State. In establishing limits on the location of a supplier in an:

(I) Unincorporated area of a county, the Department shall consider the views and opinions of the board of county commissioners of the county concerning such limits, including, without limitation, whether the board prefers that suppliers in the county operate in certain areas of the county or that the Department prohibit suppliers from operating in certain areas of the county.

(II) Incorporated city, the Department shall consider the views and opinions of the governing body of the incorporated city concerning such limits, including, without limitation, whether the governing body prefers that suppliers in the city operate in certain areas of the city or that the Department prohibit suppliers from operating in certain areas of the city.

(14) Establish reasonable environmental controls on retail marijuana stores, restricted suppliers and unrestricted suppliers which are no more restrictive than is necessary to minimize harm to the environment, to adjoining and nearby property owners and to the health of individuals in the area of a retail marijuana store or supplier.

(b) Prescribe and make available free of charge all forms for applications and reports required by this chapter.

(c) Issue all licenses as required by sections 37, 38 and 39 of this act.

Sec. 35.

1. Except as otherwise provided in this section, the Department and any employee of the Department shall not disclose or make known in any manner the name or address of a retail marijuana store, a supplier or an owner, employee or agent of a retail marijuana store or supplier.

2. The Department and an employee of the Department may disclose or make known the name or address of a retail marijuana store, a supplier or an owner, employee or agent of a retail marijuana store or supplier to an employee of the Department for the purpose of performing the duties of the Department pursuant to this chapter or upon the lawful order of a court of competent jurisdiction.

Sec. 36.

1. Except as otherwise provided in sections 22, 23 and 34 of this act, an agency, board, department, commission, local government or other political subdivision of this State may not adopt or impose any regulations, requirements or standards for the issuance of a license to operate a retail marijuana store or governing the operation or location of a retail marijuana store.

2. Except as otherwise provided in section 34 of this act, an agency, board, department, commission, local government or other political subdivision of this State may not adopt or impose any regulations, requirements or standards for the issuance of a license to act as a supplier or governing the operation or location of a supplier.

3. An agency, board, department, commission, local government or other political subdivision of this State may not:

(a) Rely upon any provision of federal law as a justification for refusing to carry out the provisions of this chapter or sections 2 to 19, inclusive, of this act; or

(b) Deny an application for a business license or refuse to issue a business license to a person operating, or intending to operate, a retail marijuana store or a person acting, or intending to act, as a supplier in compliance with the provisions of this chapter, sections 2 to 19, inclusive, of this act and any ordinance adopted pursuant to section 22 or 23 of this act if the sole basis for the denial of the application or the refusal to issue a business license is that the cultivation, packing, processing, manufacture, purchase, sale, possession or transportation of marijuana, seeds of marijuana or marijuana paraphernalia by the person may constitute a violation of a provision of federal law.

4. As used in this section, “business license” means a. state business license or a business license issued by a county, incorporated city or unincorporated town. As used in this subsection, “state business license” has the meaning ascribed to it in section 9 of Assembly Bill No. 146, chapter 381, Statutes of Nevada 2009, at page 2029.

Sec. 37.

1. Not earlier than 120 days after the effective date of this act, a person may apply, in accordance with this chapter and the regulations adopted pursuant thereto, for the issuance of a license authorizing the person to operate a retail marijuana store pursuant to the provisions of this chapter.

2. A person applying for the issuance of a license authorizing the person to operate a retail marijuana store must submit an application to the board of county commissioners of the county in which the person plans to operate the retail marijuana store. The application must:

(a) Be made on the form prescribed by the Department pursuant to section 34 of this act.

(b) Include the name and address of the applicant. If the applicant is:

(1) A partnership, the application must include the names and addresses of each partner.

(2) A corporation, association or other organization, the application must include the names and addresses of the president, vice president, secretary and managing officer or officers.

(c) State the location, by street and number, of the premises at which the applicant plans to operate a retail marijuana store.

(d) Be accompanied by an initial license fee of \$2,500.

3. A board of county commissioners shall examine all applications which are submitted to the board pursuant to subsection 2 and, not later than 60 days after the date on which an application is submitted, the board shall approve or disapprove the application.

4. Except as otherwise provided in section 40 of this act, a board of county commissioners shall approve an application for the issuance of a license authorizing a person to operate a retail marijuana store if the applicant satisfies the requirements of this chapter and the regulations adopted pursuant thereto.

5. If a board of county commissioners disapproves an application for the issuance of a license authorizing a person to operate a retail marijuana store, the board shall provide to the applicant a notice of the denial which specifies the provision of this chapter or the regulations adopted pursuant thereto on which the board has based the denial and shall refund to the applicant the portion of the license fee which exceeds the amount of money necessary to reimburse the county for the actual cost of investigating and processing the application. If a board of county commissioners approves an application, the board shall forward to the Department the application and the board's written approval of the application.

6. If, within 90 days after an applicant has submitted an application for the issuance of a license authorizing the applicant to operate a retail marijuana store, the board of county commissioners has not approved the application and forwarded the

application to the Department or provided to the applicant notice of the disapproval of the application, the application shall be deemed to be approved.

7. The Department shall grant a person whose application for a license authorizing the person to operate a retail marijuana store has been disapproved a new hearing before the Department if it shall be made to appear to the Department that the disapproval of the application by the board of county commissioners was arbitrary, unreasonable or unjust.

8. The Department shall examine all applications which are forwarded to the Department by a board of county commissioners pursuant to subsection 5 or deemed to be approved pursuant to subsection 6 and, within 30 days after the date on which the application is forwarded or deemed approved, the Department shall issue a license authorizing the applicant to operate a retail marijuana store or deny the application.

9. Except as otherwise provided in section 40 of this act, the Department shall issue a license authorizing the applicant to operate a retail marijuana store if the Department determines that the applicant has satisfied the requirements set forth in this chapter and the regulations adopted pursuant thereto.

10. If the Department denies an application for a license to operate a retail marijuana store, the Department shall provide to the applicant a notice of the denial which specifies the provision of this chapter or the regulations adopted pursuant thereto on which the Department has based the denial.

11. If, within 60 days after an application for a license has been forwarded to the Department pursuant to subsection 5 or is deemed to be approved pursuant to subsection 6, the Department has not issued a license pursuant to subsection 9 or provided the notice of the denial of the application described in subsection 10, the applicant shall be deemed to hold a license to operate a retail marijuana store if the applicant submits to the Attorney General a notarized copy of the original application and evidence of the date on which the application was initially submitted to the board of county commissioners pursuant to subsection 2. A person deemed to hold a license pursuant to this subsection is exempt from any provision of this chapter or the regulations adopted pursuant thereto which requires the posting or display of the license of a retail marijuana store.

Sec. 38.

1. Not earlier than 120 days after the effective date of this act, a person may apply, in accordance with this chapter and the regulations adopted pursuant thereto, for the issuance of a license authorizing the person to act as a restricted supplier pursuant to the provisions of this chapter.

2. A person applying for the issuance of a license authorizing the person to act as a restricted supplier must submit an application to the Department. An application for a license authorizing a person to act as a restricted supplier must:

(a) Be made on the form prescribed by the Department pursuant to section 34 of this act.

(b) Include the name and address of the applicant. If the applicant is:

(1) A partnership, the application must include the names and addresses of each partner.

(2) A corporation, association or other organization, the application must include the names and addresses of the president, vice president, secretary and managing officer or officers.

(c) State the location, by street and number, of the premises at which the applicant plans to act as a restricted supplier.

(d) State the name of each retail marijuana store which is an affiliate of the applicant.

(e) Be accompanied by an initial license fee of \$5,000.

3. The Department shall examine all applications which are submitted to the Department pursuant to this section and, not later than 60 days after the date on which an application is submitted, the Department shall issue a license authorizing the applicant to act as a restricted supplier or deny the application.

4. Except as otherwise provided in section 40 of this act, the Department shall issue a license authorizing the applicant to act as a restricted supplier if the applicant satisfies the requirements of this chapter and the regulations adopted pursuant thereto.

5. If the Department denies an application for the issuance of a license authorizing a person to act as a restricted supplier, the Department shall provide to the applicant a notice of the denial which specifies the provision of this chapter or the regulations adopted pursuant thereto on which the Department has based the denial.

6. If, within 90 days after an application for the issuance of a license authorizing a person to act as a restricted supplier has been submitted to the Department, the Department has not issued a license pursuant to subsection 4 or provided the notice of the denial of the application described in subsection 5, the applicant shall be deemed to hold a license to act as a restricted supplier if the applicant submits to the Attorney General a notarized copy of the original application and evidence of the date on which the application was submitted to the Department. A person deemed to hold a license pursuant to this subsection is exempt from any provision of this chapter or the regulations adopted pursuant thereto which requires the posting or display of the license of a restricted supplier.

Sec. 39.

1. Not earlier than 120 days after the effective date of this act, a person may apply, in accordance with this chapter and the regulations adopted pursuant thereto, for the issuance of a license authorizing the person to act as an unrestricted supplier pursuant to the provisions of this chapter.

2. A person applying for the issuance of a license authorizing the person to act as an unrestricted supplier must submit an application to the Department. An application for a license authorizing a person to act as an unrestricted supplier must:

(a) Be made on the form prescribed by the Department pursuant to section 34 of this act.

(b) Include the name and address of the applicant. If the applicant is:

(1) A partnership, the application must include the names and addresses of each partner. (1)

(2) A corporation, association or other organization, the application must include the names and addresses of the president, vice president, secretary and managing officer or officers.

(c) State the location, by street and number, of the premises at which the applicant plans to act as an unrestricted supplier.

(d) Be accompanied by an initial license fee of \$5,000.

3. The Department shall examine all applications which are submitted to the Department pursuant to this section and, not later than 60 days after the date on which an application is submitted, the Department shall issue a license authorizing the applicant to act as an unrestricted supplier or deny the application.

4. Except as otherwise provided in section 40 of this act, the Department shall issue a license authorizing the applicant to act as an unrestricted supplier if the applicant satisfies the requirements of this chapter and the regulations adopted pursuant thereto.

5. If the Department denies an application for the issuance of a license authorizing a person to act as an unrestricted supplier, the Department shall provide to the applicant a notice of the denial which specifies the provision of this chapter or the regulations adopted pursuant thereto on which the Department has based the denial.

6. If, within 90 days after an application for the issuance of a license authorizing a person to act as an unrestricted supplier has been submitted to the Department, the Department has not issued a license pursuant to subsection 4 or provided the notice of the denial of the application described in subsection 5, the applicant shall be deemed to hold a license to act as an unrestricted supplier if the applicant submits to the Attorney General a notarized copy of the original application and evidence of the date on which the

application was submitted to the Department. A person deemed to hold a license pursuant to this subsection is exempt from any provision of this chapter or the regulations adopted pursuant thereto which requires the posting or display of the license of an unrestricted supplier.

Sec. 40.

1. Unless the board of county commissioners determines that the issuance of a license to operate a retail marijuana store is desirable or is necessary for meeting the demand for marijuana by consumers in the county, the board of county commissioners of a county may not approve an application for a license authorizing a person to operate a retail marijuana store, and the Department may not issue such a license, if the issuance of the license will cause there to be:

(a) More than one retail marijuana store in a county whose population is 10,000 or less.

(b) More than one retail marijuana store per 10,000 residents in a county whose population is more than 10,000 and less than 200,000.

(c) More than one retail marijuana store per 25,000 residents in a county whose population is 200,000 or more.

2. The board of county commissioners of a county may not approve an application for a license authorizing a person to operate a retail marijuana store, and the Department may not issue such a license, if the establishment for which the license is sought:

(a) Is located within 500 feet of the property line of a public school, private school, child care facility or structure used primarily for religious services or worship and the public school, private school, child care facility or structure used primarily for religious services or worship existed before the date on which the establishment submitted an initial application pursuant to subsection 2 of section 37 of this act;

(b) Is engaged in business as a gas station, convenience store, grocery store, night club, dance hall or licensed gaming establishment;

(c) Sells intoxicating liquor for consumption on or off the premises;

(d) Does not have a single, secure entrance into areas containing marijuana; or

(e) Is located in an area which is zoned solely for residential use.

3. The board of county commissioners of a county may not approve an application for a license to operate a retail marijuana store if the applicant does not establish to the satisfaction of the board that the applicant is a person of good moral character or, if the applicant is not a natural person, the applicant does not establish to the satisfaction of the board that each natural person with an interest in the applicant as a partner, director or officer is a person of good moral character. In determining whether an applicant or partner, director or officer of an applicant is a person of good moral character, the board of county commissioners of a county shall consider and apply the same criteria which the board applies to determine whether an applicant for a license described in NRS 369.180 is a person of good moral character.

4. A board of county commissioners may not approve an application for a license authorizing a person to operate a retail marijuana store and the Department may not issue a license to operate a retail marijuana store, a license to act as a restricted supplier or a license to act as an unrestricted supplier if residents do not hold at least a 50 percent ownership interest in the applicant. As used in this subsection, "residents" means persons who have been domiciled in this State for more than one year immediately preceding the date on which the applicant submitted an application for a license to operate a retail marijuana store, a license to act as a restricted supplier or a license to act as an unrestricted supplier.

5. Unless the Department determines that the issuance of a license to act as an unrestricted supplier is necessary to meet the demand for marijuana by retail marijuana stores in this State, the Department may not issue a license authorizing a person to act as an unrestricted supplier if the issuance of the license will cause there to be more than 50 unrestricted suppliers in this State.

6. The Department may not issue a license to act as a restricted supplier or a license to act as an unrestricted supplier if the establishment for which the license is sought:

(a) Is located within 1,000 feet of the property line of a public school, private school, child care facility or structure used primarily for religious services or worship and the public school, private school, child care facility or structure used primarily for religious services or worship existed before the date on which the establishment submitted an initial application pursuant to subsection 2 of section 38 of this act or subsection 2 of section 39 of this act;

(b) Is engaged in business as a gas station, convenience store, grocery store, night club, dance hall or licensed gaming establishment;

(c) Sells intoxicating liquor for consumption on or off the premises;

(d) Does not have a single, secure entrance into areas containing marijuana; or

(e) Is located in an area which is zoned solely for residential use.

7. As used in this section:

(a) “Child care facility” has the meaning ascribed to it in NRS 432A.024.

(b) “Licensed gaming establishment” has the meaning ascribed to it in NRS 463.0169.

(c) “Private school” has the meaning ascribed to it in NRS 394.103.

(d) “Public school” has the meaning ascribed to it in NRS 385.007.

Sec. 41 The Department shall revoke the license of a retail marijuana store if, within 180 days after the issuance of the license, the retail marijuana store is not selling marijuana to consumers and an adequate supply of marijuana is available to the retail marijuana store.

Sec. 42.

1. A license to operate a retail marijuana store, a license to act as a restricted supplier and a license to act as an unrestricted supplier expire one year after the date of issuance unless the license is renewed pursuant to this section.

2. A retail marijuana store may renew a license to operate a retail marijuana store by submitting to the Department not later than 30 calendar days before the expiration of the license:

(a) An application for the renewal of the license; and

(b) A license renewal fee of \$2,500.

3. A supplier may renew a license to act as a supplier by submitting to the Department not later than 30 calendar days before the expiration of the license:

(a) An application for the renewal of the license; and

(b) A license renewal fee of \$5,000.

4. The Department shall renew a license to operate a retail marijuana store or a license to act as a supplier upon receipt of an application for the renewal of the license and the renewal fee unless the Department has cause to revoke the license of the applicant. The Department shall issue the renewed license not later than 15 days after the Department receives the application and fee. A license renewed pursuant to this section is valid for one year unless the license is renewed pursuant to this section.

Sec. 43.

1. A retail marijuana store shall not:

(a) Sell, give or otherwise furnish marijuana or marijuana paraphernalia to any person who is under 21 years of age.

(b) Sell, give or otherwise furnish marijuana which is not contained in an original package.

(c) Allow any person who is under 21 years of age to be present on the premises of its establishment.

(d) Knowingly sell, give or otherwise furnish an amount of marijuana to a person that would cause that person to possess more than 1 ounce of marijuana.

(e) Purchase marijuana from any person other than an unrestricted supplier or a restricted supplier that is an affiliate of the retail marijuana store.

(f) Permit any person to use marijuana on the premises of its establishment.

(g) Purchase or sell, give or otherwise furnish marijuana in any manner other than as authorized pursuant to the provisions of this chapter and any regulations adopted pursuant thereto.

(h) Knowingly sell marijuana that has been adulterated or contaminated by any other substance including, without limitation, any controlled substance.

2. In addition to any other penalty provided pursuant to specific statute, a person who violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.

3. In a prosecution for a violation of paragraph (a) or (c) of subsection 1, it is a complete defense if, before selling, giving or otherwise furnishing marijuana or marijuana paraphernalia to a person who is under 21 years of age or before allowing a person who is under 21 years of age to be present on the premises of its establishment, the retail marijuana store or a person acting in his or her capacity as an owner, employee or agent of the retail marijuana store:

(a) Demanded that the person present a valid driver's license or other written or documentary evidence which showed that the person was 21 years of age or older at the time the marijuana or marijuana paraphernalia was sold, given or otherwise furnished to the person or at the time the person was allowed to be present on the premises of the establishment;

(b) Was presented a valid driver's license or other written or documentary evidence which showed that the person was 21 years of age or older at the time the marijuana or marijuana paraphernalia was sold, given or otherwise furnished to the person or at the time the person was allowed to be present on the premises of the establishment; and

(c) Reasonably relied upon the driver's license or written or documentary evidence presented by the person.

Sec. 44.

1. A supplier shall not:

(a) Allow any person who is under 21 years of age to be present on the premises of its establishment.

(b) If the supplier is an unrestricted supplier, sell, give or otherwise furnish marijuana to any person other than a retail marijuana store or an unrestricted supplier.

(c) If the supplier is a restricted supplier, sell, give or otherwise furnish marijuana to any person other than a retail marijuana store which is an affiliate of the restricted supplier.

(d) Sell, give or otherwise furnish marijuana which is not contained in an original container.

(e) If the supplier is an unrestricted supplier, purchase marijuana from any person other than an unrestricted supplier or purchase marijuana which is not contained in an original package.

(f) If the supplier is a restricted supplier, purchase marijuana.

(g) Purchase or sell, give or otherwise furnish marijuana in any manner other than as authorized pursuant to the provisions of this chapter and any regulations adopted pursuant thereto.

(h) Knowingly or negligently sell marijuana that has been adulterated or contaminated by any other substance, including, without limitation, any controlled substance.

(i) If there are 20 or more unrestricted suppliers in this State, produce or cultivate more than 10 percent of the total amount of marijuana that is sold annually to retail marijuana stores in this State.

2. In addition to any other penalty provided pursuant to specific statute, a person who violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.

3. In a prosecution for a violation of paragraph (a) of subsection 1, it is a complete defense if, before allowing a person who is under 21 years of age to be present on the premises of its establishment, the supplier or a person acting in his or her capacity as an owner, employee or agent of the supplier:

(a) Demanded that the person present a valid driver's license or other written or documentary evidence which showed that the person was 21 years of age or older at the time the person was allowed to be on the premises of the establishment;

(b) Was presented a valid driver's license or other written or documentary evidence which showed that the person was 21 years of age or older at the time the person was allowed to be on the premises of the establishment; and

(c) Reasonably relied upon the driver's license or written or documentary evidence presented by the person.

Sec. 45.

1. An excise tax is hereby levied upon suppliers and must be collected respecting all marijuana sold, given or otherwise furnished to retail marijuana stores at the rate of \$50 per ounce or proportionate part thereof.

2. For the purpose of determining the tax for the retail sale of marijuana pursuant to this chapter, the tax for the sale of marijuana must be the same as the taxes for the retail sale of other items of tangible personal property generally.

3. A retail marijuana store and a supplier must pay all taxes imposed on the retail marijuana store or supplier without regard to the business in which the retail marijuana store or supplier is engaged or the items or services sold by the retail marijuana store or supplier, and, in paying any tax, a supplier or retail marijuana store shall not be required to identify the business in which the supplier or retail marijuana store is engaged or the items or services sold by the supplier or retail marijuana store.

Sec. 46.

1. The money submitted to the board of county commissioners of a county by applicants for a license to operate a retail marijuana store pursuant to this chapter must be apportioned in the following manner:

(a) The money must be used to defray the entire cost to the county of administering the provisions of this chapter.

(b) After defraying the entire cost to the county of administering the provisions of this chapter pursuant to paragraph (a), the remaining money must be paid by the county to the State Treasurer for credit to the State General Fund.

2. The Department shall apportion the money remitted to the Department from license fees and taxes collected pursuant to this chapter in the following manner:

(a) The Department shall retain sufficient money to defray the entire cost of administration of this chapter.

(b) After retaining sufficient money to defray the entire cost of administration of this chapter pursuant to paragraph (a), the Department shall remit the remaining money to the State General Fund.

Sec. 47.

1. A person shall not advertise the sale of marijuana through television, radio, newspapers, magazines, billboards, the Internet or any other written or oral commercial media.

2. As used in this section, "Internet" has the meaning ascribed to it in NRS 453.3625.

Sec. 48. The provisions of this chapter do not authorize any person to transport marijuana into or outside the State of Nevada unless federal law permits such transport.

Sec. 49. NRS 372A.060 is hereby amended to read as follows:

372A.060

1. This chapter does not apply to [any] :

(a) Any person who is registered or exempt from registration pursuant to NRS 453.226 [or any] ;

(b) Any retail marijuana store, restricted supplier or unrestricted supplier or any owner, employee or agent acting on behalf of a retail marijuana store, restricted supplier or unrestricted supplier; or

(c) Any other person who is lawfully in possession of a controlled substance.

2. Compliance with this chapter does not immunize a person from criminal prosecution for the violation of any other provision of law.

3. As used in this section:

(a) “Restricted supplier” has the meaning ascribed to it in section 7 of this act.

(b) “Retail marijuana store” has the meaning ascribed to it in section 8 of this act.

(c) “Unrestricted supplier” has the meaning ascribed to it in section 11 of this act.

Sec. 50. If any provision of this act, or the application thereof to any person, thing or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this act as a whole or any provision or application of this act which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 51.

1. The Department of Taxation shall adopt the regulations described in section 34 of this act within 120 days after the effective date of this act.

2. If, within 1 year after the effective date of this act, no person holds a license to operate a retail marijuana store in a county or no retail marijuana store in a county is selling marijuana to consumers, a person who submits to the Attorney General a notarized statement containing the person’s name, business address and birth date and a declaration of the person’s intent to operate a retail marijuana store in the county shall be deemed to hold a license to operate a retail marijuana store in the county unless the Attorney General notifies the person within 7 days after the person submits the notarized statement that the number of licenses deemed to be issued pursuant to this subsection exceeds the number of licenses allowed in the county pursuant to subsection 1 of section 40 of this act. A license deemed to be issued pursuant to this subsection expires annually on the anniversary of the date on which the person deemed to hold the license submitted the notarized statement to the Attorney General and, upon expiration of the license, the license shall be deemed to be renewed unless the Attorney General notifies the person deemed to hold the license that a retail marijuana store in the county is selling marijuana to consumers. A person deemed to hold a license pursuant to this subsection is exempt from any provision of sections 25 to 48, inclusive, of this act or the regulations adopted pursuant thereto which requires the posting or display of the license of a retail marijuana store.

3. If, within 1 year after the effective date of this act, no unrestricted supplier is located within 250 miles of the premises of a retail marijuana store, the retail marijuana store shall be deemed to be an unrestricted supplier until the Department notifies the retail marijuana store that an unrestricted supplier is located within 250 miles of the premises of the retail marijuana store. A person deemed to hold a license pursuant to this subsection is exempt from any provision of sections 25 to 48, inclusive, of this act or the

regulations adopted pursuant thereto which requires the posting or display of the license of an unrestricted supplier.

4. If, within 540 days after the effective date of this act, suppliers are not cultivating preparing, packing or selling marijuana in an amount adequate to satisfy the demand of retail marijuana stores for marijuana, each retail marijuana store shall be deemed to be an unrestricted supplier. A person deemed to hold a license pursuant to this subsection is exempt from any provision of sections 25 to 48, inclusive, of this act or the regulations adopted pursuant thereto which requires the posting or display of the license of an unrestricted supplier.

5. As used in this section: 5.

(a) “Retail marijuana store” has the meaning ascribed to it in section 8 of this act.

(b) “Supplier has the meaning ascribed to it in section 10 of this act.

(c) “Unrestricted supplier has the meaning ascribed to it in section 11 of this act.

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