SUPREME COURT OF NEVADA

Case No. 79668

GREENMART OF NEVADA NLV LLC,; and NEVADA ORGANIC REMEDIES, LLC

Appellants,

v.

SERENITY WELLNESS CENTER LLC; TGIG, LLC; NULEAF INCLINE DISPENSARY, LLC,; NEVADA HOLISTIC MEDICINE, LLC; TRYKE COMPANIES SO NV, LLC; TRYKE COMPANIES RENO, LLC; PARADISE WELLENESS CENTER; GBS NEVADA PARTNERS, LLC; FIDELIS HOLDINGS, LLC; GRAVITAS NEVADA, LLC; NEVADA PURE, LLC; MEDIFARM, LLC; MEDIFARM IV LLC;
and STATE OF NEVADA, DEPARTMENT OF TAXATION,

Respondents,

Appeal from the Eighth Judicial District Court,
Clark County, Nevada
District Court Case # A-19-786962-B
The Honorable Elizabeth Gonzalez

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23	Notice of Entry of Order and Order Granting Motion for Preliminary Injunction	8/28/19	AA 005544 - AA 005570
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20	Order Granting in Part Motion to Coordinate Cases for Preliminary Injunction Hearing	7/11/19	AA 004938 - AA 004940
22	Order Granting Preliminary Injunction (Findings of Fact and Conclusions of Law)	8/23/19	AA 005277 - AA 005300
46, 47	Preliminary Injunction Hearing, Defendant's Exhibit 2009 Governor's Task Force Report	n/a	AA 011408 - AA 011568
47	Preliminary Injunction Hearing, Defendant's Exhibit 2018 List of Applicants for Marijuana Establishment Licenses 2018	n/a	AA 011569 - AA 011575

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47	Preliminary Injunction Hearing, Defendant's Exhibit 5025 Nevada Organic Remedies, LLC's Organizational Chart	n/a	AA 011576 - AA 011590
47	Preliminary Injunction Hearing, Defendant's Exhibit 5026 Nevada Organic Remedies, LLC's Ownership Approval Letter	n/a	AA 011591, AA 011592
47	Preliminary Injunction Hearing, Defendant's Exhibit 5026 Nevada Organic Remedies, LLC's Ownership Approval Letter as Contained in the Application	n/a	AA 011593 - AA 011600
47	Preliminary Injunction Hearing, Defendant's Exhibit 5038 Evaluator Notes on Nevada Organic Remedies, LLC's Application	n/a	AA 011601 - AA 011603
47	Preliminary Injunction Hearing, Defendant's Exhibit 5045 Minutes of ther Legislative Commission, Nevada Legislative Counsel Bureau	n/a	AA 011604 - AA 011633
47	Preliminary Injunction Hearing, Defendant's Exhibit 5049 Governor's Task Force for the Regulation and Taxation of Marijuana Act Meeting Minutes	n/a	AA 011634 - AA 011641
47	Register of Actions for Serenity Wellness Center, LLC v. State of Nevada, Department of Taxation, Case No. A-18-786962-B	n/a	AA011642 - AA 011664
27	Serenity Wellness Center, LLC et al.'s Joinder to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's's Motion to Amend the Findings of Fact and Conclusions of Law Granting Motion for Preliminary Injunction	9/30/19	AA 006506 - AA 006508
2	Serenity Wellness Center, LLC et al.'s Complaint	1/4/19	AA 000343 - AA 000359
0	Serenity Wellness Center, LLC et al.'s Corrected First Amended Complaint	7/11/19	AA 004907 - AA 004924
5, 6	Serenity Wellness Center, LLC et al.'s Ex Parte Motion for Leave to file Brief in Support of Motion for Preliminary Injunction in Excess of Thirty Pages in Length	4/10/19	AA 001163 - AA 001288

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20	Serenity Wellness Center, LLC et al.'s First Amended Complaint	7/3/19	AA 004889 - AA 004906
40	Serenity Wellness Center, LLC et al.'s Joinder to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's's Motion for Preliminary Injunction	5/20/19	AA 003603 - AA 003636
23	Serenity Wellness Center, LLC et al.'s Joinder to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's's Objection to Court's Exhibit 3	8/27/19	AA 005540 - AA 005543
27	Serenity Wellness Center, LLC et al.'s Joinder to Nevada Wellness Center, LLC's Motion to Amend the Findings of Fact and Conclusions of Law Granting Motion for Preliminary Injunction	10/7/19	AA 006528 - AA 006538
4	Serenity Wellness Center, LLC et al.'s Motion for Preliminary Injunction	3/19/19	AA 000769 - AA 000878
18	Serenity Wellness Center, LLC et al.'s Reply in support of Motions for Summary Judgment	5/22/19	AA 004395 - AA 004408
29	Serenity Wellness Center, LLC et al.'s Second Amended Complaint	11/26/19	AA 007131 - AA 007153
5	Serenity Wellness Center, LLC et al.'s Summons to State of Nevada, Department of Taxation	3/26/19	AA 001031 - AA 001034
19	Serenity Wellness Center, LLC et al.'s Supplemental Memorandum of Points and Authorities in Support of Preliminary Injunction	6/10/19	AA 004564 - AA 004716
6	State of Nevada, Department of Taxation's Answer to ETW Management Group, LLC et al.'s Amended Complaint	4/17/19	AA 001313 - AA 001326
19	State of Nevada, Department of Taxation's Answer to ETW Management Group, LLC et al.'s Second Amended Complaint	6/4/19	AA 004513 - AA 004526
5	State of Nevada, Department of Taxation's Answer to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's's First Amended Complaint	4/10/19	AA 001150 - AA 001162

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6	State of Nevada, Department of Taxation's Answer to Nevada Wellness Center, LLC's Complaint	5/2/19	AA 001342 - AA 001354
15	State of Nevada, Department of Taxation's Answer to Serenity Wellness Center, LLC et al.'s Complaint	5/20/19	AA 003637 - AA 003648
20	State of Nevada, Department of Taxation's Answer to Serenity Wellness Center, LLC et al.'s Corrected First Amended Complaint	7/15/19	AA 004949 - AA 004960
11	State of Nevada, Department of Taxation's Opposition to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's's Motion for Preliminary Injunction	5/20/19	AA 002704 - AA 002724
11-14	State of Nevada, Department of Taxation's Opposition to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's's Motion for Preliminary Injunction, Appendix	5/20/19	AA 002725 - AA 003444
24	State of Nevada, Department of Taxation's Opposition to Motion to Amend the Findings of Fact and Conclusions of Law Granting Motion for Preliminary Injunction	9/23/19	AA 005984 - AA 005990
28	State of Nevada, Department of Taxation's Opposition to Motion to Nevada Wellness Center, LLC's Amend the Findings of Fact and Conclusions of Law Granting Motion for Preliminary Injunction	10/24/19	AA 006827 - AA 006832
28	State of Nevada, Department of Taxation's Opposition to Nevada Organic Remedies, LLC's Application for Writ of Mandamus to Compel State of Nevada , Department of Taxation to Move Nevada Organic Remedies, LLC Into "Tier 2" of Successful Conditional License Applicants	10/24/19	AA 006889 - AA 006954
10	State of Nevada, Department of Taxation's Opposition to Serenity Wellness Center, LLC et al.'s Motion for Preliminary Injunction	5/9/19	AA 002273 - AA 002534
19-20	State of Nevada, Department of Taxation's Pocket Brief Regarding Regulatory Power Over Statutes Passed by Voter Initiative	6/10/19	AA 004717 - AA 004777

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20	State of Nevada, Department of Taxation's Supplement to Pocket Brief Regarding Regulatory Power Over Statutes Passed by Voter Initiative	6/24/19	AA 004879 - AA 004888
5	Stipulation and Order to Continue Hearing and Extend Briefing Schedule for Motion for Preliminary Injunction	4/8/19	AA 001144 - AA 001149
46	Transcripts for Hearing on Objections to State's Response, Nevada Wellness Center, LLC's Motion Re Compliance Re Physical Address, and Bond Amount Set	8/29/19	AA 011333 - AA 011405
29	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 1	5/24/19	AA 007170 - AA 007404
30	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 2 Volume 1	5/28/19	AA 007405 - AA 007495
30, 31	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 2 Volume 2	5/28/19	AA 007496 - AA 007601
31	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 3 Volume 1	5/29/19	AA 007602 - AA 007699
31, 32	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 3 Volume 2	5/29/19	AA 007700 - AA 007843
32, 33	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 4	5/30/19	AA 007844 - AA 008086
33	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 5 Volume 1	5/31/19	AA 008087 - AA 008149
33, 34	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 5 Volume 2	5/31/19	AA 008150 - AA 008369
34, 35	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 6	6/10/19	AA 008370 - AA 008594
35, 36	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 7	6/11/19	AA 008595 - AA 008847

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36	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 8 Volume 1	6/18/19	AA 008848 - AA 008959
36, 37	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 8 Volume 2	6/18/19	AA 008960 - AA 009093
37	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 9 Volume 1	6/19/19	AA 009094 - AA 009216
38	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 10 Volume 1	6/20/19	AA 009350 - AA 009465
38, 39	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 10 Volume 2	6/20/19	AA 009466 - AA 009623
39	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 11	7/1/19	AA 009624 - AA 009727
39, 40	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 12	7/10/19	AA 009728 - AA 009902
40, 41	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 13 Volume 1	7/11/19	AA 009903 - AA 010040
41	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 13 Volume 2	7/11/19	AA 010041 - AA 010162
41, 42	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 14	7/12/19	AA 010163 - AA 010339
42	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 15 Volume 1	7/15/19	AA 010340 - AA 010414
42, 43	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 15 Volume 2	7/15/19	AA 010415 - AA 010593
43	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 16	7/18/19	AA 010594 - AA 010698

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43, 44	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 17 Volume 1	8/13/19	AA 010699 - AA 010805
44	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 17 Volume 2	8/13/19	AA 010806 - AA 010897
44, 45	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 18	8/14/19	AA 010898 - AA 011086
45	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 19	8/15/19	AA 011087 - AA 011165
45, 46	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 20	8/16/19	AA 011166 - AA 011332

CERTIFICATE OF SERVICE

I hereby certify that the foregoing APPELLANT APPENDIX was filed electronically with the Nevada Supreme Court on the 13th day of January, 2020. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

Michael V. Cristalli, Dominic P. Gentile, Ross J. Miller,
and Vincent Savarese, III
Clark Hill PLLC
Counsel for Respondents,
Serenity Wellness Center LLC, TGIG LLC, NuLeaf Incline Dispensary LLC, Nevada Holistic Medicine LLC, Tryke Companies So NV LLC, Tryke Companies Reno LLC, Fidelis Holdings, LLC, GBS Nevada Partners LLC, Gravitas Nevada Ltd., Nevada Pure LLC, MediFarm LLC, and MediFarm IV LLC

Ketan D. Bhirud, Aaron D. Ford, Theresa M. Haar, David J. Pope,
and Steven G. Shevorski
Office of the Attorney General
Counsel for Respondent,
The State of Nevada Department of Taxation

David R. Koch, Steven B. Scow, Daniel G. Scow, and Brody R. Wight
Koch & Scow, LLC
Counsel for Appellant,
Nevada Organic Remedies, LLC

Margaret A. McLetchie, and Alina M. Shell
McLetchie Law
Counsel for Appellant
GreenMart of Nevada NLV LLC

Eric D. Hone, Moorea L. Katz, and Jamie L. Zimmerman
H1 Law Group
Counsel for Appellant,
Lone Mountain Partners, LLC

/s/ David R. Koch
Koch & Scow

state the laws or regulations referenced therein, then Defendant denies those allegations.

20. The allegations of paragraph 20 of the Complaint call for a legal conclusion or contain statements regarding the content of laws or regulations. To the extent a response is required and the allegations accurately state the laws or regulations referenced therein, Defendant admits to these allegations. To the extent the allegations do not accurately state the laws or regulations referenced therein, then Defendant denies those allegations.

21. The allegations of paragraph 21 of the Complaint call for a legal conclusion or contain statements regarding the content of laws or regulations. To the extent a response is required and the allegations accurately state the laws or regulations referenced therein, Defendant admits to these allegations. To the extent the allegations do not accurately state the laws or regulations referenced therein, then Defendant denies those allegations.

22. Defendant admits the allegations of paragraph 22 of the Complaint.

23. Defendant admits the allegations of paragraph 23 of the Complaint.

24. The allegations of paragraph 24(a-h) of the Complaint call for a legal conclusion or contain statements regarding the content of laws or regulations. To the extent a response is required and the allegations accurately state the laws or regulations referenced therein, Defendant admits to these allegations. To the extent the allegations do not accurately state the laws or regulations referenced therein, then Defendant denies those allegations.

25. The allegations of paragraph 25 reference documents, which the contents of such alleged documents will speak for themselves. In the event a response is required, Defendant admits the allegations of the aforementioned paragraph of the Complaint.

26. The allegations of paragraph 26 of the Complaint call for a legal conclusion or contain statements regarding the content of laws or regulations. To the extent a response is required and the allegations accurately state the laws or regulations referenced therein,

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Defendant admits to these allegations. To the extent the allegations do not accurately state the laws or regulations referenced therein, then Defendant denies those allegations.

27. The allegations of paragraph 27 of the Complaint call for a legal conclusion or contain statements regarding the content of laws or regulations. To the extent a response is required, then Defendant denies those allegations.

28. Defendant admits the allegations of paragraph 28 of the Complaint that the Department of Taxation announced it would issue recreational retail store conditional licenses no later than December 5, 2018. Defendant denies the allegations to the extent it imposes a legal obligation on the Department that is inconsistent or outside of the requirements set forth in Section 4 of NRS 453D.210.

29. Defendant is without sufficient information to admit or deny the allegation of paragraphs 29 of the Complaint. In the event a response is required, Defendant denies the allegations of the aforementioned paragraphs of the Complaint.

30. Defendant is without sufficient information to admit or deny the allegation of paragraphs 30 of the Complaint. In the event a response is required, Defendant denies the allegations of the aforementioned paragraphs of the Complaint.

31. Defendant is without sufficient information to admit or deny the allegation of paragraphs 31 of the Complaint. In the event a response is required, Defendant denies the allegations of the aforementioned paragraphs of the Complaint.

32. Defendant is without sufficient information to admit or deny the allegation of paragraphs 32 of the Complaint. In the event a response is required, Defendant denies the allegations of the aforementioned paragraphs of the Complaint.

33. Defendant is without sufficient information to admit or deny the allegation of paragraphs 33 of the Complaint. In the event a response is required, Defendant denies the

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allegations of the aforementioned paragraphs of the Complaint.

34. Defendant is without sufficient information to admit or deny the allegation of paragraphs 34 of the Complaint. In the event a response is required, Defendant denies the allegations of the aforementioned paragraphs of the Complaint.

35. Defendant is without sufficient information to admit or deny the allegation of paragraphs 35 of the Complaint. In the event a response is required, Defendant denies the allegations of the aforementioned paragraphs of the Complaint.

III.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Violation of Civil Rights)

(Due Process Deprivation of Property)

36. Defendant repeats and realleges its answers to paragraphs 1 through 35 above, and incorporates the same herein by reference as though fully set forth herein.

37. The allegations of paragraph 37 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

38. The allegations of paragraph 38 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

39. The allegations of paragraph 39 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

40. The allegations of paragraph 40 of the Complaint contain statements of legal conclusion,

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to which a response is not required. To the extent a response is required, Defendant denies these allegations.

41. The allegations of paragraph 41 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

42. The allegations of paragraph 42 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

43. The allegations of paragraph 43 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

44. The allegations of paragraph 44 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

45. The allegations of paragraph 45 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

46. The allegations of paragraph 46 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

47. The allegations of paragraph 47 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

48. The allegations of paragraph 48 of the Complaint contain statements of legal conclusion,

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to which a response is not required. To the extent a response is required, Defendant denies these allegations.

49. The allegations of paragraph 49 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

50. The allegations of paragraph 50(a-g) of the Complaint contain statements of legal conclusion or are not factual in nature, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

51. The allegations of paragraph 51 of the Complaint contain statements of legal conclusion or are not factual in nature, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

52. The allegations of paragraph 52 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

53. The allegations of paragraph 53 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

54. The allegations of paragraph 54 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

55. Defendant is without sufficient information to admit or deny the allegation of paragraphs 55 of the Complaint. In the event a response is required, Defendant denies the allegations of the aforementioned paragraphs of the Complaint.

56. Defendant admits the allegations of paragraph 56 of the Complaint.

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57. The allegations of paragraph 57 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

58. The allegations of paragraph 58 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

59. The allegations of paragraph 59 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

60. The allegations of paragraph 60 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

61. The allegations of paragraph 61 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

SECOND CLAIM FOR RELIEF

(Violation of Civil Rights)

(Due Process: Deprivation of Liberty)

62. Defendant repeats and realleges its answers to paragraphs 1 through 61 above, and incorporates the same herein by reference as though fully set forth herein.

63. The allegations of paragraph 63 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

64. The allegations of paragraph 64 of the Complaint contain statements of legal conclusion,

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to which a response is not required. To the extent a response is required, Defendant denies these allegations.

65. The allegations of paragraph 65 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

66. The allegations of paragraph 66 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

67. The allegations of paragraph 67 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

68. The allegations of paragraph 68 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

69. The allegations of paragraph 69 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

THIRD CLAIM FOR RELIEF

(Violation of Civil Rights)

(Equal Protection)

70. Defendant repeats and realleges its answers to paragraphs 1 through 69 above, and incorporates the same herein by reference as though fully set forth herein.

71. The allegations of paragraph 71 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant

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denies these allegations.

72. The allegations of paragraph 72 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

73. The allegations of paragraph 73 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

74. The allegations of paragraph 74 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

FOURTH CLAIM FOR RELIEF

(Petition for Judicial Review)

75. Defendant repeats and realleges its answers to paragraphs 1 through 74 above, and incorporates the same herein by reference as though fully set forth herein.

76. The allegations of paragraph 76 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

77. The allegations of paragraph 77 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

78. The allegations of paragraph 78 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

79. The allegations of paragraph 79(a-c) of the Complaint contain statements of legal

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conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

80. The allegations of paragraph 80 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

FIFTH CLAIM FOR RELIEF

(Petition for Writ of Mandamus)

81. Defendant repeats and realleges its answers to paragraphs 1 through 80 above, and incorporates the same herein by reference as though fully set forth herein.

82. The allegations of paragraph 82 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

83. The allegations of paragraph 83(a-b) of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

84. The allegations of paragraph 84(a-b) of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

85. The allegations of paragraph 85 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

86. The allegations of paragraph 86 of the Complaint contain statements of legal conclusion, to which a response is not required. To the extent a response is required, Defendant denies these allegations.

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87. To the extent any allegations require a response not otherwise addressed herein, Defendant denies every allegation not expressly admitted to herein.

ANSWER TO PRAYER FOR RELIEF

Defendant denies Plaintiffs are entitled to the relief being sought in the Plaintiffs' prayer for relief or to any relief in this matter.

AFFIRMATIVE DEFENSES

1. Plaintiffs have failed to state a claim upon which relief may be granted.
2. The State of Nevada Department of Taxation is immune from suit when performing the functions at issue in this case.
3. The actions of the State of Nevada Department of Taxation were all official acts that were done in compliance with applicable laws and regulations.
4. The damages alleged by Plaintiffs in the Complaint are attributable to and were caused by Plaintiffs by their own negligence and Plaintiffs shall take nothing by way of its Complaint as a result of its own comparative fault in causing the damages it is alleged to have incurred.
5. Plaintiffs have failed to join necessary and indispensable parties to this litigation pursuant to NRCP 19 because the Court cannot grant any of the Plaintiffs' claims without affecting the rights and privileges of those parties who received the licenses at issue as well as other third parties.
6. The Plaintiffs alleged damages, if any, resulted from or were caused by a third party the Defendant had no control.
7. Plaintiffs' claims for relief are barred for failing to exhaust administrative remedies, if any.
8. The actions of the State of Nevada Department of Taxation were not arbitrary or

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capricious, and the State of Nevada Department of Taxation had a rational basis for all of the actions taken in the licensing process at issue.

9. Plaintiffs' claims are barred, in whole or in part, by their failure to perform or satisfy required conditions precedent and by their own bad acts.
10. Plaintiffs are not in possession and/or control of the documents and/or witnesses necessary to prove its alleged causes of action against Defendants.
11. Plaintiffs' claims are barred for failure to plead those claims with sufficient particularity.
12. Plaintiffs' have failed to allege sufficient facts and cannot meet their burden of proof imposed on it by law to recover attorneys' fees incurred to bring this action.
13. Injunctive relief is unavailable to Plaintiffs' because the conditional licenses have already been issued the task completed.
14. Plaintiffs have no constitutional right to obtain privileged licenses.
15. Plaintiffs' relief seeking mandamus is not available to compel the members of the executive branch to perform non-ministerial, discretionary tasks.
16. Plaintiffs are not entitled to judicial review based on the denial of a license.
17. Plaintiffs are not entitled to declaratory relief because declaratory relief will not provide the relief sought.
18. Plaintiffs are not entitled to Constitutional due process or equal protection because Plaintiffs conduct is illegal under Federal law.
19. Plaintiffs are barred for relief due to unclean hands.
20. Defendant may have additional defenses unknown to them at this time, which may be discovered through the course of these proceedings. Defendant does not wish to waive these defenses and specifically assert them hereby, reserving the right to amend this Answer and to plead other affirmative defenses as they become known.

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WHEREFORE, Defendant prays for judgment as follows:

1. Plaintiffs take nothing by way of their Complaint.
2. The Complaint, and all causes of action against Defendants alleged therein, be dismissed with prejudice;
3. For reasonable attorney fees and costs to be awarded to Defendants; and,
4. For such other relief the Court may deem just and proper.

DATED: June 3, 2019.

/s/ Jared B. Kahn
Jared B. Kahn, Nevada Bar # 12603
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DISTRICT COURT

CLARK COUNTY, NEVADA

ETW MANAGEMENT GROUP, LLC, a Nevada limited liability company; GLOBAL HARMONY LLC, a Nevada limited liability company, GREEN LEAF FARMS HOLDINGS, LLC, a Nevada limited liability company; GREEN THERAPEUTICS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; ROMBOUGH REAL ESTATE INC., dba MOTHER HERB, a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; and ZION GARDENS LLC, a Nevada limited liability company, and MMOF VEGAS RETAIL, INC., a Nevada corporation,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION, n Nevada administrative agency; DOES 1 through 20, inclusive; and ROE CORPORATIONS 1 through 20, inclusive,

Defendants.

Case No. A-19-787004-B
Dept. No. XI

ANSWER TO SECOND AMENDED COMPLAINT

The State of Nevada ex rel. Department of Taxation (the "Department") answers Plaintiffs' Amended Complaint as follows:

PARTIES

1. Answering Paragraph 1, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

2. Answering Paragraph 2, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

3. Answering Paragraph 3, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

4. Answering Paragraph 4, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

5. Answering Paragraph 5, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

6. Answering Paragraph 6, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

7. Answering Paragraph 7, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

8. Answering Paragraph 8, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

. . .

9. Answering Paragraph 9, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

10. Answering Paragraph 10, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

11. Answering Paragraph 11, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

12. Answering Paragraph 12, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

13. Answering Paragraph 13, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

14. Answering Paragraph 14, the Department states that it was created under NRS 360.120 and has certain duties related to the regulation and licensing of marijuana under Nevada law, including NRS 453D and NAC 453D.

15. Answering Paragraph 15, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

16. Answering Paragraph 16, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

JURISDICTION AND VENUE

17. Answering Paragraph 17, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

18. Answering Paragraph 18, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

GENERAL ALLEGATIONS

19. Answering Paragraph 19, the Department states that this incorporating reference does not require a response.

20. Answering Paragraph 20, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

21. Answering Paragraph 21, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

22. Answering Paragraph 22, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

23. Answering Paragraph 23, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

24. Answering Paragraph 24, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

25. Answering Paragraph 25, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

26. Answering Paragraph 26, the Department admits on May 8, 2017 the Department adopted temporary regulations.

27. Answering Paragraph 27, the Department admits public meetings and workshops were held on numerous occasions including July 24, 2017, July 25, 2017 July

26, 2017 and July 27, 2017 regarding the draft permanent regulations. The Department denies any remaining allegations contained in Paragraph 27.

28. Answering Paragraph 28, the Department admits that on December 15, 2017, a Notice of Intent to Adopt a Regulation was issued. The Department denies any remaining allegations contained in Paragraph 28.

29. Answering Paragraph 29, the Department admits that a properly noticed meeting of the Nevada Tax Commission was held on January 16, 2018 and that adoption of the proposed regulation R092-17 was on the agenda. The Department further admits that numerous members of the industry and the public attended.

30. Answering Paragraph 30, the Department denies the allegations.

31. Answering Paragraph 31, the Department admits that permanent regulation R092-17 was adopted by the Nevada Tax Commission on January 16, 2018. The Department denies any remaining allegations contained in Paragraph 31.

32. Answering Paragraph 32, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

33. Answering Paragraph 33, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

34. Answering Paragraph 34, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

35. Answering Paragraph 35, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

36. Answering Paragraph 36, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

37. Answering Paragraph 37, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

38. Answering Paragraph 38, the Department denies the allegations.

39. Answering Paragraph 39, the Department denies the allegations.

40. Answering Paragraph 40, the Department denies the allegations.

41. Answering Paragraph 41, the Department denies the allegations.

42. Answering Paragraph 42, the Department denies the allegations.

43. Answering Paragraph 43, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

44. Answering Paragraph 44, the Department denies the allegations to the extent they imply that the reviewers who reviewed the application section without identifying information knew the identity of any applicants.

45. Answering Paragraph 45, the Department denies the allegations.

46. Answering Paragraph 46, the Department denies the allegations.

47. Answering Paragraph 47, the Department denies the allegations.

48. Answering Paragraph 48, the Department denies the allegations.

49. Answering Paragraph 49, the Department denies the allegations.

50. Answering Paragraph 50, the Department denies the allegations.

FIRST CLAIM FOR RELIEF

Violation of Substantive Due Process

51. Answering Paragraph 51, the Department states that this incorporating reference does not require a response.

52. Answering Paragraph 52, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

. . .

53. Answering Paragraph 53, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

54. Answering Paragraph 54, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

55. Answering Paragraph 55, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

56. Answering Paragraph 56, the Department denies the allegations.

57. Answering Paragraph 57, the Department denies the allegations.

58. Answering Paragraph 58, the Department denies the allegations.

59. Answering Paragraph 59, the Department denies the allegations.

60. Answering Paragraph 60, the Department denies the allegations.

61. Answering Paragraph 61, the Department denies the allegations.

62. Answering Paragraph 62, the Department denies the allegations.

SECOND CLAIM FOR RELIEF

Violation of Procedural Due Process

63. Answering Paragraph 63, the Department states that this incorporating reference does not require a response.

64. Answering Paragraph 64, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

65. Answering Paragraph 65, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

. . .

. . .

66. Answering Paragraph 66, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

67. Answering Paragraph 67, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

68. Answering Paragraph 68, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

69. Answering Paragraph 69, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

70. Answering Paragraph 70, the Department denies the allegations.

71. Answering Paragraph 71, the Department denies the allegations.

72. Answering Paragraph 72, the Department denies the allegations.

73. Answering Paragraph 73, the Department denies the allegations.

74. Answering Paragraph 74, the Department denies the allegations.

THIRD CLAIM FOR RELIEF

Violation of Equal Protection

75. Answering Paragraph 75, the Department states that this incorporating reference does not require a response.

76. Answering Paragraph 76, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

77. Answering Paragraph 77, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

. . .

78. Answering Paragraph 78, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

79. Answering Paragraph 79, the Department denies the allegations.

80. Answering Paragraph 80, the Department admits the Factors were considered when evaluating the Plaintiffs' applications.

81. Answering Paragraph 81, the Department denies the allegations.

82. Answering Paragraph 82, the Department denies the allegations.

83. Answering Paragraph 83, the Department denies the allegations.

84. Answering Paragraph 84, the Department denies the allegations.

85. Answering Paragraph 85, the Department denies the allegations.

86. Answering Paragraph 86, the Department denies the allegations.

FOURTH CLAIM FOR RELIEF

Declaratory Judgment

87. Answering Paragraph 87, the Department states that this incorporating reference does not require a response.

88. Answering Paragraph 88, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

89. Answering Paragraph 89, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

90. Answering Paragraph 90, the Department states that this is a legal conclusion to which no response is required. To the extent that a response is required, the Department denies the allegations contained therein.

91. Answering Paragraph 91, the Department denies the allegations.

92. Answering Paragraph 92, the Department denies the allegations.

93. Answering Paragraph 93, the Department denies the allegations.

94. Answering Paragraph 94, the Department denies the allegations.

95. Answering Paragraph 95, the Department denies the allegations.

96. Answering Paragraph 96, the Department states that this is a legal conclusion to which no response is required**.** The Department further states that all approvals and rejections complied with all laws.

97. Answering Paragraph 97, the Department denies the allegations.

98. Answering Paragraph 98, the Department denies the allegations.

99. Answering Paragraph 99 (not numbered in Second Amended Complaint), the Department denies the allegations.

WHEREFORE, the Department prays for relief from this Court as follows

1. That Plaintiffs take nothing by way of this Amended Complaint;

2. That Plaintiffs claims against Defendants be dismissed with prejudice;

3. That Defendants be awarded reasonable attorney fees and costs of suit; and

4. For such other and further relief as this Honorable Court may deem just and proper.

GENERAL DENIALS

The Department denies any and all allegations in the Amended Complaint not specifically admitted in this Answer.

The Department denies that Plaintiffs are entitled to any of the relief prayed for in the Amended Complaint.

AFFIRMATIVE DEFENSES

The Department denies any and all liability in this matter and asserts the following affirmative defenses:

1. Plaintiffs have failed to state a claim for which relief can be granted.

2. Plaintiffs do not have a property right in a privilege license that they do not have.

3. Plaintiffs do not have a fundamental right to a privilege license.

. . .

4. Chapter 453D does not provide for a hearing when a retail marijuana license is not issued.

5. The Nevada Administrative Procedures Act, NRS Chapter 233B, does not provide for a hearing when a retail marijuana license is not issued.

6. The Department's actions were neither arbitrary, capricious, nor an abuse of discretion.

7. The Department's interpretation of the statutes and regulations it is authorized to execute is given great deference.

8. The Department used an impartial and numerically scored competitive bidding process.

9. Plaintiffs did not have a statutory entitlement to a license.

10. The U.S. Constitution does not protect the right to engage in a business that is illegal under federal law.

11. Plaintiffs do not have standing.

12. Plaintiffs have failed to exhaust their administrative remedies.

13. The Complaint fails to present a justiciable controversy.

14. This Court lacks jurisdiction to hear Plaintiffs' claims.

15. The Department is immune from liability pursuant to Nevada Revised Statutes 41.031, et. seq.

16. Plaintiff failed to name the Department properly as required by NRS 41.031(2).

17. Plaintiffs' claims, including the declaratory and/or equitable claims are barred by the doctrines of waiver, ratification, estoppel, unclean hands and other equitable defenses.

18. Plaintiffs' claims are barred by the applicable statute of limitations and/or the doctrine of laches.

19. Plaintiffs' claims are barred based on impossibility.

. . .

20. Plaintiffs' claims have been waived because of the wrongful acts, omissions and conduct of Plaintiffs.

21. Plaintiffs would be unjustly enriched if awarded damages.

22. The Department has no contractual relationship with Plaintiffs to give rise to any declaratory relief.

23. The damages sustained by the Plaintiff, if any, were caused by the acts of unknown third persons who were not agents, servants, or employees of the Department, and who were not acting on behalf of the Department in any manner or form, and, as such, the Department is not liable in any manner to Plaintiff.

24. The Department is not legally responsible for the actions and/or omissions of other third parties.

25. Plaintiffs fail to name a party necessary for full and adequate relief essential in this action.

26. Plaintiffs failed to comply with a condition precedent.

27. Plaintiffs have not suffered any damages attributable to the actions of the Department.

28. Plaintiffs have failed to timely protect and/or enforce their alleged rights.

29. Plaintiffs' claims are barred as Plaintiffs have failed, refused, or neglected to take reasonable steps to mitigate damages, therefore barring or diminishing the ability to recover.

30. The Department has an objective good faith belief that it acted reasonably and in good faith and the Department's actions were legally justified.

31. The Department substantially complied with NRS and NAC Chapter 453D.

32. The Department, at all relevant times, acted with due care and circumspection in the performance of its duties; exercised the degree of skill and learning ordinarily possessed and exercised by members of its profession in good standing, practicing in similar localities and that at all times, used reasonable care and diligence in . . .

the exercise of its skills and the application of its learning, and at all times acted according to its best judgment and met the applicable standard of care.

33. Plaintiffs' claims for relief are barred as Plaintiff's alleged damages are speculative and cannot be calculated with any certainty or reliability.

34. Each purported claim for relief is barred by the doctrines of *res judicata* and/or collateral estoppel.

35. Each purported claim for relief is barred as Plaintiffs are estopped from pursuing any claim against the Department in accordance with equitable principles of jurisprudence.

36. The Department alleges that the damages, if any, alleged by the Plaintiffs were the result of independent intervening acts, over which the Department had ho control, which resulted in the superseding cause of Plaintiffs alleged damages.

37. The Department avails itself of all affirmative defenses set forth in and or arising out of NRS Chapter 453D and NRS Ch. 360 and all applicable regulations and subparts.

38. All possible affirmative defenses may not have been alleged inasmuch as insufficient facts and other relevant information may not be available after reasonable inquiry and, pursuant to NRCP 11, the Department hereby reserves the right to amend these affirmative defenses as additional information becomes available. Additionally, one or more of these Affirmative Defenses may have been pled for the purposes of non-waiver.

DATED this 3rd day of June, 2019.

AARON D. FORD
Attorney General

By: /s/ *David J. Pope*
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **ANSWER TO SECOND AMENDED COMPLAINT** with the Clerk of the Court by using the electronic filing system on the June 4, 2019. I certify that the following participants in this case are registered electronic filing systems users and will be served electronically:

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EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

MM DEVELOPMENT COMPANY, INC., a Nevada corporation, LIVFREE WELLNESS LLC, dba The Dispensary, a Nevada Limited liability company,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION; AND DOES 1 through 10; and ROE CORPORATIONS 1 through 10.

Defendants.

LONE MOUNTAIN PARTNERS, LLC, a Nevada limited liability partnership,

Intervenor.

Case No. A-18-785818-W

Dept. No. 18

LONE MOUNTAIN PARTNERS, LLC'S ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT AND PETITION FOR JUDICIAL REVIEW OR WRIT OF MANDAMUS

Lone Mountain Partners, LLC ("Lone Mountain"), by and through counsel undersigned, hereby files this answer to the First Amended Complaint filed by Plaintiff MM Development Company, Inc., and Livfree Wellness, LLC dba The Dispensary (collectively "Plaintiffs"). Lone Mountain states as follows:

Lone Mountain denies each and every allegation in the complaint except those allegations that are admitted, qualified, or otherwise answered herein.

/ / /

I. PARTIES & JURISDICTION

1. Answering paragraph 1, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

2. Answering paragraph 2, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

3. Answering paragraph 3, Lone Mountain admits that the Department of Taxation is an agency of the State of Nevada. Lone Mountain states that the duties of the Department are outlined by applicable law and regulation. Lone Mountain admits the allegations in this paragraph only insofar as they accurately reflect these laws and regulations.

4. Answering paragraph 4, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

II. GENERAL ALLEGATIONS

5. Answering paragraph 5, Lone Mountain states that Assembly Bill 422 speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws or regulations. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws or regulations referenced in this paragraph.

6. Answering paragraph 6, Lone Mountain states that the August 16, 2018 letter from the Department speaks for itself and no response is required. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately quote the contents of that letter.

7. Answering paragraph 7, Lone Mountain admits.

8. Answering paragraph 8, Lone Mountain admits.

9. Answering paragraph 9, and subparagraphs 9(a)-(h), Lone Mountain states that no response is required as the allegations contained in this paragraph and subparagraphs are Plaintiffs' legal conclusions regarding the content of laws or regulations. These laws and regulations speak for themselves. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws or regulations referenced in this

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paragraph and subparagraphs.

10. Answering paragraph 10, Lone Mountain admits, in part, that the Department represented that it would issue recreational retail store conditional licenses no later than December 5, 2018. Lone Mountain denies the allegations in this paragraph to the extent that they impose a legal obligation on the Department that is inconsistent or outside the requirements set forth in NRS 453D.210.

11. Answering paragraph 11, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

12. Answering paragraph 12, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

13. Answering paragraph 13, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

14. Answering paragraph 14, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

15. Answering paragraph 15, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

16. Answering paragraph 16, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

17. Answering paragraph 17, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

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18. Answering paragraph 18, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

19. Answering paragraph 19, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations that pertain to entities who are not Lone Mountain, and therefore denies. Insofar as the allegations pertain to the Lone Mountain, Lone Mountain denies.

20. Answering paragraph 20, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph that pertain to entities that are not Lone Mountain, and therefore Lone Mountain denies. Insofar as the allegations pertain to Lone Mountain, Lone Mountain denies that the Department improperly granted Lone Mountain licenses.

III. CLAIMS FOR RELIEF

First Claim for Relief

(Declaratory Relief)

21. Lone Mountain repeats and realleges all prior paragraphs as though fully set forth herein.

22. Answering paragraph 22, Lone Mountain denies.

23. Answering paragraph 23, Lone Mountain denies.

24. Answering paragraph 24, Lone Mountain denies.

25. Answering paragraph 25, Lone Mountain denies.

26. Answering paragraph 26, Lone Mountain denies.

27. Answering paragraph 27, Lone Mountain denies.

28. Answering paragraph 28 and subparagraphs 28(a)-(h), Lone Mountain denies any allegations contained in this paragraph and subparagraphs and denies that Plaintiffs are entitled to any requested relief.

29. Answering paragraph 29, Lone Mountain denies.

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30. Answering paragraph 30, Lone Mountain denies.

31. Answering paragraph 31, Lone Mountain denies.

Second Claim for Relief

(Injunctive Relief)

32. Lone Mountain repeats and realleges all prior paragraphs as though fully set forth herein.

33. Answering paragraph 33, Lone Mountain denies.

34. Answering paragraph 34, Lone Mountain denies.

35. Answering paragraph 35, Lone Mountain denies.

36. Answering paragraph 36, Lone Mountain denies.

37. Answering paragraph 37, Lone Mountain denies.

38. Answering paragraph 38, Lone Mountain denies.

Third Claim for Relief

(Violation of Procedural Due Process)

39. Lone Mountain repeats and realleges all prior paragraphs as though fully set forth herein.

40. Answering paragraph 40, Lone Mountain denies.

41. Answering paragraph 41, Lone Mountain denies.

42. Answering paragraph 42, Lone Mountain denies.

43. Answering paragraph 43, Lone Mountain denies.

44. Answering paragraph 44, Lone Mountain denies.

45. Answering paragraph 45, Lone Mountain denies.

Fourth Claim for Relief

(Violation of Substantive Due Process)

46. Lone Mountain repeats and realleges all prior paragraphs as though fully set forth herein.

47. Answering paragraph 47, Lone Mountain denies.

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48. Answering paragraph 48, Lone Mountain denies.

49. Answering paragraph 49, Lone Mountain denies.

50. Answering paragraph 50, Lone Mountain denies.

Fifth Claim for Relief

(Equal Protection Violation)

51. Lone Mountain repeats and realleges all prior paragraphs as though fully set forth herein.

52. Answering paragraph 52, Lone Mountain denies.

53. Answering paragraph 53, Lone Mountain denies.

54. Answering paragraph 54, Lone Mountain denies.

55. Answering paragraph 55, Lone Mountain denies.

56. Answering paragraph 56, Lone Mountain denies.

Sixth Claim for Relief

(Petition for Judicial Review)

57. Lone Mountain repeats and realleges all prior paragraphs as though fully set forth herein.

58. Answering paragraph 58, Lone Mountain denies.

59. Answering paragraph 59, Lone Mountain denies.

60. Answering paragraph 60, Lone Mountain denies.

61. Answering paragraph 61 and subparagraphs 61(a)-(c), Lone Mountain denies any allegations contained in this paragraph and subparagraphs and denies that Plaintiffs are entitled to any requested relief.

62. Answering paragraph 62, Lone Mountain denies.

Seventh Claim for Relief

(Petition for Writ of Mandamus)

63. Lone Mountain repeats and realleges all prior paragraphs as though fully set forth herein.

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64. Answering paragraph 64, Lone Mountain denies.

65. Answering paragraph 65 and subparagraphs 65(a)-(b), Lone Mountain denies.

66. Answering paragraph 66 and subparagraphs 66(a)-(b), Lone Mountain denies.

67. Answering paragraph 67, Lone Mountain denies.

68. Answering paragraph 68, Lone Mountain denies.

WHEREFORE, Lone Mountain denies that Plaintiffs are entitled to any relief being sought in their Prayer for Relief or any other relief in this matter.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Lone Mountain adopts and incorporates herein all affirmative defenses plead by Defendants and other Intervenors in this matter.

Second Affirmative Defense

The First Amended Complaint fails to state a claim upon which relief can be granted.

Third Affirmative Defense

Plaintiffs have not been damaged directly, indirectly, proximately or in any manner whatsoever by any conduct of Defendants.

Fourth Affirmative Defense

The State of Nevada, Department of Taxation is immune from suit when performing the functions at issue in this case.

Fifth Affirmative Defense

The actions of the State of Nevada, Department of Taxation were all official acts that were done in compliance with applicable laws and regulations.

Sixth Affirmative Defense

Plaintiffs' claims are barred because Plaintiffs have failed to exhaust administrative remedies, if any.

Seventh Affirmative Defense

Plaintiffs have failed to join necessary and indispensable parties to this litigation under

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NRCP 19 as the Court cannot grant any of Plaintiffs' claims without affecting the rights and privileges of those parties who received the licenses at issue as well as other third parties.

Eighth Affirmative Defense

The occurrences referred to in the First Amended Complaint and all alleged damages, if any, resulting therefrom, were caused by a third party of which Defendants had no control.

Ninth Affirmative Defense

The actions of the State of Nevada, Department of Taxation were not arbitrary or capricious, and the State of Nevada, Department of Taxation had a rational basis for all of the actions taken in the licensing process at issue.

Tenth Affirmative Defense

Plaintiffs' claims are barred, in whole or in part, by their failure to perform or satisfy required conditions precedent and by their own bad acts.

Eleventh Affirmative Defense

Plaintiffs are not in possession and/or control of the documents and/or witnesses necessary to prove its alleged causes of action against Defendants.

Twelfth Affirmative Defense

The claims, and each of them, are barred by the failure of Plaintiffs to plead those claims with sufficient particularity.

Thirteenth Affirmative Defense

Plaintiffs have failed to allege sufficient facts and cannot carry the burden of proof imposed on it by law to recover attorney's fees incurred to bring this action.

Fourteenth Affirmative Defense

Injunctive relief is unavailable to Plaintiffs, because the State of Nevada, Department of Taxation has already completed the tasks of issuing the conditional licenses.

Fifteenth Affirmative Defense

Plaintiffs have no constitutional rights to obtain privileged licenses.

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Sixteenth Affirmative Defense

Mandamus is not available to compel the members of the executive branch to perform nonministerial, discretionary tasks.

Seventeenth Affirmative Defense

Plaintiffs are not entitled to judicial review on the denial of a license.

Eighteenth Affirmative Defense

Declaratory relief will not give the Plaintiffs the relief that they are seeking.

Nineteenth Affirmative Defense

Plaintiffs lack standing to seek the relief they request.

Twentieth Affirmative Defense

Pursuant to Nevada Rules of Civil Procedure, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of this answer and, therefore, Lone Mountain reserves the right to amend this answer to allege additional affirmative defenses if subsequent investigation warrants.

WHEREFORE, Lone Mountain prays for judgment as follows:

1. Plaintiffs take nothing by way of their First Amended Complaint;

2. The First Amended Complaint, and all causes of action against Defendants and Lone Mountain alleged therein, be dismissed with prejudice;

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3. For reasonable attorney fees and costs to be awarded to Lone Mountain; and

4. For such other and further relief the Court may deem just and proper.

Dated this 5th day of June 2019.

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Attorneys for Lone Mountain Partners, LLC

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CERTIFICATE OF SERVICE

The undersigned, an employee of H1 Law Group, hereby certifies that on the 5th day of June2019, she caused a copy of the foregoing to be transmitted by electronic service in accordance with EDCR 8.05(a) and 8.05(f), the Eighth Judicial District Court's electronic filing system, to all interested parties, through the Court's **Odyssey E-File & Serve** system.

Bobbye Donaldson, an employee of
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Lone Mountain Partners, LLC

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

SERENITY WELLNESS CENTER, LLC, a Nevada limited liability company, TGIG, LLC, a Nevada limited liability company, NULEAF INCLINE DISPENSARY, LLC, a Nevada limited liability company, NEVADA HOLISTIC MEDICINE, LLC, a Nevada limited liability company, TRYKE COMPANIES SO NV, LLC, a Nevada limited liability company, TRYKE COMPANIES RENO, LLC, a Nevada limited liability company, PARADISE WELLNESS CENTER, LLC, a Nevada limited liability company, GBS NEVADA PARTNERS, LLC, a Nevada limited liability company, FIDELIS HOLDINGS, LLC, a Nevada limited liability company, GRAVITAS NEVADA, LLC, a Nevada limited liability company, NEVADA PURE, LLC, a Nevada limited liability company, MEDIFARM, LLC a Nevada limited liability company, DOE PLAINTIFFS I through X; and ROE ENTITY PLAINTIFFS I through X,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION,

Defendant.

LONE MOUNTAIN PARTNERS, LLC, a Nevada limited liability partnership,

Intervenor.

Case No. A-19-786962-B

Dept. No. 11

LONE MOUNTAIN PARTNERS, LLC'S ANSWER TO PLAINTIFFS' COMPLAINT

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Lone Mountain Partners, LLC ("Lone Mountain"), by and through counsel undersigned, hereby files this answer to the complaint filed by Serenity Wellness Center, LLC, TGIG, LLC, Nuleaf Incline Dispensary, Nevada Holistic Medicine, LLC, Tryke Companies So NV, LLC, Tryke Companies Reno, LLC, Paradise Wellness Center, LLC, GBS Nevada Partners, LLC, Fidelis Holdings, LLC, Gravitas Nevada, LLC, Nevada Pure, LLC, and Medifarm, LLC (collectively "Plaintiffs"). Lone Mountain answers as follows:

Lone Mountain denies each and every allegation in the Complaint except those allegations that are admitted, qualified, or otherwise answered herein.

I. PARTIES, JURISDICTION, AND VENUE

1. Answering paragraph 1, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

2. Answering paragraph 2, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

3. Answering paragraph 3, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

4. Answering paragraph 4, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

5. Answering paragraph 5, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

6. Answering paragraph 6, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

7. Answering paragraph 7, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

8. Answering paragraph 8, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

9. Answering paragraph 9, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

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10. Answering paragraph 10, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

11. Answering paragraph 11, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

12. Answering paragraph 12, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

13. Answering paragraph 13, Lone Mountain admits that the Department of Taxation is an agency of the State of Nevada. Lone Mountain states that the duties of the Department are outlined by applicable law and regulation. Lone Mountain admits the allegations in this paragraph only insofar as they accurately reflect these laws and regulations.

14. Answering paragraph 14, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

15. Answering paragraph 15, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

II. GENERAL ALLEGATIONS

16. Answering paragraph 16, Lone Mountain states that Assembly Bill 422 speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws or regulations. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws or regulations referenced in this paragraph.

17. Answering paragraph 17, no response is required as the allegations in this paragraph are Plaintiffs' legal conclusions regarding the content of laws or regulations. To the extent a response is required and the allegations accurately state the laws or regulations referenced, Lone Mountain admits.

18. Answering paragraph 18, no response is required as NRS 453D.020 speaks for itself. To the extent a response is required admit only insofar as this paragraph accurately quotes NRS 453D.020.

19. Answering paragraph 19, no response is required as NRS 453D.200 speaks for

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itself. To the extent a response is required admit only insofar as this paragraph accurately quotes NRS 453D.200 and accurately reflects its full contents.

20. Answering paragraph 20, no response is required as NRS 453D.210 speaks for itself. To the extent a response is required admit only insofar as this paragraph accurately quotes NRS 453D.210 and accurately reflects its full contents.

21. Answering paragraph 21, Lone Mountain states that the August 16, 2018 letter from the Department speaks for itself and no response is required. To the extent a response is required, the Lone Mountain admits only insofar as the allegations accurately quote the contents of that letter.

22. Answering paragraph 22, Lone Mountain admits.

23. Answering paragraph 23, Lone Mountain admits.

24. Answering paragraph 24, and subparagraphs 24(a)-(h), Lone Mountain states that no response is required as the allegations contained in this paragraph and subparagraphs are Plaintiffs' legal conclusions regarding the content of laws or regulations. These laws and regulations speak for themselves. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws or regulations referenced in this paragraph and subparagraphs.

25. Answering paragraph 25, no response is required as the allegations contained in this paragraph reference a document that speaks for itself. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the contents of the document referenced.

26. Answering paragraph 26, the document referenced speaks for itself and no response is required. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately states the contents of that document.

27. Answering paragraph 27, the document and regulations speak for themselves, should be considered in their full context, and no response is required. To the extent a response is required, Lone Mountain denies.

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28. Answering paragraph 28, Lone Mountain admits, in part, that the Department represented that it would issue recreational retail store conditional licenses no later than December 5, 2018. Lone Mountain denies the allegations in this paragraph to the extent that they impose a legal obligation on the Department that is inconsistent or outside the requirements set forth in NRS 453D.210.

29. Answering paragraph 29, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

30. Answering paragraph 30, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

31. Answering paragraph 31, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

32. Answering paragraph 32, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

33. Answering paragraph 33, Lone Mountain denies.

34. Answering paragraph 34, Lone Mountain denies.

35. Answering paragraph 35, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations as they related to entities who are not Lone Mountain. For the allegations that relate to Lone Mountain, Lone Mountain denies.

III. CLAIMS FOR RELIEF

First Claim for Relief

(Violation of Civil Rights; Due Process: Deprivation of Property; US Const. Amend. XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 USC § 1983)

36. Answering paragraph 36, Lone Mountain repeats and re-alleges all prior paragraphs as though fully set forth herein.

37. Answering paragraph 37, Lone Mountain denies.

38. Answering paragraph 38, Lone Mountain denies.

39. Answering paragraph 39, Lone Mountain denies.

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40. Answering paragraph 40, Lone Mountain denies.

41. Answering paragraph 41, Lone Mountain denies.

42. Answering paragraph 42, Lone Mountain denies.

43. Answering paragraph 43, Lone Mountain denies.

44. Answering paragraph 44, Lone Mountain denies.

45. Answering paragraph 45, Lone Mountain denies.

46. Answering paragraph 46, Lone Mountain denies.

47. Answering paragraph 47, Lone Mountain denies.

48. Answering paragraph 48, Lone Mountain denies.

49. Answering paragraph 49, Lone Mountain denies.

50. Answering paragraph 50 and subparagraphs 50(a)-(g), for any allegations, Lone Mountain denies. Lone Mountain also denies that Plaintiff should receive any of the requested relief.

51. Answering paragraph 51, for any allegations, Lone Mountain denies. Lone Mountain also denies that Plaintiff should receive any of the requested relief.

52. Answering paragraph 52, Lone Mountain denies.

53. Answering paragraph 53, Lone Mountain denies.

54. Answering paragraph 54, Lone Mountain denies.

55. Answering paragraph 55, Lone Mountain denies.

56. Answering paragraph 56, Lone Mountain denies.

57. Answering paragraph 57, Lone Mountain denies.

58. Answering paragraph 58, Lone Mountain denies.

59. Answering paragraph 59, Lone Mountain denies.

60. Answering paragraph 60, Lone Mountain denies.

61. Answering paragraph 61, Lone Mountain denies.

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Second Claim for Relief

(Violation of Civil Rights; Due Process: Deprivation of Liberty; US Const. Amend. XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 USC § 1983)

62. Answering paragraph 62, Lone Mountain repeats and re-alleges all prior paragraphs as though fully set forth herein.

63. Answering paragraph 63, Lone Mountain denies.

64. Answering paragraph 64, Lone Mountain denies.

65. Answering paragraph 65, Lone Mountain denies.

66. Answering paragraph 66, Lone Mountain denies.

67. Answering paragraph 67, Lone Mountain denies.

68. Answering paragraph 68, Lone Mountain denies.

69. Answering paragraph 69, Lone Mountain denies.

Third Claim for Relief

(Violation of Civil Rights; Equal Protection; US Const. Amend. XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 USC § 1983)

70. Answering paragraph 70, Lone Mountain repeats and re-alleges all prior paragraphs as though fully set forth herein.

71. Answering paragraph 71, Lone Mountain denies.

72. Answering paragraph 72, Lone Mountain denies.

73. Answering paragraph 73, Lone Mountain denies.

74. Answering paragraph 74, Lone Mountain denies.

Fourth Claim for Relief

75. (Petition for Judicial Review)

76. Answering paragraph 75, Lone Mountain repeats and re-alleges all prior paragraphs as though fully set forth herein.

77. Answering paragraph 76, Lone Mountain denies.

78. Answering paragraph 77, Lone Mountain denies.

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79. Answering paragraph 78, Lone Mountain denies.

80. Answering paragraph 79 and subparagraphs 79(a)-(c), for all allegations, Lone Mountain denies. Lone Mountain also denies that Plaintiff is entitled to the requested relief.

81. Answering paragraph 80, Lone Mountain denies.

Fifth Claim for Relief

82. (Petition for Writ of Mandamus)

83. Answering paragraph 81, Lone Mountain repeats and re-alleges all prior paragraphs as though fully set forth herein.

84. Answering paragraph 82, state that Nev. Rev. Stat. § 34.160 speaks for itself and no response is required. To the extent a response is required, Lone Mountain denies.

85. Answering paragraph 83 and subparagraphs 83(a)-(b), Lone Mountain denies.

86. Answering paragraph 84 and subparagraphs 84(a)-(b), Lone Mountain denies.

87. Answering paragraph 85, Lone Mountain denies.

88. Answering paragraph 86, Lone Mountain denies.

89. WHEREFORE, Lone Mountain requests that Plaintiffs take nothing by way of their complaint.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Lone Mountain adopts and incorporates herein all affirmative defenses plead by Defendants and other Intervenors in this matter.

Second Affirmative Defense

The complaint fails to state a claim upon which relief can be granted.

Third Affirmative Defense

Plaintiffs have not been damaged directly, indirectly, proximately or in any manner whatsoever by any conduct of Defendants.

Fourth Affirmative Defense

The State of Nevada, Department of Taxation is immune from suit when performing the

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functions at issue in this case.

Fifth Affirmative Defense

The actions of the State of Nevada, Department of Taxation were all official acts that were done in compliance with applicable laws and regulations.

Sixth Affirmative Defense

Plaintiffs' claims are barred because Plaintiffs have failed to exhaust administrative remedies, if any.

Seventh Affirmative Defense

Plaintiffs have failed to join necessary and indispensable parties to this litigation under NRCP 19 as the Court cannot grant any of Plaintiffs' claims without affecting the rights and privileges of those parties who received the licenses at issue as well as other third parties.

Eighth Affirmative Defense

The occurrences referred to in the First Amended Complaint and all alleged damages, if any, resulting therefrom, were caused by a third party of which Defendants had no control.

Ninth Affirmative Defense

The actions of the State of Nevada, Department of Taxation were not arbitrary or capricious, and the State of Nevada, Department of Taxation had a rational basis for all of the actions taken in the licensing process at issue.

Tenth Affirmative Defense

Plaintiffs' claims are barred, in whole or in part, by their failure to perform or satisfy required conditions precedent and by their own bad acts.

Eleventh Affirmative Defense

Plaintiffs are not in possession and/or control of the documents and/or witnesses necessary to prove its alleged causes of action against Defendants.

Twelfth Affirmative Defense

The claims, and each of them, are barred by the failure of Plaintiffs to plead those claims with sufficient particularity.

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Thirteenth Affirmative Defense

Plaintiffs have failed to allege sufficient facts and cannot carry the burden of proof imposed on it by law to recover attorney's fees incurred to bring this action.

Fourteenth Affirmative Defense

Injunctive relief is unavailable to Plaintiffs, because the State of Nevada, Department of Taxation has already completed the tasks of issuing the conditional licenses.

Fifteenth Affirmative Defense

Plaintiffs have no constitutional rights to obtain privileged licenses.

Sixteenth Affirmative Defense

Mandamus is not available to compel the members of the executive branch to perform nonministerial, discretionary tasks.

Seventeenth Affirmative Defense

Plaintiffs are not entitled to judicial review on the denial of a license.

Eighteenth Affirmative Defense

Declaratory relief will not give the Plaintiffs the relief that they are seeking.

Nineteenth Affirmative Defense

Plaintiffs lack standing to seek the relief they request.

Twentieth Affirmative Defense

Pursuant to Nevada Rules of Civil Procedure, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of this answer and, therefore, Lone Mountain reserves the right to amend this answer to allege additional affirmative defenses if subsequent investigation warrants.

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Dated this 5th day of May 2019.

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CERTIFICATE OF SERVICE

The undersigned, an employee of H1 Law Group, hereby certifies that on the 5th day of June 2019, she caused a copy of the foregoing, to be transmitted by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's **Odyssey E-File & Serve** system.

Bobbye Donaldson, an employee of
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Attorneys for Intervenor/Defendant
Lone Mountain Partners, LLC

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

ETW MANAGEMENT GROUP LLC, a Nevada limited liability company; GLOBAL HARMONY LLC, a Nevada limited liability company; GREEN LEAF FARMS HOLDINGS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; MOTHER HERB, INC., a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; RED EARTH LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; ZION GARDENS LLC, a Nevada limited liability company, and MMOF VEGAS RETAIL, INC., a Nevada corporation,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; DOES 1 through 20, inclusive; and ROE CORPORATIONS 1 through 20, inclusive,

Defendants.

LONE MOUNTAIN PARTNERS, LLC, a Nevada limited liability partnership,

Intervenor.

Case No. A-19-787004-B

Dept. No. 11

LONE MOUNTAIN PARTNERS, LLC'S INITIAL APPEARANCE FEE DISCLOSURE

Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for parties appearing in the above entitled action as indicated below:

Intervenor/Defendant, Lone Mountain Partners, LLC	$223.00
TOTAL	$223.00

Dated this 7th day of June 2019.

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CERTIFICATE OF SERVICE

The undersigned, an employee of H1 Law Group, hereby certifies that on the 7th day of June 2019, she caused a copy of the foregoing **Lone Mountain Partners, LLC's Initial Appearance Fee Disclosure** to be transmitted by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's **Odyssey E-File & Serve** system.

Bobbye Donaldson, an employee of
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Attorneys for Intervenor
Lone Mountain Partners, LLC

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

ETW MANAGEMENT GROUP LLC, a Nevada limited liability company; GLOBAL HARMONY LLC, a Nevada limited liability company; GREEN LEAF FARMS HOLDINGS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; MOTHER HERB, INC., a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; RED EARTH LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; ZION GARDENS LLC, a Nevada limited liability company, and MMOF VEGAS RETAIL, INC., a Nevada corporation,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; DOES 1 through 20, inclusive; and ROE CORPORATIONS 1 through 20, inclusive,

Defendants.

LONE MOUNTAIN PARTNERS, LLC, a Nevada limited liability partnership,

Intervenor.

Case No. A-19-787004-B

Dept. No. 11

LONE MOUNTAIN PARTNERS, LLC'S ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT

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Lone Mountain Partners, LLC ("Lone Mountain"), by and through counsel undersigned, hereby files this answer to the Second Amended Complaint filed by Plaintiffs ETW Management Group LLC, Global Harmony LLC, Green Leaf Farms Holdings LLC, Herbal Choice Inc., Just Quality, LLC, Libra Wellness Center, LLC, Mother Herb, Inc., Nevcann LLC, Red Earth LLC, THC Nevada LLC, Zion Gardens LLC, and MMOF Vegas Retail, Inc. (collectively "Plaintiffs"). Lone Mountain states as follows:

Lone Mountain denies each and every allegation in the Amended Complaint except those allegations that are admitted, qualified, or otherwise answered herein.

PARTIES

1. Answering paragraph 1, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

2. Answering paragraph 2, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

3. Answering paragraph 3, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

4. Answering paragraph 4, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

5. Answering paragraph 5, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

6. Answering paragraph 6, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

7. Answering paragraph 7, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

8. Answering paragraph 8, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

9. Answering paragraph 9, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

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10. Answering paragraph 10, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

11. Answering paragraph 11, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

12. Answering paragraph 12, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

13. Answering paragraph 13, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

14. Answering paragraph 14, admit.

15. Answering paragraph 15, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

16. Answering paragraph 16, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

JURISDICTION AND VENUE

17. Answering paragraph 17, Lone Mountain states that this is a legal conclusion to which no response is required. To the extent that a response is required, Lone Mountain denies the allegations contained therein.

18. Answering paragraph 18, Lone Mountain states that this is a legal conclusion to which no response is required. To the extent that a response is required, Lone Mountain denies the allegations contained therein.

GENERAL ALLEGATIONS

19. Answering paragraph 19, Lone Mountain incorporates and realleges all prior paragraphs as through fully set forth herein.

20. Answering paragraph 20, admits.

21. Answering paragraph 21, Lone Mountain states that NRS 453D.200(1) speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the

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content of laws. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws referenced in this paragraph.

22. Answering paragraph 22, Lone Mountain states that NRS 453D.200(1) speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws referenced in this paragraph.

23. Answering paragraph 23, Lone Mountain states that NRS 453D.210(d)(1) speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws referenced in this paragraph.

24. Answering paragraph 24, Lone Mountain states that NRS 453D.210(d)(5) speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws referenced in this paragraph.

25. Answering paragraph 25, Lone Mountain states that NRS 453D.210(6) speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws referenced in this paragraph.

26. Answering paragraph 26, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

27. Answering paragraph 27, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

28. Answering paragraph 28, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

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29. Answering paragraph 29, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

30. Answering paragraph 30, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

31. Answering paragraph 31, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

32. Answering paragraph 32, Lone Mountain states that the regulations speak for themselves. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws or regulations. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the regulations referenced in this paragraph.

33. Answering paragraph 33, Lone Mountain states that the regulations speak for themselves. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws or regulations. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the regulations referenced in this paragraph.

34. Answering paragraph 34, Lone Mountain states that the regulations speak for themselves. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws or regulations. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the regulations referenced in this paragraph.

35. Answering paragraph 35, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

36. Answering paragraph 36, Lone Mountain states that the regulations speak for themselves. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws or regulations. To the extent a response is required, Lone Mountain states that

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Section 80(5) of the regulations should be considered in its full context and denies the accuracy the allegations.

37. Answering paragraph 37, Lone Mountain states that the laws and regulations speak for themselves. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws or regulations. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws and regulations referenced in this paragraph.

38. Answering paragraph 38, Lone Mountain states that NRS 453D.210 speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws referenced in this paragraph.

39. Answering paragraph 39, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

40. Answering paragraph 40, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

41. Answering paragraph 41, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

42. Answering paragraph 42, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

43. Answering paragraph 43, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

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44. Answering paragraph 44, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

45. Answering paragraph 45, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

46. Answering paragraph 46, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

47. Answering paragraph 47, denies.

48. Answering paragraph 48, denies.

49. Answering paragraph 49, denies.

50. Answering paragraph 50, denies.

FIRST CLAIM FOR RELIEF

Violation of Substantive Due Process

51. Answering paragraph 51, Lone Mountain repeats and realleges all prior paragraphs as though fully set forth herein.

52. Answering paragraph 52, Lone Mountain states that the Fourteenth Amendment speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws referenced in this paragraph.

53. Answering paragraph 53, Lone Mountain states that the Nevada Constitution speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws referenced in this paragraph.

54. Answering paragraph 54, Lone Mountain states that this is a legal conclusion for which no response is required.

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55. Answering paragraph 55, Lone Mountain states that this is a legal conclusion for which no response is required.

56. Answering paragraph 56, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph and therefore denies.

57. Answering paragraph 57, Lone Mountain denies.

58. Answering paragraph 58, Lone Mountain denies.

59. Answering paragraph 59, and subparagraphs 57(a)-(f), Lone Mountain denies.

60. Answering paragraph 60, Lone Mountain denies.

61. Answering paragraph 61, Lone Mountain denies.

62. Answering paragraph 62, Lone Mountain denies.

SECOND CLAIM FOR RELIEF

Violation of Procedural Due Process

63. Answering paragraph 63, Lone Mountain repeats and realleges all prior paragraphs as though fully set forth herein.

64. Answering paragraph 64, Lone Mountain states that the Fourteenth Amendment speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws referenced in this paragraph.

65. Answering paragraph 65, Lone Mountain states that the Nevada Constitution speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws referenced in this paragraph.

66. Answering paragraph 66, Lone Mountain denies.

67. Answering paragraph 67, Lone Mountain denies.

68. Answering paragraph 68, Lone Mountain states that no response is required as the allegations in this paragraph are Plaintiffs' legal conclusions regarding the contents of laws or

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regulations. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws or regulations referenced.

69. Answering paragraph 69, Lone Mountain denies.

70. Answering paragraph 70, Lone Mountain denies.

71. Answering paragraph 71, Lone Mountain denies.

72. Answering paragraph 72, Lone Mountain denies.

73. Answering paragraph 73, Lone Mountain denies.

74. Answering paragraph 74, Lone Mountain denies.

THIRD CLAIM FOR RELIEF

Violation of Equal Protection

75. Answering paragraph 75, Lone Mountain repeats and realleges all prior paragraphs as though fully set forth herein.

76. Answering paragraph 76, Lone Mountain states that the Fourteenth Amendment speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws referenced in this paragraph.

77. Answering paragraph 77, Lone Mountain states that the Nevada Constitution speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws referenced in this paragraph.

78. Answering paragraph 78, Lone Mountain states that this is a legal conclusion for which no response is required.

79. Answering paragraph 79, Lone Mountain denies.

80. Answering paragraph 80, Lone Mountain admits only insofar as the term Factors, as used by Plaintiffs, accurately comports with those laws and regulations referenced in the definition of the term "Factors."

81. Answering paragraph 81, Lone Mountain denies.

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82. Answering paragraph 82, Lone Mountain denies.

83. Answering paragraph 83 and subparagraphs 81(a)-(f), Lone Mountain denies.

84. Answering paragraph 84, Lone Mountain denies.

85. Answering paragraph 85, Lone Mountain denies.

86. Answering paragraph 86, Lone Mountain denies.

FOURTH CLAIM FOR RELIEF

Declaratory Judgment

87. Answering paragraph 87, Lone Mountain repeats and realleges all prior paragraphs as though fully set forth herein.

88. Answering paragraph 88, Lone Mountain states that the Uniform Declaratory Judgment Act speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws referenced in this paragraph.

89. Answering paragraph 89, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph.

90. Answering paragraph 90, Lone Mountain denies.

91. Answering paragraph 91, Lone Mountain states that NRS 453D.210(6) speaks for itself. No response is required for Plaintiffs' legal conclusions or statements regarding the content of laws. To the extent a response is required, Lone Mountain admits only insofar as the allegations accurately state the laws referenced in this paragraph.

92. Answering paragraph 92 and subparagraphs 90(a)-(f), Lone Mountain denies.

93. Answering paragraph 93, Lone Mountain denies.

94. Answering paragraph 94, Lone Mountain denies.

95. Answering paragraph 95, Lone Mountain denies.

96. Answering paragraph 96, Lone Mountain admits.

97. Answering paragraph 97, Lone Mountain denies.

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98. Answering paragraph 98, Lone Mountain denies any allegations. Lone Mountain also denies that Plaintiffs are entitled to the requested relief.

WHEREFORE, Lone Mountain denies that Plaintiffs are entitled to any relief being sought in their Prayer for Relief or any other relief in this matter.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Lone Mountain adopts and incorporates herein all affirmative defenses plead by Defendants and other Intervenors in this matter.

Second Affirmative Defense

The Amended Complaint fails to state a claim upon which relief can be granted.

Third Affirmative Defense

Plaintiffs have not been damaged directly, indirectly, proximately or in any manner whatsoever by any conduct of Defendants.

Fourth Affirmative Defense

The State of Nevada, Department of Taxation is immune from suit when performing the functions at issue in this case.

Fifth Affirmative Defense

The actions of the State of Nevada, Department of Taxation were all official acts that were done in compliance with applicable laws and regulations.

Sixth Affirmative Defense

Plaintiffs' claims are barred because Plaintiffs have failed to exhaust administrative remedies, if any.

Seventh Affirmative Defense

Plaintiffs have failed to join necessary and indispensable parties to this litigation under NRCP 19 as the Court cannot grant any of Plaintiffs' claims without affecting the rights and privileges of those parties who received the licenses at issue as well as other third parties.

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Eighth Affirmative Defense

The occurrences referred to in the Amended Complaint and all alleged damages, if any, resulting therefrom, were caused by a third party of which Defendants had no control.

Ninth Affirmative Defense

The actions of the State of Nevada, Department of Taxation were not arbitrary or capricious, and the State of Nevada, Department of Taxation had a rational basis for all of the actions taken in the licensing process at issue.

Tenth Affirmative Defense

Plaintiffs' claims are barred, in whole or in part, by their failure to perform or satisfy required conditions precedent and by their own bad acts.

Eleventh Affirmative Defense

Plaintiffs are not in possession and/or control of the documents and/or witnesses necessary to prove its alleged causes of action against Defendants.

Twelfth Affirmative Defense

The claims, and each of them, are barred by the failure of Plaintiffs to plead those claims with sufficient particularity.

Thirteenth Affirmative Defense

Plaintiffs have failed to allege sufficient facts and cannot carry the burden of proof imposed on it by law to recover attorney's fees incurred to bring this action.

Fourteenth Affirmative Defense

Injunctive relief is unavailable to Plaintiffs, because the State of Nevada, Department of Taxation has already completed the tasks of issuing the conditional licenses.

Fifteenth Affirmative Defense

Plaintiffs have no constitutional rights to obtain privileged licenses.

Sixteenth Affirmative Defense

Mandamus is not available to compel the members of the executive branch to perform nonministerial, discretionary tasks.

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Seventeenth Affirmative Defense

Plaintiffs are not entitled to judicial review on the denial of a license.

Eighteenth Affirmative Defense

Declaratory relief will not give the Plaintiffs the relief that they are seeking.

Nineteenth Affirmative Defense

Plaintiffs lack standing to seek the relief they request.

Twentieth Affirmative Defense

Pursuant to Nevada Rules of Civil Procedure, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of this answer and, therefore, Lone Mountain reserves the right to amend this answer to allege additional affirmative defenses if subsequent investigation warrants.

WHEREFORE, Lone Mountain prays for judgment as follows:

1. Plaintiffs take nothing by way of their Second Amended Complaint;

2. The Second Amended Complaint, and all causes of action against Defendants and Lone Mountain alleged therein, be dismissed with prejudice;

3. For reasonable attorney fees and costs to be awarded to Lone Mountain; and

4. For such other and further relief the Court may deem just and proper.

Dated this 7th day of June 2019.

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CERTIFICATE OF SERVICE

The undersigned, an employee of H1 Law Group, hereby certifies that on the 7th day of June 2019, she caused a copy of the foregoing to be transmitted by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's **Odyssey E-File & Serve** system.

Bobbye Donaldson, an employee of
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DISTRICT COURT

CLARK COUNTY, NEVADA

SERENITY WELLNESS CENTER, LLC, a Nevada limited liability company, TGIG, LLC, a Nevada limited liability company, NULEAF INCLINE DISPENSARY, LLC, a Nevada limited liability company, NEVADA HOLISTIC MEDICINE, LLC, a Nevada limited liability company, TRYKE COMPANIES SO NV, LLC, a Nevada limited liability company, TRYKE COMPANIES RENO, LLC, a Nevada limited liability company, PARADISE WELLNESS CENTER, LLC, a Nevada limited liability company, GBS NEVADA PARTNERS, LLC, a Nevada limited liability company, FIDELIS HOLDINGS, LLC, a Nevada limited liability company, GRAVITAS NEVADA, LLC, a Nevada limited liability company, NEVADA PURE, LLC, a Nevada limited liability company, MEDIFARM, LLC, a Nevada limited liability company, DOE PLAINTIFFS I through X; and ROE ENTITY PLAINTIFFS I through X,

Plaintiffs,

vs.

THE STATE OF NEVADA, DEPARTMENT OF TAXATION,

Defendant.

CASE NO.: A-19-786962-B
DEPT. NO.: 11

PLAINTIFFS' SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs, Serenity Wellness Center, LLC, TGIG, LLC, Nuleaf Incline Dispensary, LLC, Holistic Medicine, LLC, Tryke Companies SO NV, LLC, Tryke Companies Reno, LLC, Paradise Wellness Center, LLC, GBS Nevada Partners, LLC, FIDELIS HOLDINGS, LLC, GRAVITAS NEVADA, LLC, NEVADA PURE, LLC, and MEDIFARM, LLC, (collectively "Plaintiffs") by and through counsel, Dominic P. Gentile, Vincent Savarese III, Michael V. Cristalli, and Ross Miller of the law firm of Gentile Cristalli Miller Armeni Savarese, hereby respectfully submit Plaintiffs' Supplemental Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction. In particular, and at the direction of the Court, it addresses the language "necessary or convenient to carry out the provisions of this chapter" contained in NRS 453D.200, which was born of a ballot initiative conducted pursuant to the Constitution of the State of Nevada, Article 19, Section 2, and not by the Legislature acting independently, and the non-delegation doctrine.

This Supplemental Memorandum is made and based on all pleadings and papers on file herein, the following legal argument, the exhibits appended hereto, and any oral argument this Court may entertain at hearing.

Dated this 10th day of June, 2019.

GENTILE CRISTALLI
MILLER ARMENI SAVARESE

/s/ Vincent Savarese
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SUPPLEMENTAL POINTS AND AUTHORITIES

I.

INTRODUCTION

"The power vested in the people to bring about legislation through the initiative and referendum process, known as "direct democracy" "is so fundamental that it is described 'not as a right granted the people, but as a power reserved by them.'" Indeed, the exercise of direct democracy through the initiative process is "one of the most precious rights of our democratic process." Compared with representative government, direct democracy is meant to fully and unreservedly implement the popular will. Thus, although elected representatives often reflect the will of the electorate:

> "[c]ompared to direct democracy, the legislature seems far removed from majority preferences. When we vote for candidates it is often difficult to know exactly what we are saying. And even if representatives perfectly mirrored the people who voted for them, inequalities of representation and all sorts of institutional practices prevent accurate legislative expressions of popular will. **When, on the other hand, we are asked to register our views on a single issue, the assertion that the result reflects the majority's preference has great force.**"

Julian N. Eule, Judicial Review of Direct Democracy, 99 Yale L.J. 1503, 1514 (1990) (emphasis added). *Cf. City of Eastlake v. Forest City Enters., Inc.*, 426 U.S. 668, 678, 96 S.Ct. 2358, 49 L.Ed.2d 132 (1976) ("A referendum ... is far more than an expression of ambiguously founded neighborhood preference[;] [i]t is ... an exercise by the voters of their traditional right through direct legislation to override the views of their elected representatives as to what serves the public interest" (quoting *S. Alameda Spanish Speaking Org. v. Union City*, 424 F.2d 291, 294 (9th Cir.1970)).

Ruggles v. Yagong, 135 Hawai'I 411, 353 P. 3d 953, 968-69 (Ha. 2011) (internal citations omitted in part).

Thus, at the threshold of this Memorandum, it is of utmost importance to stress the obvious: the Nevada Constitution is the organic and fundamental law of this state, and to allow

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its amendment or that of this state's legislative acts, without strict adherence to the rules set forth therein, undermine the imperative of government stability. See *Nevadans for Nevada v. Beers*, 122 Nev. 930, 949 (2006).

II.

ARTICLE 19, SECTION 2 OF THE CONSTITUTION OF THE STATE OF NEVADA IMPOSES A THREE YEAR BAN UPON ANY AMENDMENT, ANULLMENT, SETTING ASIDE OR REPEAL OF ANY PROVISION OF A VOTER-INITIATED STATUTE ABSENT DIRECT VOTE OF THE PEOPLE.

A.

The Legislation At Issue In This Litigation Is Not Susceptible To Being Amended, Annulled, Repealed, Set Aside Or Suspended Within Three Years After Taking Effect Other Than By Direct Vote Of The People.

At the close of the 19th century, a small but vocal contingent of American reformers, pointing to the record of "direct democracy" in Switzerland, campaigned for the adoption of the initiative and referendum process in the United States.[1] Currently, 21 state constitutions allow the electorate to adopt statutes by initiative measure. Dubois & Feeney, Lawmaking by Initiative: Issues, Options and Comparisons (1998) pp. 27–28. Of those jurisdictions, Colorado, Idaho, Maine, Massachusetts, Missouri, Montana Nebraska, Ohio, Oklahoma, Oregon, South Dakota, and Utah place no limitation whatsoever upon the authority of the state legislature to repeal or amend an initiative statute. In those states, an initiative statute is treated just like any other statute, and may be repealed or amended at any time. See Comment, Power of the Legislature to Amend or Repeal Direct Legislation (1942) 42 Wash. U. L.Q. 439, 440–442 (noting that decisions have unanimously held that, absent language in a charter explicitly restricting a

[1] *See, e.g.*, Sullivan, Direct Legislation by the Citizenship Through the Initiative and Referendum (1893) pp. 5–14. *See generally*, Goebel, A Government by the People: Direct Democracy in America, 1890–1940 (2002) pp. 31–33, and authorities cited therein; Schmidt, Citizen Lawmakers: The Ballot Initiative Revolution (1989) pp. 5–6; (Center for Governmental Studies, Democracy by Initiative: Shaping California's Fourth Branch of Government (2d ed. 2008); Dubois & Feeney, Lawmaking by Initiative: Issues, Options and Comparisons (1988), at pp. 46–70.

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legislature's right to amend or repeal, a state legislature retains that authority even as to initiative statutes).

Eight of the remaining nine states that allow voters to adopt statutes by initiative measure place some limitation upon the authority of a state legislature to act in response to an initiative statute. Two of these jurisdictions, Alaska and Wyoming, allow *amendment* by the legislature at any time, but impose a moratorium on legislative *repeal* until two years after adoption of the initiative statute. See Alaska Constitution, Article XI, Section 6; Wyoming Constitution, Article 3, Section 52(f). Three states place a two to seven year moratorium on *repeal or amendment*. See Nevada Constitution, Article 19, Section 2, paragraph 3 (three years); North Dakota Constitution, Article III, Section 8 (seven year moratorium, allowing however that the legislature may *amend* by two-thirds vote during that period); Washington Constitution, Article II, Section 1(c) (two year moratorium, likewise allowing however that the legislature may *amend* by two-thirds vote during that period).

Three other states allow amendment at any time by a supermajority vote of the legislature. See Arizona Constitution, Article 4, Part 1, Section 1(6)(C) (three-quarters vote required); Arkansas Constitution, Article 5, Section 1 (two-thirds voted required) and Michigan Constitution, Article II, Section 9 (three-quarters vote required).[2]

Article 19, Section 2 of the Constitution of the State of Nevada (Initiative petition for enactment or amendment of statute or amendment of constitution; concurrent and consecutive amendments) provides, in pertinent part:

> "1. Notwithstanding the provisions of section 1 of article 4 of this constitution, but subject to the limitations of section 6 of this article, **the people reserve to themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this constitution, and to enact or reject them at the polls**.
>
> ...

[2] Much of this Introduction is borrowed from *People v. Kelly*, 47 Cal. 4th 1008, 1030-1033, 222 P. 3d 186, 200-202 (Cal. 2010).

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> 3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the secretary of state before beginning circulation and not earlier than January 1 of the year preceding the year in which a regular session of the legislature is held. After its circulation, it shall be filed with the secretary of state not less than 30 days prior to any regular session of the legislature. The circulation of the petition shall cease on the day the petition is filed with the secretary of state or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The secretary of state shall transmit such petition to the legislature as soon as the legislature convenes and organizes. The petition **shall take precedence over all other measures except appropriation bills**, and the statute or amendment to a statute proposed thereby shall be enacted or rejected by the legislature **without change or amendment** within 40 days. If the proposed statute or amendment to a statute is **enacted by the legislature and approved by the governor** in the same manner as other statutes are enacted, **such statute or amendment to a statute shall become law**, but shall be subject to referendum petition as provided in section 1 of this article. If the statute or amendment to a statute is rejected by the legislature, or if no action is taken thereon within 40 days, the secretary of state shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election. If a majority of the voters voting on such question at such election votes approval of such statute or amendment to a statute, it shall become law and take effect upon completion of the canvass of votes by the supreme court. **An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or suspended by the legislature within 3 years from the date it takes effect**."

(Emphasis added.)

And, as set forth in Article 19, Section 5 of the Nevada Constitution (Provisions of article self-executing; legislative procedures): "The provisions of this article are **self-executing** but the legislature may provide by law for procedures to facilitate the operation thereof" (emphasis added).

Accordingly, as the Nevada Supreme Court, sitting en banc, has most recently made abundantly clear in *Scenic Nevada, Inc. v. City of Reno,* 132 Nev. Adv. Op. 48, 373 P.3d 873, 874 (2016) (en banc): "The Nevada Constitution secures the right of the people to enact or repeal statutes by initiative petition, followed by direct democratic vote. To protect the initiative process, **the Nevada Constitution prohibits the Legislature from amending** [3] **or repealing a**

[3] To change an existing law, even for purposes of clarification, is to amend it. *Delucchi v.*

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voter-initiated statute for three years after it takes effect" (emphasis added); *See also id.* at 373 P. 3d at 876 (citing Nev. Const. Art. 19, Section 2(3)); *Education Initiative Pac v. Committee to Protect Nevada Jobs,* 129 Nev. 35, 39, 293 P.3d 874 (2013) (en banc) ("Since 1912, Nevada's Constitution has secured to the citizens of this state 'the power to propose, by initiative petition, statutes and amendments to statutes . . . and to enact or reject them at the polls.' Nev. Const. Art. 19, § 2(1)"; thus, "if enacted [by initiative], the law will not be capable of amendment or repeal for at least three years"); *Flamingo Paradise Gaming, LLC v. Chanos*, 125 Nev. 502, 516, 217 P.3d 546, 556 (2009) ("Article 19, Section 2(3) of the Nevada Constitution [provides] that an initiative cannot be amended for three years after passage"); *Rogers v. Heller,* 117 Nev. 169, 172, 18 P.3d 1034, 1036 (2001) (en banc) ("If approved [by initiative], the Legislature cannot amend, annul, repeal, set aside or suspend the law within three years after it takes effect").

Indeed, as the en banc Court explained in *Rogers*: "Initiative petitions must be kept substantively intact; otherwise, the people's voice would be obstructed," pointing out that "initiative legislation is not subject to judicial tampering—[because] the substance of an initiative petition should reflect the **unadulterated will of the people** and should proceed, if at all, as originally proposed and signed." *Id.* at 178, 18 P.3d at 1039–40 (emphasis added) (cited with approval in *Flamingo Paradise Gaming, LLC v. Chanos*, 125 Nev. 502, 515, 217 P.3d 546, 555 (2009)).

And accordingly, as our Supreme Court observed in *Education Initiative Pac,* "it is not the function of this court to judge the wisdom of the proposed initiative." 129 Nev. at 40, 293 P.3d at 878 (citing *Nevada Judges Ass'n v. Lau,* 112 Nev. 51, 57, 910 P.2d 898, 903 (1996) ("It is not the function of this court to agree or disagree with the policy behind the initiative"); *Wilson v. Koontz,* 76 Nev. 33, 38, 348 P.2d 231, 233 (1960) ("The wisdom of making . . . [an initiative] a part of the organic law is no concern of the courts"); *Tesoriere v. Second Judicial District Court,* 50 Nev. 302, 258 P. 291 (1927); *State ex rel. Hunting v. Brodigan,* 44 Nev. 306,

(continued)
Songer, __ Nev. __, 396 P. 3d 826, 829 (2017). *Accord, City of Colorado Springs v. Powell,* 156 P. 3d 461, 465 (Colo. 2007)(en banc).

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194 P. 845 (1921); *State ex rel. Dotta v. Brodigan,* 37 Nev. 37, 138 P. 914 (1914).

In *Sustainable Growth Initiative Comm. v. Jumpers, LLC.,* 122 Nev. 53, 73, 128 P.3d 452, 466 (2006) (en banc), our Supreme Court further held that the same three year constitutional moratorium upon amendment or repeal of initiative legislation other than by direct vote of the people is equally applicable with respect to initiatives that result in the passage of legislation at the county level. *See also, Garvin v. Ninth Judicial Dist. Court,* 118 Nev. 749, 763, 59 P.3d 1180, 1189 (2002) ("Constitution reserves to the people the power to propose, by initiative petition, statutes and amendments to statutes and the constitution, and to enact or reject them at the polls, and further reserves the initiative and referendum powers to the registered voters of each county and municipality as to all local, special and municipal legislation of every kind in and for the county or municipality") (citing Nev. Const. Art. 19, Sections 2,4).

B.

The Adoption Of Certain Regulations And Implementation Of Administrative Policies And Procedures By DOT In Evaluation Of Applications For The Conditional Licensing At Issue In This Case Constituted Unconstitutional Amendments To The Ballot Initiative And The Provisions Of NRS 453D Enacted Pursuant Thereto.

The Nevada Legislature passed a number of bills during the 2017 legislative session concerning the licensing, regulation, and operation of recreational marijuana establishments in the State of Nevada. One of those bills, Assembly Bill 422, transferred responsibility for the registration, licensing, and regulation of marijuana establishments from the State of Nevada Division of Public and Behavioral Health to the DOT. This legislation was approved by the voters at the General Election of 2016 as the Initiative Petition, Ballot Question entitled the "Regulation and Taxation of Marijuana Act" (the "Ballot Initiative")." Appended hereto and incorporated herein by reference as **Exhibit A**. This Initiative was codified by statute at NRS Chapter 453D, entitled "Regulation and Taxation of Marijuana" (the "enabling legislation"). Appended hereto and incorporated herein by reference as **Exhibit B**.

Thus, pursuant to the foregoing authorities, the provisions of the Initiative Petition at issue in this case are not susceptible to being amended, annulled, repealed, set aside or suspended

within three years after taking effect other than by direct vote of the people. And accordingly, as set forth *passim* in NRS Chapter 453D, the provisions contained therein codified by statute at NRS Chapter 453D were "proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore [are] not subject to legislative amendment or repeal until after November 22, 2019."

The DOT thereupon promulgated regulations governing the adult-use recreational marijuana retail store conditional licensing application and determination process purportedly pursuant to the delegation of authority conferred upon it by the above-cited enabling legislation, which are codified at NAC Chapter 453D, likewise entitled "Regulation and Taxation of Marijuana" (the "Regulation"). Appended hereto and incorporated herein by reference as **Exhibit C**. And in conjunction therewith, the DOT distributed printed application forms to interested parties (the "Application"). Appended hereto and incorporated herein by reference as **Exhibits D.**[4] It is the creation and application of some of the sections of this Regulation that is the focus of this action by Plaintiffs.

1. The Threshold Question: Construction Of "Necessary and Convenient" In Light Of The Nondelegation Doctrine.

That the Legislature cannot delegate its power to the Executive is a principle universally recognized as vital to the integrity and maintenance of a tripartite government ordained by a constitution. See *Marshall Field & Co. v. Clark,* 143 U.S. 649, 692 (1892). Article 3, Section 1 of the Constitution of the State of Nevada establishes such a government. Under circumstances where legislation originates in that branch and not, as here, by way of initiative, the Legislature must be governed by the nondelegation doctrine. There is no cogent reason to differ in this instance. To conclude otherwise would transform the initiative process and the three year ban on amending, annulling, repealing, setting aside or suspending the law so enacted by the people to a nullity. In such an instance the Legislature's ability to delegate is constricted even moreso, as the people have spoken directly. The law born of the initiative "lay[s] down ... an intelligible

[4] For some reason as yet to be disclosed, the DOT changed the Application form mid-stream, resulting in different applicants submitting different forms.

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principle to which the person or body authorized to [act] is directed to conform", especially with regard to qualifications for licensure and background checks of all owners, and only by conforming to those strictures can the administrative agency not be deemed to have amended it. See *J.W. Hampton, Jr., & Co. v. United States,* 276 U.S. 394, 409, 48 S.Ct. 348, 352, 72 L.Ed. 624 (1928).

The Ballot Initiative provides, in pertinent part: "the Department [DOT] shall adopt all regulations necessary or convenient to carry out the provisions of sections 1 to 18, inclusive, of this act." Section 5(1). Likewise, the enabling legislation, codified at NRS 453D.200(1) provides, in pertinent part: "the Department [DOT] shall adopt all regulations necessary or convenient to carry out the provisions of this chapter." NRS 453D.200(1). This language does not confer upon the DOT unfettered or unbridled authority to do whatever it wishes without constraint. It was not – and could not have been – delegated the power to legislate amendments thereto, particularly in that—because it is *initiative* legislation—the Legislature itself has no such authority with regard to NRS Chapter 453D until three years after its enactment under the prohibition of Article 19, Section 2 of the Constitution of the State of Nevada.

Consistent with the nondelegation doctrine, an administrative agency's power is "necessary" only when it is essential to carrying out an express duty. *Stockmeier v. State Board of Parole Commissioners,* 147 Nev. 243, 248 (2011). *Accord, Madison County Industrial Development Agency v. State Autorities Budget Office,* 54 N.Y.S. 3d 778, 782-83 (Sup. Ct. App. Div. 3rd Dept, NY, 2017). It is only to effectuate the purpose of the law by which its authority is delegated that an agency may proceed under such a grant and it is constrained in doing so by that purpose. *Jolley v. Greendale Housing Authority,* 49 N.W. 2d 191, 192 (Wisc. 1951). *Accord, Lennox v. Housing Authority of City of Omaha,* 137 Neb. 582, 290 N.W. 451, 458 (Neb. 1940) (language limited to what is expressly addressed in the statute). In recent weeks, the Connecticutt Supreme Court interpreted this very language and found it inconceivable that it could equate to a delegation of policy making power. See *Raspberry Junction Holdings LLC v. Southeastern Connecticutt Water Authority,* 331 Conn. 364, 203 A. 3d 1224, 1232 (Conn. 2019).

. . .

An agency cannot self-assume its power nor can a court create it. *Andrews v. Nevada State Board of Cosmetology,* 86 Nev. 207, 208, 467 P.2d 96, 97 (1970); *Clark County v. State Equal Rights Commission,* 107 Nev. 489, 492, 813 P.2d 1006, 1007 (1991) (administrative agencies have only those powers delegated by the legislature); *Cashman Photo Concessions and Labs v. Nevada Gaming Commission,* 91 Nev. 424, 428, 538 P.2d 158, 160 (1975). Even when the empowering legislation is not enacted pursuant to Article 19, Section 2 of the Nevada Constitution, administrative regulations cannot contradict or conflict with the statute they are intended to implement. *Roberts v. State,* 104 Nev. 33, 36, 752 P.2d 221, 223 (1988). Neither will a court hesitate to declare a regulation invalid when the regulation violates the constitution, conflicts with existing statutory provisions, exceeds the statutory authority of the agency, or is otherwise arbitrary and capricious; and even a reasonable agency interpretation of an ambiguous statute may be stricken by a court when a court determines that the agency interpretation conflicts with legislative intent. *State Division of Insurance v. State Farm Mutual Automobile Insurance Co.,* 116 Nev. 290, 293, 995 P.2d 482 (2000); *Public Agency Compensation Trust v. Blake,* 127 Nev. Adv. Op. 77, 265 P. 3d 694, 697 (2011). *See also Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837, 842–43, 104 S.Ct. 2778 (1984) (stating that when determining whether a regulation excees statutory authority, courts should consider whether statutory text speaks to the authority granted to the agency, and if not, whether the regulation is based upon a reasonable construction of the statute).

And in this regard, it is of no moment that Section 5 of the Ballot Initiative contained what amounts to pro forma "boilerplate" language conferring upon the DOT the authority to "adopt all regulations necessary or convenient to carry out the provisions of sections 1 to 18, inclusive, of this act," or that in NRS Chapter 453D the Legislature thereupon did the same thing by likewise delegating to that agency the authority to "adopt all regulations necessary or convenient to carry out the provisions of this chapter." NRS 453D.200(1). For it remains axiomatic that in exercising its authority to promulgate regulations "necessary or convenient to carry out the provisions of [a legislative enactment]," an administrative agency is, by definition, bound first and foremost to serve the terms and provisions of that legislation, and may never take

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leave to embark upon an un-cabined mission designed to service its own agenda. For "the powers [of an administrative agency] . . . to 'do all things . . . which are **necessary and convenient** in the exercise of [its] power and jurisdiction] [as delegated by the Legislature] . . . **are not unbounded** . . . ." *Pegastaff v. California Public Utilities Commission,* 236 Cal App. 4th 374, 387, 186 Cal. Rptr. 3d 510, 519 (2015) (emphasis added). *Accord, Kansas Building Industry Workers Compensation Fund, et al. v. State of Kansas,* 49 Kan. App. 2d 354, 382, 310 P.3d 404, 421 (2013).

Indeed, as the Nevada Supreme Court, sitting en banc, made abundantly clear in *McNeill v. State,* 132 Nev. Adv. Op. 54, 375 P.3d 1022, 1025 (2016) (en banc): "Without a doubt, the Legislature may not delegate its power to legislate." For as our Supreme Court explained in that case, an administrative agency does not "effectively have authority to create law." *Id. See generally, State ex rel. Aude v. Kinkead,* 14 Nev. 117 (1879). This principle is uniformly embraced in American jurisprudence. Thus, the United States Supreme Court stated in *Manhattan Gen. Equip. Co. v. Commissioner,* 297 U.S. 129, 134, 56 S.Ct. 397, 400, 80 L.Ed. 528 (1936):

> The power of an administrative officer or board to administer a federal statute and to prescribe rules and regulations to that end is not the power to make law, for no such power can be delegated by Congress, but the power to adopt regulations to carry into effect the will of Congress as expressed by the statute. A regulation which does not do this, but operates to create a rule out of harmony with the statute, is a mere nullity.

See United States v. Calamaro, 354 U.S. 351, 359 (1957) (finding Treasury Regulation as "no more than an attempted addition to the statute of something which is not there. As such the regulation can furnish no sustenance to the statute"); *Oklahoma Alcoholic Beverage Control Board v. Welch,* 446 P.2d 268 (Okl.1968); *Mead v. Arnell,* 117 Idaho 660, 791 P. 2d 410, 414-416 (Idaho 1990); *Agricultural Releations Board v. Superior Court,* 16 Cal.3d 392, 419-420, 546 P. 2d 687, 705 (Cal. 1976) (en bank). In *Cty. Cork v. Neb. Liquor Control Comm'n,* 250 Neb. 456, 464-65, 550 N.W.2d 913, 918 (1996), the Nebraska Supreme Court held that, despite broad authority to adopt all regulations "necessary and convenient" to administering a liquor control act, the agency must show a nexus between the regulated activity and the statutes it was charged

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with enforcing. In that case, the regulation at issue was promulgated by the state liquor control commission, and purported to allow it to take disciplinary action against a licensee for violation of *any* state or local law on the licensed premises. *Id.* at 458. The court struck down the regulation as exceeding the commission's authority because it would allow the commission to revoke or discipline a licensee based solely on violations of laws that have nothing to do with the sale of alcohol, e.g., for a violation of the building code. *Id.* at 465.

It is therefore axiomatic that where, as here, amendment of a voter-initiated law is temporally precluded pursuant to Article 19 of the Constitution of the State of Nevada, such that not even the Legislature can amend or otherwise change it for three years, clearly it cannot delegate such a power it does not itself possess to an administrative agency.

2. The Invalid Regulations Regarding Qualifications For Licensure And The Manner In Which They Were Unconstitutionally Applied.

The mandate received by the DOT was clear, as the Ballot Initiative provides, in pertinent part: "The regulations **shall include**: Qualifications for licensure that are **directly and demonstrably related to the operation of a marijuana establishment**. Ballot Initiative Section 5(1) (emphasis added). Likewise, the enabling statute, tracking verbatim the above-quoted language of Ballot Initiative Section 5(1) provides that: "The regulations [required to be adopted by the DOT] shall include: Qualifications for licensure that are **directly and demonstrably related to the operation of a marijuana establishment.**" NRS 453D.200(1)(b) (emphasis added).

Dr. Valerie Fridland, Ph.D., full professor of Linguistics and Chair of Graduate Studies of the Department of English at the University of Nevada at Reno, testified that, linguistically, the use of the word "include" as exemplified in the context of these provisions (Ballot Initiative Section (5)(1) and NRS 453D.200(1)(b)), particularly in conjunction with the **necessarily commanding** implication of the "deontic modal" represented by the use of the word "shall" in **immediate conjunction** therewith—and **absent** such phrases as "but not limited to," or "without limitation" (as appear elsewhere within the same Initiative and the same statute, that implicate, in contrastinction, an in intention to leave "open" or merely "exemplary" an otherwise "closed,"

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and descriptively "delimited" "set")—denotes that the descriptive attributes contemplated by the ensuing list of requisite regulatory provisions mandated to be prescribed by the DOT in adopting regulations intended to "carry out the provisions of . . . [the Ballot Initiative and NRS Chapter 453D, respectively]" reflect a popular and legislative intent, respectively, that the descriptive attributes of each ensuing enumerated regulatory requirement intended to be adopted be **delimited** thereto, rather than merely **exemplary** thereof. And therefore, that, **semantically**, the **obligatory** interpretation of the popular mandate expressed in Ballot Initiative Section 5(1)(b) and corresponding legislative intent of NRS 453D.200(1)(b) that: "The regulations [required to be adopted by the DOT] **shall include**: Qualifications for licensure that are **directly and demonstrably related to the operation of a marijuana establishment**" is that **all** qualifications for licensure **must** be such that are of that descriptive class, and **no other**.

However, rather than faithfully set forth qualification, ranking, and allocation criteria "that are **directly and demonstrably related to the operation of a marijuana establishment**," as textually required by both the Ballot Initiative and the enabling statute, NAC 453D.272(1) amended NRS 453D to permit the DOT to rank and allocate conditional licenses based upon, *inter alia*, the following enumerated criteria:

"The **diversity** of the owners, officers or board members of the proposed marijuana establishment," NAC 453D.272(1)(b) (emphasis added);[5]

"The (unspecified and unrelated) **educational achievements** of the owners, officers or board members of the proposed marijuana establishment," NAC 453D.272(1)(c) (emphasis added);

"The **financial** plan and **resources** of the applicant, both liquid and illiquid (above and beyond the $250,000. minimum requirement)," NAC 453D.272(1)(d) (emphasis added);

"**The amount of taxes paid and other beneficial financial contributions**, including, without limitation, civic or philanthropic involvement with this State or its political subdivisions,

[5] Regardless of the social value of a policy or program under consideration by an administrative agency, administrative expansion of a legislative grant of authority does not provide the remedy. See *Federal Communications Commission v. American Broadcasting Company*, 347 U.S. 284, 297 (1954).

by the applicant or the owners, officers or board members of the proposed marijuana establishment," NAC 453D.272(1)(d) (emphasis added); and

"The (unspecified and unrelated) **experience of key personnel** that the applicant intends to employ in operating the type of marijuana establishment for which the applicant seeks a license," NAC 453D.272(1)(h).

As Dr. Fridland has explained, these criteria for license qualification, ranking, and allocation ultimately prescribed by the DOT, lack any actual semantic relationship whatsoever to those which "are directly and demonstrably related to the operation of a marijuana establishment" as textually mandated by both the Ballot Initiative and the enabling statute. And consistent therewith, Dr. Paul Seaborn, Professor of business studies at the University of Denver, who both created and teaches a specialty course specifically applicable to the operation of marijuana businesses with particularity, has further likewise testified that these criteria have no such practical application in the actual operation of any marijuana enterprise as required by both the Initiative and the statute codifying its imperatives.

Furthermore, NAC 453D.272(1)(i) allows the Department to evaluate and rank applications, and allocate licenses based on "[a]ny other [undisclosed and unpublished, **additional**] criteria that the Department determines to be relevant" (emphasis added). And consistent therewith, Section 6.3 of the conditional licensing Application created by the Department states that "[a]pplications that have not demonstrated a sufficient response related to the [specifically enumerated] criteria set forth above will not have additional [undisclosed, unpublished] criteria considered in determining whether to issue a license and will not move forward in the application process" (emphasis added). Thus, conversely, and by necessary implication, Section 6.3 of the Application textually subjects an application which *has* in fact demonstrated a *sufficient* response related to the specifically enumerated, published criteria set forth above to "**additional** [unspecified, unpublished] criteria"— consideration of which by the Department will determine whether or not a license Application will "move forward in the application process," and whether or not a license is ultimately issued—notwithstanding the textual requirement of NRS 453 D. 200.1(b) that the Department "shall" adopt regulations that

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prescribe *only* "[q]ualifications for licensure **that are directly and demonstrably related to the operation of a marijuana establishment**" (emphasis added). Problematically, as Dr. Fridland has testified, this language textually creates entirely unascertainable "wide open sets" of criteria lacking any actual semantic relationship whatsoever to the "closed and delimited set" of qualification criteria textually established by the Initiative and the statute as *only* those which "are directly and demonstrably related to the operation of a marijuana establishment."

3. The Abdication Of Duty To Conduct Background Checks Of All Owners.

The Ballot Initiative further provides that "[t]he Department **shall** conduct a **background check** of **each** prospective **owner**, officer, and board member of a marijuana establishment license applicant." Section 5(6) (emphasis added). And tracking verbatim this language of the Ballot Initiative, the statute likewise provides that "[t]he Department **shall** conduct a **background check** of **each** prospective **owner**, officer, and board member of a marijuana establishment license applicant. NRS 453D.200(6) (emphasis added). As Dr. Fridland testified, the use of the word "**each**" in these provisions, *a fortiori* in immediate conjunction with the use of the compulsory word "**shall**", semantically connotes the intended **obligatory** construction that **all** members of the relevant "set" **must** be subjected to the **same** background check requirement.

Given that it is the common knowledge of the citizenry that the retail distribution of marijuana has, during the lifetimes of the persons currently breathing, been the historical domain of murderous international cartels known to be involved in laundering drug proceeds and using the laundered funds to finance terrorism prior to the Ballot Initiative, and giving due credence to the introductory language of that Initiative, it cannot be gainsaid that the voters relied upon the plain meaning of the language "[t]he Department **shall** conduct a **background check** of **each** prospective **owner**, officer, and board member of a marijuana establishment license applicant" to protect this newly legalized industry from such infiltration and Nevadans from the carnage that could follow.

A strict interpretation of the plain meaning of those words finds further support from the

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fact that NRS Chapter 453D is in direct conflict with a federal legislative policy with regard to marijuana being classified as a Schedule I controlled substance – with no medically recognized lawful use or experimental approval - in existence for over one hundred years and fully susceptible to Congressional exercise of the Commerce Clause. The United States Supreme Court has articulated this no less than three times this century. See *Gonzalez v. Raich,* 545 U.S. 1 (2005), *United States v. Oakland Cannabis Buyers Cooperative,* 532 U.S. 483 (2001) and *United Taylor v. United States,* __U.S.__, 136 S.Ct. 2074 (2016). In addition, NRS Chapter 453D conflicts with the Supremacy Clause of the Constitution of the United States and stands in violation of an unbroken line of United States Supreme Court jurisprudence. *McCulloch v. Maryland,* 4 Wheat. 316, 436 (1819) (states are devoid of power "to retard, impede, burden, or in any manner control, the operations of the constitutional laws enacted by Congress to carry into execution the powers vested in the general government"); *Davis v. Elmira Savings Bank,* 161 U.S. 275, 283 (1896) (state law cannot stand that "either frustrates the purpose of the national legislation or impairs the efficiency of those agencies of the Federal government to discharge the duties, for the performance of which they were created"). See *Nash v. Florida Industrial Commission,* 389 U.S. 235 (1967).

The ability to sell and tax cannabis in Nevada exists by the grace of the federal law enforcement authorities standing down on any efforts to exercise their authority to preclude it. The drafters and promoters of the Ballot Initiative were cognizant of that and must be taken to have understood every word of it. Only by strictly insuring that all owners of a business involved with creating and selling marijuana to the public be persons outside the scope of the criminal element that has historically controlled that (previously and elsewhere illegal) enterprise could the voters who approved of this lawful industry and the tax revenue it could generate maximize their sincere hopes that it would be permitted to exist, not be shut down by federal authorities, and produce the tax revenues so sorely deficient and so badly needed for the education of Nevada students.

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4. The Selective And Midstream Abandonment Of The Location Requirement.

The Ballot Initiative further provides that "[t]he Department shall approve a license application if: The physical address where the proposed marijuana establishment will operate is owned by the applicant or the applicant has the written permission of the property owner to operate the proposed marijuana establishment on that property." Section 10(5)(b).

The enabling statute provides that "[t]he Department shall approve or deny applications for licenses pursuant to NRS 453D.210" (emphasis added). And, tracking verbatim the above-quoted language of the Initiative, NRS 453D.210(5)(b) likewise provides that "[t]he Department shall approve a license application if: The physical address where the proposed marijuana establishment will operate is owned by the applicant or the applicant has the written permission of the property owner to operate the proposed marijuana establishment on that property" NRS 453D.200(2)..

However, Plaintiffs again maintain that this universal, textual requirement of both the Initiative and the statute was unilaterally dropped by the DOT, which did not even require selectively informed applicants to provide the Department with any physical address at which their proposed marijuana establishment was intended to operate.

5. Failure To Administer An Impartial System Of Numerical Scoring.

The Ballot Initiative further provides: "When competing applications are submitted for a proposed retail marijuana store within a single county, the Department shall use an impartial and numerically scored competitive bidding process to determine which application or applications among those competing will be approved." Section 10(6) (emphasis added). And likewise, the statute again provides verbatim that "[w]hen competing applications are submitted for a proposed retail marijuana store within a single county, the Department shall use an impartial and numerically scored competitive bidding process to determine which application or applications among those competing will be approved." NRS 453D.210(6) (emphasis added).

However, by allowing the DOT to rank and allocate applications based on "**[a]ny other** [undisclosed and unpublished] criteria that the Department determines to be relevant," (NAC 453D.272(1)(i)), and allowing the evaluation of an Application to take into account any other

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"**additional** [unspecified, unpublished] criteria," the DOT has rendered illusory the requirement of "an *impartial* and *numerically scored* competitive bidding process" as required by both the Ballot Initiative and the enabling statute, by permitting the DOT to unabashedly undertake the exercise of unconferred unbridled discretion to rank and allocate applications based on criteria that may be unaccountably arbitrary; are unascertainable to both applicants and the general public; and, due to the absence of transparency thereby enshrined, allow for the unaccountable potentiality of partiality, favoritism, or even outright corruption in the decision-making process—real or imagined—and the implicit diminution of public confidence in the integrity of the licensing process that such obscurity inexorably engenders.

And whereas the Regulation provides that "[t]he Department will deny an application for the issuance or renewal of a license for a marijuana establishment if: The application or the marijuana establishment is not in compliance with **any** provision of **this chapter** or chapter 453D of NRS, the unauthorized and improper effect of the foregoing unlawful amendments to the ballot Initiative and the enabling statute cannot even be roughly accounted for in practice. NAC 453D.312(1)(a) (emphasis added).

III.

ALL CONDITIONAL LICENSES ISSUED OR DENIED BY THE DOT WITH REGARD TO THE OPERATION OF ANY RETAIL MARIJUANA ESTABLISHMENT AT ISSUE IN THIS CASE ARE NULL AND VOID.

All of the foregoing administrative unauthorized deviations from the text of the Ballot Initiative and the enabling statute constitute unlawful amendments and annullments of the provisions of the governing voter-initiated legislation at issue in this case absent direct vote of the people in contravention of the express prohibitions of Article 19 of the Nevada Constitution, rendering NRS Chapter 453D unconstitutional as applied. And as the Nevada Supreme Court has made emphatically clear: "When a statute is held to be unconstitutional, it is null and void *ab initio;* it is of no effect, affords no protection, and confers no rights." *Nev. Power Co. v. Metro. Dev. Corp.,* 104 Nev. 684, 686, 765 P.2d 1162, 1163-64 (1988) (cited with approval in *Scenic Nevada, Inc. v. City of Reno,* 132 Nev. Adv. Op. 48, 373 P.3d 873, 877 (2016) (en banc). Here,

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both the Ballot Initiative and the enabling statute have been unconstitutionally amended by unlawful administrative action in the manner in which they were applied. And accordingly, the DOT's determinations with respect to applications for licensure both issued and denied in the process are null, void, and of no legal effect.

3.

CONCLUSION

Based on the foregoing, it is respectfully requested that Plaintiffs' Motion for Preliminary Injunction be granted in all respects.

Dated this 10th day of June, 2019.

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CERTIFICATE OF SERVICE

The undersigned, an employee of Gentile Cristalli Miller Armeni Savarese, hereby certifies that on the 10th day of June, 2019, I served a copy of **PLAINTIFFS' SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**, by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's **Odyssey E-File & Serve**, system addressed to:

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EXHIBIT A

EXHIBIT A

INITIATIVE PETITION NO. 1

FEBRUARY 2, 2015

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to marijuana and marijuana establishments.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets [~~omitted material~~] is material to be omitted.

AN ACT relating to marijuana; requiring the Department of Taxation to adopt regulations relating to the license to operate and operation of a marijuana establishment; providing for disciplinary action against a marijuana establishment which violates laws regulating the establishment; authorizing the possession, use, consumption, purchase, processing and transportation of certain quantities of marijuana by certain persons in this State; authorizing the possession, use, transportation and purchase of marijuana paraphernalia by certain persons in this State; authorizing certain other acts relating to marijuana; making contracts relating to the operation of marijuana establishments enforceable; providing for the licensure of marijuana distributors; providing for licensure of marijuana establishments; providing a fee for the application for a license to operate a marijuana establishment and for an annual licensing fee; establishing certain requirements for marijuana establishments; imposing an excise tax on wholesale sales of marijuana by a marijuana cultivation facility; providing penalties; and providing other matters properly relating thereto.

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

Section 1. Short Title. Sections 1 to 18, inclusive, of this act may be cited as the Regulation and Taxation of Marijuana Act.

Sec. 2. Preamble.

In the interest of the public health and public safety, and in order to better focus state and local law enforcement resources on crimes involving violence and personal property, the People of the State of Nevada find and declare that the use of marijuana should be legal for persons 21 years of age or older, and its cultivation and sale should be regulated similar to other legal businesses.

The People of the State of Nevada declare that the cultivation and sale of marijuana should be taken from the domain of criminals and be regulated under a controlled system, where businesses will be taxed and the revenue will be dedicated to public education and to the enforcement of the regulations in this act.

The People of the State of Nevada proclaim that marijuana should be regulated in a manner similar to alcohol so that:

(a) Marijuana may only be purchased from a business that is licensed by the State of Nevada;

(b) Business owners are subject to a review by the State of Nevada to confirm that the business owners and the business location are suitable to produce or sell marijuana;

(c) Cultivating, manufacturing, testing, transporting, and selling marijuana will be strictly controlled through state licensing and regulation;

(d) Selling or giving marijuana to persons under 21 years of age shall remain illegal;

(e) Individuals will have to be 21 years of age or older to purchase marijuana;

(f) Driving under the influence of marijuana will remain illegal; and

(g) Marijuana sold in the state will be tested and labeled.

Sec. 3. Definitions. As used in sections 1 to 18, inclusive, of this act, unless the context otherwise requires:

1. "Community facility" means a facility licensed to provide day care to children, a public park, a public playground, a public swimming pool, a center or facility the primary purpose of which is to provide recreational opportunities or services to children or adolescents, or a church, synagogue, or other building, structure, or place used for religious worship or other religious purpose.

2. "Concentrated marijuana" means the separated resin, whether crude or purified, obtained from marijuana.

3. "Consumer" means a person who is 21 years of age or older who purchases marijuana or marijuana products for use by persons 21 years of age or older, but not for resale to others.

4. "Department" means the Department of Taxation.

5. "Dual Licensee" means a person or group of persons who possess a current, valid registration certificate to operate a medical

marijuana establishment pursuant to Chapter 453A of NRS and a license to operate a marijuana establishment under sections 1 to 18, inclusive, of this act.

6. "Excluded felony offense" means a conviction of an offense that would constitute a category A felony if committed in Nevada or convictions for two or more offenses that would constitute felonies if committed in Nevada. "Excluded felony offense" does not include:

(a) A criminal offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed more than 10 years ago; or

(b) An offense involving conduct that would be immune from arrest, prosecution, or penalty pursuant to Chapter 453A of NRS, except that the conduct occurred before the effective date of Chapter 453A of NRS, or was prosecuted by an authority other than the State of Nevada.

7. "Locality" means a city or town, or, in reference to a location outside the boundaries of a city or town, a county.

8. "Marijuana" means all parts of any plant of the genus Cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Marijuana" does not include:

(a) The mature stems of the plant, fiber produced from the stems, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stems (except the resin extracted therefrom), fiber, oil, or cake, the sterilized seed of the plant which is incapable of germination; or

(b) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

9. "Marijuana cultivation facility" means an entity licensed to cultivate, process, and package marijuana, to have marijuana tested by a marijuana testing facility, and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

10. "Marijuana distributor" means an entity licensed to transport marijuana from a marijuana establishment to another marijuana establishment.

11. "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a marijuana distributor, or a retail marijuana store.

12. "Marijuana product manufacturing facility" means an entity licensed to purchase marijuana, manufacture, process, and package marijuana and marijuana products, and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

13. "Marijuana products" means products comprised of marijuana or concentrated marijuana and other ingredients that are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

14. "Marijuana paraphernalia" means 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, repacking, storing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

15. "Marijuana testing facility" means an entity licensed to test marijuana and marijuana products, including for potency and contaminants.

16. "Process" means to harvest, dry, cure, trim, and separate parts of the marijuana plant by manual or mechanical means, such as sieving or ice water separation, but not by chemical extraction or chemical synthesis.

17. "Public place" means an area to which the public is invited or in which the public is permitted regardless of age. "Public place" does not include a retail marijuana store.

18. "Retail marijuana store" means an entity licensed to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities and retail marijuana stores, and to sell marijuana and marijuana products to consumers.

19. "Unreasonably Impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

Sec. 4. Limitations. 1. Sections 1 to 18 do not permit any person to engage in and do not prevent the imposition of any civil, criminal, or other penalty for:

(a) Driving, operating, or being in actual physical control of a vehicle, aircraft, or vessel under power or sail while under the influence of marijuana or while impaired by marijuana;

(b) Knowingly delivering, giving, selling, administering, or offering to sell, administer, give, or deliver marijuana to a person under 21 years of age, unless:

(1) The recipient is permitted to possess marijuana pursuant to Chapter 453A of NRS; or

(2) The person demanded and was shown bona fide documentary evidence of the majority and identity of the recipient issued by a federal, state, county, or municipal government, or subdivision or agency thereof;

(c) Possession or use of marijuana or marijuana paraphernalia on the grounds of, or within, any facility or institution under the jurisdiction of the Nevada Department of Corrections;

(d) Possession or use of marijuana on the grounds of, or within, a school providing instruction in preschool, kindergarten, or any grades 1 through 12; or

(e) Undertaking any task under the influence of marijuana that constitutes negligence or professional malpractice.

2. Sections 1 to 18 do not prohibit:

(a) A public or private employer from maintaining, enacting, and enforcing a workplace policy prohibiting or restricting actions or conduct otherwise permitted under sections 1 to 18, inclusive, of this act;

(b) A state or local government agency that occupies, owns, or controls a building from prohibiting or otherwise restricting the consumption, cultivation, processing, manufacture, sale, delivery, or transfer of marijuana in that building;

(c) A person who occupies, owns, or controls a privately owned property from prohibiting or otherwise restricting the smoking, cultivation, processing, manufacture, sale, delivery, or transfer of marijuana on that property; or

(d) A locality from adopting and enforcing local marijuana control measures pertaining to zoning and land use for marijuana establishments.

3. Nothing in the provisions of sections 1 to 18, inclusive, of this act shall be construed as in any manner affecting the provisions of Chapter 453A of NRS relating to the medical use of marijuana.

Sec. 5. Powers and duties of the Department. 1. Not later than 12 months after the effective date of this act, the Department shall adopt all regulations necessary or convenient to carry out the provisions of sections 1 to 18, inclusive, of this act. The regulations must not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. The regulations shall include:

(a) Procedures for the issuance, renewal, suspension, and revocation of a license to operate a marijuana establishment;

(b) Qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment;

(c) Requirements for the security of marijuana establishments;

(d) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under 21 years of age;

(e) Requirements for the packaging of marijuana and marijuana products, including requirements for child-resistant packaging;

(f) Requirements for the testing and labeling of marijuana and marijuana products sold by marijuana establishments including a numerical indication of potency based on the ratio of THC to the weight of a product intended for oral consumption;

(g) Requirements for record keeping by marijuana establishments;

(h) Reasonable restrictions on signage, marketing, display, and advertising;

(i) Procedures for the collection of taxes, fees, and penalties imposed by sections 1 to 18, inclusive, of this act;

(j) Procedures and requirements to enable the transfer of a license for a marijuana establishment to another qualified person and to enable a licensee to move the location of its establishment to another suitable location;

(k) Procedures and requirements to enable a dual licensee to operate medical marijuana establishments and marijuana establishments at the same location;

(l) Procedures to establish the fair market value at wholesale of marijuana; and

(m) Civil penalties for the failure to comply with any regulation adopted pursuant to this section or for any violation of the provisions of section 13 of this act.

2. The Department shall approve or deny applications for licenses pursuant to section 9 of this act.

3. The Department may by motion or on complaint, after investigation, notice of the specific violation, and an opportunity for a hearing, pursuant to the provisions of Chapter 233B of NRS, suspend, revoke, or fine a licensee for the violation of sections 1 to 18, inclusive, of this act or for a violation of a regulation adopted by the Department pursuant to this section.

4. The Department may immediately suspend the license of any marijuana establishment if the marijuana establishment knowingly sells, delivers, or otherwise transfers marijuana in violation of sections 1 to 18, inclusive, of this act, or knowingly purchases marijuana from any person not licensed pursuant to sections 1 to 18, inclusive, of this act or to Chapter 453A of NRS. The Department must provide an opportunity for a hearing pursuant to the provisions of NRS 233B.121 within a reasonable time from a suspension pursuant to this subsection.

5. To ensure that individual privacy is protected:

(a) The Department shall not require a consumer to provide a retail marijuana store with identifying information other than government-issued identification to determine the consumer's age; and

(b) A retail marijuana store must not be required to acquire and record personal information about consumers other than information typically acquired in a financial transaction conducted at a retail liquor store.

6. The Department shall conduct a background check of each prospective owner, officer, and board member of a marijuana establishment license applicant.

7. The Department shall inspect marijuana establishments as necessary to enforce sections 1 to 18, inclusive, of this act or the regulations adopted pursuant to this section.

Sec. 6. Personal Use and Cultivation of Marijuana. Notwithstanding any other provision of Nevada law and the law of any political subdivision of Nevada, except as otherwise provided in sections 1 to 18, inclusive, of this act, it is lawful, in this State, and must not be used as the basis for prosecution or penalty by this State or a political subdivision of this State, and must not, in this State, be a basis for seizure or forfeiture of assets for persons 21 years of age or older to:

1. Possess, use, consume, purchase, obtain, process, or transport marijuana paraphernalia, one ounce or less of marijuana other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana;

2. Possess, cultivate, process, or transport not more than six marijuana plants for personal use and possess the marijuana produced by the plants on the premises where the plants were grown, provided that:

(a) Cultivation takes place within a closet, room, greenhouse, or other enclosed area that is equipped with a lock or other security device that allows access only to persons authorized to access the area; and

(b) No more than 12 plants are possessed, cultivated, or processed at a single residence, or upon the grounds of that residence, at one time;

3. Give or otherwise deliver one ounce or less of marijuana, other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana without remuneration to a person provided that the transaction is not advertised or promoted to the public; or

4. Assist another person who is 21 years of age or older in any of the acts described in this section.

Sec. 7. Marijuana Paraphernalia Authorized. Notwithstanding any other provision of Nevada law and the law of any political subdivision of Nevada, it is not unlawful and shall not be an offense or be a basis for seizure or forfeiture of assets for persons 21 years of age or older to manufacture, possess, use, transport, or purchase marijuana paraphernalia, or to distribute or sell marijuana paraphernalia to a person who is 21 years of age or older.

Sec. 8. Lawful operation of marijuana establishments. Notwithstanding any other provision of Nevada law and the law of any political subdivision of Nevada, except as otherwise provided in sections 1 to 18, inclusive, of this act, or the regulations adopted pursuant to section 5 of this act, it is lawful and must not, in this State, be used as the basis for prosecution or penalty by this State or a political subdivision of this State, and must not, in this State, be a basis for seizure or forfeiture of assets for persons 21 years of age or older to:

1. Possess marijuana and marijuana products, purchase marijuana from a marijuana cultivation facility, purchase marijuana and marijuana products from a marijuana product manufacturing facility, return marijuana or marijuana products to a facility from which they were purchased, transport marijuana and marijuana products to or from a marijuana testing facility, use the services of a marijuana distributor to transport marijuana or marijuana products to or from marijuana establishments, or sell marijuana and marijuana products to consumers, if the person conducting the activities described in this subsection has a current, valid license to operate a retail marijuana store or is acting in the person's capacity as an agent of a retail marijuana store.

2. Cultivate, harvest, process, package, or possess marijuana, sell marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store, transport marijuana to or from a marijuana cultivation facility, a marijuana product manufacturing facility, or a marijuana testing facility, use the services of a marijuana distributor to transport marijuana to or from marijuana establishments, or purchase marijuana from a marijuana cultivation facility, if the person conducting the activities described in this paragraph has a current, valid license to operate a marijuana cultivation facility or is acting in his or her capacity as an agent of a marijuana cultivation facility.

3. Package, process, manufacture, or possess marijuana and marijuana products, transport marijuana and marijuana products to or from a marijuana testing facility, a marijuana cultivation facility, or a marijuana product manufacturing facility, use the services of a marijuana distributor to transport marijuana or marijuana products to or from marijuana establishments, sell marijuana and marijuana

products to a retail marijuana store or a marijuana product manufacturing facility, purchase marijuana from a marijuana cultivation facility, or purchase marijuana and marijuana products from a marijuana product manufacturing facility, if the person conducting the activities described in this paragraph has a current, valid license to operate a marijuana product manufacturing facility or is acting in his or her capacity as an agent of a marijuana product manufacturing facility.

4. Possess marijuana and marijuana products and transfer and transport marijuana and marijuana products between marijuana establishments, if the person transporting the marijuana and marijuana products has a current, valid license to operate as a marijuana distributor or is acting in his or her capacity as an agent of a marijuana distributor.

5. Possess, process, repackage, transport, or test marijuana and marijuana products if the person has a current, valid license to operate a marijuana testing facility or is acting in his or her capacity as an agent of a marijuana testing facility.

6. Lease or otherwise allow property owned, occupied, or controlled by any person, corporation, or other entity to be used for any of the activities conducted lawfully in accordance with this section.

Sec. 9. Contracts pertaining to marijuana enforceable. It is the public policy of the People of the State of Nevada that contracts related to the operation of marijuana establishments under sections 1 to 18, inclusive, of this act should be enforceable, and no contract entered into by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Department, or by those who allow property to be used by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Department, shall be deemed unenforceable on the basis that the actions or conduct permitted pursuant to the license are prohibited by federal law.

Sec. 10. Certification of marijuana establishments. 1. No later than 12 months after the effective date of this act, the Department shall begin receiving applications for marijuana establishments.

2. For 18 months after the Department begins to receive applications for marijuana establishments, the Department shall only accept applications for licenses for retail marijuana stores, marijuana product manufacturing facilities, and marijuana cultivation facilities pursuant to sections 1 to 18, inclusive, of this act, from persons holding a medical marijuana establishment registration certificate pursuant to Chapter 453A of NRS.

3. For 18 months after the Department begins to receive applications for marijuana establishments, the Department shall issue licenses for marijuana distributors pursuant to sections 1 to 18, inclusive, of this act, only to persons holding a wholesale dealer license pursuant to Chapter 369 of NRS, unless the Department determines that an insufficient number of marijuana distributors will result from this limitation.

4. Upon receipt of a complete marijuana establishment license application, the Department shall, within 90 days:

(a) Issue the appropriate license if the license application is approved; or

(b) Send a notice of rejection setting forth the reasons why the Department did not approve the license application.

5. The Department shall approve a license application if:

(a) The prospective marijuana establishment has submitted an application in compliance with regulations adopted by the Department and the application fee required pursuant to section 12;

(b) The physical address where the proposed marijuana establishment will operate is owned by the applicant or the applicant has the written permission of the property owner to operate the proposed marijuana establishment on that property;

(c) The property is not located within:

(1) 1,000 feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12 and that existed on the date on which the application for the proposed marijuana establishment was submitted to the Department; or

(2) 300 feet of a community facility that existed on the date on which the application for the proposed marijuana establishment was submitted to the Department;

(d) The proposed marijuana establishment is a proposed retail marijuana store and there are not more than:

(1) 80 licenses already issued in a county with a population greater than 700,000;

(2) 20 licenses already issued in a county with a population that is less than 700,000 but more than 100,000;

(3) 4 licenses already issued in a county with a population that is less than 100,000 but more than 55,000;

(4) 2 licenses already issued in a county with a population that is less than 55,000;

(5) Upon request of a county government, the Department may issue retail marijuana store licenses in that county in addition to the number otherwise allowed pursuant to this paragraph;

(e) The locality in which the proposed marijuana establishment will be located does not affirm to the Department that the proposed

marijuana establishment will be in violation of zoning or land use rules adopted by the locality; and

(f) The persons who are proposed to be owners, officers, or board members of the proposed marijuana establishment:

(1) Have not been convicted of an excluded felony offense; and

(2) Have not served as an owner, officer, or board member for a medical marijuana establishment or a marijuana establishment that has had its registration certificate or license revoked.

6. Competing applications. When competing applications are submitted for a proposed retail marijuana store within a single county, the Department shall use an impartial and numerically scored competitive bidding process to determine which application or applications among those competing will be approved.

Sec. 11. Expiration and renewal. 1. All licenses expire one year after the date of issue.

2. The Department shall issue a renewal license within 10 days of receipt of the prescribed renewal application and renewal fee from a marijuana establishment if its license is not under suspension or has not been revoked.

Sec. 12. Fee schedule. 1. The Department shall require each applicant for a marijuana establishment license to pay a one-time application fee of $5,000.

2. The Department may require payment of an annual licensing fee not to exceed:

For the initial issuance of a license for a retail marijuana store	$20,000
For a renewal license for a retail marijuana store	$6,600
For the initial issuance of a license for a marijuana cultivation facility	$30,000
For a renewal license for a marijuana cultivation facility	$10,000
For the initial issuance of a license for a marijuana product manufacturing facility	$10,000
For a renewal license for a marijuana product manufacturing facility	$3,300
For the initial issuance of a license for a marijuana distributor	$15,000
For a renewal license for a marijuana distributor	$5,000
For the initial issuance of a license for a marijuana testing facility	$15,000
For a renewal license for a marijuana testing facility	$5,000

Sec. 13. Marijuana establishment operating requirements. In addition to requirements established by rule pursuant to section 5 of this act:

1. Marijuana establishments shall:

(a) Secure every entrance to the establishment so that access to areas containing marijuana is restricted to persons authorized to possess marijuana;

(b) Secure the inventory and equipment of the marijuana establishment during and after operating hours to deter and prevent theft of marijuana;

(c) Determine the criminal history of any person before the person works or volunteers at the marijuana establishment and prevent any person who has been convicted of an excluded felony offense or who is not 21 years of age or older from working or volunteering for the marijuana establishment.

2. All cultivation, processing, and manufacture of marijuana must take place at a physical address approved by the Department and within an area that is enclosed and locked in a manner that restricts access only to persons authorized to access the area. The area may be uncovered only if it is enclosed with security fencing that is designed to prevent unauthorized entry and that is at least 8 feet high.

3. All cultivation, processing, and manufacture of marijuana must not be visible from a public place by normal unaided vision.

4. All cultivation, processing, and manufacture of marijuana must take place on property in the marijuana establishment's lawful possession or with the consent of the person in lawful physical possession of the property.

5. A marijuana establishment is subject to reasonable inspection by the Department, and a person who holds a marijuana establishment license must make himself or herself, or an agent thereof, available and present for any inspection required by the Department. The Department shall make reasonable accommodations so that ordinary business is not interrupted and safety and security procedures are not compromised by the inspection.

Sec. 14. Penalties. 1. Restrictions on personal cultivation.

(a) Except as otherwise provided in 453A of NRS, any person who:

(1) Cultivates marijuana plants within 25 miles of a retail marijuana store licensed pursuant to sections 1 to 18, inclusive, of this act, unless the person is a marijuana cultivation facility or a person acting in his or her capacity as an agent of a marijuana cultivation facility;

(2) Cultivates marijuana plants where they are visible from a public place by normal unaided vision; or

(3) Cultivates marijuana on property not in the cultivator's lawful possession or without the consent of the person in lawful physical possession of the property;

(b) Is guilty of:

(1) For a first violation, a misdemeanor punished by a fine of not more than $600.

(2) For a second violation, a misdemeanor punished by a fine of not more than $1,000.

(3) For a third violation, a gross misdemeanor.

(4) For a fourth or subsequent violation, a category E felony.

2. A person who smokes or otherwise consumes marijuana in a public place, in a retail marijuana store, or in a moving vehicle is guilty of a misdemeanor punished by a fine of not more than $600.

3. A person under 21 years of age who falsely represents himself or herself to be 21 years of age or older to obtain marijuana is guilty of a misdemeanor.

4. A person under 21 years of age who knowingly enters, loiters, or remains on the premises of a marijuana establishment shall be punished by a fine of not more than $500 unless the person is authorized to possess marijuana pursuant to Chapter 453A NRS and the marijuana establishment is a dual licensee.

5. A person who manufactures marijuana by chemical extraction or chemical synthesis, unless done pursuant to a marijuana product manufacturing license issued by the Department or authorized by Chapter 453A of NRS, is guilty of a category E felony.

6. A person who knowingly gives marijuana to any person under 21 years of age, or who knowingly leaves or deposits any marijuana in any place with the intent that it will be procured by any person under 21 years of age is guilty of a misdemeanor.

7. A person who knowingly gives marijuana to any person under 18 years of age, or who knowingly leaves or deposits any marijuana in any place with the intent that it will be procured by any person under 18 years of age is guilty of a gross misdemeanor.

8. Notwithstanding the provisions of sections 1 to 18, inclusive, of this act, after the effective date of this act, the legislature may amend provisions of this act to provide for the conditions in which a locality may permit consumption of marijuana in a retail marijuana store.

Sec. 15. Marijuana excise tax. 1. An excise tax is hereby imposed and must be collected by the State respecting wholesale sales of marijuana in this State by a marijuana cultivation facility at

a rate of 15 percent of the fair market value at wholesale of the marijuana. The tax imposed pursuant to this subsection:

(a) Is the obligation of the marijuana cultivation facility; and

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

Sec. 16. Any tax revenues, fees, or penalties collected pursuant to sections 1 to 18, inclusive, of this act, first must be expended to pay the costs of the Department and of each locality in carrying out sections 1 to 8, inclusive, of this act and the regulations adopted pursuant thereto. The Department shall remit any remaining money to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.

Sec. 17. Severability. 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. 18. Effective Date. This act shall become effective on October 1, 2015 if approved by the legislature, or on January 1, 2017 if approved by the voters.

EXHIBIT B

EXHIBIT B

CHAPTER 453D - REGULATION AND TAXATION OF MARIJUANA

NRS 453D.010 Short title. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.] This chapter may be cited as the Regulation and Taxation of Marijuana Act.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.020 Findings and declarations. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.]

1. In the interest of public health and public safety, and in order to better focus state and local law enforcement resources on crimes involving violence and personal property, the People of the State of Nevada find and declare that the use of marijuana should be legal for persons 21 years of age or older, and its cultivation and sale should be regulated similar to other legal businesses.

2. The People of the State of Nevada find and declare that the cultivation and sale of marijuana should be taken from the domain of criminals and be regulated under a controlled system, where businesses will be taxed and the revenue will be dedicated to public education and the enforcement of the regulations of this chapter.

3. The People of the State of Nevada proclaim that marijuana should be regulated in a manner similar to alcohol so that:

(a) Marijuana may only be purchased from a business that is licensed by the State of Nevada;

(b) Business owners are subject to a review by the State of Nevada to confirm that the business owners and the business location are suitable to produce or sell marijuana;

(c) Cultivating, manufacturing, testing, transporting and selling marijuana will be strictly controlled through state licensing and regulation;

(d) Selling or giving marijuana to persons under 21 years of age shall remain illegal;

(e) Individuals will have to be 21 years of age or older to purchase marijuana;

(f) Driving under the influence of marijuana will remain illegal; and

(g) Marijuana sold in the State will be tested and labeled.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.030 Definitions. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.] As used in this chapter, unless the context otherwise requires:

1. "Community facility" means a facility licensed to provide day care to children, a public park, a public playground, a public swimming pool, a center or facility the primary purpose of which is to provide recreational opportunities or services to children or adolescents, or a church, synagogue, or other building, structure, or place used for religious worship or other religious purpose.

2. "Concentrated marijuana" means the separated resin, whether crude or purified, obtained from marijuana.

3. "Consumer" means a person who is 21 years of age or older who purchases marijuana or marijuana products for use by persons 21 years of age or older, but not for resale to others.

4. "Department" means the Department of Taxation.

5. "Dual licensee" means a person or group of persons who possess a current, valid registration certificate to operate a medical marijuana establishment pursuant to chapter 453A of NRS and a license to operate a marijuana establishment under this chapter.

6. "Excluded felony offense" means a conviction of an offense that would constitute a category A felony if committed in Nevada or convictions for two or more offenses that would constitute felonies if committed in Nevada. "Excluded felony offense" does not include:

(a) A criminal offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed more than 10 years ago; or

(b) An offense involving conduct that would be immune from arrest, prosecution, or penalty pursuant to chapter 453A of NRS, except that the conduct occurred before the effective date of chapter 453A of NRS (October 1, 2001), or was prosecuted by an authority other than the State of Nevada.

7. "Locality" means a city or town, or, in reference to a location outside the boundaries of a city or town, a county.

8. "Marijuana" means all parts of any plant of the genus *Cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Marijuana" does not include:

(a) The mature stems of the plant, fiber produced from the stems, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stems (except the resin extracted therefrom), fiber, oil, or cake, the sterilized seed of the plant which is incapable of germination; or

(b) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

9. "Marijuana cultivation facility" means an entity licensed to cultivate, process, and package marijuana, to have marijuana tested by a marijuana testing facility, and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

10. "Marijuana distributor" means an entity licensed to transport marijuana from a marijuana establishment to another marijuana establishment.

11. "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a marijuana distributor, or a retail marijuana store.

12. "Marijuana product manufacturing facility" means an entity licensed to purchase marijuana, manufacture, process, and package marijuana and marijuana products, and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

13. "Marijuana products" means products comprised of marijuana or concentrated marijuana and other ingredients that are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

14. "Marijuana paraphernalia" means 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, repacking, storing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

15. "Marijuana testing facility" means an entity licensed to test marijuana and marijuana products, including for potency and contaminants.

16. "Process" means to harvest, dry, cure, trim, and separate parts of the marijuana plant by manual or mechanical means, such as sieving or ice water separation, but not by chemical extraction or chemical synthesis.

17. "Public place" means an area to which the public is invited or in which the public is permitted regardless of age. "Public place" does not include a retail marijuana store.

18. "Retail marijuana store" means an entity licensed to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities and retail marijuana stores, and to sell marijuana and marijuana products to consumers.

19. "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.100 Effect of chapter. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.]

1. The provisions of this chapter do not permit any person to engage in and do not prevent the imposition of any civil, criminal, or other penalty for:

(a) Driving, operating, or being in actual physical control of a vehicle, aircraft, or vessel under power or sail while under the influence of marijuana or while impaired by marijuana;

(b) Knowingly delivering, giving, selling, administering, or offering to sell, administer, give, or deliver marijuana to a person under 21 years of age, unless:

(1) The recipient is permitted to possess marijuana pursuant to chapter 453A of NRS; or

(2) The person demanded and was shown bona fide documentary evidence of the majority and identity of the recipient issued by a federal, state, county, or municipal government, or subdivision or agency thereof;

(c) Possession or use of marijuana or marijuana paraphernalia on the grounds of, or within, any facility or institution under the jurisdiction of the Nevada Department of Corrections;

(d) Possession or use of marijuana on the grounds of, or within, a school providing instruction in preschool, kindergarten, or any grades 1 through 12; or

(e) Undertaking any task under the influence of marijuana that constitutes negligence or professional malpractice.

2. The provisions of this chapter do not prohibit:

(a) A public or private employer from maintaining, enacting, and enforcing a workplace policy prohibiting or restricting actions or conduct otherwise permitted under this chapter;

(b) A state or local government agency that occupies, owns, or controls a building from prohibiting or otherwise restricting the consumption, cultivation, processing, manufacture, sale, delivery, or transfer of marijuana in that building;

(c) A person who occupies, owns, or controls a privately owned property from prohibiting or otherwise restricting the smoking, cultivation, processing, manufacture, sale, delivery, or transfer of marijuana on that property; or

(d) A locality from adopting and enforcing local marijuana control measures pertaining to zoning and land use for marijuana establishments.

3. Nothing in the provisions of this chapter shall be construed as in any manner affecting the provisions of chapter 453A of NRS relating to the medical use of marijuana.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.110 Exemption from state or local prosecution for certain acts involving marijuana and marijuana paraphernalia. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.] Notwithstanding any other provision of Nevada law and the law of any political subdivision of Nevada, except as otherwise provided in this chapter, it is lawful, in this State, and must not be used as the basis for prosecution or penalty by this State or a political subdivision of this State, and must not, in this State, be a basis for seizure or forfeiture of assets for persons 21 years of age or older to:

1. Possess, use, consume, purchase, obtain, process, or transport marijuana paraphernalia, one ounce or less of marijuana other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana;

2. Possess, cultivate, process, or transport not more than six marijuana plants for personal use and possess the marijuana produced by the plants on the premises where the plants were grown, provided that:

(a) Cultivation takes place within a closet, room, greenhouse, or other enclosed area that is equipped with a lock or other security device that allows access only to persons authorized to access the area; and

(b) No more than 12 plants are possessed, cultivated, or processed at a single residence, or upon the grounds of that residence, at one time;

3. Give or otherwise deliver one ounce or less of marijuana, other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana without remuneration to a person provided that the transaction is not advertised or promoted to the public; or

4. Assist another person who is 21 years of age or older in any of the acts described in this section.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.120 Additional exemption from state or local prosecution for certain acts involving marijuana and marijuana products. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.] Notwithstanding any other provision of Nevada law and the law of any political subdivision of Nevada, except as otherwise provided in this chapter or the regulations adopted pursuant to NRS 453D.200, it is lawful and must not, in this State, be used as the basis for prosecution or penalty by this State or a political subdivision of this State, and must not, in this State, be a basis for seizure or forfeiture of assets for persons 21 years of age or older to:

1. Possess marijuana and marijuana products, purchase marijuana from a marijuana cultivation facility, purchase marijuana and marijuana products from a marijuana product manufacturing facility, return marijuana or marijuana products to a facility from which they were purchased, transport marijuana and marijuana products to or from a marijuana testing facility, use the services of a marijuana distributor to transport marijuana or marijuana products to or from marijuana establishments, or sell marijuana and marijuana products to consumers, if the person conducting the activities described in this subsection has a current, valid license to operate a retail marijuana store or is acting in the person's capacity as an agent of a retail marijuana store.

2. Cultivate, harvest, process, package, or possess marijuana, sell marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store, transport marijuana to or from a marijuana cultivation facility, a marijuana product manufacturing facility, or a marijuana testing facility, use the services of a marijuana distributor to transport marijuana to or from marijuana establishments, or purchase marijuana from a marijuana cultivation facility, if the person conducting the activities described in this subsection has a current, valid license to operate a marijuana cultivation facility or is acting in his or her capacity as an agent of a marijuana cultivation facility.

3. Package, process, manufacture, or possess marijuana and marijuana products, transport marijuana and marijuana products to or from a marijuana testing facility, a marijuana cultivation facility, or a marijuana product manufacturing facility, use the services of a marijuana distributor to transport marijuana or marijuana products to or from marijuana establishments, sell marijuana and marijuana products to a retail marijuana store or a marijuana product manufacturing facility, purchase marijuana from a marijuana cultivation facility, or purchase marijuana and marijuana products from a marijuana product manufacturing facility, if the person conducting the activities described in this subsection has a current, valid license to operate a marijuana product manufacturing facility or is acting in his or her capacity as an agent of a marijuana product manufacturing facility.

4. Possess marijuana and marijuana products and transfer and transport marijuana and marijuana products between marijuana establishments, if the person transporting the marijuana and marijuana products has a current, valid license to operate as a marijuana distributor or is acting in his or her capacity as an agent of a marijuana distributor.

5. Possess, process, repackage, transport, or test marijuana and marijuana products if the person has a current, valid license to operate a marijuana testing facility or is acting in his or her capacity as an agent of a marijuana testing facility.

6. Lease or otherwise allow property owned, occupied, or controlled by any person, corporation, or other entity to be used for any of the activities conducted lawfully in accordance with this section.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.130 No crime for certain acts involving marijuana paraphernalia. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.] Notwithstanding any other provision of Nevada law and the law of any political subdivision of Nevada, it is not unlawful and shall not be an offense or be a basis for seizure or forfeiture of assets for persons 21 years of age or older to manufacture, possess, use, transport, or purchase marijuana paraphernalia, or to distribute or sell marijuana paraphernalia to a person who is 21 years of age or older.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.140 Enforcement of contracts. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.] It is the public policy of the People of the State of Nevada that contracts related to the operation of marijuana establishments under this chapter should be enforceable, and no contract entered into by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Department, or by those who allow property to be used by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Department, shall be deemed unenforceable on the basis that the actions or conduct permitted pursuant to the license are prohibited by federal law.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.200 Duties of Department relating to regulation and licensing of marijuana establishments; information about consumers. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.]

1. Not later than January 1, 2018, the Department shall adopt all regulations necessary or convenient to carry out the provisions of this chapter. The regulations must not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. The regulations shall include:

(a) Procedures for the issuance, renewal, suspension, and revocation of a license to operate a marijuana establishment;

(b) Qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment;

(c) Requirements for the security of marijuana establishments;

(d) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under 21 years of age;

(e) Requirements for the packaging of marijuana and marijuana products, including requirements for child-resistant packaging;

(f) Requirements for the testing and labeling of marijuana and marijuana products sold by marijuana establishments including a numerical indication of potency based on the ratio of THC to the weight of a product intended for oral consumption;

(g) Requirements for record keeping by marijuana establishments;

(h) Reasonable restrictions on signage, marketing, display, and advertising;

(i) Procedures for the collection of taxes, fees, and penalties imposed by this chapter;

(j) Procedures and requirements to enable the transfer of a license for a marijuana establishment to another qualified person and to enable a licensee to move the location of its establishment to another suitable location;

(k) Procedures and requirements to enable a dual licensee to operate medical marijuana establishments and marijuana establishments at the same location;

(l) Procedures to establish the fair market value at wholesale of marijuana; and

(m) Civil penalties for the failure to comply with any regulation adopted pursuant to this section or for any violation of the provisions of NRS 453D.300.

2. The Department shall approve or deny applications for licenses pursuant to NRS 453D.210.

3. The Department may by motion or on complaint, after investigation, notice of the specific violation, and an opportunity for a hearing, pursuant to the provisions of chapter 233B of NRS, suspend, revoke, or fine a licensee for the violation of this chapter or for a violation of a regulation adopted by the Department pursuant to this section.

4. The Department may immediately suspend the license of any marijuana establishment if the marijuana establishment knowingly sells, delivers, or otherwise transfers marijuana in violation of this chapter or knowingly purchases marijuana from any person not licensed pursuant to this chapter or to chapter 453A of NRS. The Department must provide an opportunity for a hearing pursuant to the provisions of NRS 233B.121 within a reasonable time from a suspension pursuant to this subsection.

5. To ensure that individual privacy is protected:

(a) The Department shall not require a consumer to provide a retail marijuana store with identifying information other than government-issued identification to determine the consumer's age; and

(b) A retail marijuana store must not be required to acquire and record personal information about consumers other than information typically acquired in a financial transaction conducted at a retail liquor store.

6. The Department shall conduct a background check of each prospective owner, officer, and board member of a marijuana establishment license applicant.

7. The Department shall inspect marijuana establishments as necessary to enforce this chapter or the regulations adopted pursuant to this section.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.205 Department or marijuana establishment authorized to require person to submit fingerprints when conducting background check or determining criminal history.

1. When conducting a background check pursuant to subsection 6 of NRS 453D.200, the Department may require each prospective owner, officer and board member of a marijuana establishment license applicant to submit a complete set of fingerprints and written permission authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. When determining the criminal history of a person pursuant to paragraph (c) of subsection 1 of NRS 453D.300, a marijuana establishment may require the person to submit to the Department a complete set of fingerprints and written permission authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(Added to NRS by 2017, 3711)

NRS 453D.210 Acceptance of applications for licensing; priority in licensing; conditions for approval of application; limitations on issuance of licenses to retail marijuana stores; competing applications. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.]

1. No later than 12 months after January 1, 2017, the Department shall begin receiving applications for marijuana establishments.

2. For 18 months after the Department begins to receive applications for marijuana establishments, the Department shall only accept applications for licenses for retail marijuana stores, marijuana product manufacturing facilities, and marijuana cultivation facilities pursuant to this chapter from persons holding a medical marijuana establishment registration certificate pursuant to chapter 453A of NRS.

3. For 18 months after the Department begins to receive applications for marijuana establishments, the Department shall issue licenses for marijuana distributors pursuant to this chapter only to persons holding a wholesale dealer license pursuant to chapter 369 of NRS, unless the Department determines that an insufficient number of marijuana distributors will result from this limitation.

4. Upon receipt of a complete marijuana establishment license application, the Department shall, within 90 days:

(a) Issue the appropriate license if the license application is approved; or

(b) Send a notice of rejection setting forth the reasons why the Department did not approve the license application.

5. The Department shall approve a license application if:

(a) The prospective marijuana establishment has submitted an application in compliance with regulations adopted by the Department and the application fee required pursuant to NRS 453D.230;

(b) The physical address where the proposed marijuana establishment will operate is owned by the applicant or the applicant has the written permission of the property owner to operate the proposed marijuana establishment on that property;

(c) The property is not located within:

(1) One thousand feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12 and that existed on the date on which the application for the proposed marijuana establishment was submitted to the Department; or

(2) Three hundred feet of a community facility that existed on the date on which the application for the proposed marijuana establishment was submitted to the Department;

(d) The proposed marijuana establishment is a proposed retail marijuana store and there are not more than:

(1) Eighty licenses already issued in a county with a population greater than 700,000;

(2) Twenty licenses already issued in a county with a population that is less than 700,000 but more than 100,000;

(3) Four licenses already issued in a county with a population that is less than 100,000 but more than 55,000;

(4) Two licenses already issued in a county with a population that is less than 55,000;

(5) Upon request of a county government, the Department may issue retail marijuana store licenses in that county in addition to the number otherwise allowed pursuant to this paragraph;

(e) The locality in which the proposed marijuana establishment will be located does not affirm to the Department that the proposed marijuana establishment will be in violation of zoning or land use rules adopted by the locality; and

(f) The persons who are proposed to be owners, officers, or board members of the proposed marijuana establishment:

(1) Have not been convicted of an excluded felony offense; and

(2) Have not served as an owner, officer, or board member for a medical marijuana establishment or a marijuana establishment that has had its registration certificate or license revoked.

6. When competing applications are submitted for a proposed retail marijuana store within a single county, the Department shall use an impartial and numerically scored competitive bidding process to determine which application or applications among those competing will be approved.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.220 Expiration and renewal of licenses. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.]

1. All licenses expire one year after the date of issue.

2. The Department shall issue a renewal license within 10 days of receipt of the prescribed renewal application and renewal fee from a marijuana establishment if its license is not under suspension or has not been revoked.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.230 Fees. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.]

1. The Department shall require each applicant for a marijuana establishment license to pay a one-time application fee of $5,000.

2. The Department may require payment of an annual licensing fee not to exceed:

For the initial issuance of a license for a retail marijuana store..... $20,000
For a renewal license for a retail marijuana store..... $6,600
For the initial issuance of a license for a marijuana cultivation facility.... $30,000
For a renewal license for a marijuana cultivation facility..... $10,000
For the initial issuance of a license for a marijuana product manufacturing facility $10,000
For a renewal license for a marijuana product manufacturing facility..... $3,300
For the initial issuance of a license for a marijuana distributor..... $15,000
For a renewal license for a marijuana distributor..... $5,000
For the initial issuance of a license for a marijuana testing facility..... $15,000
For a renewal license for a marijuana testing facility..... $5,000

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.300 Requirements for operation of marijuana establishment; inspection of establishment. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.] In addition to requirements established by rule pursuant to NRS 453D.200:

1. Marijuana establishments shall:

(a) Secure every entrance to the establishment so that access to areas containing marijuana is restricted to persons authorized to possess marijuana;

(b) Secure the inventory and equipment of the marijuana establishment during and after operating hours to deter and prevent theft of marijuana;

(c) Determine the criminal history of any person before the person works or volunteers at the marijuana establishment and prevent any person who has been convicted of an excluded felony offense or who is not 21 years of age or older from working or volunteering for the marijuana establishment.

2. All cultivation, processing, and manufacture of marijuana must take place at a physical address approved by the Department and within an area that is enclosed and locked in a manner that restricts access only to persons authorized to access the area. The area may be uncovered only if it is enclosed with security fencing that is designed to prevent unauthorized entry and that is at least 8 feet high.

3. All cultivation, processing, and manufacture of marijuana must not be visible from a public place by normal unaided vision.

4. All cultivation, processing, and manufacture of marijuana must take place on property in the marijuana establishment's lawful possession or with the consent of the person in lawful physical possession of the property.

5. A marijuana establishment is subject to reasonable inspection by the Department, and a person who holds a marijuana establishment license must make himself or herself, or an agent thereof, available and present for any inspection required by the Department. The Department shall make reasonable accommodations so that ordinary business is not interrupted and safety and security procedures are not compromised by the inspection.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.310 Requirements and restrictions concerning sale and advertising of marijuana products; requirements on marijuana product manufacturing facility and retail marijuana store; local government not prohibited from adopting more restrictive regulation concerning advertising. [Effective January 1, 2020.]

1. Each retail marijuana store and marijuana product manufacturing facility shall, in consultation with the Department, cooperate to ensure that all marijuana products offered for sale:

(a) Are labeled clearly and unambiguously:

(1) As marijuana with the words "THIS IS A MARIJUANA PRODUCT" in bold type; and

(2) As required by this chapter and any regulations adopted pursuant thereto.

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

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

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

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

(f) Are labeled in a manner which indicates the number of servings of THC in the product, measured in servings of a maximum of 10 milligrams per serving, and includes a statement that the product contains marijuana and its potency was tested with an allowable variance of the amount determined by the Department by regulation.

(g) Are not labeled or marketed as candy.

2. A marijuana product must be sold in a single package. A single package must not contain:

(a) For a marijuana product sold as a capsule, more than 100 milligrams of THC per capsule or more than 800 milligrams of THC per package.

(b) For a marijuana product sold as a tincture, more than 800 milligrams of THC.

(c) For a marijuana product sold as a food product, more than 100 milligrams of THC.

(d) For a marijuana product sold as a topical product, a concentration of more than 6 percent THC or more than 800 milligrams of THC per package.

(e) For a marijuana product sold as a suppository or transdermal patch, more than 100 milligrams of THC per suppository or transdermal patch or more than 800 milligrams of THC per package.

(f) For any other marijuana product, more than 800 milligrams of THC.

3. A marijuana product manufacturing facility shall not produce marijuana products in any form that:

(a) Is or appears to be a lollipop or ice cream.

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

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

(d) Is made by applying concentrated marijuana to a commercially available candy or snack food item other than dried fruit, nuts or granola.

4. A marijuana product manufacturing facility shall:

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

(b) Affix a label to each marijuana product intended for human consumption by oral ingestion which includes, without limitation, in a manner which must not mislead consumers, the following information:

(1) The words "Keep out of reach of children";

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

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

(4) The total weight of marijuana contained in the marijuana product or an equivalent measure of THC concentration.

(c) Maintain a washing area with hot water, soap and a hand dryer or disposable towels which is located away from any area in which marijuana products intended for human consumption by oral ingestion are cooked or otherwise prepared.

(d) Require each person who handles marijuana products intended for human consumption by oral ingestion to wear a hair net and clean clothing and keep his or her fingernails neatly trimmed.

(e) Package all marijuana products produced by the marijuana product manufacturing facility on the premises of the marijuana product manufacturing facility.

5. A retail marijuana store or marijuana product manufacturing facility shall not engage in advertising that in any way makes marijuana or marijuana products appeal to children, including, without limitation, advertising which uses an image of a cartoon character, mascot, action figure, balloon, fruit or toy.

6. Each retail marijuana store shall offer for sale containers for the storage of marijuana and marijuana products which lock and are designed to prohibit children from unlocking and opening the container.

7. A retail marijuana store shall:

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

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

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

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

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

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

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

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

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

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

8. If the health authority, as defined in NRS 446.050, where a marijuana product manufacturing facility or retail marijuana store which sells marijuana products intended for human consumption by oral ingestion is located requires persons who handle food at a food establishment to obtain certification, the marijuana product manufacturing facility or retail marijuana store shall ensure that at least one employee maintains such certification.

9. A marijuana establishment:

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

(1) Is false or misleading;

(2) Promotes overconsumption of marijuana or marijuana products;

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

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

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

(c) Shall not place an advertisement:

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

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

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

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

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

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

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

10. Nothing in subsection 9 shall be construed to prohibit a local government, pursuant to chapter 244, 268 or 278 of NRS, from adopting an ordinance for the regulation of advertising relating to marijuana which is more restrictive than the provisions of subsection 9 relating to:

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

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

(c) Any stationary or moving display that is located on or near the premises of a marijuana establishment.

(Added to NRS by 2017, 3665, effective January 1, 2020)

NRS 453D.320 Marijuana establishment prohibited from dispensing marijuana or marijuana products from vending machine. [Effective January 1, 2020.] A marijuana establishment shall not dispense or otherwise sell marijuana or marijuana products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises of the marijuana establishment.

(Added to NRS by 2017, 3711, effective January 1, 2020)

NRS 453D.400 Violations and penalties. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.]

1. Restrictions on personal cultivation.

(a) Except as otherwise provided in chapter 453A of NRS, any person who:

(1) Cultivates marijuana within 25 miles of a retail marijuana store licensed pursuant to this chapter, unless the person is a marijuana cultivation facility or a person acting in his or her capacity as an agent of a marijuana cultivation facility;

(2) Cultivates marijuana plants where they are visible from a public place by normal unaided vision; or

(3) Cultivates marijuana on property not in the cultivator's lawful possession or without the consent of the person in lawful physical possession of the property;

(b) Is guilty of:

(1) For a first violation, a misdemeanor punished by a fine of not more than $600.

(2) For a second violation, a misdemeanor punished by a fine of not more than $1,000.

(3) For a third violation, a gross misdemeanor.

(4) For a fourth or subsequent violation, a category E felony.

2. A person who smokes or otherwise consumes marijuana in a public place, in a retail marijuana store, or in a moving vehicle is guilty of a misdemeanor punished by a fine of not more than $600.

3. A person under 21 years of age who falsely represents himself or herself to be 21 years of age or older to obtain marijuana is guilty of a misdemeanor.

4. A person under 21 years of age who knowingly enters, loiters, or remains on the premises of a marijuana establishment shall be punished by a fine of not more than $500 unless the person is authorized to possess marijuana pursuant to chapter 453A of NRS and the marijuana establishment is a dual licensee.

5. A person who manufactures marijuana by chemical extraction or chemical synthesis, unless done pursuant to a marijuana product manufacturing license issued by the Department or authorized by chapter 453A of NRS, is guilty of a category E felony.

6. A person who knowingly gives marijuana to any person under 21 years of age, or who knowingly leaves or deposits any marijuana in any place with the intent that it will be procured by any person under 21 years of age is guilty of a misdemeanor.

7. A person who knowingly gives marijuana to any person under 18 years of age, or who knowingly leaves or deposits any marijuana in any place with the intent that it will be procured by any person under 18 years of age is guilty of a gross misdemeanor.

8. Notwithstanding the provisions of this chapter, after January 1, 2017, the Legislature may amend provisions of this act to provide for the conditions in which a locality may permit consumption of marijuana in a retail marijuana store.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.500 Imposition of tax on wholesale sales of marijuana by marijuana cultivation facility. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.] An excise tax is hereby imposed and must be collected by the State respecting wholesale sales of marijuana in this State by a marijuana cultivation facility at a rate of 15 percent of the fair market value at wholesale of the marijuana. The tax imposed pursuant to this section:

1. Is the obligation of the marijuana cultivation facility; and

2. Is separate from and in addition to any general state and local sales and use taxes that apply to retail sales of tangible personal property.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.510 Use of proceeds of tax, fees and penalties. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.] Any tax revenues, fees, or penalties collected pursuant to this chapter first must be expended to pay the costs of the Department and of each locality in carrying out this chapter and the regulations adopted pursuant thereto. The Department shall remit any remaining money to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

NRS 453D.600 Severability. [This section was proposed by an initiative petition and approved by the voters at the 2016 General Election and therefore is not subject to legislative amendment or repeal until after November 22, 2019.] If any provision of this chapter, 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 chapter as a whole or any provision or application of this chapter which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this chapter are declared to be severable.

(Added to NRS by 2016 initiative petition, Ballot Question No. 2)

EXHIBIT C

EXHIBIT C

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[NAC-453D Revised Date: 1-19]

CHAPTER 453D - REGULATION AND TAXATION OF MARIJUANA

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GENERAL PROVISIONS

NAC 453D.001 Definitions. (NRS 453D.200) As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 453D.005 to 453D.155, inclusive, have the meanings ascribed to them in those sections.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.005 "Analyte" defined. (NRS 453D.200) "Analyte" means any compound, element, contaminant organism, species or other substance for which a marijuana sample is tested by a marijuana testing facility.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.010 "Batch" defined. (NRS 453D.200) "Batch" means the usable flower and trim contained within one or more specific lots of marijuana grown by a marijuana cultivation facility from one or more seeds or cuttings of the same strain of marijuana and harvested on or before a specified final date of harvest.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.012 "Batch number" defined. (NRS 453D.200) "Batch number" means a unique numeric or alphanumeric identifier assigned to a batch by a marijuana establishment when the batch is planted.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.015 "CBD" defined. (NRS 453D.200) "CBD" means cannabidiol, which is a primary phytocannabinoid compound found in marijuana.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.018 "Combined marijuana establishment" defined. (NRS 453D.200) "Combined marijuana establishment" means a group of marijuana establishments or medical marijuana establishments which:
1. Each share identical ownership; and
2. Are located on the same parcel of real estate.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.021 "Component marijuana establishment" defined. (NRS 453D.200) "Component marijuana establishment" means an individual marijuana establishment or medical marijuana establishment which is part of a combined marijuana establishment.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.025 "Designated primary caregiver" defined. (NRS 453D.200) "Designated primary caregiver" has the meaning ascribed to it in NRS 453A.080.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.028 "Division" defined. (NRS 453D.200) "Division" means the Division of Public and Behavioral Health of the Department of Health and Human Services.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.033 "Edible marijuana products" defined. (NRS 453D.200) "Edible marijuana products" has the meaning ascribed to it in NRS 453A.101.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.036 "Enclosed, locked facility" defined. (NRS 453D.200) "Enclosed, locked facility" has the meaning ascribed to it in NRS 453A.103.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.039 "Excise tax on marijuana" defined. (NRS 453D.200) "Excise tax on marijuana" means any excise tax imposed by chapter 372A or 453D of NRS.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.041 "Extraction" defined. (NRS 453D.200) "Extraction" has the meaning ascribed to it in NRS 453.0825.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.045 "Fair market value" defined. (NRS 453D.200) "Fair market value" means the value established by the Department based on the price that a buyer would pay to a seller in an arm's length transaction for marijuana in the wholesale market.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.048 "Foreign matter" defined. (NRS 453D.200) "Foreign matter" means:
1. Any plant matter, other than the marijuana product itself, which is more than 2 millimeters in size and constitutes more than 5 percent of the marijuana product; or
2. Any physical contaminant,

which is included in the marijuana product.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.053 "Growing unit" defined. (NRS 453D.200) "Growing unit" means an area within a marijuana cultivation facility in which growing operations are performed at all stages of growth. The term includes, without limitation, multiple rooms or areas that collectively are used to perform growing operations at all stages of growth regardless of whether each individual room or area has the capability to perform growing operations at all stages of growth.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.058 "Imminent health hazard" defined. (NRS 453D.200) "Imminent health hazard" means a situation that requires immediate correction or cessation of operations to prevent injury as determined by the Department pursuant to subsection 5 of NAC 453D.905.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.061 "Inventory control system" defined. (NRS 453D.200) "Inventory control system" means a process, device or other contrivance that may be used to monitor the chain of custody of marijuana from the point of cultivation to the end consumer.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.065 "Label" defined. (NRS 453D.200) "Label" means written or printed material affixed to or included with marijuana or a marijuana product to provide identification or other information.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.068 "Letter of approval" defined. (NRS 453D.200) "Letter of approval" has the meaning ascribed to it in NRS 453A.109.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.071 "Lot" defined. (NRS 453D.200) "Lot" means:
1. The flowers from one or more marijuana plants of the same batch, in a quantity that weighs 5 pounds or less;
2. The leaves or other plant matter from one or more marijuana plants of the same batch, other than full female flowers, in a quantity that weighs 15 pounds or less; or
3. The wet leaves or other plant matter from one or more marijuana plants of the same batch used only for extraction, in a quantity that weighs 125 pounds or less within 2 hours of harvest.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.075 "Marijuana establishment agent" defined. (NRS 453D.200) "Marijuana establishment agent" means an owner, officer, board member, employee or volunteer of a marijuana establishment, an independent contractor who provides labor relating to the cultivation, processing or distribution of marijuana or the production of marijuana or marijuana products for a marijuana establishment or an employee of such an independent contractor.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.077 "Marijuana establishment agent registration card" defined. (NRS 453D.200) "Marijuana establishment agent registration card" means a registration card that is issued by the Department to authorize a person to volunteer or work at a marijuana establishment.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.080 "Medical marijuana establishment" defined. (NRS 453D.200) "Medical marijuana establishment" has the meaning ascribed to it in NRS 453A.116.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.082 "Medical marijuana establishment agent registration card" defined. (NRS 453D.200) "Medical marijuana establishment agent registration card" has the meaning ascribed to it in NRS 453A.118.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.084 "Medical marijuana establishment registration certificate" defined. (NRS 453D.200) "Medical marijuana establishment registration certificate" has the meaning ascribed to it in NRS 453A.119.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.086 "Medical use of marijuana" defined. (NRS 453D.200) "Medical use of marijuana" has the meaning ascribed to it in NRS 453A.120.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.089 "Multiple-serving edible marijuana product" defined. (NRS 453D.200) "Multiple-serving edible marijuana product" means an edible marijuana product which is offered for sale to a consumer and contains, within a variance of 15 percent, more than 10 milligrams and not more than 100 milligrams of THC. The term includes an edible marijuana product which contains multiple pieces, each of which contains 10 milligrams or less of THC, if the edible marijuana product offered for sale contains a total of more than 10 milligrams of THC.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.094 "Packaging" defined. (NRS 453D.200) "Packaging" means the materials used to wrap or protect goods.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.097 "Pesticide" defined. (NRS 453D.200) "Pesticide" has the meaning ascribed to it in NRS 586.195.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.100 "Potential total THC" defined. (NRS 453D.200) "Potential total THC" means the sum of the percentage by weight of tetrahydrocannabinolic acid multiplied by 0.877 plus the percentage by weight of THC.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.102 "Potentially hazardous marijuana products and ingredients" defined. (NRS 453D.200)
1. "Potentially hazardous marijuana products and ingredients" means an edible item that is natural or synthetic and that requires temperature control because the item is in a form capable of supporting:
(a) The rapid and progressive growth of infectious or toxigenic microorganisms;
(b) The growth and toxin production of *Clostridium botulinum*; or
(c) In raw shell eggs, the growth of *Salmonella enteritidis*.
2. The term includes, without limitation:
(a) An animal item that is raw or heat-treated;
(b) An item of plant origin that is heat-treated or consists of raw seed sprouts;
(c) Cut melons and tomatoes;
(d) Garlic-in-oil mixtures that are not modified in a way that results in mixtures which prohibit growth; and
(e) Whipped butter.
3. The term does not include:
(a) An ingredient with a value of water activity of not more than 0.85;
(b) An ingredient with a pH level of not more than 4.6 when measured at 75°F (24°C); or
(c) An ingredient, in a hermetically sealed and unopened container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.105 "Premises" defined. (NRS 453D.200) "Premises" means:
1. Any temporary or permanent structure, including, without limitation, any building, house, room, apartment, tenement, shed, carport, garage, shop, warehouse, store, mill, barn, stable, outhouse or tent; or
2. Any conveyance, including, without limitation, any vessel, boat, vehicle, airplane, glider, house trailer, travel trailer, motor home or railroad car,
➥ whether located aboveground or underground and whether inhabited or not.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.108 "Production run" defined. (NRS 453D.200) "Production run" means:
1. For the extraction of concentrated marijuana by a marijuana establishment, the combination of one or more lots used to make the same product in one homogenous mixture produced using the same method which results in not more than 2.2 pounds of concentrated marijuana.
2. For the production of marijuana products by a marijuana product manufacturing facility, one homogenous mixture produced at the same time using the same method and which may include a combination of concentrated marijuana and other materials for the production of marijuana products.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.110 "Production run number" defined. (NRS 453D.200) "Production run number" means a unique numeric or alphanumeric identifier assigned to a production run by a marijuana product manufacturing facility which accounts for each batch or lot or any concentrated marijuana used in the production run.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.113 "Proficiency testing" defined. (NRS 453D.200) "Proficiency testing" means the evaluation, relative to a given set of criteria, of the performance, under controlled conditions, of a marijuana testing facility in analyzing unknown samples provided by an external source.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.115 "Proficiency testing program" defined. (NRS 453D.200) "Proficiency testing program" means the program established by the Department pursuant to NAC 453D.772 to evaluate the proficiency of all marijuana testing facilities in this State.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.117 "Proficiency testing provider" defined. (NRS 453D.200) "Proficiency testing provider" means a person accredited to operate a proficiency testing program by an organization which is accredited pursuant to standard ISO/IEC 17011 of the International Organization for Standardization to perform such accreditation.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.119 "Proficiency testing sample" defined. (NRS 453D.200) "Proficiency testing sample" means a sample, the composition of which is unknown to the marijuana testing facility, provided to a marijuana testing facility to test whether the marijuana testing facility can produce analytical results within certain criteria.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.122 "Public transportation" defined. (NRS 453D.200) "Public transportation" means:
1. Buses;
2. Trains;
3. Subways; and
4. Other forms of transportation which charge a fare and are available to the public.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.126 "Registry identification card" defined. (NRS 453D.200) "Registry identification card" has the meaning ascribed to it in NRS 453A.140.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.130 "Sampling protocols" defined. (NRS 453D.200) "Sampling protocols" means the procedures specified by the Department which are required to be used to obtain samples of marijuana for quality assurance testing.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.133 "Security equipment" defined. (NRS 453D.200) "Security equipment" means a system of video cameras, monitors, recorders, video printers, motion detectors, exterior lighting, electronic monitoring and other ancillary equipment used for surveillance of a marijuana establishment.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.136 "Seed-to-sale tracking system" defined. (NRS 453D.200) "Seed-to-sale tracking system" means an electronic database which is used to monitor in real time the chain of custody of marijuana from the point of acquisition or planting to the end consumer and which is accessible by the Department and by marijuana establishments.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.138 "Separate operations" defined. (NRS 453D.200) "Separate operations" means any area in which a component marijuana establishment must maintain legal and operational separation from all other component marijuana establishments within a combined marijuana establishment.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.141 "Single-serving edible marijuana product" defined. (NRS 453D.200) "Single-serving edible marijuana product" means an edible marijuana product which is offered for sale to a consumer and contains not more than 10 milligrams of THC.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.144 "Surveillance" defined. (NRS 453D.200) "Surveillance" means the capability to observe and record activities being conducted outside and inside a marijuana establishment.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.148 "Taxpayer" defined. (NRS 453D.200) "Taxpayer" means a:
1. Marijuana cultivation facility; or
2. Retail marijuana store.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.151 "THC" defined. (NRS 453D.200) "THC" has the meaning ascribed to it in NRS 453.139.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.155 "Usable marijuana" defined. (NRS 453D.200) "Usable marijuana" has the meaning ascribed to it in NRS 453A.160.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.160 "Marijuana" interpreted to exclude industrial hemp. (NRS 453D.200) As used in chapter 453D of NRS, the Department will interpret "marijuana" to exclude industrial hemp, as defined in NRS 557.040, which is grown or cultivated pursuant to chapter 557 of NRS.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.165 Establishment of maximum allowable quantity of marijuana for purposes of exemption from state or local prosecution. (NRS 453D.200) For the purposes of subsection 1 of NRS 453D.110, the maximum allowable quantity of marijuana is an amount that is:

1. Equivalent to 1 ounce of usable marijuana other than concentrated marijuana;
2. One-eighth ounce of concentrated marijuana containing not more than 3,500 milligrams of THC; and
3. One-eighth ounce of concentrated marijuana or 3,500 milligrams of THC contained within one or more edible marijuana products.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.175 State employees responsible for implementing or enforcing chapter prohibited from having interest in marijuana establishment or from being employed by or volunteering at establishment. (NRS 453D.200) No employee of this State who is responsible for implementing or enforcing the provisions of this chapter or chapter 453D of NRS may have a direct or indirect financial interest in a marijuana establishment or be employed by or volunteer at a marijuana establishment.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.178 Investigative authority of Department relating to violations of chapter, enforcement and adoption of regulations and recommending legislation. (NRS 453D.200) The Department will make appropriate investigations:

1. To determine whether there has been any violation of this chapter or chapter 453D of NRS.
2. To determine any facts, conditions, practices or matters which it may deem necessary or proper to aid in the enforcement of any such law or regulation.
3. To aid in adopting regulations.
4. To secure information as a basis for recommending legislation relating to chapter 453D of NRS.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.180 Confidentiality of information received by Department relating to security of marijuana establishment. (NRS 453D.200) Except as otherwise provided in NRS 239.0115 and NAC 453D.185, any information received by the Department related to the security of a marijuana establishment is confidential and must not be disclosed by the Department.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.185 Confidentiality of name and any other identifying information of persons who facilitate or deliver services pursuant to chapter; exceptions. (NRS 453D.200)

1. Except as otherwise provided in this section and NRS 239.0115, the Department will and any designee of the Department shall maintain the confidentiality of and shall not disclose the name or any other identifying information of any person who facilitates or delivers services pursuant to this chapter or chapter 453D of NRS. Except as otherwise provided in NRS 239.0115, the name and any other identifying information of any person who facilitates or delivers services pursuant to this chapter or chapter 453D of NRS are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.
2. Notwithstanding the provisions of subsection 1, the Department or its designee may release the name and other identifying information of a person who facilitates or delivers services pursuant to this chapter or chapter 453D of NRS to:
   (a) Authorized employees of the Department or its designee as necessary to perform official duties of the Department; and
   (b) Authorized employees of state and local law enforcement agencies only as necessary to verify that a person is lawfully facilitating or delivering services pursuant to this chapter or chapter 453D of NRS.
3. Nothing in this section prohibits the Department from providing a local government with a copy of all information and documentation provided as part of an application to operate a marijuana establishment upon the request of the local government and with the prior consent of the applicant.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.190 Applicability of chapter to extent specified in agreement with tribal government. (NRS 453D.200) The provisions of this chapter shall be deemed to apply to the extent specified in any agreement with a tribal government in this State entered into pursuant to NRS 223.250.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

FEES

NAC 453D.200 Initial issuance of license and renewal; collection of assessment for oversight by Department. (NRS 453D.200, 453D.230)

1. Except as otherwise provided in subsection 1 of NRS 453D.230, the Department will charge and collect the following fees:

For the initial issuance of a license for a retail marijuana store.....	$20,000
For the renewal of a license for a retail marijuana store.....	6,600
For the initial issuance of a license for a marijuana cultivation facility.....	30,000
For the renewal of a license for a marijuana cultivation facility.....	10,000
For the initial issuance of a license for a marijuana product manufacturing facility.....	10,000

For the renewal of a license for a marijuana product manufacturing facility.....	3,300
For the initial issuance of a license for a marijuana testing facility.....	15,000
For the renewal of a license for a marijuana testing facility.....	5,000
For the initial issuance of a license for a marijuana distributor.....	15,000
For the renewal of a license for a marijuana distributor.....	5,000

2. Each marijuana establishment shall submit the fee required by subsection 1 to the Department annually.

3. For the ongoing activities of the Department relating to the oversight of marijuana establishments, not related to processing an application by a marijuana establishment, the Department will collect an assessment from each marijuana establishment for the time and effort attributed to the oversight of the marijuana establishment that is based upon the hourly rate established by the Department.

4. As used in this section, "license" includes a conditional license.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.205 Initial licensing fee; revocation of license for failure to pay. (NRS 453D.200, 453D.230)

1. Within 10 days after the issuance of a license pursuant to NAC 453D.272 or 453D.278, the applicant shall pay the initial licensing fee of:

(a) For a marijuana cultivation facility, $30,000.

(b) For a marijuana distributor, $15,000.

(c) For a marijuana product manufacturing facility, $10,000.

(d) For a marijuana testing facility, $15,000.

(e) For a retail marijuana store, $20,000.

2. If an applicant fails to pay the initial licensing fee required by subsection 1 within the 10-day period, the Department will revoke the license.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.210 Department authorized to collect fee for costs of investigating complaint if substantiated; hourly rate. (NRS 453D.200)

1. The Department may charge and collect a fee from any marijuana establishment that is involved in a complaint submitted to the Department by a consumer to recover the costs of investigating the complaint after the investigation is completed if the complaint is substantiated. The fee will be based upon the hourly rate established for each investigator of marijuana establishments as determined by the budget of the Department.

2. As used in this section, "substantiated" means supported or established by evidence or proof.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

EXCISE TAX ON MARIJUANA

NAC 453D.230 Provisions governing payment, collection, administration and enforcement of marijuana taxes also applicable to excise tax on marijuana and marijuana cultivation facilities. (NRS 453D.200) The provisions of NRS 372A.200 to 372A.380, inclusive, which apply to:

1. The excise tax on marijuana, as defined in NRS 372A.220, also apply to the excise tax on marijuana imposed pursuant to NRS 453D.500.

2. A taxpayer, as defined in NRS 372A.250, also apply to a marijuana cultivation facility.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.233 Marijuana and marijuana products sold at retail marijuana store subject to sales tax; submission of returns and payments. (NRS 453D.200) Marijuana and marijuana products sold pursuant to chapter 453D of NRS are subject to sales tax when sold at a retail marijuana store. Returns and payments must be submitted as provided in NRS 372.354 to 372.395, inclusive.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.236 Monthly filing of returns; payment of tax; maintenance of documentation and verification of payment; submission of financial statement upon request; calculation of fair market value at wholesale. (NRS 453D.200)

1. Each taxpayer shall, on or before the last day of the month immediately following each month for which the taxpayer is subject to the imposition of the excise tax on marijuana, file with the Department a return on a form prescribed by the Department and remit to the Department any tax due for the month covered by the return. Each such taxpayer shall file a return even if the taxpayer has no liability for the tax.

2. Each taxpayer shall pay the excise tax on marijuana to the Department upon the first sale of marijuana or marijuana products to a marijuana cultivation facility, marijuana product manufacturing facility, retail marijuana store or a consumer.

3. If a marijuana cultivation facility sells marijuana to another marijuana cultivation facility and pays to the Department the excise tax imposed by NRS 453D.500 on the sale, the excise tax imposed by NRS 453D.500 is not required for any subsequent wholesale sale of that marijuana.

4. Each marijuana cultivation facility and retail marijuana store shall keep all supporting documentation for verification that the excise tax imposed by NRS 453D.500 was paid on the first wholesale sale of marijuana.

5. The Department may require a marijuana establishment to submit a financial statement as determined to be necessary by the Department to ensure the collection of any taxes which may be owed by the marijuana establishment.

6. The Department will calculate the fair market value at wholesale using the reported sales or transfer of marijuana in each category of marijuana described in this subsection using the methodology described in paragraphs (a) to (f), inclusive. The fair market value at wholesale of:

(a) Marijuana bud must be calculated on the basis of the total weight of all marijuana bud that is sold, excluding the inadvertent inclusion of an inconsequential amount of marijuana bud in a sale of marijuana trim.

(b) Marijuana trim must be calculated on the basis of the total weight of all marijuana trim that is sold, including the total weight of an inconsequential amount of marijuana bud which is inadvertently included.

(c) Immature marijuana plants must be calculated on the basis of the total number of immature marijuana plants sold.

(d) Whole wet marijuana plants must be calculated on the basis of the total weight of the entire whole wet marijuana plant. A marijuana cultivation facility shall maintain records of the time each batch containing whole wet marijuana plants is harvested and weighed which contain the weight of each plant, are in writing and are created contemporaneously with the harvesting and weighing. To determine the total weight of the whole wet marijuana plant:

(1) The plant must not undergo any further processing, including, without limitation, drying the plant and subsequently selling separately the marijuana bud and marijuana trim from the plant, before being weighed; and

(2) The plant must be weighed within 2 hours after the harvesting of the batch containing the plant and without any further processing of the plant, including, without limitation, increasing the ambient temperature of the room in which the plant is held or drying, curing or trimming the plant. If the whole wet marijuana plant is not weighed within 2 hours after the harvest of the batch containing the plant or is subjected to further processing, the fair market value at wholesale of the plant must not be calculated using this paragraph and must be calculated using paragraph (a) or (b).

(e) Marijuana seeds must be calculated on the basis of the total number of seeds sold.

(f) Any other category of marijuana must be determined by the Department on a case-by-case basis.

7. As used in this section:

(a) "Excise tax on marijuana" has the meaning ascribed to it in NRS 372A.220.

(b) "Taxpayer" has the meaning ascribed to it in NRS 372A.250.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.239 Annual reimbursement of costs to local governments. (NRS 372A.290, 453D.200) Within 30 days after February 27, 2018, and on November 1 of each year thereafter, the Department will reimburse the costs of each local government of carrying out the provisions of chapters 453A and 453D of NRS as follows:

1. By distributing a total amount of $1,500,000, divided equally, to each county; and

2. By distributing a total amount of $3,500,000 to each locality, divided on the basis of the population of each locality, to each locality in which a marijuana establishment or a medical marijuana establishment is located on:

(a) February 16, 2018, for the initial distribution pursuant to this subsection; and

(b) September 1 of each year for each subsequent distribution pursuant to this subsection.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

MARIJUANA ESTABLISHMENTS

Licensing

NAC 453D.250 Designation of persons responsible for providing information, signing documents and ensuring certain actions are taken. (NRS 453D.200)

1. When a marijuana establishment is required pursuant to this chapter or chapter 453D of NRS to provide information, sign documents or ensure actions are taken, a person identified in this subsection shall comply with the requirement on behalf of the marijuana establishment:

(a) If a natural person is applying for a license for a marijuana establishment, the natural person;

(b) If a corporation is applying for a license for a marijuana establishment, a natural person who is an officer of the corporation;

(c) If a partnership is applying for a license for a marijuana establishment, a natural person who is a partner;

(d) If a limited-liability company is applying for a license for a marijuana establishment, a manager or, if the limited-liability company does not have a manager, a natural person who is a member of the limited-liability company;

(e) If an association or cooperative is applying for a license for a marijuana establishment, a natural person who is a member of the governing board of the association or cooperative;

(f) If a joint venture is applying for a license for a marijuana establishment, a natural person who signed the joint venture agreement; and

(g) If a business organization other than those described in paragraphs (b) to (f), inclusive, is applying for a license for a marijuana establishment, a natural person who is a member of the business organization.

2. For the purposes of this chapter and chapter 453D of NRS, the following persons must comply with the provisions governing owners, officers and board members of a marijuana establishment:

(a) If a corporation is applying for a license for a marijuana establishment, the officers of the corporation;

(b) If a partnership is applying for a license for a marijuana establishment, the partners;

(c) If a limited-liability company is applying for a license for a marijuana establishment, the members of the limited-liability company;

(d) If an association or cooperative is applying for a license for a marijuana establishment, the members of the association or cooperative;

(e) If a joint venture is applying for a license for a marijuana establishment, the natural persons who signed the joint venture agreement; and

(f) If a business organization other than those described in paragraphs (a) to (e), inclusive, is applying for a license for a marijuana establishment, the members of the business organization.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.255 Applicability of chapter to persons owning 5 percent interest or more in marijuana establishment; exception if public interest will be served. (NRS 453D.200)

1. Except as otherwise required in subsection 2, the requirements of this chapter concerning owners of marijuana establishments only apply to a person with an aggregate ownership interest of 5 percent or more in a marijuana establishment.

2. If, in the judgment of the Department, the public interest will be served by requiring any owner with an ownership interest of less than 5 percent in a marijuana establishment to comply with any provisions of this chapter concerning owners of marijuana establishments, the Department will notify that owner and he or she must comply with those provisions.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.258 Measurement of distance of proposed marijuana establishment from school or community facility. (NRS 453D.200) For the purposes of paragraph (c) of subsection 5 of NRS 453D.210, the distance must be measured from the front door of the proposed marijuana establishment to the closest point of the property line of a school or community facility.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.260 Request for applications to operate establishment: Notice by Department; required provisions; time period for submission of applications. (NRS 453D.200)

1. At least once each year, the Department will determine whether a sufficient number of marijuana establishments exist to serve the people of this State and, if the Department determines that additional marijuana establishments are necessary, the Department will issue a request for applications to operate a marijuana establishment. The Department will provide notice of a request for applications to operate a marijuana establishment by:

(a) Posting on the Internet website of the Department that the Department is requesting applicants to submit applications;

(b) Posting a copy of the request for applications at the principal office of the Department, at the Legislative Building and at not less than three other separate, prominent places within this State; and

(c) Making notification of the posting locations using the electronic mailing list maintained by the Department for marijuana establishment information.

2. When the Department issues a request for applications pursuant to this section, the Department will include in the request the point values that will be allocated to each applicable portion of the application.

3. The Department will accept applications in response to a request for applications issued pursuant to this section for 10 business days beginning on the date which is 45 business days after the date on which the Department issued the request for applications.

4. If the Department receives an application in response to a request for applications issued pursuant to this section on a date other than the dates set forth in subsection 3, the Department will not consider the application and must return the application to the entity that submitted the application.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.265 Submission of application by person who holds medical marijuana establishment registration certificate for marijuana establishment of same type; issuance of license; refund of fee if application not approved. (NRS 453D.200, 453D.230)

1. On or before November 15, 2018, a person who holds a medical marijuana establishment registration certificate may apply for not more than one license for a marijuana establishment of the same type by submitting:

(a) A one-time, nonrefundable application fee of $5,000 and, for an application for a license for a:

(1) Marijuana cultivation facility, an initial licensing fee of $30,000.

(2) Marijuana distributor, an initial licensing fee of $15,000.

(3) Marijuana product manufacturing facility, an initial licensing fee of $10,000.

(4) Marijuana testing facility, an initial licensing fee of $15,000.

(5) Retail marijuana store, an initial licensing fee of $20,000.

(b) An application on a form prescribed by the Department which includes, without limitation:

(1) Whether the applicant is applying for a license for a marijuana establishment for a marijuana cultivation facility, a marijuana distributor, a marijuana product manufacturing facility, a marijuana testing facility or a retail marijuana store;

(2) The name of the proposed marijuana establishment, as reflected in both the medical marijuana establishment registration certificate held by the applicant and the articles of incorporation or other documents filed with the Secretary of State;

(3) The physical address where the proposed marijuana establishment will be located and the physical address of any co-owned or otherwise affiliated marijuana establishments;

(4) The mailing address of the applicant;

(5) The telephone number of the applicant;

(6) The electronic mail address of the applicant;

(7) A signed copy of the Request and Consent to Release Application Form for Marijuana Establishment License prescribed by the Department;

(8) An attestation that the information provided to the Department to apply for the license for a marijuana establishment is true and correct according to the information known by the affiant at the time of signing;

(9) The signature of a natural person for the proposed marijuana establishment as described in subsection 1 of NAC 453D.250 and the date on which the person signed the application; and

(10) Any other information that the Department may require.

2. Upon receipt of an application submitted pursuant to subsection 1, the Department will issue a license for a marijuana establishment to the applicant if the applicant:

(a) Holds a medical marijuana establishment registration certificate issued pursuant to chapter 453A of NRS of the same type as the license for a marijuana establishment for which the applicant has applied; and

(b) Satisfies the requirements of subsection 5 of NRS 453D.210.

3. If an application submitted pursuant to subsection 1 is not approved, the Department will refund the initial licensing fee included in the application to the applicant.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.268 Submission of application by person who holds medical marijuana establishment registration certificate for marijuana establishment of same type or different type; submission of application by person in response to request for applications. (NRS 453D.200, 453D.230) On or before November 15, 2018, a person who holds a medical marijuana establishment registration certificate may apply for one or more licenses, in addition to a license issued pursuant to NAC 453D.265, for a marijuana establishment of the same type or for one or more licenses for a marijuana establishment of a different type, and on or after November 16, 2018, a person may apply for one or more licenses for a marijuana establishment by submitting an application in response to a request for applications issued pursuant to NAC 453D.260 which must include:

1. A one-time, nonrefundable application fee of $5,000.
2. An application on a form prescribed by the Department. The application must include, without limitation:

(a) Whether the applicant is applying for a license for a marijuana establishment for a marijuana cultivation facility, a marijuana distributor, a marijuana product manufacturing facility, a marijuana testing facility or a retail marijuana store;

(b) The name of the proposed marijuana establishment, as reflected in both the medical marijuana establishment registration certificate held by the applicant, if applicable, and the articles of incorporation or other documents filed with the Secretary of State;

(c) The type of business organization of the applicant, such as individual, corporation, partnership, limited-liability company, association or cooperative, joint venture or any other business organization;

(d) Confirmation that the applicant has registered with the Secretary of State as the appropriate type of business, and the articles of incorporation, articles of organization or partnership or joint venture documents of the applicant;

(e) The physical address where the proposed marijuana establishment will be located and the physical address of any co-owned or otherwise affiliated marijuana establishments;

(f) The mailing address of the applicant;

(g) The telephone number of the applicant;

(h) The electronic mail address of the applicant;

(i) A signed copy of the Request and Consent to Release Application Form for Marijuana Establishment License prescribed by the Department;

(j) If the applicant is applying for a license for a retail marijuana store, the proposed hours of operation during which the retail marijuana store plans to be available to sell marijuana to consumers;

(k) An attestation that the information provided to the Department to apply for the license for a marijuana establishment is true and correct according to the information known by the affiant at the time of signing; and

(l) The signature of a natural person for the proposed marijuana establishment as described in subsection 1 of NAC 453D.250 and the date on which the person signed the application.

3. Evidence of the amount of taxes paid, or other beneficial financial contributions made, to this State or its political subdivisions within the last 5 years by the applicant or the persons who are proposed to be owners, officers or board members of the proposed marijuana establishment.
4. A description of the proposed organizational structure of the proposed marijuana establishment, including, without limitation:

(a) An organizational chart showing all owners, officers and board members of the proposed marijuana establishment;

(b) A list of all owners, officers and board members of the proposed marijuana establishment that contains the following information for each person:

(1) The title of the person;

(2) The race, ethnicity and gender of the person;

(3) A short description of the role in which the person will serve for the organization and his or her responsibilities;

(4) Whether the person will be designated by the proposed marijuana establishment to provide written notice to the Department when a marijuana establishment agent is employed by, volunteers at or provides labor as a marijuana establishment agent at the proposed marijuana establishment;

(5) Whether the person has served or is currently serving as an owner, officer or board member for another medical marijuana establishment or marijuana establishment;

(6) Whether the person has served as an owner, officer or board member for a medical marijuana establishment or marijuana establishment that has had its medical marijuana establishment registration certificate or license, as applicable, revoked;

(7) Whether the person has previously had a medical marijuana establishment agent registration card or marijuana establishment agent registration card revoked;

(8) Whether the person is an attending provider of health care currently providing written documentation for the issuance of registry identification cards or letters of approval;

(9) Whether the person is a law enforcement officer;

(10) Whether the person is currently an employee or contractor of the Department; and

(11) Whether the person has an ownership or financial investment interest in any other medical marijuana establishment or marijuana establishment.

5. For each owner, officer and board member of the proposed marijuana establishment:

(a) An attestation signed and dated by the owner, officer or board member that he or she has not been convicted of an excluded felony offense, and that the information provided to support the application for a license for a marijuana establishment is true and correct;

(b) A narrative description, not to exceed 750 words, demonstrating:

(1) Past experience working with governmental agencies and highlighting past experience in giving back to the community through civic or philanthropic involvement;

(2) Any previous experience at operating other businesses or nonprofit organizations; and

(3) Any demonstrated knowledge, business experience or expertise with respect to marijuana; and

(c) A resume.

6. Documentation concerning the size of the proposed marijuana establishment, including, without limitation, building and general floor plans with supporting details.

7. The integrated plan of the proposed marijuana establishment for the care, quality and safekeeping of marijuana from seed to sale, including, without limitation, a plan for testing and verifying marijuana, a transportation or delivery plan and procedures to ensure adequate security measures, including, without limitation, building security and product security.

8. A plan for the business which includes, without limitation, a description of the inventory control system of the proposed marijuana establishment to satisfy the requirements of NRS 453D.300 and NAC 453D.426.

9. A financial plan which includes, without limitation:

(a) Financial statements showing the resources of the applicant;

(b) If the applicant is relying on money from an owner, officer or board member, evidence that the person has unconditionally committed such money to the use of the applicant in the event the Department awards a license to the applicant and the applicant obtains the necessary approvals from the locality to operate the proposed marijuana establishment; and

(c) Proof that the applicant has adequate money to cover all expenses and costs of the first year of operation.

10. Evidence that the applicant has a plan to staff, educate and manage the proposed marijuana establishment on a daily basis, which must include, without limitation:

(a) A detailed budget for the proposed marijuana establishment, including pre-opening, construction and first-year operating expenses;

(b) An operations manual that demonstrates compliance with this chapter;

(c) An education plan which must include, without limitation, providing educational materials to the staff of the proposed marijuana establishment; and

(d) A plan to minimize the environmental impact of the proposed marijuana establishment.

11. If the application is submitted on or before November 15, 2018, for a license for a marijuana distributor, proof that the applicant holds a wholesale dealer license issued pursuant to chapter 369 of NRS, unless the Department determines that an insufficient number of marijuana distributors will result from this limitation.

12. A response to and information which supports any other criteria the Department determines to be relevant, which will be specified and requested by the Department at the time the Department issues a request for applications which includes the point values that will be allocated to the applicable portions of the application pursuant to subsection 2 of NAC 453D.260.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.272 Ranking of applications for retail marijuana store; proportional allocation of licenses for retail marijuana stores within each county; notification to locality of acceptance of applicants; prevention of monopolistic practices; revision or disqualification of application for criminal history of applicant or other person named in application. (NRS 453D.200)

1. If the Department receives more than one application for a license for a retail marijuana store in response to a request for applications made pursuant to NAC 453D.260 and the Department determines that more than one of the applications is complete and in compliance with this chapter and chapter 453D of NRS, the Department will rank the applications, within each applicable locality for any applicants which are in a jurisdiction that limits the number of retail marijuana stores, in order from first to last based on compliance with the provisions of this chapter and chapter 453D of NRS and on the content of the applications relating to:

(a) Whether the owners, officers or board members have experience operating another kind of business that has given them experience which is applicable to the operation of a marijuana establishment;

(b) The diversity of the owners, officers or board members of the proposed marijuana establishment;

(c) The educational achievements of the owners, officers or board members of the proposed marijuana establishment;

(d) The financial plan and resources of the applicant, both liquid and illiquid;

(e) Whether the applicant has an adequate integrated plan for the care, quality and safekeeping of marijuana from seed to sale;

(f) The amount of taxes paid and other beneficial financial contributions, including, without limitation, civic or philanthropic involvement with this State or its political subdivisions, by the applicant or the owners, officers or board members of the proposed marijuana establishment;

(g) Whether the owners, officers or board members of the proposed marijuana establishment have direct experience with the operation of a medical marijuana establishment or marijuana establishment in this State and have demonstrated a record of operating such an establishment in compliance with the laws and regulations of this State for an adequate period of time to demonstrate success;

(h) The experience of key personnel that the applicant intends to employ in operating the type of marijuana establishment for which the applicant seeks a license; and

(i) Any other criteria that the Department determines to be relevant.

2. The Department will not require proof of zoning or land use approval to be submitted with an application for a license for a marijuana establishment and will not consider such approval when ranking applicants pursuant to subsection 1.

3. The Department will allocate the licenses for retail marijuana stores described in paragraph (d) of subsection 5 of NRS 453D.210 to jurisdictions within each county and to the unincorporated area of the county proportionally based on the population of each jurisdiction and of the unincorporated area of the county. Within each such jurisdiction or area, the Department will issue licenses for retail marijuana stores to the highest-ranked applicants until the Department has issued the number of licenses authorized for issuance. If two or more applicants have the same total number of points for the last application being awarded a license, the Department will select the applicant which has scored the highest number of points as related to the proposed organizational structure of the proposed marijuana establishment and the information concerning each owner, officer and board member of the proposed marijuana establishment, including, without limitation, the information provided pursuant to NAC 453D.265 or 453D.268. Notwithstanding the allocation of licenses pursuant to this subsection,

upon the request of a county government, the Department may issue a license to a retail marijuana store located anywhere within that county if issuing such a license would not exceed the number of licenses authorized for issuance in the county pursuant to paragraph (d) of subsection 5 of NRS 453D.210.

4. After ranking applicants pursuant to subsection 1 and selecting applicants for the issuance of a license pursuant to subsection 3, the Department will notify each locality of the applicants selected to be issued a license within that locality.

5. To prevent monopolistic practices, the Department will ensure, in a county whose population is 100,000 or more, that the Department does not issue, to any person, group of persons or entity, the greater of:

(a) One license to operate a retail marijuana store; or

(b) More than 10 percent of the licenses for retail marijuana stores allocable in the county.

6. If the Department receives any findings from a report concerning the criminal history of an applicant or person who is proposed to be an owner, officer or board member of a proposed marijuana establishment that disqualify that person from being qualified to serve in that capacity, the Department will provide notice to the applicant and give the applicant an opportunity to revise its application. If a person who is disqualified from serving as an owner, officer or board member remains on the application as a proposed owner, officer or board member 90 days after the date on which the Department initially received the application, the Department may disqualify the application.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.274 Request by applicant for ranked application score; request to review scoring information; designation of Department employee to respond to request; maintenance of information in application file. (NRS 453D.200)

1. If an applicant for a license for a retail marijuana store wishes to know the score assigned to its application after review by the Department to establish a ranking pursuant to subsection 1 of NAC 453D.272, the applicant may submit a request for its application score in writing to the Department. Upon receipt of such a request, the Department will provide the score to the applicant in a timely manner.

2. If an applicant who receives an application score from the Department pursuant to subsection 1 wishes to review the scores assigned to each criterion in the application to generate the application score, the applicant may submit to the Department a request to review scoring information. Such a request must include the name of the owner, operator or board member of the applicant who will review scoring information on behalf of the applicant.

3. Upon receipt of a request to review scoring information pursuant to subsection 2, the Department will designate an employee of the Department to respond to the request and schedule and conduct the review of scoring information. Before conducting the review, the employee designated by the Department shall confirm that the identity of the person attending the review matches the person named in the request and make a copy of a document confirming the identity of the person. During the review, the employee designated by the Department shall allow the person attending the review to review the scores assigned to each criterion in the application of the applicant and a copy of the application for a license for a retail marijuana store submitted by the applicant for a period of not more than 30 minutes. The person attending the review may take notes on the information provided, but shall not photocopy, scan, record, photograph or otherwise duplicate the information. The employee designated by the Department to conduct the review shall not discuss or comment on the scores, the review of the application by the Department or any other application submitted to the Department.

4. Upon completion of a review of scoring information pursuant to subsection 3, the Department will maintain in the file of the applicant a copy of:

(a) The scoring information provided during the review;

(b) The documentation of identity provided to the employee designated by the Department to conduct the review; and

(c) Information establishing the date and time of the review.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.278 Issuance of license if Department receives only one application in response to request for applications; notification to locality. (NRS 453D.200) If, within 10 business days after the date on which the Department begins accepting applications in response to a request for applications issued pursuant to NAC 453D.260, the Department receives only one application from an applicant:

1. In a specific locality which limits the number of a type of marijuana establishment to one; or

2. Statewide, if the applicant is in a locality which does not limit the number of a type of marijuana establishment,

➥ and the Department determines that the application is complete and in compliance with this chapter and chapter 453D of NRS, the Department will issue a license for a marijuana establishment to that applicant in accordance with NRS 453D.210 and NAC 453D.282 and notify the locality in which the marijuana establishment will be located.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.282 Issuance of license is conditional until certain requirements for approval to begin operations are satisfied. (NRS 453D.200)

1. Except as otherwise provided in subsection 2, the issuance of a license pursuant to NAC 453D.272 or 453D.278 is conditional and not an approval to begin operations as a marijuana establishment until such time as:

(a) The marijuana establishment is in compliance with the zoning and land use rules adopted by the locality in which the marijuana establishment will operate or, after notice of the issuance of a license to the marijuana establishment pursuant to NAC 453D.272 or 453D.278, the locality does not affirm to the Department within a reasonable time that the proposed marijuana establishment will be in violation of zoning or land use rules adopted by the locality;

(b) The locality has issued a business license for the operation of the marijuana establishment, or otherwise approved the applicant, for the operation of the marijuana establishment; and

(c) The Department completes an inspection of the marijuana establishment.

2. If the locality in which a marijuana establishment is located does not issue business licenses and does not approve or disapprove marijuana establishments in its jurisdiction, a license for a marijuana establishment becomes an approval to begin operations as a marijuana establishment when:

(a) The marijuana establishment is in compliance with the zoning and land use rules adopted by the locality; and
(b) The Department completes an inspection of the marijuana establishment.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.285 Written notice of denial of application. (NRS 453D.200) If the Department does not issue to an applicant a license for a marijuana establishment, the Department must provide written notice to the applicant stating that the Department did not issue a license to the applicant as a result of the provisions of NAC 453D.272 and 453D.278.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.288 Inspections. (NRS 453D.200)
1. The Department may, at any time it determines an inspection is needed, conduct an investigation into the premises, facilities, qualifications of personnel, methods of operation, policies and purposes of any marijuana establishment and of any person proposing to engage in the operation of a marijuana establishment. An inspection of a facility may include, without limitation, investigation of standards for safety from fire on behalf of the Department by the local fire protection agency. If a local fire protection agency is not available, the State Fire Marshal may conduct the inspection after the marijuana establishment pays the appropriate fee to the State Fire Marshal for such inspection.
2. The Department will not issue a license for a marijuana establishment until the Department completes an inspection of the marijuana establishment. Such an inspection may require more than one visit to the marijuana establishment.
3. The Department may conduct a preliminary walk-through of a marijuana establishment, upon request and subject to the availability of inspectors, to assist with questions and identify issues for correction before the inspection of the marijuana establishment. Before requesting a preliminary walk-through, a marijuana establishment must complete all construction and be near completion of all other requirements of the laws and regulations of this State. If the Department conducts a preliminary walk-through at the request of a marijuana establishment, the Department will issue an invoice to the marijuana establishment for the costs of the preliminary walk-through, including, without limitation, travel and inspection activities.
4. In addition to complying with the provisions of chapters 372A and 453D of NRS and chapter 372A of NAC governing the imposition of an excise tax on marijuana establishments, a marijuana establishment may not operate until it has been issued a license from the Department.
5. The Department will not issue a license for a marijuana establishment until the Department has received a satisfactory report of full compliance with and completion of all applicable public safety inspections required by state and local jurisdictions, including, without limitation, fire, building, health and air quality inspections, except as otherwise provided in NAC 453D.292.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.292 Authority of Department, Tax Commission and Executive Director relating to inspections and investigations, summoning of witnesses and issuance of subpoenas, administration of oaths and administration of provisions of chapter. (NRS 453D.200)
1. Submission of an application for a license for a marijuana establishment constitutes permission for entry to and reasonable inspection of the marijuana establishment by the Department, with or without notice. An inspector conducting an inspection pursuant to this section does not need to be accompanied during the inspection.
2. The Department may, upon receipt of a complaint against a marijuana establishment, except for a complaint concerning the cost of services, a complaint concerning the efficacy of marijuana or a complaint related to consumer service issues, conduct an investigation during the operating hours of the marijuana establishment, with or without notice, into the premises, facilities, qualifications of personnel, methods of operation, policies, procedures and records of that marijuana establishment or any other marijuana establishment which may have information pertinent to the complaint.
3. The Department may enter and inspect any building or premises at any time, with or without notice, to:
(a) Secure compliance with any provision of this chapter or chapter 453D of NRS;
(b) Prevent a violation of any provision of this chapter or chapter 453D of NRS; or
(c) Conduct an unannounced inspection of a marijuana establishment in response to an allegation of noncompliance with this chapter or chapter 453D of NRS.
4. The Department may:
(a) Summon witnesses to appear and testify on any subject material to its responsibilities under this chapter or chapter 453D of NRS. No property owner and no officer, director, superintendent, manager or agent of any company or corporation, whose property is wholly in one county, shall be required to appear, without his or her consent, at a place other than the county seat or at the nearest town to his or her place of residence or the principal place of business of such company or corporation. Such summons may be served by personal service by the Executive Director or his or her agent or by the sheriff of the county.
(b) Except as otherwise provided in this paragraph, issue subpoenas to compel the attendance of witnesses and the production of books and papers and may seek to enforce the subpoenas by petition to any court of competent jurisdiction in the manner provided by law. The Department will not issue a subpoena to compel the production of books and papers that contain individually identifiable health information.
5. Any member of the Nevada Tax Commission, the Executive Director or any officer of the Department designated by the Commission or Executive Director may administer oaths to witnesses.
6. The Department and its agents may:
(a) Inspect and examine all premises wherein marijuana is manufactured, sold or distributed;
(b) Inspect all equipment and supplies in, upon or about such premises;
(c) Summarily seize and remove from such premises any marijuana or marijuana products and impound any equipment, supplies, documents or records for the purpose of examination and inspection;
(d) Demand access to and inspect, examine, photocopy and audit all papers, books and records of any applicant or licensee, on his or her premises, or elsewhere as practicable, and in the presence of the applicant or licensee, or his or her agent, respecting the gross income produced by any marijuana establishment, and require verification of income, and all other matters affecting the enforcement of the policy or any of the provisions of this chapter or chapter 453D of NRS; and

(e) Demand access to and inspect, examine, photocopy and audit all papers, books and records of any affiliate of a licensee whom the Department knows or reasonably suspects is involved in the financing, operation or management of the licensee. The inspection, examination, photocopying and audit may take place on the premises of the affiliate or another location, as practicable, and in the presence of the affiliate or its agent.

7. The Department will enter and inspect at least annually, with or without notice, each building or the premises of a marijuana establishment to ensure compliance with the provisions of this chapter and chapter 453D of NRS. Nothing in this subsection shall be construed to prohibit an appropriate local administrative authority from conducting an inspection of the facilities or operations of a marijuana establishment as provided by the ordinance of a local government.

8. The Department will enter and inspect, with or without notice, any building or premises operated by a marijuana establishment within 72 hours after the Department is notified that the marijuana establishment is operating without a license for the marijuana establishment.

9. The Department will inspect the medical marijuana establishment and the marijuana establishment of a dual licensee at the same time using the same inspection team to ensure consistency and efficiency. The Department will conduct such an inspection in a manner which is not unduly burdensome for the dual licensee.

10. The Department will administer the provisions of this chapter and chapter 453D of NRS for the protection of the public and in the public interest in accordance with the policy of this State.

11. As used in this section, "individually identifiable health information" means information which identifies a natural person, or from which the identity of a natural person may reasonably be ascertained, and which relates to:

(a) The past, present or future physical or mental health or condition of the person; or

(b) The provision of health care to the person.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.295 Surrender of license if marijuana establishment has not received final inspection; extension of time for final inspection; fee not refundable. (NRS 453D.200)

1. If a marijuana establishment has not received a final inspection within 12 months after the date on which the Department issued a license to the marijuana establishment, the marijuana establishment must surrender the license to the Department. The Department may extend the period specified in this subsection if the Department, in its discretion, determines that extenuating circumstances prevented the marijuana establishment from receiving a final inspection within the period specified in this subsection.

2. If a marijuana establishment surrenders a license to the Department pursuant to this section, the applicable licensing fee paid by the marijuana establishment is not refundable.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.300 Notification to Department if marijuana establishment is closing; immediate surrender of license upon closing. (NRS 453D.200) If a marijuana establishment is closing, the person identified in subsection 1 of NAC 453D.250 for the marijuana establishment must notify the Department of the closing at least 15 days before the marijuana establishment is closed, and the marijuana establishment must surrender its license to the Department immediately upon closing.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.305 Renewal of license: Application and fee; submission of fingerprints; proof of accreditation required for marijuana testing facility. (NRS 453D.200) A person or entity that wishes to renew a license for a marijuana establishment must annually submit to the Department:

1. Payment of the annual licensing fee for the renewal of the license;

2. An application in the format prescribed by the Department that includes:

(a) The identification number of the marijuana establishment;

(b) The name of the entity applying to renew the license, as reflected in the articles of incorporation or other documents filed with the Secretary of State;

(c) The name of the person designated by the marijuana establishment to provide written notice to the Department when a marijuana establishment agent is employed by, volunteers at or provides labor as a marijuana establishment agent at the marijuana establishment;

(d) A list and description of each of the following which has not been previously reported to the Department:

(1) A conviction of an owner, officer or board member of the marijuana establishment of an excluded felony offense;

(2) A civil penalty or judgment entered against an owner, officer or board member of the marijuana establishment; and

(3) The initiation by a federal, state or local government of an investigation or proceeding against an owner, officer or board member of the marijuana establishment;

(e) If the marijuana establishment is a retail marijuana store, the proposed hours of operation during which the retail marijuana store plans to be available to sell marijuana to consumers;

(f) The number of the marijuana establishment agent registration card issued to each owner, officer or board member of the marijuana establishment;

(g) For each owner, officer and board member of the marijuana establishment, whether the owner, officer or board member:

(1) Has served as an owner, officer or board member for a medical marijuana establishment or marijuana establishment that has had its medical marijuana establishment registration certificate or license, as applicable, revoked;

(2) Is an attending provider of health care currently providing written documentation for the issuance of registry identification cards or letters of approval;

(3) Is a law enforcement officer;

(4) Is an employee or contractor of the Department; or

(5) Has an ownership or financial investment interest in any other medical marijuana establishment or marijuana establishment;

(h) An attestation that the information provided to the Department to renew the license for the marijuana establishment is true and correct according to the information known by the affiant at the time of signing; and

(i) The signature of a natural person for the marijuana establishment as described in subsection 1 of NAC 453D.250 and the date on which he or she signed the application;

3. For each person who is an owner, officer or board member of the marijuana establishment, a complete set of the person's fingerprints and written permission of the person authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report:

(a) If such a person holds 5 percent or less of the ownership interest in any one marijuana establishment or an ownership interest in more than one marijuana establishment of the same kind that, when added together, equals 5 percent or less, once in any 5-year period; and

(b) If such a person holds more than 5 percent of the ownership interest in any one marijuana establishment or an ownership interest in more than one marijuana establishment of the same kind that, when added together, equals more than 5 percent, or is an officer or board member of a marijuana establishment, once in any 3-year period; and

4. If the marijuana establishment is a marijuana testing facility, proof that the marijuana testing facility is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.308 Suspension of license for deficiencies in operation or services; submission of plan of correction; resubmission of plan by marijuana establishment or development of directed plan of correction by Department. (NRS 453D.200)

1. If the Department determines that there are any deficiencies in the operation of a marijuana establishment or in the provision of services by a marijuana establishment, the Department may suspend the license of the marijuana establishment and request a written plan of correction from the marijuana establishment.

2. A marijuana establishment whose license has been suspended pursuant to subsection 1 shall develop a plan of correction for each deficiency and submit the plan to the Department for approval within 10 business days after receipt of the statement of deficiencies. The plan of correction must include specific requirements for corrective action, which must include times within which the deficiencies are to be corrected.

3. If the plan submitted pursuant to subsection 2 is not acceptable to the Department, the Department may direct the marijuana establishment to resubmit a plan of correction or the Department may develop a directed plan of correction with which the marijuana establishment must comply.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.312 Grounds for denial of issuance or renewal of license; grounds for revocation of license; notice; opportunity to correct situation. (NRS 453D.200)

1. The Department will deny an application for the issuance or renewal of a license for a marijuana establishment if:

(a) The application or the marijuana establishment is not in compliance with any provision of this chapter or chapter 453D of NRS; or

(b) An owner, officer or board member of the marijuana establishment:

(1) Is an employee or contractor of the Department;

(2) Has an ownership or financial investment interest in a marijuana testing facility and also is an owner, officer or board member of a marijuana cultivation facility, marijuana distributor, marijuana product manufacturing facility or retail marijuana store; or

(3) Provides false or misleading information to the Department.

2. The Department may revoke a license for a marijuana establishment if:

(a) The marijuana establishment engages in a category 1 violation pursuant to NAC 453D.905;

(b) An owner, officer or board member of the marijuana establishment has been convicted of an excluded felony offense; or

(c) The Department receives formal notice from the applicable locality that the marijuana establishment has had its authorization to operate terminated.

3. The Department may deny an application for the issuance or renewal of a license for a marijuana establishment or may suspend or revoke any license issued under the provisions of this chapter and chapter 453D of NRS upon any of the following grounds:

(a) Violation by the applicant or the marijuana establishment of any of the provisions of this chapter or chapter 453D of NRS.

(b) The failure or refusal of an applicant or marijuana establishment to comply with any of the provisions of this chapter or chapter 453D of NRS.

(c) The failure or refusal of a marijuana establishment to carry out the policies and procedures or comply with the statements provided to the Department in the application of the marijuana establishment.

(d) Operating a marijuana establishment without a license.

(e) The failure or refusal to return an adequate plan of correction to the Department within 10 days after receipt of a statement of deficiencies pursuant to NAC 453D.308.

(f) The failure or refusal to correct any deficiency specified by the Department within the period specified in a plan of correction developed pursuant to NAC 453D.308.

(g) The failure or refusal to cooperate fully with an investigation or inspection by the Department or its agent.

(h) The failure to comply with the provisions of chapters 372A and 453D of NRS and chapter 372A of NAC governing the imposition of an excise tax on marijuana establishments.

4. If the Department denies an application for issuance or renewal of a license for a marijuana establishment or revokes such a license, the Department will provide notice to the applicant or marijuana establishment that includes, without limitation, the specific reasons for the denial or revocation.

5. Before denying an application for issuance or renewal of a license for a marijuana establishment or revoking such a license as a result of the actions of an owner, officer or board member of the marijuana establishment pursuant to paragraph (b) of subsection 1 or paragraph (b) of subsection 2, the Department may provide the marijuana establishment with an opportunity to correct the situation.

6. The Department will not deny an application to renew a license for a marijuana establishment or revoke a license based on a change in ownership of the marijuana establishment if the marijuana establishment is in compliance with the provisions of this chapter and chapter 453D of NRS.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.315 Requirements for transfer of all or a portion of ownership interest; reimbursement of costs to Department; notice to Department; disclosure of facts pertaining to representative capacity of certain persons to Department; permission of Department required for registering certain information in the books and records of the marijuana establishment; investigation. (NRS 453D.200)

1. A marijuana establishment may, in accordance with this section and upon submission of a statement signed by a person authorized to submit such a statement by the governing documents of the marijuana establishment, transfer all or any portion of its ownership to another party, and the Department shall transfer the license issued to the marijuana establishment to the party acquiring ownership, if the party who will acquire the ownership of the marijuana establishment submits:

(a) If the party will acquire the entirety of the ownership interest in the marijuana establishment, evidence satisfactory to the Department that the party has complied with the provisions of NRS 453D.300 for the purpose of operating the marijuana establishment;

(b) For the party and each person who is proposed to be an owner, officer or board member of the marijuana establishment, the name, address and date of birth of the person, a complete set of the person's fingerprints and written permission of the person authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(c) Proof satisfactory to the Department that, as a result of the transfer of ownership, no person, group of persons or entity will, in a county whose population is 100,000 or more, hold more than one license for a marijuana establishment or more than 10 percent of the licenses for marijuana establishments allocated to the county, whichever is greater.

2. A marijuana establishment shall reimburse the Department for all costs incurred by the Department to determine whether any change in ownership or other change was made to circumvent the provisions of this section which prohibit the transfer of a license for a marijuana establishment or to otherwise review or investigate a change in ownership.

3. A person shall not sell, purchase, assign, lease, grant or foreclose a security interest or otherwise transfer, convey or acquire in any manner whatsoever any interest of any sort whatsoever in or to any marijuana establishment or any portion thereof, whether the license for the marijuana establishment is conditional or not, or enter into or create a voting trust agreement or any other agreement of any sort in connection with any marijuana establishment or any portion thereof, except in accordance with this chapter and chapter 453D of NRS.

4. The owners, officers or board members of a marijuana establishment shall notify the Department on a form prescribed by the Department each time an ownership interest in any amount in the marijuana establishment is transferred.

5. A transfer of an ownership interest in any amount in a marijuana establishment is not effective until the Department has been notified on a form prescribed by the Department of the intent to transfer an ownership interest in the marijuana establishment and the Department has found that each person to whom an ownership interest is proposed to be transferred is individually qualified to be an owner of the marijuana establishment.

6. A person shall not transfer or convey in any manner whatsoever any interest in or to a marijuana establishment, or any portion thereof, to, or permit any investment therein or participation in the profits thereof by, any person acting as agent or trustee or in any other representative capacity for or on behalf of another person without first disclosing all facts pertaining to such representation to the Department, including, without limitation, a description of the reason for the transfer and any contract or other agreement describing the transaction.

7. A marijuana establishment, or an owner, officer or board member thereof, shall not cause or permit any stock certificate or other evidence of beneficial interest in the marijuana establishment to be registered in the books or records of the marijuana establishment in the name of any person other than the true and lawful owner of the beneficial interest without the written permission of the Department.

8. An ownership interest in a marijuana establishment may only be transferred to a natural person or, if the person receiving an ownership interest is not a natural person, the recipient must disclose the percentage of the ownership interest in the marijuana establishment received by each person who has an ownership interest in the recipient.

9. A request to transfer an ownership interest in a marijuana establishment which holds a conditional license must be accompanied by a notarized attestation, signed by a person authorized to submit such an attestation by the governing documents of the marijuana establishment, declaring that the prospective owner will build and operate the marijuana establishment at standards that meet or exceed the criteria contained in the original application for the marijuana establishment.

10. The owners of a marijuana establishment may request the transfer of any portion or the entirety of the ownership interest in the marijuana establishment to any existing owner or combination of existing owners of the marijuana establishment by submitting to the Department:

(a) A completed Transfer of Interest Form prescribed by the Department;

(b) All contracts or other agreements which describe the ownership transaction; and

(c) Proof satisfactory to the Department that no monopoly will be created.

11. The owners of a marijuana establishment may request the transfer of any portion or the entirety of the ownership interest in the marijuana establishment to any natural person who holds an ownership interest in another marijuana establishment or any person whose ownership interest is entirely held by natural persons who hold an ownership interest in another marijuana establishment by submitting to the Department:

(a) A completed Transfer of Interest Form prescribed by the Department;

(b) All contracts or other agreements which describe the ownership transaction;

(c) Identification of each marijuana establishment in which any person who is proposed to receive an ownership interest in the marijuana establishment which is the subject of the request holds an ownership interest;
(d) A proposed organizational chart for the marijuana establishment which is the subject of the request;
(e) A copy of any document required to be filed with the Secretary of State, if applicable;
(f) A copy of any document required to be revised as a result of the proposed transfer relating to a fictitious name, if applicable;
(g) An updated description of all shares issued in the marijuana establishment and the shares issued per owner as a result of the proposed transfer, if applicable;
(h) A copy of a business license issued to the marijuana establishment by a locality which is revised to reflect the proposed transfer, if applicable; and
(i) Proof satisfactory to the Department that no monopoly will be created.
12. The owners of a marijuana establishment may request the transfer of any portion or the entirety of the ownership interest in the marijuana establishment to any natural person, regardless of whether the natural person holds an ownership interest in another marijuana establishment, or any person whose ownership interest is not entirely held by natural persons who hold an ownership interest in another marijuana establishment by submitting to the Department:
(a) A completed Transfer of Interest Form prescribed by the Department;
(b) All contracts or other agreements which describe the ownership transaction;
(c) A complete set of the fingerprints of each natural person who will receive an ownership interest and written permission of each such person authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;
(d) Proof that a completed application for a marijuana establishment agent registration card has been submitted for each person who will receive an ownership interest;
(e) A proposed organizational chart for the marijuana establishment;
(f) A copy of any document required to be filed with the Secretary of State, if applicable;
(g) A copy of any document required to be revised as a result of the proposed transfer relating to a fictitious name, if applicable;
(h) An updated description of all shares issued in the marijuana establishment and the shares issued per owner as a result of the proposed transfer, if applicable;
(i) A copy of a business license issued to the marijuana establishment by a locality which is revised to reflect the proposed transfer, if applicable; and
(j) Proof satisfactory to the Department that no monopoly will be created.
13. The Department will conduct such investigation of a request submitted pursuant to subsection 10, 11 or 12 and of each person proposed to receive an ownership interest in a marijuana establishment as a result of such a request as the Department determines is necessary. If the Department, as a result of such an investigation, determines additional information is necessary to complete the investigation, the marijuana establishment shall submit such information to the Department in a timely fashion. Upon completion of the investigation, the Department will:
(a) If the requested change in ownership does not violate any provision of this chapter or chapter 453D of NRS or any other relevant law or regulation:
(1) Notify the marijuana establishment in writing that the request has been approved;
(2) Update its records to reflect the new ownership of the marijuana establishment; and
(3) Notify the locality in which the marijuana establishment is located of the change in ownership of the marijuana establishment.
(b) If the requested change in ownership violates any provision of this chapter, chapter 453D of NRS or any other relevant law or regulation, notify the marijuana establishment in writing that the request has been denied and state the reason for denial.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

Component Marijuana Establishments

NAC 453D.330 Legal status as separate entity; issuance of certificate of approval by Department; shared secured storage area; requirements for buildings and location; inspection and other requirements to commence operations; expansion of operations; powers and duties in operation; request for exception from inspection. (NRS 453D.200)
1. Each component marijuana establishment retains its individual legal status as a separate entity from the combined marijuana establishment of which it is a part and each other component marijuana establishment which is a part of the same combined marijuana establishment.
2. The Department will not issue to a combined marijuana establishment a license for a marijuana establishment, but the combined marijuana establishment will instead be deemed to exist for the efficient operation and regulation of the component marijuana establishments which are a part of the combined marijuana establishment and will be issued a certificate of approval by the Department upon a determination by the Department that the combined marijuana establishment has complied with the provisions of this section.
3. The component marijuana establishments of a combined marijuana establishment may share a single, secured storage area if the inventory from each component marijuana establishment is securely segregated within the secured storage area apart from the inventory of all other component marijuana establishments.
4. The building infrastructure, security systems and other facilities, including, without limitation, common entrances, exits, break rooms, locker rooms, loading docks and other areas determined by the Department to be expedient for business and appropriate for the site, may be combined and shared among the component marijuana establishments of a combined marijuana establishment.
5. Each component marijuana establishment must be located in a commercial or industrial zone or overlay as approved by the locality and comply with all local ordinances and rules pertaining to zoning, land use and signage.
6. Except as otherwise provided in subsection 13, each component marijuana establishment within a combined marijuana establishment must be inspected before commencing operations and be ready to commence operations before any component

marijuana establishment within the combined marijuana establishment may commence operations. A component marijuana establishment need not actually commence or intend to immediately commence operations to satisfy the requirements of this subsection.

7. For the purposes of subsection 6, a component marijuana establishment is ready to commence operations if the component marijuana establishment:

(a) Is a cultivation facility, as defined in NRS 453A.056 or marijuana cultivation facility and has demonstrated the successful installation and operation of lights, plumbing, heating, ventilation and air-conditioning systems, humidity control systems, carbon dioxide control systems and all other growing technical facilities, including all related control systems, for at least one growing unit. A growing unit must:

(1) Be serviced by all building facilities and technology and have all other features described to perform growing operations at all stages of growth in the application for a medical marijuana establishment registration certificate or license for the cultivation facility or marijuana cultivation facility;

(2) Have the capacity to nourish clones, germinate seedlings, attain vegetative growth, flower plants to maturity, dry and cure cut plants, trim and package finished plants and store finished marijuana product in compliance with this chapter, chapters 453A and 453D of NRS and chapter 453A of NAC, as applicable; and

(3) Consist of one or more growing tables, enclosed pods or rooms.

(b) Is a facility for the production of edible marijuana products or marijuana-infused products, as defined in NRS 453A.105 or marijuana product manufacturing facility and has demonstrated the proper, safe installation of all extraction, cooking or other equipment and all plumbing, ventilation, solvent lines, electricity, electrical lines, refrigerators and all other production equipment.

8. A component marijuana establishment which has demonstrated that it is ready to commence operations pursuant to subsection 7 may expand operations within a previously inspected and approved space to the level described in its application for a license for a marijuana establishment without further inspection or approval. The Department may inspect such a component marijuana establishment as often as it determines to be necessary.

9. Before the Department will issue a certificate of approval for a combined marijuana establishment, all walls, ceilings, floors, electrical cabling, plumbing, general lighting for purposes other than cultivation and ducting for heating, ventilation or air-conditioning systems for each component marijuana establishment must be completed as specified in the floorplan submitted to the Department as part of the application for a license for a marijuana establishment for the component marijuana establishment at a level sufficient to obtain a certificate of occupancy issued by the locality.

10. Each certificate of approval issued by the Department to a combined marijuana establishment must specify which types of marijuana establishments are approved to operate at the location of the combined marijuana establishment.

11. A combined marijuana establishment may:

(a) Allow the marijuana establishment agents or medical marijuana establishment agents of each component marijuana establishment to move between the component marijuana establishments of the combined marijuana establishment if each such marijuana establishment agent or medical marijuana establishment agent holds and carries on his or her person a marijuana establishment agent registration card or medical marijuana establishment agent registration card, as applicable, for each kind of marijuana establishment or medical marijuana establishment to be entered.

(b) Allow a marijuana establishment agent or medical marijuana establishment agent of any component marijuana establishment to perform work functions for any component marijuana establishment if each such marijuana establishment agent or medical marijuana establishment agent holds and carries on his or her person a marijuana establishment agent registration card or medical marijuana establishment agent registration card, as applicable, for each kind of marijuana establishment or medical marijuana establishment at which work functions are performed.

(c) Share equipment which is not specific to the operation of a component marijuana establishment, including, without limitation, motor vehicles, among all component marijuana establishments.

(d) Not allow a component marijuana establishment to share equipment which is specific to the operation of the component marijuana establishment, including, without limitation, extraction devices which are specifically used by a marijuana product manufacturing facility or cultivation lights which are specifically used by a marijuana cultivation facility, with another component marijuana establishment.

12. Each component marijuana establishment shall maintain separate operations from other component marijuana establishments and the combined marijuana establishment of which the component marijuana establishment is a part by:

(a) Holding a license for a marijuana establishment or a medical marijuana establishment registration certificate and being individually approved, separate from all other marijuana establishments or medical marijuana establishments operating on the same parcel of real estate, to operate as a business by all relevant jurisdictions and authorities, as applicable.

(b) Maintaining separately from all other component marijuana establishments and being able to present financial records which comply with generally accepted accounting principles.

(c) Filing all financial disclosures and tax documents separately from all other component marijuana establishments.

13. A component marijuana establishment may submit a written request for an exception from the requirements of subsection 6. Such a written request must include a detailed justification of the necessity of the request. The Department may grant such a request for good cause shown, but will not consider any issues relating to financial outlays or difficulties with a vendor or supplier in preparing all component marijuana establishments for inspection to be good cause. If the Department grants such a request and the inspection of the component marijuana establishment which submitted the request is successful, the Department may permit the component marijuana establishment to operate for a period of time approved by the Department. Any certificate of approval issued to the combined marijuana establishment must be temporary and indicate that not all component marijuana establishments have been approved to operate. A final certificate of approval may only be issued to the combined marijuana establishment after each component marijuana establishment has satisfied the requirements of this section, paid all applicable fees and satisfied all applicable requirements of state or local law, regulation or ordinance.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.340 Submission of information by marijuana establishment to obtain or renew registration card for person employed by or contracted with establishment or for volunteer; fingerprinting and application fee; issuance of registration card; temporary registration; registration card required for officer, board member and person holding more than 5 percent ownership interest in marijuana establishment. (NRS 453D.200)

1. To obtain or renew a marijuana establishment agent registration card, for a person employed by or contracted with a marijuana establishment or a person who volunteers at a marijuana establishment other than a consultant who performs professional services for the marijuana establishment, the marijuana establishment shall submit to the Department:

(a) A copy of any valid government-issued identification card of the person which includes a photograph, the current address and the date of birth of the person.

(b) A statement signed by the person pledging not to dispense or otherwise divert marijuana to any person who is not authorized to possess marijuana in accordance with the provisions of this chapter and chapter 453D of NRS.

(c) A statement signed by the person asserting that he or she has not previously had a medical marijuana establishment agent registration card or marijuana establishment agent registration card revoked.

(d) An attestation signed and dated by the person that the person has not been convicted of an excluded felony offense.

(e) A complete set of the person's fingerprints and written permission of the person authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Authorization for the Department to obtain any other information necessary to complete a background check of the person.

(g) An application fee of $75.

(h) Such other information as the Department may require.

2. A person who:

(a) Has been convicted of an excluded felony offense; or

(b) Is less than 21 years of age,

shall not serve as a marijuana establishment agent.

3. If an applicant for registration as a marijuana establishment agent satisfies the requirements of this section and is not disqualified from serving as such an agent pursuant to this section or any other applicable law or regulation, the Department will issue to the person a marijuana establishment agent registration card.

4. An applicant for registration or renewal of registration as a marijuana establishment agent is deemed temporarily registered as a marijuana establishment agent on the date on which a complete application for registration or renewal of registration is submitted to the Department. A temporary registration as a marijuana establishment agent expires 30 days after the date upon which the application is received. The Department will provide verification of temporary registration to an applicant at the time the Department receives the application.

5. Each officer or board member of a marijuana establishment, and each person who holds more than 5 percent of the ownership interest in a marijuana establishment, shall obtain a marijuana establishment agent registration card.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.345 Submission of applications electronically. (NRS 453D.200) An applicant submitting an application for a marijuana establishment agent registration card pursuant to NAC 453D.340 or renewing, amending, changing or replacing a marijuana establishment agent registration card shall submit the application electronically in the format prescribed by the Department.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.348 Categories of registration cards. (NRS 453D.200)

1. The Department will issue marijuana establishment agent registration cards for each of the following categories:

(a) A marijuana cultivation facility;

(b) A marijuana distributor;

(c) A marijuana product manufacturing facility;

(d) A marijuana testing facility;

(e) A retail marijuana store; or

(f) An independent contractor who provides labor to a marijuana establishment or an employee of such an independent contractor.

2. Each marijuana establishment agent registration card issued pursuant to NAC 453D.340 must indicate the applicable category. A person who is employed by or volunteers at a marijuana establishment and to whom a marijuana establishment agent registration card is issued may only be employed by or volunteer at the type of marijuana establishment for which he or she is registered. Such a person may hold more than one category of marijuana establishment agent registration card and may volunteer or work at any marijuana establishment in this State for which the category of the marijuana establishment agent registration card authorizes the person to volunteer or work.

3. A marijuana establishment agent registration card issued pursuant to NAC 453D.340 to an independent contractor or an employee of an independent contractor authorizes the independent contractor or employee to provide labor to any marijuana establishment in this State.

4. If a marijuana establishment agent also holds a valid medical marijuana establishment agent registration card, the marijuana establishment agent is authorized to work in any marijuana establishment or dual licensee for which the category of the marijuana establishment agent registration card and medical marijuana establishment agent registration card authorizes the person to volunteer or work.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.352 Training and instruction required before agent may begin work or service as volunteer. (NRS 453D.200)

1. A marijuana establishment shall ensure that training is provided to a marijuana establishment agent before that person begins to work or volunteer at or provide labor as a marijuana establishment agent at the marijuana establishment. Such training must include, without limitation:

(a) The proper use of security measures and controls that have been adopted by the marijuana establishment for the prevention of diversion, theft or loss of marijuana;

(b) Procedures and instructions for responding to an emergency; and

(c) State and federal statutes and regulations related to the use of marijuana.

2. In addition to the training set forth in subsection 1, a retail marijuana store shall ensure that instruction is provided to a marijuana establishment agent before that person begins to work or volunteer at or provide labor as a marijuana establishment agent to the retail marijuana store. Such instruction must include, without limitation:

(a) The different strains of marijuana;

(b) The different methods of using marijuana and marijuana products;

(c) Learning to recognize signs of marijuana abuse, impairment or instability in the use of marijuana by a consumer;

(d) Clinical effects of marijuana on the human body and how THC affects the consumer;

(e) Required warnings and literature which must be supplied to the consumer;

(f) Methods of refusing entry or sales to prohibited persons, including, without limitation:

(1) Verifying identification and using age verification devices;

(2) Education on the effects of marijuana on persons under 21 years of age; and

(3) Recognition of false or altered identification;

(g) Understanding the role of law enforcement in confirming compliance with laws and regulations relating to marijuana;

(h) Applicable state and local laws and regulations regarding marijuana;

(i) Preventing unlawful consumption of marijuana, including, without limitation, information regarding laws which prohibit open or public consumption of marijuana;

(j) Preventing the use of marijuana by persons under the age of 21 years, including, without limitation, laws which prohibit such use and the penalties for the violation of such laws;

(k) How to prevent and address disturbances; and

(l) The responsibility of the marijuana establishment agent to put into effect strategies adopted by the marijuana establishment to prevent the diversion of marijuana.

3. In addition to the training set forth in subsection 1, a marijuana testing facility shall ensure that instruction is provided to a marijuana establishment agent before that person begins to work or volunteer at or provide labor as a marijuana establishment agent to the marijuana testing facility. Such instruction must include, without limitation:

(a) The good laboratory practices adopted by the marijuana testing facility; and

(b) The standard operating procedures and the quality control and quality assurance programs of the marijuana testing facility.

4. In addition to the training set forth in subsection 1, a marijuana cultivation facility shall ensure that instruction is provided to a marijuana establishment agent before that person begins to work or volunteer at or provide labor as a marijuana establishment agent to the marijuana cultivation facility. Such instruction must include, without limitation:

(a) The methods of cultivation used by the marijuana cultivation facility;

(b) The methods of fertilization used by the marijuana cultivation facility;

(c) Methods for recognizing the signs of insect infestation, pathogens and disease in marijuana plants, and the procedures for eradication and the safe disposal of plants so affected;

(d) The nutritional requirements of marijuana plants at various growth stages, including, without limitation, proper mixing and dispersal of fertilizer, flushing procedures and procedures for postharvest trimming, drying and curing; and

(e) The safe handling of equipment, including, without limitation, high-intensity discharge lamps, electrical ballasts, pumps, fans, cutting implements and other equipment for cultivation.

5. In addition to the training set forth in subsection 1, a marijuana product manufacturing facility shall ensure that instruction is provided to a marijuana establishment agent before that person begins to work or volunteer at or provide labor as a marijuana establishment agent to the marijuana product manufacturing facility. Such instruction must include, without limitation:

(a) Understanding the difference between concentrated marijuana, topical products and marijuana products, as applicable to the operations of the marijuana product manufacturing facility;

(b) The procedures used by the marijuana product manufacturing facility to create concentrated marijuana and marijuana products; and

(c) The proper procedures for handling concentrated marijuana and marijuana products, including, without limitation, the procedures used to prepare, produce, package and store such products as required by the provisions of this chapter and chapter 453D of NRS.

6. In addition to the training set forth in subsection 1, a marijuana distributor shall ensure that instruction is provided to a marijuana establishment agent before that person begins to work or volunteer at or provide labor as a marijuana establishment agent to the marijuana distributor. Such instruction must include, without limitation:

(a) Procedures for the proper handling of marijuana plants, usable marijuana, concentrated marijuana and marijuana products;

(b) Procedures for the proper transportation and storage of marijuana plants, usable marijuana, concentrated marijuana and marijuana products; and

(c) Information regarding the type of driver's license which must be maintained for the loads expected to be transported.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.355 Request for change to name or address on registration card. (NRS 453D.200) To make a change to the name or address on a marijuana establishment agent registration card, the marijuana establishment agent must submit to the Department a request for the change, which must include:

1. The name on and the number of the current marijuana establishment agent registration card of the cardholder;
2. The new name or address of the cardholder;
3. The effective date of the new name or address of the cardholder;
4. For a change of the address of the cardholder, the county and state in which the new address is located; and
5. For a change of the name of the cardholder, a copy of any valid government-issued identification card of the cardholder which includes a photograph of the person and the new name and address of the cardholder and documentation of the reason for the change.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.358 Request for replacement of registration card. (NRS 453D.200) To request a replacement marijuana establishment agent registration card that has been lost, stolen or destroyed, the marijuana establishment agent must submit to the Department, within 3 working days after the card was lost, stolen or destroyed, a request for a replacement card which must include:

1. The name and date of birth of the cardholder;
2. If known, the number of the lost, stolen or destroyed marijuana establishment agent registration card; and
3. If the cardholder cannot provide the number of the lost, stolen or destroyed marijuana establishment agent registration card, a copy of:

(a) Any valid government-issued identification card of the cardholder which includes a photograph of the person; or
(b) A marijuana establishment agent registration card previously issued to the person.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.362 Expiration date on registration card that is changed or replaced. (NRS 453D.200) If the Department issues a marijuana establishment agent registration card based on a request pursuant to NAC 453D.355 or 453D.358, the new marijuana establishment agent registration card must have the same expiration date as the marijuana establishment registration agent card being changed or replaced.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.365 Grounds for denial of issuance or renewal of registration card; grounds for revocation of registration card; notice of denial or revocation. (NRS 453D.200)

1. The Department will deny an application for or an application to renew a marijuana establishment agent registration card if the applicant:

(a) Does not meet the requirements set forth in NAC 453D.340; or
(b) Previously has had a marijuana establishment agent registration card or a medical marijuana establishment agent registration card revoked.

2. The Department may deny an application for or an application to renew a marijuana establishment agent registration card if the applicant provides false or misleading information to the Department.
3. The Department may revoke a marijuana establishment agent registration card if the marijuana establishment agent:

(a) Sells or otherwise diverts marijuana to a person who is not authorized by law to possess marijuana in accordance with the provisions of this chapter and chapter 453D of NRS;
(b) Has been convicted of an excluded felony offense; or
(c) Engages in a category I violation pursuant to NAC 453D.905.

4. The Department may revoke a marijuana establishment agent registration card if the marijuana establishment agent knowingly violates any provision of this chapter or chapter 453D of NRS.
5. If the Department denies an application for or an application to renew a marijuana establishment agent registration card or revokes a marijuana establishment agent registration card, the Department will provide notice to the applicant or marijuana establishment agent that includes, without limitation, the specific reasons for the denial or revocation.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

Requirements and Procedures for Operation

NAC 453D.400 Posting of licenses and other authorization to conduct business in conspicuous place. (NRS 453D.200) A marijuana establishment shall post its license for a marijuana establishment, business license and any other authorization to conduct business in a conspicuous place within the marijuana establishment.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.405 Requirements of dual licensee. (NRS 453D.200) A dual licensee shall:

1. Comply with the provisions of chapter 453A of NAC with respect to the medical marijuana establishment operated by the dual licensee; and
2. Combine the location and operations of the medical marijuana establishment and marijuana establishment operated by the dual licensee as provided in NAC 453D.330.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.410 Operation in accordance with plans and specifications included in application; deviation from plans and specifications; documentation of change to facilities; inspection or audit of change to facilities. (NRS 453D.200)

1. Except as otherwise provided in this section, a marijuana establishment shall operate according to the plans and specifications included within the application for a license for the marijuana establishment submitted pursuant to NAC 453D.265 or 453D.268.

2. A marijuana establishment may operate in a manner that deviates from the plans or specifications included within its application for a license if the change would comply with state and local laws, regulations and ordinances and the marijuana establishment provides the Department with a written notification of its intent to make the change which includes, without limitation:

(a) The name, physical address and license number of the marijuana establishment; and

(b) A description of the proposed change.

3. Upon receipt of a written notification pursuant to subsection 2, the Department will add the information to the file that the Department maintains on the marijuana establishment.

4. A marijuana establishment which has completed a change to its facilities shall submit documentation of the change to the Department as soon as practicable, but in no event later than the date of the next scheduled inspection of the marijuana establishment by the Department.

5. The Department will inspect or audit any change to the facilities of a marijuana establishment that the Department deems necessary of inspection or auditing at the next inspection of the marijuana establishment by the Department or at such other time as the Department determines to be appropriate after the date that the marijuana establishment projects for completion of the change or notifies the Department of the completion of the change, whichever is earlier.

6. A marijuana establishment shall not commence the operation of any material change to the facilities or operations of the marijuana establishment until the Department completes an inspection or audit of the change or notifies the marijuana establishment that an inspection or audit is not necessary. Material changes include, without limitation, modifications to:

(a) The infrastructure of the facilities of the marijuana establishment, including, without limitation, modifications requiring demolition or new construction of walls, plumbing, electrical infrastructure, heating, ventilation or air conditioning; and

(b) The operating capability of the marijuana establishment, including, without limitation, the implementation of a new extraction device or removal of an existing extraction device, a change to the growing method from the method previously used and inspected or a change to the lighting technology, hydroponic system, pod or other contained growing system. The addition of one or more new pods which are identical to a pod that has already been inspected is not a material change.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.413 Written request for move to new location; issuance of new amended license upon approval of request. (NRS 453D.200)

1. A marijuana establishment may move to a new location under the jurisdiction of the same locality as its original location and regardless of the distance from its original location if the operation of the marijuana establishment at the new location has been approved by the locality. A locality may approve a new location pursuant to this subsection only in a public hearing for which written notice is given at least 7 working days before the hearing.

2. Except as otherwise provided in subsection 1, a marijuana establishment that wishes to move to a new location or commence operations at a location other than the location contained in the application of the marijuana establishment must submit a written request for relocation to the Department. The written request for relocation must include, without limitation:

(a) The name, current physical address, proposed new physical address and license or application number of the marijuana establishment;

(b) Documentation of a public meeting in which the locality of the proposed new location considered the relocation request;

(c) Documentation of land use approval for the new location by the locality;

(d) A professional survey demonstrating that the proposed location meets the distance requirements set forth in paragraph (c) of subsection 5 of NRS 453D.210; and

(e) A signed, written attestation that the operation of the marijuana establishment at the new address will meet or exceed the merits of the location specified in the application submitted by the marijuana establishment.

3. The Department will consider each request received pursuant to subsection 2 and, after reviewing the documentation contained in the request, determine whether the request should be approved. Upon approval, the Department will issue to the marijuana establishment a new license which is amended to reflect the new address.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.418 Persons authorized on premises; visitor identification badge and other requirements for other persons; maintenance and availability of visitor log. (NRS 453D.200)

1. Except as otherwise provided in this section, the only persons who may be on the premises of a retail marijuana store are:

(a) A marijuana establishment agent;

(b) A patient who holds a valid registry identification card or letter of approval;

(c) The designated primary caregiver of a patient who holds a valid registry identification card or letter of approval;

(d) A person who is not a resident of this State but is deemed to hold a valid registry identification card pursuant to NRS 453A.364;

(e) A person inspecting the marijuana establishment, including, without limitation, a local government authority, pursuant to this chapter or chapter 453D of NRS; or

(f) Any person not listed in paragraph (a) to (e), inclusive, who is at least 21 years of age.

2. The only persons who may be on the premises of a marijuana establishment other than a retail marijuana store are:

(a) A marijuana establishment agent; or

(b) A person inspecting the marijuana establishment, including, without limitation, a local government authority, pursuant to this chapter or chapter 453D of NRS.

3. Any person other than a person authorized to be on the premises of a marijuana establishment pursuant to subsection 1 or 2 must obtain a visitor identification badge from a marijuana establishment agent before entering the premises of the marijuana establishment.

4. A person who obtains a visitor identification badge pursuant to subsection 3, including, without limitation, an outside vendor or contractor:

(a) Must be escorted and monitored by a marijuana establishment agent at all times he or she is on the premises of the marijuana establishment;

(b) Must visibly display his or her visitor identification badge at all times he or she is on the premises of the marijuana establishment;

(c) Must not handle any marijuana or money whatsoever; and

(d) Must return the visitor identification badge to a marijuana establishment agent upon leaving the premises of the marijuana establishment.

5. Each marijuana establishment shall maintain a visitor log which includes the name of the visitor and the date, time and purpose of each visit by a person other than a person authorized to be on the premises of the marijuana establishment pursuant to subsection 1 or 2. The marijuana establishment shall make its visitor log available to the Department upon request.

6. Each regular, seasonal or temporary employee of or volunteer or person who provides labor as a marijuana establishment agent at a marijuana establishment must obtain a marijuana establishment agent registration card pursuant to the provisions of this chapter and may not be authorized to be on the premises of the marijuana establishment by obtaining a visitor identification badge pursuant to the provisions of this section.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.422 Development, documentation and implementation of certain policies and procedures; maintenance and availability. (NRS 453D.200) A marijuana establishment shall:

1. Develop, document and implement policies and procedures regarding:

(a) Job descriptions and employment contracts, including, without limitation:

(1) The duties, authority, responsibilities and qualifications of personnel;

(2) Supervision of personnel;

(3) Training in and adherence to confidentiality requirements;

(4) Periodic performance evaluations; and

(5) Disciplinary actions.

(b) Business records, such as manual or computerized records of assets and liabilities, monetary transactions, journals, ledgers and supporting documents, including, without limitation, agreements, checks, invoices and vouchers.

(c) Inventory control, including, without limitation:

(1) Tracking;

(2) Packaging;

(3) Acquiring marijuana from other marijuana establishments;

(4) Disposing of unusable marijuana; and

(5) Returning for a refund marijuana or marijuana products to the marijuana establishment from which the marijuana or marijuana products were acquired.

(d) Consumer education and support, including, without limitation:

(1) The availability of different strains of marijuana and the purported effects of the different strains;

(2) Information about the purported effectiveness of various methods, forms and routes of administering marijuana;

(3) The prohibition on the smoking of marijuana in public places, places open to the public and places exposed to public view and on federal lands;

(4) Education on how marijuana impairs a person's ability to operate a moving vehicle and that driving, operating or being in actual physical control of a vehicle while under the influence of marijuana or while impaired by marijuana is unlawful; and

(5) That possession of marijuana exceeding a certain quantity remains a felony with various legal consequences.

2. Maintain copies of the policies and procedures developed pursuant to subsection 1 at the marijuana establishment and provide copies to the Department for review upon request.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.426 Inventory control system; authorized sources for acquisition of marijuana and marijuana products; duties of establishment if loss incurred; maintenance and availability of documentation. (NRS 453D.200)

1. Each marijuana establishment shall designate in writing a marijuana establishment agent who has oversight of the inventory control system of the marijuana establishment.

2. Except as otherwise provided in subsection 3, a marijuana establishment shall only acquire marijuana or marijuana products from:

(a) Another marijuana establishment, including, without limitation, a marijuana cultivation facility, a marijuana product manufacturing facility or a retail marijuana store; or

(b) A medical marijuana establishment which is registered pursuant to chapter 453A of NRS.

3. A marijuana cultivation facility may acquire seeds for the cultivation of marijuana from any person if the acquisition of the seeds does not violate the provisions of chapter 453D of NRS.

4. A marijuana establishment shall not acquire concentrated marijuana or products containing concentrated marijuana from another marijuana establishment, except that a retail marijuana store or a marijuana product manufacturing facility may acquire concentrated marijuana or products containing concentrated marijuana from a marijuana product manufacturing facility. A marijuana cultivation facility may sell crude collected resins to a retail marijuana store if the crude collected resins are:

(a) From a single batch;

(b) Unprocessed; and

(c) Not combined.

5. Each marijuana establishment shall establish and implement an inventory control system that documents:

(a) Each day's beginning inventory, acquisitions, harvests, sales, disbursements, disposal of unusable marijuana and ending inventory, including, without limitation, the:

(1) Number of plants and cuttings;

(2) Weight of flowers, measured in grams;

(3) Weight of trim, measured in grams;

(4) Quantity of THC, measured in milligrams; and

(5) Weight of seeds, measured in grams.

(b) When acquiring marijuana from another marijuana establishment:

(1) A description of the marijuana acquired, including the amount, strain and batch number, lot number and production run number, or any combination thereof;

(2) The name and identification number of the license of the marijuana establishment providing the marijuana;

(3) The name and the number of the marijuana establishment agent registration card of the marijuana establishment agent providing the marijuana;

(4) The name and the number of the marijuana establishment agent registration card of the marijuana establishment agent receiving the marijuana on behalf of the marijuana establishment; and

(5) The date of acquisition.

(c) When acquiring marijuana from a medical marijuana establishment registered pursuant to chapter 453A of NRS:

(1) A description of the marijuana acquired, including the amount, strain and batch number, lot number and production run number, or any combination thereof;

(2) The name and identification number of the medical marijuana establishment registration certificate of the medical marijuana establishment providing the marijuana;

(3) The name and the number of the medical marijuana establishment agent registration card of the medical marijuana establishment agent providing the marijuana;

(4) The name and the number of the marijuana establishment agent registration card of the marijuana establishment agent receiving the marijuana on behalf of the marijuana establishment; and

(5) The date of acquisition.

(d) For each batch of marijuana cultivated:

(1) The batch number, lot number and production run number, as applicable.

(2) Whether the batch originated from marijuana seeds or marijuana cuttings.

(3) The strain of the marijuana seeds or marijuana cuttings planted.

(4) The number of marijuana seeds or marijuana cuttings planted.

(5) The date on which the marijuana seeds or cuttings were planted.

(6) A list of all chemical additives used in the cultivation, including, without limitation, nonorganic pesticides, herbicides and fertilizers.

(7) The number of marijuana plants grown to maturity.

(8) Harvest information, including, without limitation:

(I) The date of harvest;

(II) The final yield weight of processed usable marijuana, in grams; and

(III) The name and the number of the marijuana establishment agent registration card of the marijuana establishment agent responsible for the harvest.

(9) The disposal of marijuana that is not usable marijuana, including:

(I) A description of and reason for the marijuana being disposed of, including, if applicable, the number of failed or other unusable marijuana plants;

(II) The date of disposal;

(III) Confirmation that the marijuana was rendered unusable before disposal;

(IV) The method of disposal; and

(V) The name and the number of the marijuana establishment agent registration card of the marijuana establishment agent responsible for the disposal.

(e) When providing marijuana to another marijuana establishment:

(1) The amount, strain, batch number, lot number and production run number, as applicable, of marijuana provided to the marijuana establishment;

(2) The name and license number of the other marijuana establishment;

(3) The name and the number of the marijuana establishment agent registration card of the marijuana establishment agent who received the marijuana on behalf of the other marijuana establishment; and

(4) The date on which the marijuana was provided to the marijuana establishment.

(f) When receiving edible marijuana products from another marijuana establishment:

(1) A description of the edible marijuana products received from the marijuana establishment, including the total weight of each edible marijuana product and the amount of THC, measured in milligrams, and the production run number of the marijuana in each edible marijuana product.

(2) The total amount and production run number of marijuana in the edible marijuana products.

(3) The name and:

(I) License number of the marijuana establishment providing the edible marijuana products to the receiving marijuana establishment;

(II) The number of the marijuana establishment agent registration card of the marijuana establishment agent providing the edible marijuana products to the receiving marijuana establishment; and

(III) The number of the marijuana establishment agent registration card of the marijuana establishment agent receiving the edible marijuana products on behalf of the receiving marijuana establishment.

(4) The date on which the edible marijuana products were provided to the marijuana establishment.

(g) When receiving marijuana products from another marijuana establishment:

(1) A description of the marijuana products received from the marijuana establishment, including the total weight of each marijuana product and the amount of THC, measured in milligrams, and production run number of the marijuana in each marijuana product.

(2) The total amount and production run number of marijuana in the marijuana products.

(3) The name and:

(I) License number of the marijuana establishment providing the marijuana products to the receiving marijuana establishment;

(II) The number of the marijuana establishment agent registration card of the marijuana establishment agent providing the marijuana products to the receiving marijuana establishment; and

(III) The number of the marijuana establishment agent registration card of the marijuana establishment agent receiving the marijuana products on behalf of the receiving marijuana establishment.

(4) The date on which the marijuana products were provided to the marijuana establishment.

(h) When receiving concentrated marijuana or products containing concentrated marijuana from a marijuana product manufacturing facility:

(1) A description of the concentrated marijuana or products containing concentrated marijuana received from the marijuana product manufacturing facility, including the total weight of each product, the amount of THC, measured in milligrams, and the production run number for each product;

(2) The name and:

(I) License number of the marijuana establishment providing the concentrated marijuana or products containing concentrated marijuana to the receiving marijuana establishment;

(II) The number of the marijuana establishment agent registration card of the marijuana establishment agent providing the concentrated marijuana or products containing concentrated marijuana to the receiving marijuana establishment; and

(III) The number of the marijuana establishment agent registration card of the marijuana establishment agent receiving the concentrated marijuana or products containing concentrated marijuana on behalf of the receiving marijuana establishment.

(3) The date on which the concentrated marijuana or products containing concentrated marijuana were provided to the marijuana establishment.

6. Each marijuana establishment shall:

(a) Establish and maintain a seed-to-sale inventory system which adequately documents the flow of materials through the manufacturing process.

(b) Establish procedures which reconcile the raw material used to the finished product on the basis of each job. Significant variances must be documented, investigated by management personnel and immediately reported to the Department and to the marijuana establishment that ordered the concentrated marijuana or marijuana product.

(c) Provide for quarterly physical inventory counts to be performed by persons independent of the manufacturing process which are reconciled to the perpetual inventory records. Significant variances must be documented, investigated by management personnel and immediately reported to the Department.

7. If a marijuana establishment identifies a reduction in the amount of marijuana in the inventory of the marijuana establishment which is not due to documented causes, the marijuana establishment shall determine where the loss has occurred and take and document corrective action. If the reduction in the amount of marijuana in the inventory of the marijuana establishment is due to suspected criminal activity by a marijuana establishment agent, the marijuana establishment shall report the marijuana establishment agent to the Department and to the appropriate law enforcement agencies within 24 hours. The Department may require the marijuana establishment to provide additional information as it determines necessary to conduct an investigation.

8. A marijuana establishment shall:

(a) Maintain the documentation required by subsections 5, 6 and 7 at the marijuana establishment for at least 5 years after the date on the document; and

(b) Provide the documentation required by subsections 5, 6 and 7 to the Department for review upon request.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.430 Use of seed-to-sale tracking system; payment of fees. (NRS 453D.200) A marijuana establishment shall:

1. Use the seed-to-sale tracking system managed by the independent contractor selected by the Department;
2. Connect to the seed-to-sale tracking system using the independent contractor's application programming interface; and
3. Pay any fees assessed by the independent contractor for using the seed-to-sale tracking system, including, without limitation, user fees or application programming interface fees.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.434 Required security measures, equipment and personnel; location of outdoor cultivation facility must allow for response by local law enforcement. (NRS 453D.200)

1. To prevent unauthorized access to marijuana at a marijuana establishment, the marijuana establishment must have:

(a) Security equipment to deter and prevent unauthorized entrance into limited access areas that includes, without limitation:

(1) Devices or a series of devices to detect unauthorized intrusion, which may include a signal system interconnected with a radio frequency method, such as cellular or private radio signals, or other mechanical or electronic device, and which, for a marijuana cultivation facility which engages in outdoor cultivation, covers the entirety of the cultivation area and the perimeter and exterior area of the marijuana cultivation facility;

(2) Exterior lighting to facilitate surveillance which, for a marijuana cultivation facility which engages in outdoor cultivation:

(I) When the lighting would not interfere with the growing cycle of a crop, covers the entirety of the cultivation area and the perimeter and exterior area of the marijuana cultivation facility; and

(II) When the lighting would interfere with the growing cycle of a crop, covers the perimeter and exterior area of the marijuana cultivation facility;

(3) Electronic monitoring, including, without limitation, each of the following:

(I) At least one call-up monitor that is 19 inches or more;

(II) A video printer capable of immediately producing a clear still photo from any video camera image, which photo must be provided to the Department for review upon request;

(III) Video cameras with a recording resolution of at least 1920 x 1080, or the equivalent, at a rate of at least 15 frames per second which provide coverage of all entrances and exits of the building, any room or area that holds a vault and any point-of-sale location, which record 24 hours per day, which are capable of being accessed remotely by a law enforcement agency in real time upon request and which may record motion only. A video camera providing coverage of a point-of-sale location must allow for the identification of any person purchasing marijuana;

(IV) Video cameras with a recording resolution of at least 720 x 480, or the equivalent, at a rate of at least 15 frames per second which provide coverage of all limited access areas not described in sub-subparagraph (III) and any activity in or adjacent to the establishment, which record 24 hours per day, which are capable of being accessed remotely by a law enforcement agency in real time upon request, which may record motion only and which, for a marijuana cultivation facility which engages in outdoor cultivation, cover the entirety of the cultivation area and the perimeter and exterior area of the marijuana cultivation facility;

(V) A video camera which is capable of identifying any activity occurring within the marijuana establishment in low light conditions 24 hours per day;

(VI) A method for storing video recordings from the video cameras for at least 30 calendar days in a secure on-site or off-site location or through a service or network that provides on-demand access to the recordings and providing copies of the recordings to the Department for review upon request and at the expense of the marijuana establishment;

(VII) A failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system; and

(VIII) Sufficient battery backup for video cameras and recording equipment to support at least 5 minutes of recording in the event of a power outage;

(4) Immediate automatic or electronic notification to alert local law enforcement agencies of an unauthorized breach of security at the marijuana establishment in the interior of each building of the marijuana establishment; and

(5) For a marijuana cultivation facility which engages in outdoor cultivation:

(I) An alarm system and video cameras which are monitored 24 hours per day;

(II) An exterior barrier, determined to be appropriate by local law enforcement, which is located around the perimeter of the marijuana cultivation facility and which consists of a solid block wall or chain link fence with a height of at least 8 feet and an additional fence with a height of at least 8 feet located at least 10 feet and not more than 20 feet inside of the solid block wall or chain link fence; and

(III) A secure block building which is approved by the Department as suitable to dry and store marijuana and which meets the security and sanitation requirements for a marijuana cultivation facility which engages in indoor cultivation of marijuana.

(b) Policies and procedures:

(1) That restrict access to the areas of the marijuana establishment that contain marijuana to persons authorized to be in those areas only;

(2) That provide for the identification of persons authorized to be in the areas of the marijuana establishment that contain marijuana;

(3) That prevent loitering;

(4) For conducting electronic monitoring;

(5) For the use of the automatic or electronic notification to alert local law enforcement agencies of an unauthorized breach of security at the marijuana establishment;

(6) For limiting the amount of money available in any retail areas of the marijuana establishment and for training employees on this practice;

(7) For notifying the public of the minimal amount of money available, which may include, without limitation, the posting of a sign;

(8) For maintaining communication with law enforcement agencies; and

(9) For providing and receiving notifications regarding burglary, attempted burglary, robbery, attempted robbery and other suspicious activity.

2. Each video camera used pursuant to subparagraph (3) of paragraph (a) of subsection 1 must:

(a) Include a date and time generator which possesses the capability to display the date and time of recorded events on the recording in a manner that does not significantly obstruct the recorded view; and

(b) Be installed in a manner that will prevent the video camera from being readily obstructed, tampered with or disabled.

3. A marijuana establishment shall make a reasonable effort to repair any malfunction of security equipment within 72 hours after the malfunction is discovered. A marijuana establishment shall notify the Department and local law enforcement within 24 hours after a malfunction is discovered and provide a plan of correction. Failure to correct a malfunction within 72 hours after the malfunction is discovered is a violation of this section.

4. If a video camera used pursuant to subparagraph (3) of paragraph (a) of subsection 1 malfunctions, the marijuana establishment shall immediately provide alternative video camera coverage or use other security measures, such as assigning additional supervisory or security personnel, to provide for the security of the marijuana establishment. If the marijuana establishment uses other security measures, the marijuana establishment must immediately notify the Department, and the Department will determine whether the other security measures are adequate.

5. Each marijuana establishment shall maintain a log that documents each malfunction and repair of the security equipment of the marijuana establishment pursuant to subsections 3 and 4. The log must state the date, time and nature of each

malfunction, the efforts taken to repair the malfunction and the date of each effort, the reason for any delay in repairing the malfunction, the date the malfunction is repaired and, if applicable, any alternative security measures that were taken. The log must also list, by date and time, all communications with the Department concerning each malfunction and corrective action. The marijuana establishment shall maintain the log for at least 1 year after the date of last entry in the log.

6. Each marijuana establishment must employ a security manager or director who must be responsible for:

(a) Conducting a semiannual audit of security measures to ensure compliance with the state procedures of the marijuana establishment and identify potential security issues;

(b) Training employees on security measures, emergency response and robbery prevention and response before hiring and on an annual basis; and

(c) Evaluating the credentials of any third party who intends to provide security to the marijuana establishment before the third party is hired by or enters into a contract with the marijuana establishment.

7. Each marijuana establishment shall ensure that the security manager or director of the marijuana establishment, at least one employee of the marijuana establishment or the employees of any third party who provides security to the marijuana establishment has completed, or will complete within a period determined by the Department to be reasonable, the following training:

(a) Training in theft prevention or a related subject;

(b) Training in emergency response or a related subject;

(c) Training in the appropriate use of force or a related subject that covers when the use of force is and is not necessary;

(d) Training in the use and administration of first aid, including cardiopulmonary resuscitation;

(e) Training in the protection of a crime scene or a related subject;

(f) Training in the control of access to protected areas of a marijuana establishment or a related subject;

(g) Not less than 8 hours of on-site training in providing security services; and

(h) Not less than 8 hours of classroom training in providing security services.

8. A marijuana cultivation facility which engages in the outdoor cultivation of marijuana must be located in such a manner as to allow local law enforcement to respond to the marijuana cultivation facility within 15 minutes after being contacted unless the local law enforcement agency determines some other response time is acceptable.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.438 Duties relating to marijuana establishment agents. (NRS 453D.200) A marijuana establishment shall:

1. Ensure that each marijuana establishment agent has his or her marijuana establishment agent registration card or temporary authorization in his or her immediate possession when the marijuana establishment agent:

(a) Is employed by or volunteering at or providing labor as a marijuana establishment agent at the marijuana establishment;

(b) Is transporting marijuana or marijuana products for the marijuana establishment, regardless of the type of license held by the marijuana establishment; or

(c) Is delivering marijuana or marijuana products for a retail marijuana store.

2. Not allow a person who does not possess a marijuana establishment agent registration card which is valid at the marijuana establishment to:

(a) Serve as an officer or board member for the marijuana establishment or hold an ownership interest of more than 5 percent in the marijuana establishment;

(b) Be employed by or have a contract to provide services for the marijuana establishment;

(c) Volunteer at or on behalf of the marijuana establishment; or

(d) Contract to provide labor at or be employed by an independent contractor to provide labor at the marijuana establishment.

3. Provide written notice to the Department, including the date of the event, within 10 working days after the date on which a marijuana establishment agent begins:

(a) Service as an officer or board member for the marijuana establishment;

(b) Employment by the marijuana establishment or providing services for the marijuana establishment pursuant to a contract;

(c) Volunteering at or on behalf of the marijuana establishment; or

(d) Providing labor at or beginning employment by an independent contractor to provide labor at a marijuana establishment pursuant to a contract.

4. Provide written notice to the Department, including the date of and reason for the event, within 10 working days after the date on which a marijuana establishment agent no longer:

(a) Serves as an officer or board member for the marijuana establishment;

(b) Is employed by or has a contract to provide services for the marijuana establishment;

(c) Volunteers at or on behalf of the marijuana establishment; or

(d) Contracts to provide labor at or is employed by an independent contractor to provide labor at a marijuana establishment.

5. Provide written notice to the Department, including the date of the event, within 10 working days after the date on which the person designated by the marijuana establishment to provide written notice to the Department relating to marijuana establishment agents ceases to serve in that capacity at the marijuana establishment.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.442 Cleanliness and health of marijuana establishment agents. (NRS 453D.200)

1. Each marijuana establishment must ensure that each marijuana establishment agent who is employed by, volunteers at or provides labor as a marijuana establishment agent at the marijuana establishment:

(a) Cleans his or her hands and exposed portions of his or her arms in a hand-washing sink:

(1) Immediately upon entrance to the marijuana establishment;

(2) Immediately before working with marijuana plants;

(3) Immediately before preparing concentrated marijuana or marijuana products, including, without limitation, working with exposed marijuana products, clean equipment and utensils or unwrapped single-service and single-use articles;

(4) After touching any bare human body parts other than his or her clean hands and exposed portions of arms, including, without limitation, surrogate prosthetic devices for hands and arms;

(5) After using the toilet facilities;

(6) After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating or drinking;

(7) After handling soiled equipment or utensils;

(8) During preparation or extraction of concentrated marijuana or marijuana products, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks;

(9) When switching between working with unprocessed marijuana products or uncooked food products and working with finished concentrated marijuana or marijuana products;

(10) Before donning gloves for working with marijuana products; and

(11) After engaging in other activities that contaminate the hands.

(b) If working directly in the preparation of concentrated marijuana or marijuana products:

(1) Keeps his or her fingernails trimmed, filed and maintained so that the edges and surfaces are cleanable;

(2) Unless wearing intact gloves in good repair, does not have fingernail polish or artificial fingernails on his or her fingernails; and

(3) Wears a hair net.

(c) Wears clean clothing appropriate to the tasks assigned to him or her.

2. If the person designated by a marijuana establishment to address health conditions at the marijuana establishment determines that a marijuana establishment agent who is employed by or volunteers at or provides labor as a marijuana establishment agent at the marijuana establishment has a health condition that may adversely affect the safety or quality of the concentrated marijuana or marijuana products at the marijuana establishment, that marijuana establishment agent is prohibited from having direct contact with any marijuana or equipment or materials for processing concentrated marijuana or marijuana products until the designated person determines that the health condition of the marijuana establishment agent will not adversely affect the concentrated marijuana or marijuana products.

3. A marijuana establishment agent shall not work directly with concentrated marijuana or marijuana products if the marijuana establishment agent has:

(a) A symptom of gastrointestinal infection, including, without limitation, diarrhea, vomiting or jaundice;

(b) A sore throat with fever; or

(c) A lesion that appears inflamed or contains pus, including, without limitation, a boil or infected wound that is not covered with:

(1) An impermeable cover and a single-use glove if the lesion is on a hand or wrist, both of which must be changed at any time that hand washing is required;

(2) An impermeable cover if the lesion is on an arm; or

(3) A dry, durable, tight-fitting bandage if the lesion is on another part of the body.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.446 Requirements for building used as marijuana establishment or by dual licensee; use of commercial weighing and measuring equipment. (NRS 453D.200)

1. A building used as a marijuana establishment or by a dual licensee must have:

(a) At least one toilet facility which must contain:

(1) A flushable toilet;

(2) Mounted toilet tissue;

(3) A hand sink with running water which is capable of delivering hot water at a minimum temperature of 100°F (37.8°C);

(4) Soap contained in a dispenser;

(5) Disposable, single-use paper towels in a mounted dispenser; and

(6) A conveniently located trash can.

(b) Except for a marijuana distributor, at least one hand-washing sink not located in a toilet facility and located away from any area in which edible marijuana products are cooked or otherwise prepared to prevent splash contamination.

(c) Designated storage areas for concentrated marijuana and marijuana products or materials used in direct contact with such items separate from storage areas for toxic or flammable materials.

(d) If preparation or packaging of concentrated marijuana or marijuana products is done in the building, a designated area for the preparation or packaging that:

(1) Includes work space that can be sanitized; and

(2) Is only used for the preparation or packaging of concentrated marijuana or marijuana products.

2. For any commercial weighing and measuring equipment used at a marijuana establishment, the marijuana establishment must:

(a) Ensure that the commercial device is licensed pursuant to chapter 581 of NRS;

(b) Maintain documentation of the license of the commercial device; and

(c) Provide a copy of the license of the commercial device to the Department for review upon request.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.450 Quality assurance testing required before sale or transfer of products. (NRS 453D.200) A marijuana establishment shall not sell or transfer a lot of usable marijuana, concentrated marijuana or marijuana products until all required quality assurance testing has been completed.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.454 Requirements for preparation or sale of edible marijuana products; marijuana product manufacturing facility exempt from provisions governing food establishments. (NRS 453D.200)

1. A marijuana establishment that prepares or sells edible marijuana products must:

(a) Before preparing an edible marijuana product, obtain written authorization from the Department to prepare edible marijuana products;

(b) If the marijuana establishment prepares edible marijuana products, ensure that the edible marijuana products are prepared according to the applicable requirements set forth in this chapter and chapter 453D of NRS and the operating procedures included in its application pursuant to NAC 453D.265 or 453D.268;

(c) If the edible marijuana products are not prepared at the marijuana establishment, obtain and maintain at the marijuana establishment a copy of the current written authorization to prepare edible marijuana products from the marijuana establishment that prepares the edible marijuana products;

(d) If the marijuana establishment is a marijuana product manufacturing facility, package all edible marijuana products produced by the marijuana establishment on the premises of the marijuana establishment; and

(e) If the marijuana establishment sells edible marijuana products, ensure that the edible marijuana products are sold according to the applicable requirements set forth in this chapter and chapter 453D of NRS.

2. A marijuana establishment is responsible for the content and quality of any edible marijuana product sold by the marijuana establishment.

3. A marijuana product manufacturing facility is not subject to the provisions of chapter 446 of NRS or chapter 446 of NAC.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.458 Prohibition on dispensing or selling marijuana or marijuana products from vending machine. (NRS 453D.200) A marijuana establishment shall not dispense or otherwise sell marijuana or marijuana products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises of the marijuana establishment.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.462 Prohibition on treating or adulterating usable marijuana with chemical or other compound. (NRS 453D.200) A marijuana establishment may not treat or otherwise adulterate usable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight or smell of the usable marijuana.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.466 Promotional and marketing activities; applicability of labeling and testing provisions to all marijuana and marijuana products. (NRS 453D.200)

1. A marijuana establishment:

(a) May only promote marijuana or a marijuana product through marketing the marijuana testing facility results on the label of the marijuana or marijuana product; and

(b) Must not use a marijuana testing facility or other laboratory to promote any other attributes of marijuana or a marijuana product.

2. The provisions of this chapter governing labeling and testing of marijuana and marijuana products apply to all marijuana and marijuana products, including, without limitation, pre-rolls.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.470 Restrictions on advertising; required posting of signs in retail marijuana store. (NRS 453D.200)

1. A marijuana establishment:

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

(1) Is false or misleading;

(2) Promotes overconsumption of marijuana or marijuana products;

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

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

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

(c) Shall not place an advertisement:

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

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

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

(4) On or inside of a motor vehicle used by a marijuana establishment for private transportation;

(5) On signs carried by a natural person, including, without limitation, handbills, pamphlets, cards or other types of advertisements that are distributed to the general public, but excluding an advertisement placed in a newspaper of general circulation, trade publication or other form of print media; and

(6) Where prohibited by local ordinance.

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

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

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

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

2. A retail marijuana store shall post signs in prominent locations inside the retail marijuana store which state activities that are strictly prohibited and punishable by law, including, without limitation, the following statements:

(a) "No minors permitted on the premises unless the minor holds a letter of approval and is accompanied by a designated primary caregiver";

(b) "No on-site consumption of any marijuana or marijuana products";

(c) "Distribution to persons under the age of 21 is prohibited";

(d) "Except for medical marijuana patients, possession of over 1 ounce of usable marijuana, one-eighth ounce of concentrated marijuana, an edible marijuana product containing more than 3,500 milligrams of THC or a combination of the three which exceeds the legal limit is prohibited"; and

(e) "Transportation of marijuana or marijuana products across state lines is prohibited."

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.473 Use of name, logo, sign, advertisement or packaging: Required approval by Department. (NRS 453D.200) A marijuana establishment shall not use a name, logo, sign, advertisement or packaging unless the name, logo, sign, advertisement or packaging has been approved by the Department.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.477 Responsibility for costs relating to clean-up, mitigation or remedy of environmental damage. (NRS 453D.200) A marijuana establishment is responsible to the State or a locality for all costs incurred by the State or locality in cleaning up, mitigating or remedying any environmental damage caused by the marijuana establishment.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.480 Documentation and reporting of loss or theft; maintenance of documentation. (NRS 453D.200) A marijuana establishment shall:

1. Document and report any loss or theft of marijuana from the marijuana establishment to the appropriate law enforcement agency and to the Department within 24 hours after discovery of the loss or theft; and

2. Maintain copies of any documentation required pursuant to this chapter and chapter 453D of NRS for at least 5 years after the date on the documentation and provide copies of the documentation to the Department for review upon request.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.485 Quarterly reporting concerning production, purchases and sales of marijuana and marijuana products. (NRS 372A.285, 453D.200) Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall submit the report required pursuant to NRS 372A.285 to the Department on or before the 15th day of each January, April, July and October containing information concerning the 3 months immediately preceding the date of the report. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall submit such a report regardless of whether any purchases or sales have occurred.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

RETAIL MARIJUANA STORES

NAC 453D.550 Requirements for operation; posting of hours of operation. (NRS 453D.200) Each retail marijuana store shall:

1. Ensure that the retail marijuana store is operating and available to sell marijuana or marijuana products to consumers during, and only during, the designated hours of operation of the retail marijuana store as provided to the Department in the application for a license submitted by the retail marijuana store and the hours authorized by the locality in which the retail marijuana store is located; and

2. Post, in a place that can be viewed by persons entering the retail marijuana store, the hours of operation during which the retail marijuana store will sell marijuana or marijuana products to consumers.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.555 Duties of marijuana establishment agent before sale to consumer. (NRS 453D.200) Before a marijuana establishment agent sells marijuana or marijuana products to a consumer, the marijuana establishment agent shall:

1. Verify the age of the consumer by checking a government-issued identification card containing a photograph of the consumer using an identification scanner approved by the Department to determine the validity of any government-issued identification card;

2. Offer any appropriate consumer education or support materials; and

3. Enter the following information into the inventory control system:

(a) The amount of marijuana or marijuana product sold;

(b) The date and time at which the marijuana or marijuana product was sold;

(c) The number of the marijuana establishment agent registration card of the marijuana establishment agent; and

(d) The number of the license of the marijuana establishment.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.558 Valid proof of identification of age of consumer required. (NRS 453D.200)

1. Except as otherwise provided in this subsection, a retail marijuana store shall refuse to sell marijuana or marijuana products to any person unless the person produces a form of valid identification showing that the person is 21 years of age or older. A dual licensee may sell marijuana or marijuana products to a person who is less than 21 years of age if the sale complies with the provisions of chapter 453A of NRS or 453A of NAC.

2. Identification presented to satisfy subsection 1 must contain a photograph and the date of birth of the person.

3. Identification presented to satisfy subsection 1 must be a valid and unexpired:
(a) Driver's license or instruction permit issued by this State or any other state or territory of the United States;
(b) Identification card issued by this State or any other state or territory of the United States for the purpose of proof of age of the holder of the card;
(c) United States military identification card;
(d) A Merchant Mariner Credential or other similar document issued by the United States Coast Guard;
(e) A passport issued by the United States Government or a permanent resident card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security; or
(f) A tribal identification card issued by a tribal government, as defined in NRS 239C.105, which requires proof of the age of the holder of the card for issuance.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.562 Prohibition on sale that exceeds maximum usable quantity of marijuana. (NRS 453D.200) A retail marijuana store shall not sell to any consumer an amount of marijuana or marijuana products which exceeds:
1. One ounce of usable marijuana other than concentrated marijuana;
2. One-eighth ounce of concentrated marijuana containing not more than 3,500 milligrams of THC; and
3. One-eighth ounce of concentrated marijuana or 3,500 milligrams of THC contained within one or more edible marijuana products.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.565 Products required to be offered for sale; restrictions on sale of other products; restrictions on advertising. (NRS 453D.200)
1. A retail marijuana store shall only offer for sale marijuana, marijuana products, marijuana paraphernalia, marijuana-related accessories, products containing CBD and products containing industrial hemp which are related to marijuana.
2. Each retail marijuana store shall offer for sale containers for the storage of marijuana and marijuana products which lock and are designed to prohibit children from unlocking and opening the container.
3. A retail marijuana store shall not sell any food, beverage or personal care item that does not contain marijuana.
4. A retail marijuana store shall not sell any product that contains nicotine.
5. A retail marijuana store shall not sell any product that contains alcohol if the product would require the retail marijuana store to hold a license issued pursuant to chapter 369 of NRS.
6. A retail marijuana store shall not sell marijuana or marijuana products to a consumer through the use of, or accept a sale of marijuana or marijuana products from, a third party, intermediary business, broker or any other business that does not hold a license for a retail marijuana store.
7. A retail marijuana store shall not contract with a third party or intermediary business to advertise delivery to consumers.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.568 Storage and location of products; disclosure of marijuana testing facility performing quality assurance tests upon request of consumer; approved sources of products for sale; maintenance and availability of certificate of analysis; exemption for industrial hemp. (NRS 453D.200)
1. A retail marijuana store must store all usable marijuana, concentrated marijuana and marijuana products behind a counter or other barrier to ensure a consumer does not have direct access to the marijuana, concentrated marijuana or marijuana products.
2. Upon the request of a consumer, a retail marijuana store must disclose the name of the marijuana testing facility which performed the required quality assurance tests for the retail marijuana store and the corresponding certificate of analysis.
3. A retail marijuana store may only sell usable marijuana obtained from a marijuana cultivation facility.
4. Except as otherwise provided in subsection 6, a retail marijuana store may only sell concentrated marijuana and marijuana products obtained from a marijuana product manufacturing facility.
5. Except as otherwise provided in subsection 6, a retail marijuana store may not sell a product other than usable marijuana, concentrated marijuana or marijuana products which contain any level of THC or CBD without the approval of the Department. Each retail marijuana store shall maintain a file which contains a certificate of analysis for any such approved product at the retail marijuana store and shall make the file available for review upon request.
6. The provisions of subsections 4 and 5 do not apply to industrial hemp, as defined in NRS 557.040, which is certified and registered with the State Department of Agriculture.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.572 Delivery to consumer: General requirements. (NRS 453D.200) Except for a delivery made pursuant to subsection 3 of NRS 453D.110, a marijuana establishment or a third party shall not deliver marijuana or marijuana products to a consumer unless:
1. The delivery is made by a marijuana establishment agent who holds a marijuana establishment agent registration card in the category of retail marijuana store;
2. The delivery is made by a marijuana establishment agent employed by a retail marijuana store or by an independent contractor:
(a) Which has entered into a service agreement with a retail marijuana store to perform deliveries to consumers using only marijuana establishment agents who hold a marijuana establishment agent registration card in the category of retail marijuana store; and
(b) Whose name has been disclosed to the Department before any deliveries are made;
3. The name of the retail marijuana store and all independent contractors who perform deliveries on behalf of the retail marijuana store has been published on the Internet website of the Department;

4. The Department has received confirmation from the retail marijuana store, before a person engages in the delivery process, including, without limitation, accepting an order or physically delivering marijuana or marijuana products, that the person is employed by, volunteers at or provides labor as a marijuana establishment agent at the retail marijuana store and holds a valid marijuana establishment agent registration card in the appropriate category;

5. The marijuana establishment agent who delivers marijuana or marijuana products to a consumer obtains verification of the identity and age of the consumer by scanning a document described in NAC 453D.558 before providing the marijuana or marijuana products to the consumer;

6. The marijuana establishment agent who delivers marijuana or marijuana products to a consumer does not also deliver any other item to the consumer unless the item is marijuana paraphernalia or merchandise, packaging or a promotional item directly related to the marijuana or marijuana product;

7. The delivery is conducted only during the hours that the retail marijuana store is open for business;

8. The delivery is conducted only within the borders of this State;

9. The marijuana establishment agent who delivers marijuana or marijuana products only travels to and from the retail marijuana store and the delivery destination and does not make any unnecessary stops that are not disclosed in the trip plan and delivery manifest. If the marijuana establishment agent makes a stop for fuel, the stop must be documented in the trip plan and maintained for review by the Department; and

10. If the retail marijuana store contracts with a service that provides a digital or other platform used in conjunction with an agreement to facilitate deliveries to consumers, the digital or other platform is approved by the Department.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.575 Delivery to consumer: Duties of retail marijuana store. (NRS 453D.200)

1. A retail marijuana store delivering marijuana or marijuana products to a consumer pursuant to NAC 453D.572 shall:

(a) Ensure that all marijuana and marijuana products are secured at all times during delivery; and

(b) Maintain a physical or electronic copy of a delivery manifest generated using the seed-to-sale tracking system that contains all the information required by this section in a format approved by the Department.

2. A retail marijuana store may deliver marijuana or marijuana products to more than one consumer in a single trip if the delivery manifest correctly reflects the specific inventory destined for each specific consumer and location.

3. Before delivering marijuana or marijuana products to a consumer, the retail marijuana store shall enter the information required to indicate that the marijuana or marijuana products will be delivered to a consumer into the seed-to-sale tracking system.

4. A retail marijuana store shall not alter the information which has been entered into the seed-to-sale tracking system pursuant to subsection 3.

5. If a marijuana establishment agent is not able to deliver marijuana or marijuana products directly to the consumer who ordered the marijuana or marijuana products, the marijuana establishment agent shall return the marijuana or marijuana products to the retail marijuana store.

6. A retail marijuana store shall provide a copy of the delivery manifest generated using the seed-to-sale tracking system to each consumer who receives a delivery of marijuana or marijuana products. The copy of a delivery manifest provided to a consumer pursuant to this subsection must be generated separately for each consumer and not contain the information of any other consumer.

7. The delivery manifest generated using the seed-to-sale tracking system must include, without limitation:

(a) The date and approximate time of the delivery;

(b) The name, location, address and license number of the retail marijuana store;

(c) The name, location and address of each consumer;

(d) The name and quantity, by weight and unit, of each item to be delivered to each consumer;

(e) The make, model, license plate number and number of the identification card issued pursuant to NAC 453D.582 of the vehicle used for delivery; and

(f) The name, number of the marijuana establishment agent registration card and signature of each marijuana establishment agent performing or accompanying the delivery of the marijuana or marijuana products.

8. In addition to the requirements of this section, the retail marijuana store shall ensure that each delivery satisfies the requirements of NAC 453D.426 and 453D.430.

9. Before marijuana or marijuana products leave the retail marijuana store for delivery, the retail marijuana store shall adjust its records to reflect the removal of the marijuana or marijuana products in a manner that reflects the information included in the delivery manifest generated using the seed-to-sale tracking system and that can be easily reconciled, by the name and quantity of the marijuana or marijuana products, with the delivery manifest.

10. After delivery of marijuana or marijuana products, the retail marijuana store shall ensure that the trip plan, including any changes to the trip plan made pursuant to subsection 9 of NAC 453D.572, is accurate.

11. Any marijuana or marijuana product which is damaged, undeliverable to the consumer or refused by the consumer must be delivered back to the retail marijuana store and reconciled by the retail marijuana store in the seed-to-sale tracking system.

12. A retail marijuana store shall not deliver any marijuana or marijuana products unless the retail marijuana store can reconcile the delivery of marijuana or marijuana products with the seed-to-sale tracking system and all associated transaction history and order receipts.

13. A retail marijuana store must reconcile all transactions to the seed-to-sale tracking system at the close of business each day.

14. A retail marijuana store shall ensure that all information contained in a delivery manifest generated using the seed-to-sale tracking system is accurate for each delivery that is completed.

15. A retail marijuana store shall maintain all documents required by this section and provide a copy of any such document to the Department for review upon request.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.578 Delivery to consumer: Restrictions; duties of marijuana establishment agent making delivery. (NRS 453D.200)

1. A retail marijuana store shall not deliver more than 5 ounces of marijuana or an equivalent amount of marijuana products to any combination of consumers within a single trip.

2. A retail marijuana store shall not deliver marijuana or marijuana products to a consumer at any location that has been issued a gaming license, as defined in NRS 463.0159.

3. A retail marijuana store may only deliver marijuana or marijuana products to a private residence and shall not deliver more than 1 ounce of marijuana or an equivalent amount of marijuana products to any consumer.

4. A retail marijuana store shall not deliver marijuana or marijuana products to any person other than the consumer who ordered the marijuana or marijuana products. Before delivering marijuana or marijuana products to a consumer, the marijuana establishment agent delivering the marijuana or marijuana products for a retail marijuana store shall:

(a) Confirm by telephone that the consumer ordered the marijuana or marijuana products and verify the identity of the consumer; and

(b) Enter the details of such a confirmation in a log which must be made available for inspection by an appropriate law enforcement agency and the Department.

5. A retail marijuana store shall not allow a marijuana establishment agent to deliver marijuana or marijuana products unless the marijuana or marijuana products are:

(a) Stored in a lockbox or locked cargo area within the vehicle being used for delivery;

(b) Not visible from outside the vehicle; and

(c) Contained in sealed packages and containers which remain unopened during delivery.

➥ For the purpose of this subsection, the trunk of a vehicle is not considered to be a lockbox or locked cargo area unless the trunk cannot be accessed from within the vehicle and can only be accessed using a key which is different from the key used to access and operate the vehicle.

6. A retail marijuana store shall ensure that a marijuana establishment agent delivering marijuana or marijuana products for the retail marijuana store has a means of communicating with the retail marijuana store while he or she provides delivery.

7. A person shall not be present within any vehicle while it is being used for the delivery of marijuana or marijuana products unless the person is a marijuana establishment agent for the retail marijuana store providing delivery of the marijuana or marijuana products or an independent contractor retained by the retail marijuana store to provide delivery.

8. Each marijuana establishment agent delivering marijuana or marijuana products must:

(a) Report to a person designated by the marijuana establishment to receive such reports any motor vehicle crash that occurs during the delivery within 2 hours after the crash occurs;

(b) Report to the Department any unauthorized stop that lasts longer than 2 hours; and

(c) Report to a person designated by the marijuana establishment to receive such reports any loss or theft of marijuana or marijuana products that occurs during the delivery immediately after the marijuana establishment agent becomes aware of the loss or theft. A retail marijuana store that receives a report of loss or theft pursuant to this paragraph must immediately report the loss or theft to the appropriate law enforcement agency and to the Department.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.582 Delivery to consumer: Requirements for motor vehicles used to make deliveries; adequate temperature control of products required; inspection of motor vehicles authorized. (NRS 453D.200)

1. A retail marijuana store may use any motor vehicle that can legally be operated on the highways of this State and that meets the requirements of this section to deliver marijuana and marijuana products.

2. Before using a motor vehicle to deliver marijuana or marijuana products, a retail marijuana store must obtain the approval of the Department for the use of the motor vehicle. Upon approving a motor vehicle for use to deliver marijuana or marijuana products, the Department will issue an identification card containing such information as the Department determines to be necessary, which must be kept inside the motor vehicle at all times.

3. A retail marijuana store shall ensure that each motor vehicle used to deliver marijuana or marijuana products:

(a) Has no advertising, signage or other markings relating to marijuana; and

(b) Is equipped with an audible car alarm.

4. A retail marijuana store shall provide adequate care for perishable marijuana products including, without limitation, refrigeration during delivery, if required. Any method for temperature control used during delivery must be approved by the Department before use. If a potentially hazardous marijuana product is being delivered, the potentially hazardous marijuana product must be maintained at a temperature of less than 41°F (5°C) throughout delivery.

5. The Department may inspect each motor vehicle used for delivery of marijuana or marijuana products by a retail marijuana store pursuant to NAC 453D.288 or 453D.292.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

MARIJUANA CULTIVATION FACILITIES

NAC 453D.600 Department authorized to limit marijuana cultivation within State. (NRS 453D.200) The Department may, upon findings made following a public hearing that the public interest will be supported by limiting the cultivation of marijuana in this State, limit the amount of marijuana cultivated within this State.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.605 Required written disclosure with each lot of usable marijuana; provision of free samples to retail marijuana store; applicability of provisions governing excise tax on marijuana to free samples. (NRS 453D.200)

1. A marijuana cultivation facility must disclose in writing with each lot of usable marijuana provided to a retail marijuana store:

(a) All soil amendments, fertilizers and other crop production aids applied to the growing medium or marijuana plant included in the lot; and

(b) The name of the marijuana testing facility which performed the required quality assurance tests and the certificate of analysis for the lot.

2. A marijuana cultivation facility may provide a retail marijuana store free samples of usable marijuana packaged in a sample jar protected by a plastic or metal mesh screen to allow consumers to smell the product before purchase. A sample jar may not contain more than 3 1/2 grams of usable marijuana. The sample jar must not be left unattended and must be sealed shut. The sample jar and the usable marijuana within may not be sold to a consumer and must be either returned to the marijuana cultivation facility which provided the usable marijuana and sample jar or destroyed by the retail marijuana store after use and documented by the retail marijuana store using its inventory control system pursuant to NAC 453D.426.

3. The provisions of chapters 372A and 453D of NRS and chapter 372A of NAC regarding the excise tax on marijuana apply to free samples of usable marijuana provided pursuant to subsection 2.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.608 Restrictions on access to facility and persons authorized on premises; location of marijuana growing at facility. (NRS 453D.200)

1. Except as otherwise provided in subsection 2, a marijuana cultivation facility must ensure that access to the enclosed, locked facility where marijuana is cultivated is limited to the officers, board members and authorized marijuana establishment agents of the marijuana cultivation facility.

2. Each marijuana cultivation facility shall ensure that an authorized marijuana establishment agent accompanies any person other than another marijuana establishment agent associated with the marijuana establishment when the person is present in the enclosed, locked facility where marijuana is cultivated or produced by the marijuana cultivation facility.

3. Each marijuana cultivation facility shall ensure that any marijuana growing at the marijuana cultivation facility:

(a) Cannot be observed from outside the marijuana cultivation facility and is not visible from a public place by normal, unaided vision; and

(b) Unless the marijuana cultivation facility cultivates marijuana outdoors, does not emit an odor that is detectable from outside the marijuana cultivation facility.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.615 Requirements for outdoor cultivation; verification of adequate isolation. (NRS 453D.200)

1. If an applicant for a license for a marijuana cultivation facility wishes to engage in the cultivation of marijuana outdoors or if a marijuana cultivation facility wishes to begin to cultivate marijuana outdoors, the applicant or marijuana cultivation facility must, before engaging in any outdoor cultivation, submit a verification issued by the State Department of Agriculture that the outdoor cultivation will be adequately isolated from all other outdoor marijuana and industrial hemp cultivation locations to prevent the cross-pollination of cannabis crops.

2. A request for verification of adequate isolation described in subsection 1 must be submitted to the State Department of Agriculture and:

(a) Be on a form prescribed by the State Department of Agriculture;

(b) Include documentation that verifies that the applicant or marijuana cultivation facility has obtained:

(1) Appropriate licensing;

(2) Approved zoning; and

(3) Any other approvals required by the locality;

(c) Include a map or GPS coordinates that demonstrate the proposed location of outdoor cultivation by the applicant or marijuana cultivation facility; and

(d) Include any other information that the State Department of Agriculture determines to be necessary.

3. The applicant or marijuana cultivation facility shall not begin outdoor cultivation until the State Department of Agriculture provides verification of adequate isolation described in subsection 1, the applicant or marijuana cultivation facility transmits the verification of adequate isolation to the Department of Taxation and the Department of Taxation issues a license for a marijuana cultivation facility to the applicant or approves the modification of operations of the marijuana cultivation facility to begin outdoor cultivation.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

PRODUCTION OF MARIJUANA PRODUCTS

Duties of Marijuana Establishment Agents while Engaged in Production

NAC 453D.640 Cleanliness of hands and arms: Cleaning procedure. (NRS 453D.200)

1. Each marijuana establishment agent shall, when required pursuant to NAC 453D.642, clean his or her hands and the exposed portions of his or her arms for at least 20 seconds, using a cleaning compound in a hand-washing sink that is appropriately equipped.

2. Each marijuana establishment agent shall use the following cleaning procedure in the order stated to clean his or her hands and the exposed portions of his or her arms, including, without limitation, surrogate prosthetic devices for hands and arms:

(a) Rinse under clean, running warm water at a minimum temperature of 100°F (37.8°C).

(b) Apply an amount of cleaning compound recommended by the manufacturer of the cleaning compound.

(c) Rub together vigorously for at least 15 seconds while:

(1) Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure; and

(2) Creating friction on the surfaces of the hands and arms, fingertips and areas between the fingers.

(d) Thoroughly rinse under clean, running warm water at a minimum temperature of 100°F (37.8°C).

(e) Immediately follow the cleaning procedure with thorough drying using a clean paper towel.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.642 Cleanliness of hands and arms: Frequency of and activities requiring cleaning procedure. (NRS 453D.200) Each marijuana establishment agent shall clean his or her hands and exposed portions of his or her arms in the manner set forth in NAC 453D.640:

1. Immediately upon entrance to any area containing marijuana or marijuana products;
2. Immediately before working with marijuana plants;
3. Immediately before engaging in preparation for the extraction of concentrated marijuana or production of marijuana products, including, without limitation, working with exposed marijuana products, clean equipment and utensils and unwrapped single-service and single-use articles;
4. After touching bare human body parts other than clean hands and exposed portions of arms, including, without limitation, surrogate prosthetic devices for hands and arms;
5. After using the toilet room;
6. After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating or drinking;
7. After handling soiled equipment or utensils;
8. During preparation for the extraction of concentrated marijuana or production of marijuana products, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks;
9. When switching between working with unprocessed marijuana products or uncooked food products and working with finished concentrated marijuana or marijuana products;
10. Before donning gloves for working with marijuana products; and
11. After engaging in other activities that contaminate the hands.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.646 Hand and arm contact while engaged in extraction of concentrated marijuana or production of marijuana products. (NRS 453D.200)

1. Each marijuana establishment agent engaged in the extraction of concentrated marijuana or production of marijuana products shall keep his or her hands and the exposed portions of his or her arms clean.
2. A marijuana establishment agent engaged in the extraction of concentrated marijuana or production of marijuana products shall not have contact with exposed, finished marijuana products with his or her bare hands and shall use suitable utensils, including, without limitation, deli tissue, spatulas, tongs, single-use gloves or dispensing equipment when handling exposed, finished concentrated marijuana or marijuana products.
3. A marijuana establishment agent engaged in the extraction of concentrated marijuana or production of marijuana products shall minimize bare hand and arm contact with exposed marijuana products that are not in a finished form.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

Marijuana Product Manufacturing Facilities

NAC 453D.650 Qualifications and duties of persons responsible for managing facility. (NRS 453D.200) Based on the risks inherent to the operation of a marijuana product manufacturing facility, the persons responsible for managing each such facility shall demonstrate to the Department knowledge of disease prevention, and the requirements of this chapter and chapter 453D of NRS, by:

1. Complying with the provisions of this chapter and chapter 453D of NRS and having no category I, II, II(b) or III violations pursuant to NAC 453D.905 during inspections.
2. Ensuring that at least one employee of the marijuana product manufacturing facility is a certified food protection manager who has shown proficiency in the required information through passing a test that is part of a program which certifies a person to be a food protection manager and which:
   (a) Has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify persons as food protection managers; or
   (b) Provides to such persons other training acceptable to the Department.
3. Responding correctly to the questions of an inspector of marijuana establishments regarding:
   (a) The relationship between the prevention of disease and the personal hygiene of a marijuana establishment agent engaged in the extraction of concentrated marijuana or production of marijuana products.
   (b) The prevention of the transmission of disease by a marijuana establishment agent engaged in the extraction of concentrated marijuana or production of marijuana products who has a disease or medical condition that may transmit disease.
   (c) The symptoms associated with the diseases that are transmissible through marijuana products and ingredients.
   (d) The significance of the relationship between maintaining the temperature for a certain amount of time for potentially hazardous marijuana products and ingredients and the prevention of illness transmission.
   (e) The hazards involved in the consumption of raw or undercooked meat, poultry and eggs.
   (f) The required temperatures and times for safe cooking of potentially hazardous marijuana products and ingredients, including, without limitation, meat, poultry and eggs.
   (g) The required temperatures and times for the safe refrigerated storage, hot holding, cooling and reheating of potentially hazardous marijuana products and ingredients.
   (h) The relationship between the prevention of illness transmission and the management and control of:
      (1) Cross contamination;
      (2) Hand contact with finished marijuana products and ingredients;
      (3) Hand washing; and
      (4) Maintaining the establishment in a clean condition and in good repair.
   (i) The correct procedures for cleaning and sanitizing utensils and the surfaces of equipment that have direct contact with marijuana products and ingredients.
   (j) The identification of poisonous or toxic materials in the facility and the procedures necessary to ensure that those materials are safely stored, dispensed, used and disposed of according to applicable state and federal laws and regulations.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.654 Creation of marijuana extracts; development of standard operating procedures, good manufacturing practices and training plan. (NRS 453D.200)

1. A marijuana product manufacturing facility may only use the methods, equipment, solvents, gases and mediums set forth in this section when creating marijuana extracts.

2. A marijuana product manufacturing facility may use the hydrocarbons N-butane, isobutane, propane, heptane or other solvents or gases exhibiting low to minimal potential human health-related toxicity approved by the Department. These solvents must be of at least 99 percent purity and a marijuana product manufacturing facility must, when using such solvents:

(a) Use the solvents in a professional grade, closed-loop extraction system designed to recover the solvents;

(b) Work in a spark-free environment with proper ventilation; and

(c) Follow all applicable local fire, safety and building codes in the processing and storage of the solvents.

3. A marijuana product manufacturing facility may use a professional grade, closed-loop CO_2 gas extraction system where every vessel is rated to a minimum of 900 pounds per square inch and it follows all applicable local fire, safety and building codes in the processing and the storage of the solvents. The CO_2 must be of at least 99 percent purity.

4. A marijuana product manufacturing facility may use heat, screens, presses, steam distillation, ice water and other methods without employing solvents or gases to create kief, hashish, bubble hash, infused dairy butter, or oils or fats derived from natural sources, and other extracts.

5. A marijuana product manufacturing facility may use food grade glycerin, ethanol and propylene glycol solvents to create marijuana extracts.

6. A marijuana product manufacturing facility which creates marijuana extracts must develop standard operating procedures, good manufacturing practices and a training plan before producing marijuana extracts for the marketplace. Any person using solvents or gases in a closed-looped system to create marijuana extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and safely handle and store the solvents and gases.

7. The acceptable parts per million for 1 gram of finished extract of residual solvent or gas will be determined by the Independent Laboratory Advisory Committee established pursuant to NAC 453A.666.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.658 Requirements and restrictions on use of nonmarijuana ingredients. (NRS 453D.200)

1. Each marijuana product manufacturing facility shall ensure that it obtains nonmarijuana ingredients for marijuana products from sources that comply with the requirements of federal and state law and regulations and are approved by the Department, including, without limitation, commercial and retail businesses.

2. A marijuana product manufacturing facility shall not use or prepare nonmarijuana ingredients prepared or stored in a private home.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.662 Protection of products and ingredients from cross-contamination. (NRS 453D.200)

1. Except as otherwise provided in subsection 2, each marijuana product manufacturing facility shall ensure that marijuana products and ingredients are protected from cross-contamination by:

(a) Separating raw animal ingredients during storage, preparation, holding and display from raw marijuana products, or other raw finished ingredients such as fruits and vegetables, and from concentrated marijuana and cooked or baked and finished marijuana products which are ready to eat or otherwise use.

(b) Except when combined as ingredients, separating types of raw animal ingredients from each, including, without limitation, meat, poultry and eggs, during storage, preparation, holding and display by preparing each type of raw animal ingredient at a different time or in a different area and:

(1) Using separate equipment for each type of raw animal ingredient; or

(2) Arranging each type of raw animal ingredient in equipment so that cross-contamination of one type of raw animal ingredient with another is prevented.

(c) Preparing each type of raw animal ingredient at different times or in separate areas.

2. The provisions of subsection 1 do not apply to items stored frozen in a freezer.

3. Marijuana products must be protected from contamination by storing the product in a clean, dry location:

(a) Where the products are not exposed to splashes, dust or other contamination; and

(b) Fifteen centimeters or more above the floor.

4. Marijuana products and direct contact surfaces of equipment and utensils must be stored and handled in a manner that prevents any biological, chemical or physical contamination at all times.

5. Chemical sanitizer must be available for immediate use at the proper concentration during all hours of operation in a location other than a three-compartment sink.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.664 Use of pasteurized eggs and egg products; cleanliness of equipment, utensils and articles; requirements for temperature controls. (NRS 453D.200) Each marijuana product manufacturing facility shall ensure that:

1. Pasteurized eggs or egg products are substituted for raw eggs in the preparation of marijuana products.

2. Marijuana products and ingredients only have contact with the surfaces of:

(a) Equipment and utensils that are cleaned and sanitized; or

(b) Single-service and single-use articles that have not previously been used.

3. Ingredients such as eggs, meat, poultry and marijuana containing these raw animal ingredients are cooked to heat all parts of the marijuana product to a temperature and for a time that complies with one of the following methods based on the product that is being cooked:

(a) At 145°F (63°C) or above for 15 seconds for meat, including, without limitation, commercially raised game animals.

(b) At 155°F (68°C) or above for 15 seconds for:

(1) Mechanically tenderized and injected meats; and

(2) Meat and commercially raised game animals if it is comminuted.

(c) At 165°F (74°C) or above for 15 seconds for poultry, stuffed meat, stuffed pasta, stuffed poultry or stuffing containing meat or poultry.

4. Except during preparation, cooking or cooling, potentially hazardous marijuana products and ingredients are maintained:

(a) At 135°F (57°C) or above; or

(b) At 41°F (5°C) or less.

5. During the thawing process, potentially hazardous marijuana products and ingredients are:

(a) Maintained at 41°F (5°C) or less; and

(b) Thawed:

(1) Under refrigeration;

(2) Under cool running water;

(3) As part of the cooking process; or

(4) In a microwave only if the potentially hazardous marijuana products and ingredients will be cooked immediately thereafter.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.668 Clear marking of potentially hazardous marijuana products; determination of expiration date and shelf life of perishable products. (NRS 453D.200)

1. Each marijuana product manufacturing facility shall ensure that:

(a) Potentially hazardous marijuana products and ingredients prepared and held by the facility for more than 24 hours are clearly marked to indicate the date or day by which the item must be consumed on the premises, sold or discarded when held at a temperature of 41°F (5°C) or less for a maximum of 7 days or, if the item is frozen, when the item is subsequently thawed and held at a temperature of 41°F (5°C) or less for a maximum of 7 days; and

(b) Potentially hazardous marijuana products and ingredients that are prepared and packaged by a commercial processing plant are clearly marked at the time that the original container is opened and, if the item is held for more than 24 hours, indicate the date or day by which the item must be consumed, sold or discarded, based on the temperature and time combination set forth in paragraph (a). The day on which the original container is opened in the marijuana establishment must be counted as "day 1." The day or date marked by the marijuana product manufacturing facility may not exceed a use-by date of the manufacturer if the manufacturer determined the use-by date.

2. If a marijuana product manufacturing facility produces a marijuana product which is perishable, the expiration date for the marijuana product must:

(a) Be determined as a result of shelf-life testing pursuant to subsection 3; or

(b) Not exceed 7 days, including the date of preparation of the marijuana product, if the marijuana product is refrigerated.

3. A marijuana product manufacturing facility shall perform testing, as specified by the Department, to determine the shelf life of each marijuana product which is perishable for the first production run of each such marijuana product. The Department will determine which marijuana products require testing to determine shelf life during the review and approval of each marijuana product. New testing pursuant to this subsection must be performed for any change in the recipe, production run size or equipment used to produce a marijuana product.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.672 Edible marijuana products: Testing to ensure homogeneity of potency; requirements for sale; approval of Department required for certain changes. (NRS 453D.200)

1. Each marijuana product manufacturing facility shall contract with a marijuana testing facility to perform testing to ensure the homogeneity of the potency of the product on each edible marijuana product produced by the facility. A marijuana product manufacturing facility shall not sell an edible marijuana product unless the Department has preapproved the production of the edible marijuana product and a marijuana testing facility has verified the homogeneity of the potency of the product as described in NAC 453D.784.

2. A marijuana product manufacturing facility shall not sell an edible marijuana product other than a multiple-serving edible marijuana product or a single-serving edible marijuana product. An edible marijuana product sold as a multiple-serving edible marijuana product must not contain more than 100 milligrams of THC. An edible marijuana product sold as a single-serving edible marijuana product must not contain more than 10 milligrams of THC.

3. A marijuana product manufacturing facility shall not sell an edible marijuana product unless the Department has approved that:

(a) The recipe and production procedures for the edible marijuana product will ensure consistent concentration of THC for the edible marijuana product; and

(b) The marijuana product manufacturing facility has demonstrated that its process for producing the edible marijuana product produces a homogenous product.

4. Any change in the recipe, production run size or equipment used to produce an edible marijuana product must be approved by the Department. The Department may require new approval or testing pursuant to this section for such a change.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.676 Requirements for sinks and running water. (NRS 453D.200)

1. Each marijuana product manufacturing facility shall ensure that it provides:

(a) A sink with at least three compartments for manually washing, rinsing and sanitizing equipment and utensils;

(b) Sink compartments that are large enough to accommodate immersion of the largest equipment and utensils; and

(c) Running water that reaches a minimum temperature of 120°F (49°C).

2. If equipment or utensils are too large for the warewashing sink, a marijuana product manufacturing facility must use a warewashing machine or alternative equipment.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.680 Requirements for sanitizers. (NRS 453D.200) Each marijuana product manufacturing facility shall ensure that:

1. In a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold is not more than 194°F (90°C) or less than 180°F (82°C).

2. A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at contact times is used in accordance with the manufacturer's label use instructions that are approved by the Environmental Protection Agency, and as follows:

(a) A chlorine solution must have a concentration between 50 parts per million and 100 parts per million or be otherwise prepared in accordance with the manufacturer's label.

(b) An iodine solution must have a concentration between 12.5 parts per million and 25 parts per million or be otherwise prepared in accordance with the manufacturer's label.

(c) A quaternary ammonium compound solution must have a concentration between 150 parts per million and 400 parts per million or be otherwise prepared in accordance with the manufacturer's label.

3. If a chemical sanitizer other than chlorine, iodine or a quaternary ammonium compound is used, it is applied in accordance with the manufacturer's label use instructions that are approved by the Environmental Protection Agency and the use of the chemical sanitizer is approved by the Department.

4. A sanitizer bucket or spray bottle is readily available during all hours of operation and kept at the proper concentration.

5. Test strips which are appropriate for the type of chemical sanitizer in use are available and used properly.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.682 Requirements for materials used in construction of utensils and contact surfaces. (NRS 453D.200) Each marijuana product manufacturing facility shall ensure that the materials that are used in the construction of utensils and the contact surfaces of equipment:

1. Do not allow the migration of deleterious substances or impart colors, odors or tastes to marijuana products; and

2. Under normal use conditions are:

(a) Safe;

(b) Durable, corrosion-resistant and nonabsorbent;

(c) Sufficient in weight and thickness to withstand repeated warewashing;

(d) Finished to have a smooth, easily cleanable surface; and

(e) Resistant to pitting, chipping, crazing, scratching, scoring, distortion and decomposition.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.684 Requirements for lighting. (NRS 453D.200) Each marijuana product manufacturing facility shall ensure that the light intensity in the facility is:

1. At least 20 foot candles (215 lux):

(a) At a distance of 30 inches (75 cm) above the floor in walk-in refrigeration units and areas for storage of dry marijuana products and in other areas and rooms during periods of cleaning;

(b) Inside equipment such as reach-in and under-counter refrigerators; and

(c) At a distance of 30 inches (75 cm) above the floor in areas used for hand washing, warewashing and equipment and utensil storage and in toilet rooms.

2. At least 50 foot candles (540 lux) at a surface where a marijuana establishment agent engaged in the extraction of concentrated marijuana or production of marijuana products is working with marijuana products or working with utensils or equipment, including, without limitation, knives, slicers, grinders or saws where employee safety is a factor.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.686 Requirements for filters for liquid filtration; prohibition on asbestos-containing filter. (NRS 453D.200)

1. Each marijuana product manufacturing facility shall ensure that filters for liquid filtration used in the extraction of concentrated marijuana or manufacture, processing or packaging of marijuana products intended for human use do not release fibers into such products.

2. A marijuana product manufacturing facility shall not use an asbestos-containing filter.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.688 Sufficiency of ventilation hood systems and devices. (NRS 453D.200) Each marijuana product manufacturing facility shall ensure that its ventilation hood systems and devices are sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.690 Sufficiency of mechanical ventilation. (NRS 453D.200) Each marijuana product manufacturing facility shall ensure that it provides mechanical ventilation of sufficient capacity as necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.692 Surfaces of equipment and utensils: Cleanliness. (NRS 453D.200) Each marijuana product manufacturing facility shall ensure that:

1. The surfaces of equipment and utensils that have direct contact with marijuana products are clean to sight and touch;

2. The surfaces of cooking equipment and pans that have direct contact with marijuana products are kept free of encrusted grease deposits and other soil accumulations; and

3. The surfaces of equipment that do not have direct contact with marijuana products are kept free of an accumulation of dust, dirt, residue and other debris.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.694 Surfaces of equipment and utensils: Frequency of and activities requiring cleaning. (NRS 453D.200) Each marijuana product manufacturing facility shall ensure that:

1. The surfaces of equipment and utensils that have direct contact with marijuana products are cleaned:

(a) Before each use with a different type of raw animal ingredient, including, without limitation, beef, pork or poultry;

(b) Each time there is a change from working with raw marijuana products to working with finished marijuana products;

(c) Between uses with raw fruits and vegetables and with potentially hazardous marijuana products and ingredients, using the appropriate time and temperature controls to ensure the safety of the marijuana products; and

(d) At any time during operation when contamination may have occurred.

2. If the surfaces of equipment or utensils come into contact with potentially hazardous marijuana products and ingredients, the surfaces and utensils are cleaned throughout the day at least once every 4 hours.

3. The surfaces of utensils and equipment that have direct contact with marijuana products and ingredients that are not potentially hazardous are cleaned:

(a) At any time when contamination may have occurred; and

(b) In equipment, including, without limitation, ice bins and beverage dispensing nozzles, and enclosed components of equipment, such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders and water vending equipment:

(1) At a frequency specified by the manufacturer; or

(2) If the manufacturer does not specify a frequency, at a frequency necessary to prevent the accumulation of soil or mold.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.696 Surfaces and utensils: Sanitation. (NRS 453D.200) Each marijuana product manufacturing facility shall ensure that:

1. The surfaces and utensils that have direct contact with marijuana products are adequately washed, rinsed and sanitized.

2. After being cleaned, surfaces of equipment and utensils that have direct contact with marijuana products are sanitized in:

(a) Hot water manual operations by immersion for at least 30 seconds with a temperature of 170°F (77°C) or above;

(b) Hot water mechanical operations by being cycled through equipment that is set up and achieving a utensil surface temperature of 160°F (71°C) as measured by an irreversible registering temperature indicator; or

(c) Chemical manual or mechanical operations, including, without limitation, the application of sanitizing chemicals by immersion, manual swabbing, brushing or pressure spraying methods using a solution as specified on the manufacturer's label use instructions that are approved by the Environmental Protection Agency, by providing an exposure time of at least 30 seconds unless the manufacturer's label use instructions provide otherwise.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.698 Surfaces of cooking and baking equipment and door seals of microwave ovens: Cleanliness. (NRS 453D.200) Each marijuana product manufacturing facility shall ensure that:

1. The surfaces of cooking and baking equipment that have direct contact with marijuana products are cleaned at least once every 24 hours; and

2. The cavities and door seals of microwave ovens are cleaned at least once every 24 hours by using the recommended cleaning procedure of the manufacturer.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

MINIMUM GOOD MANUFACTURING PRACTICES FOR CULTIVATION AND PREPARATION OF MARIJUANA AND MARIJUANA PRODUCTS FOR ADMINISTRATION TO HUMANS

NAC 453D.700 Establishment of minimum good manufacturing practices. (NRS 453D.200) NAC 453D.700 to 453D.745, inclusive, set forth the minimum good manufacturing practices for the cultivation and preparation of marijuana and marijuana products for administration to humans.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.705 Marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store: Requirement to have quality control unit. (NRS 453D.200)

1. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall have a quality control unit that:

(a) Has the responsibility and authority to approve or reject all components, product containers, closures, in-process materials, packaging materials, labeling and marijuana or marijuana products;

(b) Has the authority to review production records to assure that no errors have occurred or, if errors have occurred, that the errors have been fully investigated and resolved;

(c) Is responsible for approving or rejecting marijuana or marijuana products manufactured, processed, packaged or held under contract by another marijuana establishment; and

(d) Is responsible for approving or rejecting all procedures or specifications which may impact the identity, strength, quality and purity of the marijuana or marijuana products.

2. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall:

(a) Set forth the responsibilities and procedures applicable to the quality control unit in writing; and

(b) Follow the written responsibilities and procedures set forth pursuant to paragraph (a).

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.708 Marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store: Adequate ventilation, filtration systems and related equipment required for building. (NRS 453D.200)

1. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall ensure that any building used to manufacture, process, package or hold marijuana or marijuana products:

(a) Has adequate ventilation; and

(b) Contains equipment for adequate control over air pressure, microorganisms, dust, humidity and temperature when appropriate for the manufacture, processing, packaging or holding of marijuana or marijuana products.

2. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store must use filtration systems, including, without limitation, prefilters and particulate matter air filters, when appropriate on air supplies to production areas. If air is recirculated to production areas, the marijuana establishment must take measures to control recirculation of dust from production. In areas where air contamination occurs during production, the marijuana establishment must ensure that there are adequate exhaust systems or other systems adequate to control contaminants.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.712 Marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store: Establishment of and adherence to written procedures for labeling and packaging materials. (NRS 453D.200)

1. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall establish and follow written procedures describing in sufficient detail the receipt, identification, storage, handling, sampling, examination and testing of labeling and packaging materials.

2. Any labeling or packaging materials that meet the appropriate written specifications established pursuant to subsection 1 may be approved and released for use. Any labeling or packaging materials that do not meet the specifications established pursuant to subsection 1 must be rejected to prevent their use in operations for which they are unsuitable.

3. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall:

(a) Store separately with suitable identification the labels and other labeling materials for each type of marijuana or marijuana product, and the different strength, dosage form or quantity of contents;

(b) Limit access to the storage area described in paragraph (a) to authorized personnel of the marijuana establishment; and

(c) Destroy obsolete and outdated labels, labeling and other packaging materials.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.715 Marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store: Establishment of and adherence to written procedures for production and process control to assure quality of marijuana and marijuana products; review and approval of procedures; recording and justification of deviation from procedures. (NRS 453D.200)

1. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall have written procedures for production and process control that are designed to assure that the marijuana or marijuana products have the identity, strength, quality and purity they purport or are represented to possess.

2. The written procedures required pursuant to subsection 1 and any changes to those procedures must be drafted, reviewed and approved by the appropriate organizational units of the marijuana establishment and reviewed and approved by the quality control unit of the marijuana establishment.

3. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall follow written production and process control procedures in executing various production and process control functions and shall document these procedures at the time of performance. Any deviation from the written procedures must be recorded and justified by the marijuana establishment.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.718 Marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store: Establishment of and adherence to written procedures for components, product containers and closures. (NRS 453D.200) Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall ensure that:

1. It has written procedures describing in sufficient detail the receipt, identification, storage, handling, sampling, testing and approval or rejection of components, product containers and closures and that it follows those procedures;

2. Components, product containers and closures are at all times handled and stored in a manner so as to prevent contamination; and

3. Bagged or boxed components, product containers or closures are stored at least 6 inches off the floor and are suitably spaced to permit cleaning and inspection.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.720 Marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store: Appropriateness, cleanliness and maintenance of equipment, utensils and substances; maintenance of records. (NRS 453D.200)

1. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall ensure that any equipment used to manufacture, process, package or hold marijuana or marijuana products:

(a) Is of appropriate design and adequate size and is suitably located to facilitate operations for its intended use and for its cleaning and maintenance; and

(b) Is constructed so that surfaces which have direct contact with components, in-process materials, marijuana or marijuana products are not reactive, additive or absorptive so as to alter the safety, identity, strength, quality or purity of the marijuana or marijuana products beyond the official or other established requirements.

2. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall ensure that:

(a) Any substances required for its operation, such as lubricants or coolants, do not come into contact with components, product containers, in-process materials, marijuana or marijuana products so as to alter the safety, identity, strength, quality or purity of the marijuana or marijuana products beyond the official or other established requirements;

(b) Equipment and utensils are cleaned, maintained and, as appropriate for the nature of the marijuana or marijuana products, sanitized and sterilized at appropriate intervals to prevent malfunctions or contamination that would alter the safety, identity, strength, quality or purity of the marijuana or marijuana products beyond the official or other established requirements; and

(c) Written procedures are established and followed for the cleaning and maintenance of equipment and utensils used to manufacture, process, package or hold marijuana or marijuana products. These procedures must include, without limitation:

(1) Assignment of responsibility for cleaning and maintaining equipment;

(2) Maintenance and cleaning schedules, including, where appropriate, sanitizing schedules;

(3) A description in sufficient detail of the methods, equipment and materials used in cleaning and maintenance operations and the methods of disassembling and reassembling equipment as necessary to assure proper cleaning and maintenance;

(4) Protection of clean equipment from contamination before use; and

(5) Inspection of equipment for cleanliness immediately before use.

3. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store must maintain records of any maintenance, cleaning, sanitizing and inspection carried out pursuant to this section.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.725 Marijuana cultivation facility, marijuana product manufacturing facility, marijuana distributor and retail marijuana store: Requirement to ensure cleanliness of employees and volunteers. (NRS 453D.200) Each marijuana cultivation facility, marijuana product manufacturing facility, marijuana distributor and retail marijuana store shall ensure that:

1. Each marijuana establishment agent who is employed by or volunteers at the marijuana establishment and who is engaged in cultivating, manufacturing, processing, packaging or holding marijuana or marijuana products wears clean clothing appropriate for the duties he or she performs;

2. Protective apparel, such as head, face, hand and arm coverings, are worn as necessary to protect marijuana or marijuana products from contamination; and

3. Each marijuana establishment agent who is employed by or volunteers at the marijuana establishment practices good sanitation and health habits.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.728 Marijuana cultivation facility, marijuana product manufacturing facility, marijuana distributor and retail marijuana store: Restrictions on salvaging marijuana and marijuana products; maintenance of records. (NRS 453D.200)

1. Each marijuana cultivation facility, marijuana product manufacturing facility, marijuana distributor and retail marijuana store shall ensure that marijuana or marijuana products that have been subjected to improper storage conditions, including, without limitation, extremes in temperature, humidity, smoke, fumes, pressure, age or radiation due to natural disasters, fires, accidents or equipment failures, are not salvaged and returned to the marketplace.

2. Whenever it is unclear whether marijuana or marijuana products have been subjected to the conditions described in subsection 1, a marijuana cultivation facility, marijuana product manufacturing facility or retail marijuana store may conduct salvaging operations only if:

(a) The marijuana or marijuana products are salvaged for use only for the purpose of extraction;

(b) Evidence from tests and assays performed by a marijuana testing facility indicates that the marijuana or marijuana products meet all applicable standards of quality and purity; and

(c) Evidence from inspection of the premises indicates that the marijuana or marijuana products and their associated packaging were not subjected to improper storage conditions as a result of the disaster or accident, if any.

3. A marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store must maintain records, including, without limitation, the name, lot number, production run number and disposition for marijuana or marijuana products salvaged pursuant to subsection 2.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.732 Marijuana establishment: Requirements for building used to manufacture, process, package or hold marijuana. (NRS 453D.200)

1. Each marijuana establishment shall ensure that any building used to manufacture, process, package or hold marijuana or marijuana products:

(a) Is of suitable size, construction and location to facilitate cleaning, maintenance and proper operations;

(b) Has adequate space for the orderly placement of equipment and materials to prevent miscalculation or misuse of any component in any step of the manufacture, control, packaging, labeling or distribution of marijuana or marijuana products between different components, product containers, closures, labels, in-process materials and marijuana or marijuana products and to prevent contamination; and

(c) Contains interior surfaces which are not constructed of bare, painted or coated wood or wood product unless:

(1) The bare, painted or coated wood is within a building used only as a retail marijuana store and all marijuana or marijuana products are packaged or protected at all times; or

(2) The wood is sealed and coated with an epoxy paint which renders the surface:

(I) Safe;

(II) Durable, corrosion-resistant, nonporous and nonabsorbent;

(III) Finished to have a smooth, easily cleanable surface; and

(IV) Resistant to pitting, chipping, crazing, scratching, scoring, distortion and decomposition.

2. Each marijuana establishment shall ensure that:

(a) The flow of components, product containers, closures, labels, in-process materials and marijuana and marijuana products through any building used to manufacture, process, package or hold marijuana or marijuana products is designed to prevent contamination;

(b) The operations of the marijuana establishment are performed within specifically defined areas of adequate size;

(c) All items are stored at least 6 inches (15 cm) off the floor;

(d) All access points to outside areas are sealed, including, without limitation, by use of door sweeps; and

(e) There are separate or defined areas or such other control systems for the operations of the marijuana establishment as are necessary to prevent contamination or miscalculation or misuse of any component in any step of the manufacture, control, packaging, labeling or distribution of marijuana or marijuana products during the course of the following procedures:

(1) Receipt, identification, storage and withholding from use of components, product containers, closures and labels, pending the appropriate sampling, testing or examination by the quality control unit before release for manufacturing, processing or packaging;

(2) Holding rejected components, product containers, closures and labels before disposition;

(3) Storage of released components, product containers, closures and labels;

(4) Storage of in-process materials;

(5) Processing operations;

(6) Packaging and labeling operations;

(7) Quarantine storage before the release of marijuana or marijuana products;

(8) Storage of marijuana or marijuana products after release;

(9) Control and marijuana testing facility operations; and

(10) Sanitary processing, which includes as appropriate:

(I) Floors, walls and ceilings made of smooth, hard surfaces that are easily cleanable;

(II) Temperature and humidity controls;

(III) An air supply filtered through high-efficiency particulate air filters under positive pressure;

(IV) A system for monitoring environmental conditions;

(V) A system for cleaning and sanitizing rooms and equipment; and

(VI) A system for maintaining any equipment used to control sanitary conditions.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.734 Marijuana establishment: Requirement to maintain building used to manufacture, process, package or hold marijuana in good state of repair. (NRS 453D.200) Each marijuana establishment shall ensure that any building used to manufacture, process, package or hold marijuana or marijuana products is maintained in a good state of repair.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.736 Marijuana establishment: Requirements for water, plumbing and drains in building used to manufacture, process, package or hold marijuana. (NRS 453D.200) Each marijuana establishment shall ensure that:

1. Any building used to manufacture, process, package or hold marijuana or marijuana products supplies potable water under continuous positive pressure in a plumbing system free of defects that could contribute to the contamination of any marijuana or marijuana products. Potable water must meet the standards prescribed in the Primary Drinking Water Regulations, 40 C.F.R. Part 141. Water not meeting such standards is not permitted in the potable water system.

2. Drains are of adequate size and, where connected directly to a sewer, are provided with an air break or other mechanical device to prevent back-siphonage.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.738 Marijuana establishment: Adequate lighting. (NRS 453D.200)

1. Each marijuana establishment shall ensure that adequate lighting is provided in all areas of the marijuana establishment.

2. If it is necessary for a marijuana establishment to have dim or no lighting in a certain area of the marijuana establishment for a specific reason, the marijuana establishment must have a written policy which specifies:

(a) The area needing dim or no lighting; and

(b) The reason the area needs dim or no lighting.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.740 Marijuana establishment: Establishment of and adherence to written procedures for sanitation; requirement to retain person who is certified applicator of pesticides. (NRS 453D.200)

1. Each marijuana establishment shall ensure that it has written procedures:

(a) Assigning responsibility for sanitation and describing in sufficient detail the cleaning schedules, methods, equipment and materials to be used in cleaning the buildings and facilities of the marijuana establishment; and

(b) For the use of appropriate rodenticides, insecticides, fungicides, fumigating agents and cleaning and sanitizing agents by the marijuana establishment.

2. Each marijuana establishment shall ensure that the written procedures described in subsection 1 are followed.

3. All sanitation procedures of a marijuana establishment apply to work performed by contractors or temporary marijuana establishment agents for the marijuana establishment as well as work performed by full-time marijuana establishment agents during the ordinary course of operations.

4. Each marijuana cultivation facility shall retain at least one person who is a certified applicator, as defined in NRS 555.2618, who is authorized to use pesticides for:

(a) If the marijuana cultivation facility engages in the cultivation of marijuana indoors, greenhouse and nursery pest control pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NAC 555.640; and

(b) If the marijuana cultivation facility engages in the cultivation of marijuana outdoors, agricultural pest control of animals or plants pursuant to paragraph (a) or (b) of subsection 1 of NAC 555.640.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.745 Marijuana establishment: Storage, management and disposal of waste. (NRS 453D.200)
1. Except as otherwise provided in subsection 2, a marijuana establishment shall:
(a) Store, manage and dispose of all solid and liquid waste and wastewater generated during the processing of marijuana or production of marijuana products in accordance with all applicable state and local laws and regulations; and
(b) Render waste containing marijuana unusable before the waste leaves the marijuana establishment. Such waste includes, without limitation:
(1) Waste from marijuana plants, including, without limitation, roots, stalks, leaves, stems, flower, trim or solid plant material and any plant material used to create an extract;
(2) Solvents used in the processing of marijuana or extraction of concentrated marijuana;
(3) Any plant material or solvents discarded as a result of quality assurance testing or any other testing performed by a marijuana testing facility; and
(4) Any other waste as determined by the Department.
2. A marijuana distributor or retail marijuana store may return a marijuana product to a marijuana cultivation facility or marijuana product manufacturing facility to be rendered unusable.
3. Unless another method approved by the Department is used, waste containing marijuana must be rendered unusable by grinding and incorporating the waste with:
(a) For disposal using an organic method other than composting, the following kinds of compostable mixed waste:
(1) Food waste;
(2) Yard waste;
(3) Soil; or
(4) Other waste as approved by the Department; or
(b) For disposal in a landfill or other method not described in paragraph (a), the following kinds of noncompostable mixed waste:
(1) Paper waste;
(2) Cardboard waste;
(3) Plastic waste; or
(4) Other waste as approved by the Department.
➥ The amount of waste containing marijuana in the resulting mixture must be less than 50 percent by volume. Such waste must not be disposed of by composting.
4. A marijuana establishment shall provide notice to the Department using the seed-to-sale tracking system before rendering unusable and disposing of marijuana or marijuana products.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

MARIJUANA TESTING FACILITIES

NAC 453D.755 Employment, qualifications and duties of scientific director; inspection of testing facility upon appointment of new director. (NRS 453D.200)
1. Each marijuana testing facility must employ a scientific director who must be responsible for:
(a) Ensuring that the marijuana testing facility achieves and maintains quality standards of practice; and
(b) Supervising all staff of the marijuana testing facility.
2. The scientific director of a marijuana testing facility must have earned:
(a) A doctorate degree in science from an accredited college or university and have at least 2 years of post-degree laboratory experience;
(b) A master's degree in science from an accredited college or university and have at least 4 years of post-degree laboratory experience; or
(c) A bachelor's degree in science from an accredited college or university and have at least 6 years of post-degree laboratory experience.
3. If a scientific director is no longer employed by a marijuana testing facility, the marijuana testing facility shall not be permitted to conduct any testing.
4. Upon the appointment of a new scientific director by a marijuana testing facility, the marijuana testing facility shall not resume any testing until the Department conducts an inspection of the marijuana testing facility.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.758 Requirements for testing facility to handle, test or analyze marijuana. (NRS 453D.200)
1. A marijuana testing facility shall not handle, test or analyze marijuana unless:
(a) The marijuana testing facility has been issued a license;
(b) The marijuana testing facility is independent from all other persons involved in the marijuana industry in Nevada; and
(c) No person with a direct or indirect interest in the marijuana testing facility has a direct or indirect financial interest in:
(1) A retail marijuana store;
(2) A marijuana product manufacturing facility;
(3) A marijuana cultivation facility;
(4) A marijuana distributor;
(5) A provider of health care who provides or has provided written documentation for the issuance of registry identification cards or letters of approval; or
(6) Any other entity that may benefit from the cultivation, manufacture, dispensing, sale, purchase or use of marijuana or marijuana products.

2. A marijuana testing facility is not required to use a marijuana distributor to collect or move samples for testing.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.760 Agreement to become accredited within 1 year after licensure; provision of annual inspection report to Department; inspection by accrediting organization is not substitute for inspection by Department. (NRS 453D.200)

1. Each marijuana testing facility must agree to become accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization within 1 year after licensure.

2. Each marijuana testing facility that claims to be accredited must provide the Department with copies of each annual inspection report from the accrediting organization, including, without limitation, any deficiencies identified in and any corrections made in response to the report.

3. Inspection by an accrediting organization is not a substitute for inspection by the Department.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.764 Adherence to general laboratory standards, practices, procedures and programs; inspection by Department or authorized third party; adoption of publications by reference. (NRS 453D.200)

1. Each marijuana testing facility must:

(a) Follow the most current version of the *Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control* monograph published by the American Herbal Pharmacopoeia.

(b) Follow the *Recommendations for Regulators — Cannabis Operations* published by the American Herbal Products Association.

(c) Be accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by an impartial organization that operates in conformance with standard ISO/IEC 17011 of the International Organization for Standardization and is a signatory to the Mutual Recognition Arrangement of the International Laboratory Accreditation Cooperation.

(d) Follow the *Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food, Dietary Supplements, and Pharmaceuticals — An Aid to the Interpretation of ISO/IEC 17025:2005 (2015)* published by AOAC International.

2. Each marijuana testing facility shall become proficient in testing samples using the analytical methods approved by the Department within 6 months after the date upon which the marijuana testing facility is issued a license.

3. The Department may require a marijuana testing facility to have the basic proficiency of the marijuana testing facility to execute correctly the analytical testing methodologies used by the marijuana testing facility validated and monitored on an ongoing basis by an independent third party.

4. Each marijuana testing facility shall:

(a) Adopt and follow minimum good laboratory practices which must, at a minimum, satisfy the *OECD Series on Principles of Good Laboratory Practice (GLP) and Compliance Monitoring* published by the Organisation for Economic Co-operation and Development.

(b) Become certified by the International Organization for Standardization and agree to have the inspections and reports of the International Organization for Standardization made available to the Department.

(c) Maintain internal standard operating procedures.

(d) Maintain a quality control and quality assurance program.

5. The Department or an independent third party authorized by the Department may conduct an inspection of the practices, procedures and programs adopted, followed and maintained pursuant to subsection 4 and inspect all records of the marijuana testing facility that are related to the inspection.

6. A marijuana testing facility must use, when available, testing methods that have undergone validation by the *Official Methods of Analysis of AOAC International*, the Performance Tested Methods Program of the Research Institute of AOAC International, the *Bacteriological Analytical Manual* of the Food and Drug Administration, the International Organization for Standardization, the United States Pharmacopeia, the *Microbiology Laboratory Guidebook* of the Food Safety and Inspection Service of the United States Department of Agriculture or an equivalent third-party validation study approved by the Department of Taxation. If no such testing method is available, a marijuana testing facility may use an alternative testing method or a testing method developed by the marijuana testing facility upon demonstrating the validity of the testing method to and receiving the approval of the Department.

7. The Department hereby adopts by reference:

(a) The *Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control* monograph published by the American Herbal Pharmacopoeia. A copy of that publication may be obtained from the American Herbal Pharmacopoeia, P.O. Box 66809, Scotts Valley, California 95067, or at the Internet address **http://www.herbal-ahp.org/**, for the price of $44.95.

(b) The *OECD Series on Principles of Good Laboratory Practice (GLP) and Compliance Monitoring* published by the Organisation for Economic Co-operation and Development. A copy of that publication may be obtained free of charge from the Organisation for Economic Co-operation and Development at the Internet address **http://www.oecd.org/env/ehs/testing/oecdseriesonprinciplesofgoodlaboratorypracticeglpandcompliancemonitoring.htm**.

(c) Standard ISO/IEC 17025 published by the International Organization for Standardization. A copy of that publication may be obtained from the American National Standards Institute at the Internet address **https://webstore.ansi.org/RecordDetail.aspx?sku=ISO%2fIEC+17025%3a2005** for the price of $162.

(d) The *Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food, Dietary Supplements, and Pharmaceuticals — An Aid to the Interpretation of ISO/IEC 17025:2005 (2015)* published by AOAC International. A copy of that publication may be obtained from AOAC International at the Internet address **http://www.aoac.org/aoac_prod_imis/AOAC/AOAC_Member/PUBSCF/ALACCCF/ALACC_M.aspx** for the price of $190.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.766 Establishment of policies for adequate chain of custody and requirements for samples of products provided to testing facility. (NRS 453D.200) Each marijuana testing facility must establish policies for an adequate chain of custody and requirements for samples of products provided to the marijuana testing facility for testing or research purposes, including, without limitation, policies and requirements for:

1. Issuing instructions for the minimum sample and storage requirements;
2. Documenting the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the sample;
3. Documenting the condition and amount of the sample provided at the time of receipt;
4. Documenting all persons handling the original samples, aliquots and extracts;
5. Documenting all transfers of samples, aliquots and extracts referred to another marijuana testing facility for additional testing or whenever requested by a client;
6. Maintaining a current list of authorized marijuana establishment agents and restricting entry to the laboratory to only those authorized;
7. Securing the marijuana testing facility during nonworking hours;
8. Securing short- and long-term storage areas when not in use;
9. Utilizing a secured area to log-in and aliquot samples;
10. Ensuring samples are stored appropriately; and
11. Documenting the disposal of samples, aliquots and extracts.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.768 No limitation on amount of usable marijuana and marijuana products on premises of testing facility; maintenance of records to prove amount on premises is for testing purposes only. (NRS 453D.200) A marijuana testing facility is not limited in the amount of usable marijuana and marijuana products it may have on the premises of the marijuana testing facility at any given time, but the marijuana testing facility must maintain records to prove that all usable marijuana and marijuana products on the premises are there for testing purposes only.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.772 Proficiency testing program: Establishment by Department; required participation by testing facilities; conditions for successful participation; unsuccessful participation grounds for limitation, suspension or revocation of license; request for retest of proficiency testing sample; effect of denial of request for retest or failure of retest. (NRS 453D.200)

1. The Department will establish a proficiency testing program for marijuana testing facilities. A proficiency testing program must include, without limitation, providing rigorously controlled and standardized proficiency testing samples to marijuana testing facilities for analysis, reporting the results of such analysis and performing a statistical evaluation of the collective demographics and results of all marijuana testing facilities.
2. Each marijuana testing facility must participate in the proficiency testing program established pursuant to this section.
3. If required by the Department as part of being issued or renewing a license, the marijuana testing facility must have successfully participated in the proficiency testing program within the preceding 12 months.
4. To maintain continued licensure as a marijuana testing facility, a marijuana testing facility must participate in the designated proficiency testing program with continued satisfactory performance as determined by the Department.
5. A marijuana testing facility must analyze proficiency testing samples using the same procedures with the same number of replicate analyses, standards, testing analysts and equipment as used for product testing.
6. The scientific director of the marijuana testing facility and all testing analysts that participated in proficiency testing must sign corresponding attestation statements.
7. The scientific director of the marijuana testing facility must review and evaluate all proficiency testing results.
8. Successful participation includes the positive identification of 80 percent of the target analytes that the marijuana testing facility reports to include quantitative results when applicable. Any false positive results reported will be considered an unsatisfactory score for the proficiency testing.
9. Unsuccessful participation in proficiency testing may result in limitation, suspension or revocation of the license of the marijuana testing facility.
10. The Department will select a proficiency testing provider to conduct the proficiency testing program and determine the schedule that the proficiency testing provider will follow when sending proficiency testing samples to marijuana testing facilities for analysis.
11. In addition to achieving the standard required pursuant to subsection 8, a marijuana testing facility successfully participates in the proficiency testing program only if the marijuana testing facility:
    (a) Obtains single-blind proficiency testing samples from the proficiency testing provider;
    (b) Analyzes the proficiency testing sample for all analytes listed in NAC 453D.780 to 453D.786, inclusive;
    (c) Reports the results of its analysis to the proficiency testing provider;
    (d) Analyzes a proficiency testing sample pursuant to the proficiency testing program not less frequently than once each 12 months;
    (e) Pays the costs of subscribing to the proficiency testing program; and
    (f) Authorizes the proficiency testing provider to submit to the Department the results of any test performed pursuant to this section.
12. The performance of a marijuana testing facility is satisfactory pursuant to subsection 4 if the results of the testing performed pursuant to this section are within the limits of the acceptance range established by the proficiency testing provider. A marijuana testing facility that fails to meet this standard may request that the Department allow the marijuana testing facility to retest a proficiency testing sample once to establish satisfactory performance. If the Department denies the request or if the marijuana testing facility fails to meet the standard on retesting, the Department may limit, suspend or revoke the license of the marijuana testing facility.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.776 Limited testing for research and development purposes. (NRS 453D.200)

1. A marijuana cultivation facility or a marijuana product manufacturing facility may conduct operations and request limited laboratory testing by a marijuana testing facility for research and development purposes.

2. A marijuana cultivation facility or marijuana product manufacturing facility described in subsection 1 shall:

(a) Notify the Department of its intent to conduct research and development on a form prescribed by the Department by electronic mail before sending a sample to a marijuana testing facility;

(b) Quarantine each batch, lot or production run in a separate quarantine area and label each batch, lot or production run with a distinctive label containing "R&D QUARANTINE" as a header and footer in 20-point white font and a red background;

(c) Account for all marijuana subject to quarantine pursuant to paragraph (b) in its inventory control system;

(d) Limit all research and development operations to clearly segregated and designated areas or rooms marked "R&D CULTIVATION AREA" or "R&D PRODUCTION AREA" on 8 1/2 by 11 inch signs with a red background and white lettering, posted at the entrance to the area or room and along the walls of the area or room, with a minimum of one sign for every 300 square feet of the area or room; and

(e) Perform research and development operations in a grow room only if the plants used for such operations are designated and separated from other plants.

3. A marijuana cultivation facility or marijuana product manufacturing facility operating as described in subsection 1 may request limited testing protocols from a marijuana testing facility for research and development purposes.

4. A marijuana testing facility that performs testing for a marijuana cultivation facility or marijuana product manufacturing facility described in subsection 1 shall report the results of the testing to the marijuana establishment and to the Department by electronic mail. The marijuana testing facility shall clearly mark the test results with "R&D TESTING ONLY - - NOT FOR RESALE" on the header and footer of the report in 20-point white font and a red background.

5. A batch, lot or production run produced for research and development purposes pursuant to this section which fails quality assurance testing need not be destroyed.

6. A batch, lot or production run originally produced for research and development purposes pursuant to this section may not be sold to a retail marijuana store until the batch, lot or production run has undergone and passed all testing required by NAC 453D.450.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.780 Required quality assurance tests; submission of wet marijuana for testing. (NRS 453D.200)

1. Each marijuana testing facility must use the sampling protocols and the general body of required quality assurance tests for usable marijuana, as received, concentrated marijuana and marijuana products set forth in this section. Such tests may include moisture content, potency analysis, foreign matter inspection, microbial screening, pesticide and other chemical residue and metals screening and residual solvents levels. A marijuana testing facility may request additional sample material for the purposes of completing required quality assurance tests but may not use such material for the purposes of resampling or repeating quality assurance tests. A marijuana testing facility may retrieve samples from the premises of another marijuana establishment and transport the samples directly to the marijuana testing facility. A marijuana testing facility transporting samples may make multiple stops if:

(a) Each stop is for the sole purpose of retrieving a sample from a marijuana establishment; and

(b) All samples remain secured at all times.

2. The tests required pursuant to subsection 1 by a marijuana testing facility are as follows:

Product	Tests Required	Tolerance Limit
Usable marijuana and crude collected resins, as received, excluding wet marijuana	1. Moisture content 2. Potency analysis 3. Terpene analysis 4. Foreign matter inspection 5. Mycotoxin screening 6. Heavy metal screening 7. Pesticide residue analysis 8. Herbicide screening 9. Growth regulator screening 10. Total yeast and mold 11. Total Enterobacteriaceae 12. Salmonella 13. Pathogenic E. coli 14. Aspergillus fumigatus 15. Aspergillus flavus 16. Aspergillus terreus 17. Aspergillus niger 18. Total coliform	1. < 15% 2. N/A 3. N/A 4. None detected 5. < 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin A 6. Arsenic: < 2 ppm Cadmium: < 0.82 ppm Lead: < 1.2 ppm Mercury: < 0.4 ppm 7. See NAC 453D.786 8. See NAC 453D.786 9. See NAC 453D.786 10. < 10,000 colony forming units per gram 11. < 1,000 colony forming units per gram 12. None detected per gram

Product	Tests Required	Tolerance Limit
		13. None detected per gram 14. None detected per gram 15. None detected per gram 16. None detected per gram 17. None detected per gram 18. < 1,000 colony forming units per gram
Wet marijuana, as received, which is destined for extraction	1. Potency analysis 2. Terpene analysis 3. Foreign matter inspection 4. Mycotoxin screening 5. Heavy metal screening 6. Pesticide residue analysis 7. Herbicide screening 8. Growth regulator screening 9. Total yeast and mold 10. Total Enterobacteriaceae 11. Salmonella 12. Pathogenic E. coli 13. Aspergillus fumigatus 14. Aspergillus flavus 15. Aspergillus terreus 16. Aspergillus niger 17. Total coliform	1. N/A 2. N/A 3. None detected 4. < 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin A 5. Arsenic: < 2 ppm Cadmium: < 0.82 ppm Lead: < 1.2 ppm Mercury: < 0.4 ppm 6. See NAC 453D.786 7. See NAC 453D.786 8. See NAC 453D.786 9. < 10,000 colony forming units per gram 10. < 1,000 colony forming units per gram 11. None detected per gram 12. None detected per gram 13. None detected per gram 14. None detected per gram 15. None detected per gram 16. None detected per gram 17. < 1,000 colony forming units per gram
Extract of marijuana (nonsolvent) like hashish, bubble hash, infused dairy butter, mixtures of extracted products or oils or fats derived from natural sources, including concentrated marijuana extracted with CO_2	1. Potency analysis 2. Foreign matter inspection 3. Terpene analysis 4. Mycotoxin screening 5. Heavy metal screening 6. Pesticide residue analysis 7. Total yeast and mold 8. Total Enterobacteriaceae 9. Salmonella 10. Pathogenic E. coli 11. Aspergillus fumigatus 12. Aspergillus flavus 13. Aspergillus terreus 14. Aspergillus niger	1. N/A 2. None detected 3. N/A 4. < 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin A 5. Arsenic: < 2 ppm Cadmium: < 0.82 ppm Lead: < 1.2 ppm Mercury: < 0.4 ppm 6. See NAC 453D.786 7. < 1,000 colony forming units per gram

Product	Tests Required	Tolerance Limit
		8. < 100 colony forming units per gram 9. None detected per gram 10. None detected per gram 11. None detected per gram 12. None detected per gram 13. None detected per gram 14. None detected per gram
Extract of marijuana (solvent-based) made with any approved solvent, including concentrated marijuana extracted by means other than with CO_2	1. Potency analysis 2. Terpene analysis 3. Foreign matter inspection 4. Residual solvent test 5. Mycotoxin screening 6. Heavy metal screening 7. Pesticide residue analysis 8. Total yeast and mold 9. Total Enterobacteriaceae 10. Salmonella 11. Pathogenic E. coli 12. Aspergillus fumigatus 13. Aspergillus flavus 14. Aspergillus terreus 15. Aspergillus niger	1. N/A 2. N/A 3. None detected 4. < 500 ppm 5. < 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin A 6. Arsenic: < 2 ppm Cadmium: < 0.82 ppm Lead: < 1.2 ppm Mercury: < 0.4 ppm 7. See NAC 453D.786 8. < 1,000 colony forming units per gram 9. < 100 colony forming units per gram 10. None detected per gram 11. None detected per gram 12. None detected per gram 13. None detected per gram 14. None detected per gram 15. None detected per gram
Edible marijuana product, including a product which contains concentrated marijuana	1. Potency analysis 2. Terpene analysis 3. Foreign matter inspection 4. Total Enterobacteriaceae 5. Salmonella 6. Pathogenic E. coli 7. Total aerobic count 8. Water activity or pH	1. N/A 2. N/A 3. None detected 4. < 1,000 colony forming units per gram 5. None detected per gram 6. None detected per gram 7. < 100,000 colony forming units per gram 8. Water activity < 0.86 or pH < 4.6

Product	Tests Required	Tolerance Limit
Liquid marijuana product, including, without limitation, soda or tonic, including a product which contains concentrated marijuana	1. Potency analysis 2. Terpene analysis 3. Foreign matter inspection 4. Total Enterobacteriaceae 5. Salmonella 6. Pathogenic E. coli 7. Total aerobic count 8. Water activity or pH	1. N/A 2. N/A 3. None detected 4. < 1,000 colony forming units per gram 5. None detected per gram 6. None detected per gram 7. < 100,000 colony forming units per gram 8. Water activity < 0.86 or pH < 4.6
Topical marijuana product, including a product which contains concentrated marijuana	1. Potency analysis 2. Terpene analysis	1. N/A 2. N/A

3. A sample of usable marijuana must be at least 10 grams. A sample of a production run must be the lesser of 1 percent of the total product weight of the production run or 25 units of product. All samples must be homogenized before testing.

4. A marijuana establishment shall not submit wet marijuana to a marijuana testing facility for testing unless the wet marijuana is destined for extraction and weighed within 2 hours after harvest.

5. As used in this section, "as received" means the unaltered state in which a sample was collected, without any processing or conditioning, which accounts for all mass, including moisture content.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.782 Performance of potency analysis or terpene analysis. (NRS 453D.200)

1. When performing potency analysis or terpene analysis pursuant to NAC 453D.780, a marijuana testing facility shall test for and quantify the presence of the following:

(a) Cannabinoids:
(1) THC;
(2) Tetrahydrocannabinolic acid;
(3) CBD;
(4) Cannabidiolic acid; and
(5) Cannabinol; and

(b) Terpenoids:
(1) Alpha-bisabolol;
(2) Alpha-humulene;
(3) Alpha-pinene;
(4) Alpha-terpinolene;
(5) Beta-caryophyllene;
(6) Beta-myrcene;
(7) Beta-pinene;
(8) Caryophyllene oxide;
(9) Limonene; and
(10) Linalool.

2. A marijuana testing facility shall provide the final certificate of analysis containing the results of testing pursuant to this section to the marijuana establishment which provided the sample within 2 business days after obtaining the results.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.784 Performance of testing to verify homogeneity of potency of edible marijuana products. (NRS 453D.200)

1. Except as otherwise provided in subsection 2, a marijuana testing facility shall perform testing to verify the homogeneity of the potency of an edible marijuana product by testing multiple samples from a single production run.

2. A marijuana testing facility that tests an edible marijuana product which has previously had the homogeneity of the potency of the edible marijuana product verified by a marijuana testing facility and which has not undergone a change in recipe may verify the homogeneity of the edible marijuana product by testing one or more single units or servings from a production run of the edible marijuana product.

3. The marijuana testing facility will verify the homogeneity of the potency of the edible marijuana product only if:

(a) The concentration of THC and weight of each sample is within 15 percent above or below the intended concentration of THC and weight; and

(b) No combination of samples which comprise 10 percent or less of the marijuana product contain 20 percent or more of the total THC in the marijuana product.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.786 Use of approved pesticides by marijuana establishment; performance of pesticide residue analysis by testing facility. (NRS 453D.200)

1. A marijuana establishment shall only use a pesticide in the cultivation or production of marijuana or marijuana products if the pesticide appears on the list of pesticides published by the State Department of Agriculture pursuant to NRS 586.550.

2. When performing pesticide residue analysis pursuant to NAC 453D.780, a marijuana testing facility shall analyze for the pesticides which occur on the list of pesticides published by the State Department of Agriculture pursuant to NRS 586.550 at the detection levels specified by the State Department of Agriculture and for any other substances required by the Department of Taxation. If:

(a) A pesticide which occurs on the list of pesticides published by the State Department of Agriculture pursuant to NRS 586.550 is detected at a level which exceeds the level specified by the State Department of Agriculture; or

(b) A pesticide which does not occur on the list of pesticides published by the State Department of Agriculture pursuant to NRS 586.550 is detected in any amount which is positively verified,

➥ the pesticide residue analysis is failed.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.788 Testing: Selection of representative samples and random samples; segregation period for entire lot; duties of testing facility; disposal of lot if sample fails test; release of lot if sample passes test; filing of electronic copy of certificate of analysis for tests performed by testing facility; grounds for disciplinary action for failure to comply. (NRS 453D.200)

1. Immediately before packaging:

(a) Usable marijuana for sale to a retail marijuana store, marijuana product manufacturing facility or another marijuana cultivation facility, a marijuana cultivation facility shall segregate all harvested marijuana into homogenized lots of flower and trim, respectively, and allow a marijuana testing facility to select a representative sample for testing from each lot the marijuana cultivation facility has segregated. The marijuana testing facility which performs the test must collect the samples. If the marijuana cultivation facility has segregated the lot of harvested marijuana into packages or container sizes smaller than the entire lot, the marijuana testing facility must sample and test each package containing harvested marijuana from the lot.

(b) Concentrated marijuana or marijuana products, a marijuana product manufacturing facility shall allow a marijuana testing facility to select a random sample from each lot or production run for testing by the marijuana testing facility. The marijuana testing facility performing the testing must collect the samples.

(c) The marijuana testing facility selecting a sample shall, using tamper-resistant products, record the batch, lot or production run number and the weight or quantity of the sample and seal the sample into a container.

2. A marijuana testing facility that receives a sample pursuant to this section shall test the sample as provided in NAC 453D.780.

3. From the time that a lot or production run has been homogenized for sample testing and eventual packaging and sale to a retail marijuana store, marijuana product manufacturing facility or, if applicable, another marijuana cultivation facility until the marijuana testing facility provides the certificate of analysis from its tests and analysis, the marijuana establishment which provided the sample shall segregate and withhold from use the entire lot or production run, except the samples that have been removed by the marijuana testing facility for testing. During this period of segregation, the marijuana establishment which provided the sample shall maintain the lot or production run in a secure, cool and dry location so as to prevent the marijuana from becoming contaminated or losing its efficacy. Under no circumstances shall the marijuana establishment which provided the sample sell the marijuana or marijuana products, as applicable, to a retail marijuana store, marijuana product manufacturing facility or, if applicable, another marijuana cultivation facility before the time that the marijuana testing facility has completed its testing and analysis and provided the certificate of analysis to the marijuana establishment which provided the sample.

4. Except as otherwise provided in subsection 5, a marijuana testing facility shall immediately return or dispose of any sample received pursuant to this section upon the completion of any testing, use or research. If a marijuana testing facility disposes of a sample received pursuant to this section, the marijuana testing facility shall document the disposal of the sample using its inventory control system pursuant to NAC 453D.426 and 453D.430.

5. A marijuana testing facility shall keep any sample which fails testing or which is collected by the State Department of Agriculture for confirmation testing for 30 days after failure or collection. A sample which is kept pursuant to this subsection must be stored in a manner approved by the Department of Taxation. A marijuana testing facility shall dispose of a sample kept pursuant to this subsection after 30 days have elapsed after failure or collection.

6. Except as otherwise provided in NAC 453D.790, if a sample provided to a marijuana testing facility pursuant to this section does not pass the testing required by NAC 453D.780, the marijuana establishment which provided the sample shall dispose of the entire lot or production run from which the sample was taken and document the disposal of the sample using its inventory control system pursuant to NAC 453D.426 and 453D.430.

7. If a sample provided to a marijuana testing facility pursuant to this section passes the testing required by NAC 453D.780, the marijuana testing facility shall release the entire lot or production run for immediate manufacturing, packaging and labeling for sale to a retail marijuana store, a marijuana product manufacturing facility or, if applicable, another marijuana cultivation facility.

8. A marijuana establishment shall not use more than one marijuana testing facility to test the same lot or production run of marijuana without the approval of the Department.

9. A marijuana testing facility shall file with the Department, in a manner prescribed by the Department, an electronic copy of the certificate of analysis for all tests performed by the marijuana testing facility, regardless of the outcome of the test, including all testing required by NAC 453D.780 to 453D.786, inclusive, at the same time that it transmits those results to the facility which provided the sample. The marijuana testing facility shall transmit an electronic copy of the certificate of analysis for each test to the Department by electronic mail at:

(a) If the test was passed, **mmelabpass@tax.state.nv.us**; or

(b) If the test was failed, **mmelabfail@tax.state.nv.us**.

10. An electronic mail message transmitted pursuant to subsection 9 must be formatted as follows:

(a) The subject line of the electronic mail message must be the name of the marijuana establishment from which the sample was collected.

(b) The name of the electronic file containing the certificate of analysis must be:

(1) Except as otherwise provided in subparagraph (2) or (3), the four digit identifier assigned by the Department to the marijuana testing facility, followed by an underscore, followed by the four digit identifier assigned by the Department to the marijuana establishment from which the sample was collected, followed by an underscore, followed by:

(I) If the sample was from a production run, the production run number; or

(II) If the sample was not from a production run, the batch number, followed by an underscore, followed by the lot number.

(2) If the certificate of analysis is from a retesting of a previously failed sample, an underscore followed by the word "Retest" must be appended to the end of the name of the electronic file.

(3) If the certificate of analysis has been amended, an underscore followed by the word "Amended" must be appended to the end of the name of the electronic file.

(c) If the certificate of analysis has been amended, the electronic copy of the certificate of analysis must state "Amended" in bold red font at the center of the top of the first page of the report and must contain a statement of the reason for the amendment.

11. The Department will take immediate disciplinary action against any marijuana establishment which fails to comply with the provisions of this section or falsifies records related to this section, including, without limitation, revoking the license of the marijuana establishment.

12. A marijuana testing facility may subcontract its testing of marijuana or marijuana products only to another marijuana testing facility.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.790 Testing: Authorized use of marijuana upon failure of microbial screening; automatic failure to pass; request for retest; retest for pesticide residue must be performed by State Department of Agriculture; effect of passing or failing retest. (NRS 453D.200)

1. Upon approval of the Department, a lot of marijuana that fails a microbial screening test may be used to make an extract. After processing, the extract must pass all required quality assurance tests.

2. If a sample from a marijuana product manufacturing facility fails a quality assurance test, the entire production run from which the sample was taken automatically fails the quality assurance test.

3. At the request of a marijuana cultivation facility or a marijuana product manufacturing facility, the Department may, on a case-by-case basis, authorize a retest to validate the results of a failed test. The marijuana cultivation facility or marijuana product manufacturing facility is responsible for all costs involved in a retest performed pursuant to this section.

4. A marijuana cultivation facility or a marijuana product manufacturing facility may not request a retest pursuant to this section unless, at the time samples are initially taken for testing, two samples are collected at the same time by a marijuana testing facility using tamper-resistant bags. One of the samples must be taken by the marijuana testing facility for testing and the facility must place the other sample in a secure quarantine storage area at the facility for further retesting by a secondary marijuana testing facility or the State Department of Agriculture.

5. A marijuana cultivation facility or a marijuana product manufacturing facility shall submit a request for retesting to the Department in writing and on a form designated by the Department.

6. If the Department grants a request for retesting, the Department will select the marijuana testing facility that will perform the retest.

7. Except as otherwise provided in this subsection, a marijuana cultivation facility or a marijuana product manufacturing facility may submit a request for retesting of not more than 50 lots each calendar year. For any subsequent failure of a quality assurance test in a calendar year, the facility shall destroy the lot or the entire production run, as applicable. A lot which only fails a quality assurance test for moisture content must not be counted for the purpose of this subsection.

8. A failed quality assurance test for pesticide residue must be retested by the State Department of Agriculture.

9. If a sample passes the same quality assurance test upon retesting, the marijuana cultivation facility or marijuana product manufacturing facility need not destroy the lot or production run and may sell the lot or production run to a marijuana cultivation facility, retail marijuana store or marijuana product manufacturing facility, as applicable.

10. If a sample fails the same quality assurance test upon retesting, the Department denies a request for retesting or a marijuana cultivation facility or a marijuana product manufacturing facility does not request retesting after a sample fails a quality assurance test, the facility shall destroy the entire lot or production run from which the sample was taken.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.794 Audit or certification of testing facility by State Department of Agriculture. (NRS 453D.200)

1. At the request of the Department of Taxation, a marijuana testing facility may be audited or certified by the State Department of Agriculture.

2. If the State Department of Agriculture audits or certifies marijuana testing facilities, the State Department of Agriculture will perform such technical inspections of the premises and operations of a marijuana testing facility as the State Department of Agriculture determines is appropriate.

3. If the State Department of Agriculture audits or certifies marijuana testing facilities, each marijuana testing facility shall comply with the requirements established by the State Department of Agriculture.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.796 Collection and testing of random samples from marijuana establishments for comparison with results reported by testing facilities. (NRS 453D.200)

1. At the request of the Department of Taxation, the State Department of Agriculture may collect and test random samples from marijuana establishments and compare the results of its testing to the results reported by marijuana testing facilities.

2. A marijuana establishment shall provide samples to the State Department of Agriculture upon request if the State Department of Agriculture conducts testing pursuant to subsection 1.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.798 Random quality assurance compliance checks; costs for screening or testing. (NRS 453D.200)

1. Upon the request of the Department, a marijuana cultivation facility and a marijuana product manufacturing facility must provide a marijuana testing facility designated by the Department with a sample of marijuana or a marijuana product in an amount determined by the marijuana testing facility to be sufficient for random quality assurance compliance checks in a secure manner such that the marijuana testing facility can confirm that it has received and is testing the correct sample.

2. The marijuana testing facility that receives a sample pursuant to subsection 1 shall, as directed by the Department:

(a) Screen the sample for pesticides, chemical residues, herbicides, growth regulators and unsafe levels of metals;

(b) Perform any other quality assurance test deemed necessary by the Department; and

(c) Report its results to the Department.

3. The marijuana cultivation facility or marijuana product manufacturing facility is responsible for all costs involved in screening or testing performed pursuant to this section.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

PACKAGING AND LABELING OF MARIJUANA PRODUCTS

NAC 453D.800 Requirements for single packages. (NRS 453D.200)

1. Unless preparing bulk packages only for delivery to another marijuana establishment and not for sale to a consumer, a marijuana establishment that packages marijuana or marijuana products must individually package, label and seal the marijuana or marijuana products in a single package for sale. A retail marijuana store shall only sell marijuana or marijuana products in a single package which must not contain:

(a) More than 1 ounce of usable marijuana or one-eighth of an ounce of concentrated marijuana.

(b) For a marijuana product sold as a capsule, more than 100 milligrams of THC per capsule or more than 800 milligrams of THC per package.

(c) For a marijuana product sold as a tincture, more than 800 milligrams of THC.

(d) For a marijuana product sold as an edible marijuana product, more than 100 milligrams of THC.

(e) For a marijuana product sold as a topical product, a concentration of more than 6 percent THC or more than 800 milligrams of THC per package.

(f) For a marijuana product sold as a suppository or transdermal patch, more than 100 milligrams of THC per suppository or transdermal patch or more than 800 milligrams of THC per package.

(g) For any other marijuana product, more than 800 milligrams of THC.

2. An edible marijuana product must be packaged in a manner which indicates the number of servings of THC in the product, measured in servings of a maximum of 10 milligrams of THC per serving, and include a statement that the edible marijuana product contains marijuana and its potency was tested with an allowable variance of plus or minus 15 percent.

3. For marijuana or marijuana products that are intended to be sold to a consumer, the text used on all labeling must be printed in at least 8-point font and may not be in italics.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.805 Requirements for edible marijuana products, products in solid or liquid form, usable marijuana and concentrated marijuana or marijuana products. (NRS 453D.200)

1. Any edible product containing marijuana must:

(a) Be clearly and unambiguously packaged as marijuana with the words "THIS IS A MARIJUANA PRODUCT" in bold type that clearly identifies that the product contains marijuana;

(b) Be packaged in a manner which is not modeled after a brand of products primarily consumed by or marketed to children;

(c) Be presented in packaging which does not contain an image of a cartoon character, mascot, action figure, balloon or toy, except that such an item may appear in the logo of the marijuana product manufacturing facility which produced the product; and

(d) Not be packaged or marketed as candy.

2. When sold at a retail marijuana store, any edible product containing marijuana must be packaged in opaque, child-resistant packaging in accordance with 16 C.F.R. Part 1700 and the standards specified in subsection 3 or 4. The child-resistant packaging must maintain its effectiveness for multiple openings before leaving the retail marijuana store with the consumer.

3. Except as otherwise provided in subsection 4, marijuana products in solid or liquid form must be packaged in:

(a) Plastic which is 4 mils or more in thickness; or

(b) If the product is in liquid form, a food-grade bottle.

4. Marijuana products in liquid form and concentrated marijuana must be packaged using a resealable cap in a container that:

(a) Clearly demarks each serving of marijuana in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of THC; and

(b) Includes a device that allows a reasonable person to intuitively measure and serve a single serving of THC.

➥ The portion of such a container that demarks each serving of marijuana need not be opaque.

5. Any container or packaging containing usable marijuana, concentrated marijuana or marijuana products must protect the contents from contamination and must be of a food grade material.

6. An edible marijuana product must be sealed in a container which is not transparent and sold in packaging which is opaque.

7. Each single serving in a multiple-serving edible marijuana product must be physically demarked in a way that enables a reasonable person to intuitively determine how much of the edible marijuana product constitutes a single serving. Each

demarked serving must be easily separable in a manner that allows an average person who is 21 years of age or over to physically separate, with minimal effort, an individual serving of the edible marijuana product.

8. If an edible marijuana product is of a kind that is impracticable to clearly demark each serving of marijuana or to make each serving easily separable, the edible marijuana product must:

(a) Contain not more than 10 milligrams of THC per unit of sale; or

(b) Be sold in a package that contains more than one individually wrapped single-serving edible marijuana product.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.808 Stamp or mold required for edible marijuana products; exception. (NRS 453D.200)

1. Except as otherwise provided in subsection 3, on or before January 1, 2019, each single-serving edible marijuana product and each individual serving containing not more than 10 milligrams of THC of a multiple-serving edible marijuana product must be stamped or molded with a symbol developed by the Department to indicate that the product contains marijuana.

2. An edible marijuana product that is impractical to stamp or mold with a symbol, including, without limitation, bulk goods or powders, must be packaged in a child-resistant container in individual servings containing not more than 10 milligrams of THC.

3. An edible marijuana product in liquid form which is packaged as required by NAC 453D.805 need not be stamped or molded as described in this section.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.812 Requirements for labeling products "organic." (NRS 453D.200) A marijuana cultivation facility or marijuana product manufacturing facility shall not label usable marijuana, concentrated marijuana or marijuana products as "organic" unless the marijuana plants and all ingredients used are produced, processed and certified in a manner that is consistent with the national organic standards established by the United States Department of Agriculture in accordance with the Organic Foods Production Act of 1990, 7 U.S.C. §§ 6501 et seq.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.816 Marijuana cultivation facility: Required labeling before sale of marijuana to retail marijuana store. (NRS 453D.200)

1. A marijuana cultivation facility shall label all marijuana before it sells the marijuana to a retail marijuana store and shall securely affix to the package a label that includes, without limitation, in legible English:

(a) The name of the marijuana establishment and its license number;

(b) If the marijuana establishment is operated by a dual licensee, the number of the medical marijuana establishment registration certificate of the cultivation facility operated by the dual licensee;

(c) The batch number;

(d) The lot number;

(e) The date of final harvest;

(f) The date of final testing;

(g) The date on which the product was packaged;

(h) The cannabinoid profile and potency levels and terpenoid profile of the top three terpenes as determined by the marijuana testing facility, which may include the potential total THC but must not include any other calculated level of THC;

(i) If the product is perishable, the expiration date;

(j) The quantity of marijuana being sold; and

(k) A warning that states: "THIS IS A MARIJUANA PRODUCT."

2. The label required by subsection 1 for a container or package containing usable marijuana sold by a marijuana cultivation facility must be in substantially the following form:

SG'S NURSERY
License Number: 123 456 789 001 0001
Registration Certificate Number: 543 210789 000 0100
(if applicable)

THIS IS A MARIJUANA PRODUCT

Batch Number:
1234
Lot Number:
1234

Final Harvest Date:
01/01/2017

Final Testing Date: 01/15/2017
Packaged on: 01/17/2017
Best if used by: 03/17/2017

16.7% THC 1.5% CBD 0.3% CBN
Myrcene 5.6 mg/g Limonene 5.1 mg/g Valencene 3.5 mg/g

Net Weight: 2 lbs.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.820 Marijuana product manufacturing facility: Required labeling of edible marijuana products before sale to retail store. (NRS 453D.200)

1. A marijuana product manufacturing facility shall label all edible marijuana products before it sells the edible marijuana products to a retail marijuana store and shall include on the packaging or securely affix to the package a label that includes, without limitation, in legible English and in a manner which must not mislead consumers:

(a) The name of the marijuana establishment and its license number;

(b) If the marijuana establishment is operated by a dual licensee, the number of the medical marijuana establishment registration certificate of the facility for the production of edible marijuana products or marijuana-infused products, as defined in NRS 453A.105, operated by the dual licensee;

(c) The production run number;

(d) The words "Keep out of reach of children";

(e) The date of production;

(f) The date of final testing;

(g) The date on which the product was packaged;

(h) The cannabinoid profile and potency levels and terpenoid profile of the top three terpenes as determined by the marijuana testing facility, which may include the potential total THC but must not include any other calculated level of THC;

(i) If the product is perishable, the expiration date;

(j) The total amount of THC in the edible marijuana product, measured in milligrams;

(k) The total amount of THC in each serving of the edible marijuana product and a notice that the actual amount of THC may be within 15 percent of the stated amount;

(l) A list of all ingredients and all major food allergens as identified in 21 U.S.C. § 343;

(m) The net weight of the product;

(n) If concentrated marijuana was added to the product or if the product consists solely of concentrated marijuana, a disclosure of the type of extraction process used and any solvent, gas or other chemical used in the extraction process or any other compound added to the concentrated marijuana; and

(o) A warning that states: "THIS IS A MARIJUANA PRODUCT."

2. The label required by subsection 1 for a container or package containing concentrated marijuana or edible marijuana products sold by a marijuana product manufacturing facility must be in substantially the following form:

DC's Marijuana Products
License Number: 123 456 789 001 0001
Registration Certificate Number: 543 210789 000 0010
(if applicable)

Production Run Number: 1234

THIS IS A MARIJUANA PRODUCT

Keep out of reach of children

Produced on: 01/01/2017
Final Testing Date: 01/15/2017
Packaged on: 01/17/2017
Best if used by: 03/17/2017
Cannabinoid profile:
Terpenoid profile:

Total THC content:
THC content per serving +/- 15%:
This product contains concentrated marijuana produced with butane.

Ingredients: Wheat, Sugar, Milk Chocolate
Allergy Warning: Peanuts, Tree Nuts, Eggs, Wheat, Soy
Net Weight: 100mg

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.824 Retail marijuana store: Required labeling of usable marijuana. (NRS 453D.200)

1. A retail marijuana store must affix to each container or package containing usable marijuana sold at retail, if not already included on the container or package, a label which must include, without limitation:

(a) The business or trade name and the license number of the marijuana cultivation facility that cultivated and sold the usable marijuana.

(b) If the marijuana cultivation facility is operated by a dual licensee, the number of the medical marijuana establishment registration certificate of the cultivation facility operated by the dual licensee.

(c) The batch number.

(d) The lot number.

(e) The date and quantity sold, including the net weight measured in ounces and grams or by volume, as appropriate.
(f) The name and address of the retail marijuana store.
(g) The cannabinoid profile and potency levels and terpenoid profile as determined by the marijuana testing facility, which may include the potential total THC but must not include any other calculated level of THC.
(h) A warning that states: "This product may have intoxicating effects and may be habit forming."
(i) The statement: "This product may be unlawful outside of the State of Nevada."
(j) The date on which the marijuana was harvested.
(k) A warning that states: "THIS IS A MARIJUANA PRODUCT."
2. The label required by subsection 1 for a container or package containing usable marijuana sold at retail must be in substantially the following form:

JP's Plant Emporium
License Number: 123 456 789 001 0001
Registration Certificate Number: 543 210789 000 0010
(if applicable)

THIS IS A MARIJUANA PRODUCT

Batch #: 1234
Lot #: 1234
Final harvest: 01/01/2017

by
We Care Retail Marijuana Store
123 Main Street, Carson City, NV 89701

WARNING:
This product may have intoxicating effects and may be habit forming.

16.7% THC 1.5% CBD 0.3% CBN
Myrcene 5.6 mg/g Limonene 5.1 mg/g Valencene 3.5 mg/g

Net Weight: .25 ounces (7 grams)

This product may be unlawful outside the State of Nevada.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.828 Retail marijuana store: Required labeling of edible marijuana products. (NRS 453D.200)
1. A retail marijuana store must affix to each container or package containing edible marijuana products sold at retail and affix to or include with each container or package containing concentrated marijuana or marijuana products sold at retail a label which must not mislead consumers and must include, without limitation:
(a) The business or trade name and the license number of the marijuana product manufacturing facility that extracted and sold the concentrated marijuana or manufactured and sold the product.
(b) If the marijuana product manufacturing facility is operated by a dual licensee, the number of the medical marijuana establishment registration certificate of the facility for the production of edible marijuana products or marijuana-infused products operated by the dual licensee.
(c) The production run number that accounts for all lot numbers of all marijuana used to extract the concentrated marijuana or create the product, as recorded in the inventory control system of the marijuana product manufacturing facility that sold the concentrated marijuana or product.
(d) The name and address of the retail marijuana store.
(e) The date on which the concentrated marijuana was extracted or the product was manufactured.
(f) The date on which the concentrated marijuana or product was packaged.
(g) If the product is perishable, a suggested use-by date.
(h) The cannabinoid profile and potency levels and terpenoid profile of the product, as determined by the marijuana testing facility that tested the product, which, except as otherwise provided in paragraph (i), may include the potential total THC but must not include any other calculated level of THC.
(i) If the product is an edible marijuana product, the measurements of THC included on the label must include only the delta-9-tetrahydrocannabinol in the edible marijuana product.
(j) The total amount of THC in each serving of the product and a notice that the actual amount of THC may be within 15 percent of the stated amount.
(k) A list of all ingredients and all major food allergens as identified in 21 U.S.C. § 343.
(l) The concentration of THC in the product, if applicable.
(m) The net weight of the marijuana or marijuana product.
(n) A warning that states: "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by 2 or more hours."
(o) If concentrated marijuana or a marijuana extract was added to the product, a disclosure of the type of extraction process and any solvent, gas or other chemical used in the extraction process, or any other compound added to the concentrated marijuana or the marijuana extract.

(p) A warning that states: "This product may have intoxicating effects and may be habit forming."
(q) A warning that states: "Keep out of reach of children."
(r) A statement that: "This product may be unlawful outside of the State of Nevada."
(s) A warning that states: "THIS IS A MARIJUANA PRODUCT."

2. The label required by subsection 1 for a container or package containing concentrated marijuana or marijuana products sold at retail must be in substantially the following form:

We Care Retail Marijuana Store
123 Main Street, Carson City, NV 89701

THIS IS A MARIJUANA PRODUCT

Date Sold: 3/27/2017

Cookie
Net Weight: 2 ounces (56 grams)
Produced on: 1/1/2017
Final Testing Date: 1/15/2017
Packaged on: 1/17/2017
Best if used by: 6/3/2017
Cannabinoid profile:
Terpenoid profile:
THC content per serving +/- 15%:

CAUTION: When eaten or swallowed the intoxicating effects of this product can be delayed by 2 or more hours.
Keep out of reach of children

This product may be unlawful outside the State of Nevada.

Manufactured at: KC's Kitchen
License Number: 321654987101 0401
Registration Certificate Number: 543 210789 000 0010
(if applicable)

Production Run #5463

INGREDIENTS: Flour, Butter, Canola Oil, Sugar, Chocolate, Marijuana, Strawberries

CONTAINS ALLERGENS: Milk, Wheat

Contains marijuana extract processed with butane.
Contains concentrated marijuana produced with CO_2.

WARNING: This product may have intoxicating effects and may be habit forming.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.832 Retail marijuana store: Required disclosures and warnings. (NRS 453D.200)

1. A retail marijuana store must provide with all usable marijuana sold at retail accompanying material that discloses any pesticides applied to the marijuana plants and growing medium during production and processing.

2. A retail marijuana store must provide with all usable marijuana and marijuana products sold at retail a written notification which contains the following warnings:

(a) That marijuana and marijuana products must be kept out of the reach of children.
(b) That marijuana and marijuana products can cause severe illness in children.
(c) That allowing children to ingest marijuana or marijuana products or storing marijuana or marijuana products in a location which is accessible to children may result in an investigation by an agency which provides child welfare services or criminal prosecution for child abuse or neglect.
(d) "THE INTOXICATING EFFECTS OF MARIJUANA MAY BE DELAYED BY 2 HOURS OR MORE AND USERS OF MARIJUANA PRODUCTS SHOULD INITIALLY INGEST A SMALL AMOUNT OF THE PRODUCT CONTAINING NO MORE THAN 10 MILLIGRAMS OF THC, THEN WAIT AT LEAST 2 HOURS BEFORE INGESTING ANY ADDITIONAL AMOUNT OF THE PRODUCT."
(e) "This product may have intoxicating effects and may be habit forming. Smoking is hazardous to your health."
(f) "Ingesting marijuana or marijuana products with alcohol or other drugs, including prescription medication, may result in unpredictable levels of impairment and a person should consult with a physician before doing so."
(g) "There may be health risks associated with consumption of this product."
(h) "Pregnant women should consult with a physician before ingesting marijuana or marijuana products."

(i) "Marijuana or marijuana products can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of marijuana or marijuana products."

(j) "Ingestion of any amount of marijuana or marijuana products before driving may result in criminal prosecution for driving under the influence."

3. The text used on all accompanying material and warnings must be printed in at least 12-point font and may not be in italics.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.836 Marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store: Required labeling. (NRS 453D.200) Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall:

1. Use for labeling all marijuana and marijuana products the standard label described in NAC 453D.800 and 453D.816 to 453D.828, inclusive;

2. Exercise strict control over labeling materials issued for use in labeling operations for marijuana and marijuana products;

3. Carefully examine labeling materials issued for a batch for identity and conformity to the labeling specified in the applicable production or control records; and

4. Have and follow written procedures describing in sufficient detail the control procedures employed for the issuance of labeling.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.838 Marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store: Examination of products during finishing operations; collection of representative sample of units; recording of results. (NRS 453D.200) Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall:

1. Examine packaged and labeled products during finishing operations to provide assurance that the containers and packages have the correct labels;

2. Collect a representative sample of units at the completion of finishing operations and ensure that the samples are visually examined for correct labeling; and

3. Record the results of the examinations performed pursuant to subsections 1 and 2 in the applicable production or control records.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

MARIJUANA DISTRIBUTORS

NAC 453D.860 Requirements for transportation of marijuana and marijuana products. (NRS 453D.200)

1. A marijuana distributor may transport marijuana and marijuana products between a marijuana establishment and another marijuana establishment or between the buildings of a marijuana establishment.

2. A marijuana establishment shall not transport marijuana or marijuana products to a retail marijuana store unless the marijuana establishment holds a license for a marijuana distributor.

3. A marijuana distributor shall not purchase or sell marijuana or marijuana products unless the marijuana distributor holds a license for a type of marijuana establishment authorized by law to purchase or sell marijuana or marijuana products.

4. A marijuana distributor may enter into an agreement or contract with a marijuana establishment for the transport of marijuana or marijuana products. Such an agreement or contract may include, without limitation, provisions relating to insurance coverage, climate control and theft by a third party or an employee.

5. A marijuana distributor, and each marijuana establishment agent employed by the marijuana distributor who is involved in the transportation, is responsible for marijuana and marijuana products once the marijuana distributor takes control of the marijuana or marijuana products and leaves the premises of a marijuana establishment.

6. A marijuana distributor shall not allow a marijuana establishment agent to transport marijuana or marijuana products unless:

(a) The marijuana establishment agent carries a copy, for the duration of the transportation, of the transportation manifest generated using the seed-to-sale tracking system pursuant to NAC 453D.864 for the transportation;

(b) Each marijuana establishment agent involved in the transportation has, in his or her immediate possession, his or her marijuana establishment agent registration card or verification of temporary authorization;

(c) The marijuana or marijuana products are stored in a sanitary and secure manner in a lockbox or locked cargo area within the vehicle being used for delivery and not visible from outside the vehicle;

(d) The vehicle being used for delivery has no advertising, signage or other markings relating to marijuana; and

(e) The marijuana establishment agent transporting marijuana or marijuana products for the marijuana distributor on behalf of a marijuana establishment has a means of communicating with the marijuana establishment.

7. Each marijuana establishment agent transporting marijuana or marijuana products for a marijuana distributor must:

(a) Report to a person designated by the marijuana distributor to receive such reports any motor vehicle crash that occurs during the transportation within 2 hours after the crash occurs;

(b) Report to the Department any unauthorized stop that lasts longer than 2 hours; and

(c) Report to a person designated by the marijuana distributor to receive such reports any loss or theft of marijuana or marijuana products that occurs during the transportation immediately after the marijuana establishment agent becomes aware of the loss or theft. A marijuana distributor that receives a report of loss or theft pursuant to this paragraph must immediately report the loss or theft to the appropriate law enforcement agency and to the Department.

8. Each marijuana distributor shall maintain a log of all reports received pursuant to subsection 7 for review by the Department upon request.

9. Any marijuana or marijuana product which is damaged or refused by the receiving marijuana establishment must be transported back to the originating marijuana establishment.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.864 Duties of distributor delivering marijuana or marijuana products; transportation manifest; duties of originating marijuana establishment and receiving marijuana establishment; maintenance of records. (NRS 453D.200)

1. Before transporting marijuana or marijuana products pursuant to NAC 453D.860, a marijuana distributor shall:

(a) Ensure that all marijuana and marijuana products are secured at all times during delivery; and

(b) Maintain a physical or electronic copy of a transportation manifest generated using the seed-to-sale tracking system that contains all the information required by this section in a format approved by the Department.

2. A marijuana distributor may deliver marijuana or marijuana products to more than one marijuana establishment in a single trip if the transportation manifest correctly reflects the specific inventory destined for each specific marijuana establishment and location.

3. Before transferring marijuana or marijuana products to a marijuana distributor, the originating marijuana establishment shall enter the information required to indicate that the marijuana or marijuana products will be transported to the receiving marijuana establishment into the seed-to-sale tracking system. A marijuana establishment shall not list a marijuana distributor as the receiving marijuana establishment.

4. A marijuana distributor shall not alter the information which has been entered into the seed-to-sale tracking system pursuant to subsection 3.

5. If a marijuana distributor is not able to deliver marijuana or marijuana products directly to the receiving marijuana establishment due to normal business operations, the marijuana distributor shall notify the Department and the originating marijuana establishment of the premises where the marijuana or marijuana products will be stored and the anticipated date and time of delivery.

6. A marijuana distributor shall provide a copy of the transportation manifest generated using the seed-to-sale tracking system to the marijuana establishment receiving marijuana or marijuana products. The copy of a transportation manifest provided to a marijuana establishment pursuant to this subsection must be generated separately for each marijuana establishment and must not contain the information of any other marijuana establishment.

7. The transportation manifest generated using the seed-to-sale tracking system must include, without limitation:

(a) The date and approximate time of the departure;

(b) The name, location, address and license number of the originating marijuana establishment;

(c) The name, location, address and license number of the receiving marijuana establishment;

(d) The name, location, address and license number of the marijuana distributor;

(e) The name and quantity, by weight and unit, of each product to be delivered to each marijuana establishment;

(f) The estimated date and time of arrival;

(g) The make, model, license plate number and number of the identification card issued pursuant to NAC 453D.874 of the vehicle used for delivery; and

(h) The name, number of the marijuana establishment agent registration card and signature of each marijuana establishment agent performing or accompanying the transportation of the marijuana or marijuana products.

8. In addition to the requirements of this section, the originating and the receiving marijuana establishment shall each ensure that each delivery satisfies the requirements of NAC 453D.426 and 453D.430.

9. Before marijuana or marijuana products leave the originating marijuana establishment, the originating marijuana establishment shall adjust its records to reflect the removal of the marijuana or marijuana products in a manner that reflects the information included in the transportation manifest generated using the seed-to-sale tracking system and that can be easily reconciled, by the name and quantity of the marijuana or marijuana products, with the transportation manifest.

10. After receipt of marijuana or marijuana products, the receiving marijuana establishment shall:

(a) Confirm that the marijuana or marijuana products are as described in the transportation manifest;

(b) Adjust its records to reflect the receipt of the marijuana or marijuana products in a manner that reflects the information included in the transportation manifest generated using the seed-to-sale tracking system and that can be easily reconciled, by the name and quantity of the marijuana or marijuana products, with the transportation manifest; and

(c) Separately document, in the seed-to-sale tracking system and any other relevant business records, any differences between the quantity of marijuana or marijuana products specified in the transportation manifest and the quantities actually received.

11. After transferring marijuana or marijuana products to the receiving marijuana establishment, the marijuana distributor shall enter the end time of the trip in the trip plan and ensure that the trip plan, including any changes to the trip plan made pursuant to subsection 5, is accurate.

12. Each retail marijuana store and marijuana distributor shall maintain all documents required by this section and provide a copy of any such document to the Department for review upon request.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.868 Storage area for marijuana and marijuana products; verification of inventory; inspection by Department. (NRS 453D.200)

1. Each marijuana distributor shall maintain a storage area for marijuana and marijuana products which includes at least one area which is temperature controlled. The area which is temperature controlled shall be maintained in a commercial food grade unit which is kept at a temperature of less than 41°F (5°C) while storing potentially hazardous marijuana products.

2. The storage area for marijuana and marijuana products maintained pursuant to subsection 1 must be a separate, enclosed, locked facility. Products unrelated to the business of the marijuana distributor, including, without limitation, products containing alcohol, must not be stored with marijuana or marijuana products. Within the storage area, marijuana or marijuana products may only be stored in a secure, locked device, cabinet, room or motor vehicle within the storage area

which is protected by a lock or locking mechanism that meets at least the security rating established by Underwriters Laboratories for key locks.

3. If a marijuana distributor experiences an unusual or extraordinary circumstance beyond its control as part of its normal business operations in providing transportation of marijuana or marijuana products and the marijuana distributor determines that it is necessary to use its storage area for the temporary storage of marijuana or marijuana products, the marijuana distributor shall submit to the Department a notice of temporary storage of marijuana or marijuana products.

4. A marijuana distributor shall not store marijuana or marijuana products for more than 3 days without written consent from the Department.

5. A marijuana distributor shall verify the inventory of a motor vehicle after the inventory is off-loaded into storage and before the inventory is on-loaded onto a motor vehicle from storage.

6. A marijuana distributor shall make its premises, including, without limitation, its storage area, available to the Department for inspection during normal business hours without notice.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.870 Amount that may be transported by distributor; transportation by marijuana establishment agent; restrictions on transportation by vehicle. (NRS 453D.200)

1. A marijuana distributor may transport any amount of marijuana or marijuana products that does not violate the laws or regulations of this State or the limits established by the insurer who provides coverage for the marijuana distributor.

2. A marijuana distributor shall not allow a marijuana establishment agent to transport marijuana or marijuana products unless the marijuana or marijuana products are:

(a) Except as otherwise provided in subsection 3, stored in a lockbox or locked cargo area within the vehicle being used for delivery;

(b) Not visible from outside the vehicle;

(c) Contained in sealed packages and containers which remain unopened during delivery; and

(d) Tagged for the purpose of inventory tracking with a unique identifying label prescribed by the Department for the duration of transport.

➥ For the purpose of this subsection, the trunk of a vehicle is not considered to be a lockbox or locked cargo area unless the trunk cannot be accessed from within the vehicle and can only be accessed using a key which is different from the key used to access and operate the vehicle.

3. A marijuana distributor may allow a marijuana establishment agent to transport live marijuana plants in a fully enclosed, windowless, locked trailer or in a secured area inside the body of a locked van or truck if the plants are not visible from the outside.

4. A person shall not be present within any vehicle while it is being used for the transportation of marijuana or marijuana products unless the person is a marijuana establishment agent for the marijuana distributor providing transportation of the marijuana or marijuana products.

5. If the value of the marijuana and marijuana products being transported by a marijuana distributor in a vehicle, as reported on the transportation manifest as the insured fair market wholesale value, exceeds $25,000, the marijuana distributor shall ensure not fewer than two marijuana establishment agents of the marijuana distributor accompany the vehicle.

6. Each marijuana establishment agent who loads or unloads a vehicle for the transportation of marijuana or marijuana products shall perform the loading or unloading within view of the video surveillance system of a marijuana establishment.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.874 Transportation between marijuana establishments owned by distributor; use of motor vehicles for transportation; adequate care for perishable marijuana products. (NRS 453D.200)

1. A marijuana distributor that also holds a license for a marijuana establishment of another type and that is transporting marijuana or marijuana products between its own marijuana establishments located within the same building, within contiguous buildings or between buildings located within 500 feet of each other is not required to use a vehicle to perform the transportation.

2. A marijuana distributor may use any motor vehicle that can legally be operated on the highways of this State and that meets the requirements of this section to transport marijuana and marijuana products.

3. Before using a motor vehicle to transport marijuana or marijuana products, a marijuana distributor must obtain the approval of the Department for the use of the motor vehicle. Upon approving a motor vehicle for use to transport marijuana or marijuana products, the Department will issue an identification card containing such information as the Department determines to be necessary which must be kept inside the motor vehicle at all times.

4. A marijuana distributor shall ensure that each motor vehicle used to transport marijuana or marijuana products:

(a) Has no advertising, signage or other markings relating to marijuana; and

(b) Is equipped with an audible car alarm.

5. A marijuana distributor shall provide adequate care for perishable marijuana products including, without limitation, refrigeration during transportation, if required. Any method for temperature control used during transportation must be approved by the Department before use. If a potentially hazardous marijuana product is being transported, the potentially hazardous marijuana product must be maintained at a temperature of less than 41°F (5°C) throughout transportation.

6. Each marijuana distributor shall maintain at least one motor vehicle using a method approved by the Department for temperature control during transportation.

7. The Department or its agent may inspect each motor vehicle used for transportation of marijuana or marijuana products by a marijuana distributor pursuant to NAC 453D.288 and 453D.292.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.876 Transportation between multiple marijuana establishments; requirements for drivers used by distributor; hours and locations of transportation; reporting of irregularities, motor vehicle crash or break-down of motor vehicle; use of seed-to-sale tracking system. (NRS 453D.200)

1. A marijuana distributor may transport marijuana or marijuana products between multiple marijuana establishments, but shall not simultaneously transport any other item unless the item is marijuana paraphernalia or merchandise, packaging or a promotional item directly related to the marijuana or marijuana product.

2. A marijuana distributor shall not transport marijuana or marijuana products unless:

(a) During the transportation of marijuana or marijuana products, the driver of a motor vehicle for a marijuana distributor carries in the motor vehicle:

(1) Proof of valid insurance coverage in an amount required by the laws of this State;

(2) A copy of the license of the marijuana distributor;

(3) The marijuana establishment agent registration card or verification of temporary authorization of the driver;

(4) The valid driver's license of the driver; and

(5) The valid registration for the motor vehicle.

(b) All drivers used by the marijuana distributor are bonded in an amount sufficient to cover any claim that could be brought against the driver or the marijuana distributor discloses to all parties that such drivers are not bonded.

(c) The hours in which the marijuana distributor provides transportation are reasonable to allow for the delivery of marijuana and marijuana products to marijuana establishments during the operating hours of the marijuana establishments.

(d) The transportation is conducted only within the borders of this State.

(e) The marijuana establishment agent who transports marijuana or marijuana products only travels to and from marijuana establishments and does not make any unnecessary stops that are not disclosed in the trip plan and transportation manifest. The marijuana establishment agent may make a stop for fuel as necessary and keep a list of designated fuel stops along the route for submission to the Department upon request.

3. A marijuana distributor shall notify the Department using means determined by the Department if a motor vehicle being used for the transportation of marijuana or marijuana products by the marijuana distributor is stopped at a location other than a marijuana establishment or designated fuel stop, is involved in a motor vehicle crash or breaks down resulting in scheduled travel being interrupted for more than 2 hours.

4. A marijuana distributor shall use the seed-to-sale tracking system approved by the Department for any transportation of marijuana or marijuana products between marijuana establishments that are not co-located.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.878 Transportation by marijuana cultivation facility, marijuana product manufacturing facility, marijuana testing facility or retail marijuana store; applicability of provisions relating to distributors. (NRS 453D.200)

1. A marijuana cultivation facility or a marijuana product manufacturing facility may transport marijuana or marijuana products to or from a marijuana cultivation facility, a marijuana product manufacturing facility or a marijuana testing facility.

2. A marijuana testing facility or a retail marijuana store may transport marijuana or marijuana products to or from a marijuana testing facility for testing.

3. The requirements of NAC 453D.860 for a marijuana distributor apply to a marijuana establishment that transports marijuana or marijuana products pursuant to this section without using a marijuana distributor.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.880 Transportation by marijuana establishment to retail marijuana store. (NRS 453D.200) A marijuana establishment shall not transport marijuana or marijuana products to a retail marijuana store unless the marijuana establishment:

1. Holds a license for a marijuana distributor;

2. Holds a medical marijuana establishment registration certificate and is only transporting marijuana or marijuana products for the medical use of marijuana;

3. Is a marijuana testing facility transporting samples for testing; or

4. Is a dual licensee and is only transporting marijuana or marijuana products for the medical use of marijuana to a medical marijuana dispensary or a dual licensee.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

DISCIPLINARY ACTION; PRACTICE BEFORE THE DEPARTMENT OF TAXATION

Disciplinary Action

NAC 453D.900 Grounds for disciplinary action. (NRS 453D.200)

1. A violation of any of the provisions of this chapter is grounds for disciplinary action by the Department, including, without limitation, immediate revocation of a license for a marijuana establishment pursuant to NRS 453D.200.

2. A violation of any of the provisions of this chapter is grounds for disciplinary action by the Department, including, without limitation, immediate revocation of a marijuana establishment agent registration card.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.905 Imposition of civil penalty; revocation or suspension of license or marijuana establishment agent registration card; corrective action; categories of violations; imminent health hazard requiring immediate correction or cessation of operations. (NRS 453D.200)

1. The Department may:

(a) Subject to the provisions of subsection 4, impose a civil penalty of not more than $35,000 on any person who fails to comply with or violates any provision of this chapter or NRS 453D.300;

(b) Except as otherwise provided in paragraph (c), revoke or suspend for not less than 3 days and not more than 30 days the license of any marijuana establishment or the marijuana establishment agent registration card of any person who fails to comply with or violates the provisions of this chapter or chapter 453D of NRS; and

(c) If corrective action approved by the Department will cure the noncompliance or violation but will not be completed within 30 days after issuance of the order, suspend for more than 30 days the license of a marijuana establishment or the

marijuana establishment agent registration card of a person who fails to comply with or violates the provisions of this chapter or chapter 453D of NRS.

2. To determine the amount of a civil penalty assessed pursuant to this section, the Department will consider the gravity of the violation, the economic benefit or savings, if any, resulting from the violation, the size of the business of the violator, the history of compliance with this chapter and chapter 453D of NRS by the violator, action taken to remedy the violation, the effect of the penalty on the ability of the violator to continue in business and any other matter as justice may require.

3. The Department will determine the category of a violation of this chapter or chapter 453D of NRS as follows:

(a) Category I violations are violations of a severity that make a person ineligible to receive a license, including, without limitation:

(1) Conviction of an excluded felony offense;
(2) Operating without all required permits, certificates and licenses;
(3) Making an intentionally false statement to the Department;
(4) Intentionally destroying or concealing evidence;
(5) Intentionally failing to pay taxes to the Department;
(6) Allowing noisy, disorderly or unlawful activity that results in death or serious physical injury, that involves the unlawful use or attempted use of a deadly weapon against another person or that results in a sexual offense which is a category A felony;
(7) Operating a marijuana establishment while the license for the marijuana establishment is suspended or revoked; or
(8) Transporting marijuana outside of the boundaries of this State, except where authorized by an agreement between the Governor of this State and a participating tribal government.

(b) Category II violations are violations that create a present threat to public health or safety, including, without limitation:

(1) Making an unintentional false statement or representation of fact to the Department;
(2) Failing to promptly admit regulatory or law enforcement personnel into the premises of a marijuana establishment;
(3) Unintentionally destroying or concealing evidence;
(4) Failing to notify the Department of a change of ownership;
(5) Denying access by law enforcement or regulatory personnel to the premises of the marijuana establishment during regular business hours;
(6) Allowing noisy, disorderly or unlawful activity that involves use of a dangerous weapon against another person with intent to cause death or serious physical injury;
(7) Allowing a person who is less than 21 years of age to work or volunteer at the marijuana establishment;
(8) Refusing to allow an inspection or obstructing a law enforcement officer from performing his or her official duties;
(9) Failing to cease operation and notify the Department during an imminent health hazard;
(10) Purchasing marijuana from an unapproved source;
(11) Purchasing or selling marijuana that has not passed the analysis required by a marijuana testing facility without written approval from the Department;
(12) Operating an unapproved extraction unit;
(13) Selling an amount of marijuana in excess of transaction limits; or
(14) Failing to maintain required security alarm and surveillance systems pursuant to NAC 453D.434.

(c) Category II(b) violations are violations for failing to verify the age of, or selling or otherwise providing marijuana or marijuana paraphernalia to, a person who is less than 21 years of age.

(d) Category III violations are violations that create a potential threat to public health or safety, including, without limitation:

(1) Allowing a person who is less than 21 years of age to enter or remain in a marijuana establishment or transport vehicle unless the person holds a registry identification card or letter of approval;
(2) Permitting sales by a person without a marijuana establishment agent registration card unless that person is deemed to be temporarily registered pursuant to NAC 453D.340;
(3) Allowing consumption by any person of alcohol, marijuana or other intoxicants on the premises of the marijuana establishment or in areas adjacent to the premises of the marijuana establishment which are under the licensee's control, including, without limitation, a parking lot;
(4) Failing to keep any required records, including seed-to-sale tracking requirements;
(5) Failing to tag all plants as required;
(6) Failing to follow an approved security plan;
(7) Allowing disorderly activity;
(8) Allowing any activity which violates the laws of this State;
(9) Failing to notify the Department within 24 hours after discovery of a serious incident or criminal activity on the premises of the marijuana establishment;
(10) Unintentionally failing to pay taxes to the Department;
(11) Selling unauthorized products;
(12) Failing to notify the Department of a modification or expansion of the facilities of the marijuana establishment or a change in equipment or menu of the marijuana establishment;
(13) Violating packaging or labeling requirements;
(14) Storing or delivering an unapproved marijuana product;
(15) Failing to meet requirements for the disposal of marijuana waste;
(16) Using unauthorized pesticides, soil amendments, fertilizers or other crop production aids;
(17) Exceeding the maximum serving requirements for marijuana products;
(18) Exceeding a reasonable time frame for delivery without approval from the Department;
(19) Transporting or storing marijuana from an unlicensed source or diversion of marijuana or marijuana products;
(20) Picking up, unloading or delivering marijuana at an unauthorized location;
(21) Failing to comply with requirements for hand washing and employee hygiene, including, without limitation, using a bare hand on a marijuana product;

(22) Failing to maintain proper temperature of potentially hazardous food or marijuana products;
(23) Failing to comply with requirements for water temperature;
(24) Failing to prevent backflow of plumbing; or
(25) Selling or failing to dispose of marijuana, marijuana products or food items that are spoiled or contaminated.

(e) Category IV violations are violations that create a climate which is conducive to abuses associated with the sale or production of marijuana or marijuana products, including, without limitation:

(1) Failing to display or have in the immediate possession of each marijuana establishment agent a marijuana establishment agent registration card or proof of temporary registration;
(2) Removing, altering or covering a notice of suspension of a license or any other required notice or sign;
(3) Violating advertising requirements;
(4) Displaying products in a manner visible to the general public from a public right of way;
(5) Failing to respond to an administrative notice of a violation or failing to pay fines;
(6) Violating restrictions on sampling;
(7) Failing to maintain a standardized scale as required;
(8) Transporting marijuana in an unauthorized vehicle;
(9) Improper storing of marijuana, marijuana products or other foods;
(10) Failing to properly wash, rinse and sanitize product contact surfaces as required;
(11) Failing to maintain hand-washing facilities that are stocked, accessible and limited to hand washing only;
(12) Infestation by pests that are not multigenerational or on contact surfaces;
(13) Failing to properly use sanitizer as required; or
(14) Violating any transportation or delivery requirements not described in another category of violations.

(f) Category V violations are violations that are inconsistent with the orderly regulation of the sale or production of marijuana or marijuana products, including, without limitation:

(1) Failing to submit monthly tax or sales reports or payments;
(2) Failing to notify the Department of a temporary closure of the marijuana establishment;
(3) Failing to post any required signs;
(4) Failing to notify the Department of a change in the name of the marijuana establishment;
(5) Making a payment with a check returned for insufficient funds; or
(6) Failing to comply with any other requirements not described in another category of violations.

4. Before consideration of the factors described in subsection 2, the Department will presume that the following are appropriate penalties for violations of this chapter or chapter 453D of NRS:

(a) For a category I violation which is the:

(1) First violation in the immediately preceding 2 years, a civil penalty of not more than $35,000 and a suspension for not more than 30 days or revocation of a license or marijuana establishment agent registration card.
(2) Second or subsequent violation in the immediately preceding 2 years, revocation of a license or marijuana establishment agent registration card.

(b) For a category II violation which is the:

(1) First violation in the immediately preceding 2 years, a civil penalty of not more than $10,000 and a suspension for not more than 20 days of a license or marijuana establishment agent registration card.
(2) Second violation in the immediately preceding 2 years, a civil penalty of not more than $20,000 and a suspension for not more than 30 days of a license or marijuana establishment agent registration card.
(3) Third or subsequent violation in the immediately preceding 2 years, revocation of a license or marijuana establishment agent registration card.

(c) For a category II(b) violation which is the:

(1) First violation in the immediately preceding 2 years, a civil penalty of not more than $5,000.
(2) Second violation in the immediately preceding 2 years, a civil penalty of not more than $10,000 or a suspension for not more than 20 days of a license or marijuana establishment agent registration card.
(3) Third violation in the immediately preceding 2 years, a suspension for not more than 30 days of a license or marijuana establishment agent registration card.
(4) Fourth or subsequent violation in the immediately preceding 2 years, revocation of a license or marijuana establishment agent registration card.

(d) For a category III violation which is the:

(1) First violation in the immediately preceding 2 years, a civil penalty of not more than $2,500.
(2) Second violation in the immediately preceding 2 years, a civil penalty of not more than $5,000 or a suspension for not more than 10 days of a license or marijuana establishment agent registration card.
(3) Third violation in the immediately preceding 2 years, a civil penalty of not more than $10,000 or a suspension for not more than 20 days of a license or marijuana establishment agent registration card.
(4) Fourth violation in the immediately preceding 2 years, a suspension for not more than 30 days of a license or marijuana establishment agent registration card.
(5) Fifth or subsequent violation in the immediately preceding 2 years, revocation of a license or marijuana establishment agent registration card.

(e) For a category IV violation which is the:

(1) First violation in the immediately preceding 2 years, a civil penalty of not more than $1,250.
(2) Second violation in the immediately preceding 2 years, a civil penalty of not more than $2,500 or a suspension for not more than 7 days of a license or marijuana establishment agent registration card.
(3) Third violation in the immediately preceding 2 years, a civil penalty of not more than $5,000 or a suspension for not more than 10 days of a license or marijuana establishment agent registration card.
(4) Fourth violation in the immediately preceding 2 years, a civil penalty of not more than $10,000 or a suspension for not more than 20 days of a license or marijuana establishment agent registration card.

(5) Fifth violation in the immediately preceding 2 years, a suspension for not more than 30 days of a license or marijuana establishment agent registration card.

(6) Sixth or subsequent violation in the immediately preceding 2 years, revocation of a license or marijuana establishment agent registration card.

(f) For a category V violation which is the:

(1) First violation in the immediately preceding 2 years, a warning.

(2) Second violation in the immediately preceding 2 years, a civil penalty of not more than $750.

(3) Third violation in the immediately preceding 2 years, a civil penalty of not more than $1,250 or a suspension for not more than 3 days of a license or marijuana establishment agent registration card.

(4) Fourth violation in the immediately preceding 2 years, a civil penalty of not more than $2,500 or a suspension for not more than 7 days of a license or marijuana establishment agent registration card.

(5) Fifth violation in the immediately preceding 2 years, a civil penalty of not more than $5,000 or a suspension for not more than 10 days of a license or marijuana establishment agent registration card.

(6) Sixth or subsequent violation in the immediately preceding 2 years, a civil penalty of not more than $10,000 or a suspension for not more than 20 days of a license or marijuana establishment agent registration card.

5. The Department will determine whether an event is an imminent health hazard that requires immediate correction or cessation of operations to prevent injury based on the nature, severity and duration of any anticipated injury, illness or disease and the number of injuries or illnesses to members of the public which may occur. Events that are presumed to be imminent health hazards include, without limitation:

(a) Interruption of electrical service;

(b) Lack of potable water or hot water;

(c) Grossly unsanitary occurrences or conditions including, without limitation, pest infestation or sewage or liquid waste not being disposed of in an approved manner;

(d) Lack of adequate refrigeration;

(e) Lack of adequate toilet and hand-washing facilities for employees;

(f) Misuse of poisonous or toxic materials;

(g) A suspected outbreak of foodborne illness;

(h) A fire or flood; or

(i) Any other condition or circumstance which endangers public health.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.908 Notice of disciplinary action or civil penalty; rescission of action or penalty by Department; request for hearing. (NRS 453D.200)

1. The Department will notify a person on whom disciplinary action or a civil penalty is imposed pursuant to NAC 453D.905. The notice must contain the following information:

(a) The date of the violation or, if the date of the violation is unknown, the date that the violation was identified;

(b) The address or description of the location where the violation occurred;

(c) The section of this chapter or chapter 453D of NRS that was violated and a description of the violation;

(d) The amount of the civil penalty or a description of the action taken for the violation;

(e) A description of the payment process, including a description of the time within which and the place to which any civil penalty must be paid;

(f) An order prohibiting the continuation or repeated occurrence of the violation described in the notice;

(g) A description of the appeals process, including, without limitation, the time within which the disciplinary action or civil penalty may be contested and the place to which an appeal must be made; and

(h) The name and signature of the enforcement officer who issued the citation for the violation.

2. If the Department determines that a disciplinary action or civil penalty has been inappropriately issued, the Department may rescind the disciplinary action or civil penalty.

3. A person that receives a notice pursuant to subsection 1 may request a hearing within 30 days after the notice is issued.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.912 Reinstatement of license or marijuana establishment agent registration card: Application; conditions, limitations or restrictions upon reinstatement; denial. (NRS 453D.200)

1. If a person applies for reinstatement of a license or marijuana establishment agent registration card that has been revoked pursuant to this chapter, the person shall:

(a) Submit an application on a form supplied by the Department.

(b) Satisfy all the current requirements for the issuance of an initial license or marijuana establishment agent registration card.

(c) Attest that, in this State or any other jurisdiction:

(1) The person has not, during the period of revocation, violated any state or federal law relating to marijuana, and no criminal or civil action involving such a violation is pending against the person; and

(2) No other regulatory body has, during the period of revocation, taken disciplinary action against the person, and no such disciplinary action is pending against the person.

(d) Satisfy any additional requirements for reinstatement of the license or marijuana establishment agent registration card prescribed by the Department.

2. The Department will consider each application for reinstatement of a license or marijuana establishment agent registration card submitted pursuant to this section. In determining whether to reinstate the license or marijuana establishment agent registration card, the Department will consider the following criteria:

(a) The severity of the act resulting in the revocation of the license or marijuana establishment agent registration card.

(b) The conduct of the person after the revocation of the license or marijuana establishment agent registration card.

(c) The amount of time elapsed since the revocation of the license or marijuana establishment agent registration card.

(d) The veracity of the attestations made by the person pursuant to subsection 1.

(e) The degree of compliance by the person with any additional requirements for reinstatement of the license or marijuana establishment agent registration card prescribed by the Department.

(f) The degree of rehabilitation demonstrated by the person.

3. If the Department reinstates the license or marijuana establishment agent registration card, the Department may place any conditions, limitations or restrictions on the license or marijuana establishment agent registration card as it deems necessary.

4. The Department may deny reinstatement of the license or marijuana establishment agent registration card if the person fails to comply with any provisions of this section.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

Summary Suspension of License of Marijuana Establishment or Marijuana Establishment Agent Registration Card

NAC 453D.920 Grounds for summary suspension; notice; request for hearing. (NRS 453D.200)

1. Pursuant to subsection 3 of NRS 233B.127, if the Department finds that the public health, safety or welfare imperatively requires emergency action, the Department may issue an order of summary suspension of the license of a marijuana establishment or a marijuana establishment agent registration card pending proceedings for revocation or other action. An order of summary suspension issued by the Department must contain findings of the exigent circumstances which warrant the issuance of the order of summary suspension, and a suspension under such an order is effective immediately.

2. The Department will give notice to a person that is subject to an order of summary suspension of the facts or conduct that warrant the order and the deficiencies that must be corrected to lift the order. A person that is subject to an order of summary suspension shall not operate until the Department has confirmed that the deficiencies identified in the order have been corrected.

3. A person that is subject to an order of summary suspension may request a hearing regarding the order within 10 business days after the order is issued.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.925 Authority of party to file answer; amendment of notice or order; request for continuance of hearing; inclusion of documentation in record at hearing. (NRS 453D.200)

1. After being served with a notice or order of summary suspension, a person may, but is not required to, file an answer to the notice or order of summary suspension. The person may file such an answer not later than 10 days after the date of service of the notice or order of summary suspension.

2. The Department may amend the notice or order of summary suspension at any time before the hearing. If the Department amends the notice or order of summary suspension before the hearing, the Department will:

(a) File the amended notice or order of summary suspension with the hearing officer; and

(b) Serve the person with the amended notice or order of summary suspension.

3. After being served with an amended notice or order of summary suspension, the person may do any or all of the following:

(a) File an answer to the amended notice or order of summary suspension. The person may file such an answer not later than 10 days after the date of service of the amended notice or order of summary suspension or not later than the date of the hearing, whichever date is earlier.

(b) Move for a continuance of the hearing. The hearing officer shall grant the continuance if the person demonstrates that:

(1) The amendment materially alters the allegations in the notice or order of summary suspension; and

(2) The person does not have a reasonable opportunity to prepare a defense against the amended notice or order of summary suspension before the date of the hearing.

4. The Department may amend the notice or order of summary suspension at the time of the hearing if the amendment is not considered material and the substantial rights of the person would not be prejudiced by the amendment.

5. The notice or order of summary suspension, any amended notice or order of summary suspension and any answer filed by the person must be made part of the record at the hearing.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.930 Written discovery request; contents and discovery of investigative file; party barred from serving interrogatories or taking depositions. (NRS 453D.200)

1. At any time after being served with a notice or order of summary suspension, the person may file with the hearing officer a written discovery request for a copy of all documents and other evidence intended to be presented by the Department in support of the case and a list of proposed witnesses.

2. The investigative file for a case is not discoverable unless the Department intends to present materials from the investigative file as evidence in support of the case. The investigative file for the case includes all communications, records, affidavits or reports acquired or created as part of the investigation of the case, whether or not acquired through a subpoena related to the investigation of the person.

3. A party may not serve any interrogatories on another party or take any depositions relating to the case.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

Hearings

NAC 453D.940 Contents and service of notice; scheduling; service of findings of fact, conclusions of law and decision; authority of hearing officer to impose disciplinary action or civil penalty. (NRS 453D.200)

1. The hearing officer shall send a notice to set a hearing to the last known mailing address of a person who requests a hearing.

2. The hearing officer shall conduct an administrative hearing pursuant to NAC 453D.908 or 453D.920 within 15 days after receiving a request for a hearing. The hearing officer may continue such a hearing for good cause shown.

3. Notice of an administrative hearing conducted pursuant to this section must be served by mail at least 10 days before the date of the hearing to any person who requests a hearing.

4. Notice of a hearing served pursuant to subsection 3 must specify:

(a) The purpose of the hearing; and

(b) The date, time and location of the hearing.

5. Hearings must be held at the offices of the Department in Carson City or at such other place in the State as may be designated in the notice of hearing.

6. A hearing date may be scheduled with less than 10 days' notice if all parties to the hearing agree in writing.

7. After a hearing held pursuant to this section, the hearing officer shall prepare written findings of fact, conclusions of law and his or her decision on the issues presented at the hearing. The hearing officer shall serve a copy of his or her findings of fact, conclusions of law and decision upon all parties to the hearing within 20 days after the date of the hearing.

8. In his or her written decision, the hearing officer may:

(a) Suspend or revoke a license or marijuana establishment agent registration card. If the hearing officer orders the suspension of a license or marijuana establishment agent registration card, the hearing officer shall prescribe the time period of the suspension in the written decision. If the hearing officer orders the revocation of a license or marijuana establishment agent registration card, the hearing officer shall prescribe a period of not less than 1 year and not more than 10 years during which the person may not apply for reinstatement of the license or marijuana establishment agent registration card.

(b) Impose a civil penalty upon a person who holds a license or marijuana establishment agent registration card issued pursuant to this chapter and chapter 453D of NRS not more than $35,000 for each separate violation of this chapter or chapter 453D of NRS which is the subject of the hearing. Such a civil penalty must be paid to the State Treasurer for deposit in the State General Fund and used for the purposes set forth in NRS 453D.510.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.944 Representation of party; duties of attorney; withdrawal of attorney; bar of attorney from participation or imposition of sanctions; responsibility for costs. (NRS 453D.200)

1. In any hearing against a person pursuant to this chapter, the person may appear on his or her own behalf or the person may be represented by:

(a) An attorney licensed to practice law in this State; or

(b) An attorney licensed to practice law in another state who is properly associated with an attorney licensed to practice law in this State and who provides a certificate of good standing from the licensing authority of the other state.

2. An attorney representing a person shall:

(a) Ensure that his or her conduct complies with the Nevada Rules of Professional Conduct; and

(b) Conform to all standards of ethical and courteous behavior required in the courts of this State.

3. An attorney may withdraw from representing a person upon notice to the person, the Department and the hearing officer. The notice must include the reason for the requested withdrawal. The hearing officer may deny the request if there may be an unreasonable delay in the case or the substantial rights of the person may be prejudiced.

4. If the hearing officer finds that an attorney has violated any provision of this section, the hearing officer may bar the attorney from participating in the case or may impose such other sanctions as the hearing officer deems appropriate.

5. A person subject to a hearing pursuant to this chapter is responsible for all costs related to the presentation of his or her defense.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.948 Authorized communications to hearing officer. (NRS 453D.200) A party to a hearing shall not communicate either directly or indirectly with the hearing officer about any issue of fact or law related to the case unless the communication:

1. Is part of a pleading, motion or other document that is properly filed and served on all parties; or

2. Occurs while all parties are present or occurs during a meeting or hearing for which all parties have been given proper notice, whether or not all parties are present at that meeting or hearing.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.952 Prehearing conference; conference before taking testimony. (NRS 453D.200)

1. The hearing officer may, upon his or her own motion or the motion of a party, hold a prehearing conference for the purpose of formulating or simplifying the issues, obtaining admissions of fact or documents which will avoid unnecessary proof, arranging for the exchange of proposed exhibits or prepared expert testimony, limiting the number of witnesses, any procedure for the hearing and any other matters which may expedite orderly conduct and the disposition of the proceedings or settlements thereof.

2. The action taken at a prehearing conference and the agreements, admissions or stipulations made by the parties concerned must be made a part of the record and must be approved by the parties. When approved, such an action will control the course of subsequent proceedings, unless otherwise stipulated to by all the parties of record with the consent of the hearing officer.

3. In any proceeding the hearing officer may, in his or her discretion, call all of the parties together for a conference before the taking of testimony. The hearing officer shall state on the record the results of the conference.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.956 Continuances and recesses. (NRS 453D.200) The hearing officer may, in his or her discretion, either before or during a hearing, grant continuances or recesses.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.960 Failure to appear. (NRS 453D.200) At the time and place set for the hearing, if a party fails to appear, the hearing officer may, in his or her discretion, dismiss the proceeding with or without prejudice or may recess the hearing for

a period of time to be set by the hearing officer to enable the party to attend. If the hearing officer finds that all parties received proper notice, the hearing officer may accept testimony and exhibits from the parties who appear and, thereafter, issue a decision.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.964 Burden and standard of proof; order of evidence; request and costs for transcription. (NRS 453D.200)

1. The Department has the burden of proof, and the standard of proof is a preponderance of the evidence as defined in NRS 233B.0375.
2. Evidence may be received in any manner ordered by the hearing officer, but will ordinarily be received from the parties in the order described in NAC 453D.984.
3. If requested by any party, the hearing or any portion of the hearing must be transcribed. The party making the request shall pay all costs for the transcription.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.968 Subpoenas. (NRS 453D.200)

1. Except as otherwise provided in this subsection, the Department may issue a subpoena requiring the production of books and papers or the attendance of a witness from any place in the State to the place designated for a hearing for the purpose of taking testimony before the hearing officer. Such a subpoena must not compel the production of books or papers that contain individually identifiable health information.
2. A party desiring the Department to issue a subpoena must submit an application in writing to the hearing officer stating the reasons why a subpoena is requested.
3. The hearing officer may require that a subpoena requested by a party for the production of books, waybills, papers, accounts or other documents be issued only after the submission of an application in writing, which specifies as clearly as may be, the books, waybills, papers, accounts or other documents desired.
4. The hearing officer, upon receipt of an application for a subpoena, shall:

(a) Grant the application and issue the subpoena;
(b) Deny the application; or
(c) Schedule a hearing to decide whether to grant or deny the application.

5. All costs incident to a subpoena issued at the request of a person that was served a notice or order of summary suspension must be paid by the person, and the hearing officer may demand payment of the costs before the issuance of a subpoena.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.972 Rules of evidence. (NRS 453D.200)

1. The hearing will not be conducted according to the technical rules of evidence. Any relevant evidence may be admitted, except where precluded by law, if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs, even though the evidence might be subject to objection in civil actions.
2. Hearsay evidence, as that term is used in civil actions, may be admitted for the purpose of supplementing or explaining other evidence, but it is not sufficient to support findings of fact unless it would be admissible over objection in civil actions.
3. The rules of privilege will be applied as they are applied in civil actions.
4. Irrelevant, cumulative and unduly repetitious evidence is not admissible, nor is incompetent evidence, as that term is used in civil trials, with the exception of hearsay evidence as above provided.
5. The parties or their counsel may, by written stipulation, agree that certain specified evidence may be admitted, even though the evidence would otherwise be subject to objection.
6. The hearing officer or any party to any proceeding may cause the depositions of witnesses to be taken in the manner prescribed by law and the rules of the court for depositions in civil actions.
7. The affidavit of any person may be admitted in evidence if all the parties stipulate and consent to its admission.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.976 Official notice. (NRS 453D.200) The hearing officer may take official notice of the following matters:

1. Rules, regulations, official reports, decisions and orders of the Department and any regulatory agency of the State.
2. Contents of decisions, orders, certificates and permits issued by the Department.
3. Matters of common knowledge and technical or scientific facts of established character.
4. Official documents, if pertinent, when properly introduced into the record of formal proceedings by reference if proper and definite reference to the document is made by the party offering it and it is published and generally circulated so that all of the parties of interest at the hearing have an opportunity to examine it and present rebuttal evidence.
5. Matters which may be judicially noticed by the courts of the State.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.980 Filing of briefs. (NRS 453D.200)

1. In any hearing, the hearing officer may order briefs filed within such time as he or she allows.
2. Briefs must be filed with the hearing officer and be accompanied by an acknowledgment of or an affidavit showing service on all other parties of record.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.984 Order of proceedings; deviation from order. (NRS 453D.200)

1. Except as otherwise provided in this section, in any hearing pursuant to this chapter, the hearing must proceed as follows:

(a) The hearing officer shall call the hearing to order.

(b) The parties and their representatives and the hearing officer must be introduced.
(c) The hearing officer shall consider any preliminary motions, stipulations or orders and shall address any administrative details regarding the hearing.
(d) The hearing officer:
(1) Shall ask the parties if they want any witness excluded from the hearing;
(2) Shall instruct any witness who is excluded from the hearing not to discuss the case during the course of the hearing;
(3) Shall allow the person who was served a notice or order of summary suspension to remain in the hearing;
(4) Shall allow any person who acts as both a representative of the Department and a witness in the hearing to remain in the hearing; and
(5) May, on its own motion, exclude any witness from the hearing.
(e) The Department may make an opening statement. After the Department has had the opportunity to make an opening statement, the person that was served a notice or order of summary suspension may make an opening statement. The hearing officer may limit equally the time of the opening statement of each party.
(f) The Department may present its case by presenting evidence and calling witnesses in the following manner:
(1) The witness must be sworn in.
(2) The Department may directly examine the witness.
(3) The person that was served a notice or order of summary suspension may cross-examine the witness.
(4) If requested, the Department may question the witness on redirect examination.
(5) If requested, the person that was served a notice or order of summary suspension may question the witness on recross-examination.
(g) After the Department has had the opportunity to present its case, the person that was served a notice or order of summary suspension may present his or her case by presenting evidence and calling witnesses in the following manner:
(1) The witness must be sworn in.
(2) The person that was served a notice or order of summary suspension may directly examine the witness.
(3) The Department may cross-examine the witness.
(4) If requested, the person that was served a notice or order of summary suspension may question the witness on redirect examination.
(5) If requested, the Department may question the witness on recross-examination.
(h) The hearing officer may question a witness at any time during the hearing. If a witness is questioned by the hearing officer, the party that called the witness may request permission to ask further questions, limited to the area addressed by the hearing officer. When that party has asked those questions, the other party may request permission to ask further questions, limited to the area addressed by the hearing officer.
(i) After the Department and person that was served a notice or order of summary suspension have presented their cases, the hearing officer may allow the Department and person that was served a notice or order of summary suspension to call rebuttal witnesses. If the Department or person that was served a notice or order of summary suspension, or both, call one or more rebuttal witnesses, each rebuttal witness must be sworn in and questioned in the same manner as provided in paragraph (f) or (g), as appropriate.
(j) The Department may make a closing argument. After the Department has had the opportunity to make a closing argument, the person that was served a notice or order of summary suspension may make a closing argument. The hearing officer may limit equally the time of the closing argument of each party. If the person that was served a notice or order of summary suspension makes a closing argument, the Department may make a final closing argument. The hearing officer may limit the time of the final closing argument.
(k) If allowed by the hearing officer, either party may recommend specific disciplinary action to the hearing officer at the appropriate time.
(l) After the close of the hearing, the hearing officer shall deliberate, reach a decision and prepare and serve findings of fact, conclusions of law and his or her final decision in accordance with NAC 453D.988. Not later than 60 days after the close of the hearing, the hearing officer shall prepare written findings and recommendations and serve the findings and recommendations on the parties for review.
2. The hearing officer may deviate from the order of the hearing set forth in subsection 1 if the hearing officer:
(a) Upon a showing of good cause, deems it appropriate; or
(b) Deems it necessary to expedite or ensure the fairness of the hearing.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.988 Preparation and service of findings of fact, conclusions of law and final decision by hearing officer. (NRS 453D.200)
1. After the hearing of a contested case, the hearing officer shall prepare findings of fact, conclusions of law and his or her final decision on the issues presented in the hearing.
2. The hearing officer shall serve a copy of his or her findings of fact, conclusions of law and decision upon all the parties of record within 60 days after the date of the hearing.
(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.990 Motion to request rehearing or reconsideration; response in opposition; order ruling on motion; scope of rehearing. (NRS 453D.200)
1. After the close of the hearing, a party may file only the following motions:
(a) A motion requesting a rehearing.
(b) A motion requesting reconsideration of the findings of fact, conclusions of law and final decision of the hearing officer.
(c) With leave of the hearing officer, any other motion requesting appropriate action or relief after the close of the hearing.
2. A motion requesting a rehearing or reconsideration must be filed with the hearing officer not later than 15 days after the date of service of the findings of fact, conclusions of law and final decision of the hearing officer.

3. A party that opposes the motion may file a response to the motion not later than 7 days after the date of service of the motion.

4. A motion requesting a rehearing or reconsideration may be based only on one of the following grounds:

(a) Newly discovered or available evidence.

(b) Error in the hearing or in the findings of fact, conclusions of law or final decision that would be grounds for reversal of the findings, conclusions or decision.

(c) The need in the public interest for further consideration of the issues or evidence, or both.

5. The hearing officer shall enter an order ruling on the motion requesting a rehearing or reconsideration not later than 25 days after the date on which the motion is filed. A copy of the order must be served on each party. The hearing officer may:

(a) Deny the motion;

(b) Order a rehearing or partial rehearing;

(c) Order reconsideration of the findings of fact, conclusions of law or final decision of the hearing officer; or

(d) Direct other proceedings as the hearing officer deems appropriate.

6. If the hearing officer orders a rehearing, the rehearing must be confined to the issues upon which the rehearing was ordered.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.994 Notice of appeal with Nevada Tax Commission; oral argument; final written decision on appeal; disciplinary action or civil penalty effective until reversed on appeal; authorized judicial review. (NRS 453D.200)

1. The Department, any party to a hearing or a designated representative may, within 30 days after service of the copy of the findings of fact, conclusions of law and final decision of the hearing officer, file a notice of appeal with the Nevada Tax Commission.

2. Within 30 days after filing a notice of appeal, the appellant shall file with the Nevada Tax Commission a:

(a) Brief setting forth the points relied upon in the appeal and authorities in support thereof; and

(b) Designation of the parts of the record before the hearing officer that the appellant deems relevant to the appeal.

3. An appeal from the decision of the hearing officer to the Nevada Tax Commission must be based upon one or more of the grounds set forth in subsection 3 of NRS 233B.135.

4. The filing of a notice of appeal does not excuse compliance with the decision of the hearing officer nor suspend the effectiveness of a decision unless otherwise ordered by the hearing officer.

5. After receipt of a notice of appeal, filed in compliance with subsection 1, and the documentation required by subsection 2, the Department will schedule a time for oral argument before the Nevada Tax Commission at its next meeting. The oral argument will be limited to a period of time not to exceed 20 minutes unless extended by the Nevada Tax Commission. The Nevada Tax Commission will not review evidence which was not submitted to the hearing officer unless it determines that good cause exists for a failure to submit the evidence to the hearing officer.

6. The Nevada Tax Commission will modify, reverse or affirm the decision of the hearing officer or remand the case to the hearing officer. The Director of the Department shall issue a final written decision on behalf of the Nevada Tax Commission.

7. Any revocation, suspension or civil penalty affirmed by the Nevada Tax Commission is effective until reversed upon judicial review, except that the Nevada Tax Commission may stay its order pending a rehearing or judicial review upon such terms and conditions as it deems proper.

8. Judicial review of any such order or decision of the Nevada Tax Commission may be had in accordance with NAC 453D.996.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

NAC 453D.996 Judicial review. (NRS 453D.200)

1. Except as otherwise provided in the Nevada Constitution, a party may not seek any type of judicial intervention or review of a hearing until after the hearing results in a final decision of the Nevada Tax Commission.

2. Except as otherwise provided in this section, a party may seek judicial review of a final decision of the Nevada Tax Commission in accordance with the provisions of chapter 233B of NRS that apply to a contested case.

(Added to NAC by Dep't of Taxation by R092-17, eff. 2-27-2018)

EXHIBIT D

EXHIBIT D

BRIAN SANDOVAL
Governor
JAMES DEVOLLD
Chair, Nevada Tax Commission
WILLIAM D. ANDERSON
Executive Director

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Recreational Marijuana Establishment License Application

Recreational Retail Marijuana Store Only

Release Date: July 6, 2018

Application Period: September 7, 2018 through September 20, 2018

(Business Days M-F, 8:00 A.M. - 5:00 P.M.)

For additional information, please contact:

Marijuana Enforcement Division
State of Nevada Department of Taxation
1550 College Parkway, Suite 115
Carson City, NV 89706

marijuana@tax.state.nv.us

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DEPARTMENT OF TAXATION
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APPLICANT INFORMATION

Provide all requested information in the space next to each numbered question. The information in Sections V1 through V10 will be used for application questions and updates. Type or print responses. **Include this applicant information sheet in Tab III of the Identified Criteria Response (Page 10).**

V1	Company Name:
V2	Street Address:
V3	City, State, ZIP:
V4	Telephone: ( ) _____ - _____ ext: _____
V5	Email Address:
V6	Toll Free Number: ( ) _____ - _____ _____ ext: _____
Contact person who will provide information, sign, or ensure actions are taken pursuant to R092-17 & NRS 453D	
V7	Name:
	Title:
	Street Address:
	City, State, ZIP:
V8	Email Address:
V9	Telephone number for contact person: ( ) _____ - _____ ext: _____
V10	Signature: Date:

BRIAN SANDOVAL
Governor
JAMES DEVOLLD
Chair, Nevada Tax Commission
WILLIAM D. ANDERSON
Executive Director

STATE OF NEVADA
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1. TERMS AND DEFINITIONS

For the purposes of this application, the following acronyms/definitions will be used.

TERMS	DEFINITIONS
Applicant	Organization/individual submitting an application in response to this request for application.
Awarded applicant	The organization/individual that is awarded and has an approved conditional license with the State of Nevada for the establishment type identified in this application.
Confidential information	Any information relating to building or product security submitted in support of a recreational marijuana establishment license.
Department	The State of Nevada Department of Taxation.
Edible marijuana products	Products that contain marijuana or an extract thereof and are intended for human consumption by oral ingestion and are presented in the form of foodstuffs, extracts, oils, tinctures and other similar products.
Enclosed, locked facility	A closet, display case, room, greenhouse, or other enclosed area equipped with locks or other security devices which allow access only by a recreational marijuana establishment agent and the holder of a valid registry identification card.
Establishment license approval to operate date	The date the State Department of Taxation officially gives the approval to operate based on approval of the local jurisdiction and successful fulfillment of all approval-to-operate instructions between the Department and the successful applicant.
Conditional establishment license award date	The date when applicants are notified that a recreational marijuana establishment conditional license has been successfully awarded and is awaiting approval of the local jurisdiction and successful fulfillment of all approval-to-operate instructions.
Evaluation committee	An independent committee comprised of state officers or employees and contracted professionals established to evaluate and score applications submitted in response to this request for applications.
Excluded felony offense	A crime of violence or a violation of a state or federal law pertaining to controlled substances if the law was punishable as a felony in the jurisdiction where the person was convicted. The term does not include a criminal offense for which the sentence, including any term of probation, incarceration or supervised release, was completed more than 10 years before or an offense involving conduct that would be immune from arrest, prosecution or penalty, except that the conduct occurred before April 1, 2014 or was prosecuted by an authority other than the State of Nevada.

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Facility for the production of edible marijuana products or marijuana infused products	A business that is registered/licensed with the Department and acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells edible marijuana products or marijuana-infused products to recreational marijuana retail stores.
Identifiers or Identified Criteria Response	A non-identified response, such as assignment of letters, numbers, job title or generic business type, to assure the identity of a person or business remains unidentifiable. Assignment of identifiers will be application-specific and will be communicated in the application in the identifier legend.
Marijuana Testing Facility	Means an entity licensed to test marijuana and marijuana products, including for potency and contaminants.
Inventory control system	A process, device or other contrivance that may be used to monitor the chain of custody of marijuana used for recreational purposes from the point of cultivation to the end consumer.
Marijuana	All parts of any plant of the genus Cannabis, whether growing or not, and the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. " Marijuana" does not include the mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stems (except the resin extracted there from), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. "Marijuana" does not include industrial hemp as defined in NRS 557.040, and grown or cultivated pursuant to Chapter 557 of NRS.
Marijuana-infused products	Products that are infused with marijuana or an extract thereof and are intended for use or consumption by humans through means other than inhalation or oral ingestion. The term includes topical products, ointments, oils and tinctures.
May	Indicates something that is recommended but not mandatory. If the applicant fails to provide recommended information, the Department may, at its sole discretion, ask the applicant to provide the information or evaluate the application without the information.
Medical use of marijuana	The possession, delivery, production or use of marijuana; the possession, delivery or use of paraphernalia used to administer marijuana, as necessary, for the exclusive benefit of a person to mitigate the symptoms or effects of his or her chronic or debilitating medical condition.

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Must	Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of an application as non-responsive.
NAC	Nevada Administrative Code. All applicable NAC documentation may be reviewed via the internet at: http://www.leg.state.nv.us/NAC/CHAPTERS.HTML
Non-Identified Criteria Response	A response to the application in which no information is included pertaining to identifiable information for any and all owners, officers, board members or employees and business details (proposed business name(s), D/B/A, current or previous business names or employers). Identifiers that must be removed from the application include all names; specific geographic details including street address, city, county, precinct, ZIP code, and their equivalent geocodes; telephone numbers; fax numbers; email addresses; social security numbers; financial account numbers; certificate/license numbers; vehicle identifiers and serial numbers including license plate numbers; Web Universal Resource Locators (URLs); Internet Protocol (IP) addresses; biometric identifiers including finger and voice prints, full-face photographs and any comparable images; previous or proposed company logos, images or graphics; and, any other unique identifying information, images, logos, details, numbers, characteristics, or codes.
NRS	Nevada Revised Statutes. All applicable NRS documentation may be reviewed via the internet at: http://www.leg.state.nv.us/NRS/.
Pacific Time (PT)	Unless otherwise stated, all references to time in this request for applications and any subsequent award of license are understood to be Pacific Time.
Recreational marijuana retail store	Means an entity licensed to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities and retail marijuana stores, and to sell marijuana and marijuana products to consumers.
Recreational marijuana establishment	Means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a marijuana distributor, or a retail marijuana store.
Recreational marijuana establishment agent	Means an owner, officer, board member, employee or volunteer of a marijuana establishment, an independent contractor who provides labor relating to the cultivation, processing or distribution of marijuana or the production of marijuana or marijuana products for a marijuana establishment or an employee of such an independent contractor. The term does not include a consultant who performs professional services for a recreational marijuana establishment.

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Recreational marijuana establishment agent registration card	A registration card that is issued by the Department pursuant to R092-17, Sec. 94 to authorize a person to volunteer or work at a recreational marijuana establishment.
Recreational marijuana establishment license	A license that is issued by the Department pursuant to NRS 453D and R092-17 to authorize the operation of a recreational marijuana establishment.
Shall	Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of an application as non-responsive.
Should	Indicates something that is recommended but not mandatory. If the applicant fails to provide recommended information the Department may, at its sole discretion, ask the applicant to provide the information or evaluate the application without the information.
State	The State of Nevada and any agency identified herein.
Will	Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of an application as non-responsive.

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2. APPLICATION OVERVIEW

The Nevada State Legislature passed a number of bills during the 2017 session which affect the licensing, regulation and operation of recreational marijuana establishments in the state. In addition, the Department of Taxation has approved regulations effective February of 2018. Legislation changes relevant to this application include but are not limited to the following:

Assembly Bill 422 (AB422):

- Transfers responsibility for registration/licensing and regulation of marijuana establishments from the State of Nevada's Division of Public and Behavioral Health (DPBH) to the Department of Taxation.
- Adds diversity of race, ethnicity, or gender of applicants (owners, officers, board members) to the existing merit criteria for the evaluation of marijuana establishment registration certificates.

LCB File No. Regulation R092-17:

- On or before November 15, 2018, a person who holds a medical marijuana establishment registration certificate may apply for one or more licenses, in addition to a license issued pursuant to section 77 of the regulation, for a marijuana establishment of the same type or for one or more licenses for a marijuana establishment of a different type.

No applicant may be awarded more than 1 (one) retail store license in a jurisdiction/locality, unless there are less applicants than licenses allowed in the jurisdiction.

The Department is seeking applications from qualified applicants in conjunction with this application process for recreational marijuana retail store license. If a marijuana establishment has not received a final inspection within 12 months after the date on which the Department issued a license, the establishment must surrender the license to the Department. The Department may extend the period specified in R092-17, Sec. 87 if the Department, in its discretion, determines that extenuating circumstances prevented the marijuana establishment from receiving a final inspection within the period.

3. APPLICATION TIMELINE

The following represents the timeline for this project. All times stated are in Pacific Time (PT).

Task	Date/Time
Request for application date	July 6, 2018
Opening of 10-day window for receipt of applications	September 7, 2018
Deadline for submission of applications	September 20, 2018 – 5:00 p.m.
Application evaluation period	September 7, 2018 – December 5, 2018
Conditional licenses award notification	Not later than December 5, 2018
Anticipated approximate fully operational deadline	12 months after notification date of conditional license

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4. APPLICATION INSTRUCTIONS

The State of Nevada Department of Taxation is seeking applications from qualified applicants to award recreational marijuana retail store licenses.

The Department anticipates awarding a recreational marijuana retail store license in conjunction with this application as determined by the applicant's establishment type, geographic location and the best interest of the State. Therefore, applicants are encouraged to be as specific as possible regarding services provided, geographic location, and information submitted for each application merit criteria category.

Pursuant to section 78 subsection 12 of R092-17, the application must include the signature of a natural person for the proposed marijuana establishment as described in subsection 1 of section 74 of R092-17.

5. APPLICATION REQUIREMENTS, FORMAT AND CONTENT

5.1. General Submission Requirements

5.1.1. Applications must be packaged and submitted in counterparts; therefore, applicants must pay close attention to the submission requirements. Applications will have an Identified Criteria Response and a Non-Identified Criteria Response. Applicants must submit their application separated into the two (2) required sections, Identified Criteria Responses and Non-Identified Criteria Responses, recorded to separate electronic media (CD-Rs or USB thumb drives).

5.1.2. The required electronic media must contain information as specified in Section 5.4, and must be packaged and submitted in accordance with the requirements listed at Section 5.5.

5.1.3. Detailed instructions on application submission and packaging are provided below. Applicants must submit their applications as identified in the following sections.

5.1.4. All information is to be completed as requested.

5.1.5. Each section within the Identified Criteria Response and the Non-Identified Criteria Response must be saved as separate PDF files, one for each required "Tab". The filename will include the tab number and title (e.g., 5.2.1 Tab I – Title Page.pdf).

5.1.6. For ease of evaluation, the application must be presented in a format that corresponds to and references the sections outlined within the submission requirements section and must be presented in the same order. Written responses must be typed and placed immediately following the applicable criteria question, statement and/or section.

5.1.7. Applications are to be prepared in such a way as to provide a straightforward, concise delineation of information to satisfy the requirements of this application.

5.1.8. In a Non-Identified Criteria Response, when a specific person or company is referenced the identity must remain confidential. A person may be addressed through their position, discipline or job title, or assigned an identifier. Identifiers assigned to people or companies must be detailed in a legend (Attachment H) to be submitted in the Identified Criteria Response section.

5.1.9. Materials not requested in the application process will not be reviewed.

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5.2. Part I – General Criteria Response

The IDENTIFIED CRITERIA RESPONSE must include:

- Electronic media (CD-R or thumb drive) containing only the Identified Criteria Response.
- Do not password protect electronic media or individual files.
- The response must contain separate PDF files for each of the tabbed sections as described below.

5.2.1. **Tab I** – *Title Page*
The title page must include the following:

Part I – Identified Criteria Response	
Application Title:	A Recreational Marijuana Establishment License
Applicant Name:	
Address:	
Application Opening Date and Time:	**September 7, 2018**
Application Closing Date and Time:	**September 20, 2018**

5.2.2. **Tab II** – *Table of Contents*
An accurate table of contents must be provided in this tab.

5.2.3. **Tab III** – *Applicant Information Sheet (Page 2)*
The completed Applicant Information Sheet signed by the contact person who is responsible for providing information, signing documents, or ensuring actions are taken pursuant to R092-17, Sec. 74 must be included in this tab.

5.2.4. **Tab IV** – *Recreational Marijuana Establishment License Application (Attachment A)*
The completed and signed Recreational Marijuana Establishment License Application must be included in this tab.

5.2.5. **Tab V** – *Multi-Establishment Limitations Form (Attachment F)*
If applicable, a copy of the Multi-Establishment Limitations Form must be included in this tab. If not applicable, please insert a plain page with the words "**Not applicable.**"

5.2.6. **Tab VI** – *Identifier Legend (Attachment H)*
If applicable, a copy of the Identifier Legend must be included in this tab. If not applicable, please insert a page with the words **"Not Applicable"**.

5.2.7. **Tab VII** – *Confirmation that the applicant has registered with the Secretary of State*
Documentation that the applicant has registered as the appropriate type of business and the Articles of Incorporation, Articles of Organization, Operating Agreements, or partnership or joint venture documents of the applicant must be included in this tab.

5.2.8. **Tab VIII**– *Documentation of liquid assets*
Documentation demonstrating the liquid assets and the source of those liquid assets from a financial institution in this state or in any other state or the District of Columbia must be included in this tab and demonstrate the following criteria :

5.2.8.1. That the applicant has at least $250,000 in liquid assets which are unencumbered and can be converted within 30 days after a request to liquidate such assets; and

5.2.8.2. The source of those liquid assets.

Note: If applying for more than one recreational marijuana establishment license, available funds must be shown for each establishment application.

5.2.9. **Tab IX** – *Evidence of taxes paid; other beneficial financial contributions*
Evidence of the amount of taxes paid and/or other beneficial financial contributions made to the State of Nevada or its political subdivisions within the last five years by the applicant or the persons who are proposed to be owners, officers or board members of the establishment must be included in this tab.

5.2.10. **Tab X** – *Organizational structure and owner, officer or board member information*
The description of the proposed organizational structure of the proposed recreational marijuana establishment and information concerning each owner, officer and board member of the proposed recreational marijuana establishment must be included in this tab and demonstrate the following criteria:

5.2.10.1. An organizational chart showing all owners, officers and board members of the recreational marijuana establishment including percentage of ownership for each individual.

5.2.10.2. An Owner, Officer and Board Member Attestation Form must be completed for each individual named in this application (Attachment B).

5.2.10.3. The supplemental Owner, Officer and Board Member Information Form should be completed for each individual named in this application. This attachment must also include the diversity information required by R092-17, Sec. 80.1(b) (Attachment C).

5.2.10.4. A resume, including educational level and achievements for each owner, officer and board member must be completed for each individual named in this application.

5.2.10.5. Narrative descriptions not to exceed 750 words demonstrating the following:

5.2.10.5.1. Past experience working with government agencies and highlighting past community involvement.

5.2.10.5.2. Any previous experience at operating other businesses or non-profit organizations, including marijuana industry experience.

5.2.10.6. A Request and Consent to Release Application Form for Recreational Marijuana Establishment License(s) for each owner, officer and board member should be completed for each individual named in this application (Attachment D).

5.2.10.7. A copy of each individual's completed fingerprint submission form demonstrating he or she has submitted fingerprints to the Nevada Department of Public Safety. Agent cards will not be accepted.

5.2.11. **Tab XI**– *Financial plan*

A financial plan must be included in this tab which includes:

5.2.11.1. Financial statements showing the resources of the applicant, both liquid and illiquid.

5.2.11.2. If the applicant is relying on funds from an owner, officer, board member or any other source, evidence that such person has unconditionally committed such funds to the use of the applicant in the event the Department awards a recreational marijuana establishment license to the applicant.

5.2.11.3. Proof that the applicant has adequate funds to cover all expenses and costs of the first year of operation.

5.2.12. **Tab XII** – *Name, signage and advertising plan*

A proposal of the applicant's name, signage and advertising plan which will be used in the daily operations of the recreational marijuana establishment on the form supplied by the Department (Attachment G) must be included in this tab.

Please note: This section will require approval, but will not be scored.

5.2.13. *Application Fee*

5.2.13.1. Include with this packet the $5,000.00 non-refundable application fee per NRS 453D.230(1). License fee is not required until a conditional license has been awarded.

Please note: Only cash, cashier's checks and money orders made out to the "Nevada Department of Taxation" will be accepted for payment of the nonrefundable application fee.

5.3. Part II – Non-identified Criteria Response

The NON-IDENTIFIED CRITERIA RESPONSE must include:

- Electronic media (CD-R or thumb drive) containing only the Identified Criteria Response.
- Do not password-protect electronic media or individual files.

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- The response must contain separate PDF files for each of the tabbed sections as described below:

5.3.1. **Tab I** – *Title Page*
Please note: Title page will not be viewed by Non-Identified Criteria evaluators.
The title page must include the following:

Part II –Non-Identified Criteria Response	
Application Title:	A Recreational Marijuana Establishment License
Applicant Name:	
Address:	
Application Opening Date and Time:	**September 7, 2018**
Application Closing Date and Time:	**September 20, 2018**

5.3.2. **Tab II** – *Table of Contents*
An accurate table of contents must be provided in this tab.

5.3.3. **Tab III** – *Building/Establishment information*
Documentation concerning the adequacy of the size of the proposed recreational marijuana establishment to serve the needs of persons who are authorized to engage in the use of marijuana must be included in this tab. The content of this response must be in a **non-identified** format and include general floor plans with all supporting details

Please note: The size or square footage of the proposed establishment should include the maximum size of the proposed operation. The start-up plans and potential expansion should be clearly stated to prevent needless misunderstandings and surrendering of certification.

5.3.4. **Tab IV** – *Care, quality and safekeeping of marijuana from seed to sale plan*
Documentation concerning the integrated plan of the proposed recreational marijuana establishment for the care, quality and safekeeping of recreational marijuana from seed to sale must be included in this tab. The content of this response must be in a **non-identified** format and include:

5.3.4.1. A plan for verifying and testing recreational marijuana
5.3.4.2. A transportation or delivery plan
5.3.4.3. Procedures to ensure adequate security measures for building security
5.3.4.4. Procedures to ensure adequate security measures for product security

5.3.5. **Tab V** – *System and Inventory Procedures plan*

A plan for the operating procedures for verification system and inventory control system must be included in this tab. The content of this response must be in a **non-identified** format and include:

5.3.5.1. A description of the operating procedures for the verification system of the proposed marijuana establishment for verifying age.

5.3.5.2. A description of the inventory control system of the proposed recreational marijuana establishment.

Please note: Applicants should demonstrate a system to include thorough tracking of product movement and sales. The applicant shall demonstrate capabilities for an external interface via a secure API to allow third party software systems to report all required data into the State database to allow seamless maintenance of records and to enable a quick and accurate update on demand. The system shall account for all inventory held by an establishment in any stage of cultivation, production, display or sale as applicable for the type of establishment, and demonstrate an internal reporting system to provide the Department with comprehensive information about an establishment's inventory.

5.3.6. **Tab VI**– *Operations and resources plan*

Evidence that the applicant has a plan to staff and manage the proposed marijuana establishment on a daily basis must be included in this tab. The content of this response must be in a **non-identified** format and include:

5.3.6.1. A detailed budget for the proposed establishment including pre-opening and first year operating expenses.

5.3.6.2. An operations manual that demonstrates compliance with the regulations of the Department.

5.3.6.3. An education plan which must include providing training and educational materials to the staff of the proposed establishment.

5.3.6.4. A plan to minimize the environmental impact of the proposed establishment.

5.3.7. **Tab VII** – *Community impact and serving authorized persons in need*

A proposal demonstrating the likely impact on the community and convenience to serve the needs of persons authorized to use marijuana must be included in this tab. The content of this response must be in a **non-identified format** and include:

5.3.7.1. The likely impact of the proposed recreational marijuana establishment in the community in which it is proposed to be located.

5.3.7.2. The manner in which the proposed recreational marijuana establishment will meet the needs of the persons who are authorized to use marijuana.

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5.4. Electronic Media Requirements

Electronic media submitted as part of the application must include:

5.4.1. A separate CD-R or thumb drive which contains only the Identified Criteria Response.

5.4.2. A separate CD-R or thumb drive which contains only the Non-Identified Criteria Response.

5.4.2.1. The electronic files must follow the format and content section for the Identified Criteria Response and Non-Identified Criteria Response.

5.4.2.2. All electronic files must be saved in "PDF" format with separate files for each required "Tab". Individual filenames must comply with the naming requirements specified in 5.1.5 of the General Submission Requirements.

5.4.2.3. CD-Rs or thumb drives will be labeled as either Identified or Non-Identified Criteria Response. Identified Criteria Responses and Non-Identified Criteria Responses must not be saved to the same CD-R or thumb drive.

5.4.2.3.1. Part I – Identified Criteria Response

5.4.2.3.2. Part II – Non-Identified Criteria Response

5.4.2.4. Seal the Identified Criteria Response and Non-Identified Criteria Response electronic media in separate envelopes and affix labels to the envelopes per the example below:

CDs or Thumb Drives	
Application	A Recreational Marijuana Establishment License
Applicant Name:	
Address:	
Contents:	Part I – Identified Criteria Response **OR** Part II – Non-Identified Criteria Response

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Chair, Nevada Tax Commission
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Executive Director

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Fax: (702) 486-3377

5.5. Application Packaging and Instructions

5.5.1. Recreational Marijuana Establishment License Applications may be mailed or dropped off in person at:

Department of Taxation **Marijuana Enforcement Division** **1550 College Parkway** **Carson City, NV 89706**	**- OR -**	**Department of Taxation** **Marijuana Enforcement Division** **555 E. Washington Ave. Ste 1300** **Las Vegas, NV 89101**

5.5.2. Applications dropped off in person at one of the two Taxation office's must be received no later than **5:00 p.m. on September 20, 2018.**

5.5.3. Applications mailed in to one of the two Taxation office's must be postmarked by the United States Postal Service not later than **September 20, 2018.**

5.5.4. If an application is sent via a different delivery service (i.e. UPS, FedEx, etc.) and does not arrive at one of the two Taxation offices by **5:00 p.m. on September 20, 2018,** the application will not be considered.

5.5.5. If mailing the application, combine the separately sealed Identified and Non-Identified Criteria Response envelopes into a single package suitable for mailing.

5.5.6. The Department will not be held responsible for application envelopes mishandled as a result of the envelope not being properly prepared.

5.5.7. Email, facsimile, or telephone applications will **NOT** be considered.

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6. APPLICATION EVALUATION AND AWARD PROCESS

The information in this section does not need to be returned with the applicant's application.

6.1. Applications shall be consistently evaluated and scored in accordance with NRS 453D, NAC 453D and R092-17 based upon the following criteria and point values.

Grey boxes are the Identified Criteria Response. White boxes are Non-Identified Criteria Response.

Nevada Recreational Marijuana Application Criteria	Points
The description of the proposed organizational structure of the proposed marijuana establishment and information concerning each owner, officer and board member including key personnel of the proposed marijuana establishment including the information provided pursuant to R092-17.	60
Evidence of the amount of taxes paid or other beneficial financial contributions made to the State of Nevada or its political subdivisions within the last five years by the applicant or the persons who are proposed to be owners, officers or board members of the proposed establishment.	25
A financial plan which includes: ▪ Financial statements showing the resources of the applicant, both liquid and illiquid. ▪ If the applicant is relying on funds from an owner, officer or board member, or any other source, evidence that such source has unconditionally committed such funds to the use of the applicant in the event the Department awards a recreational marijuana establishment license to the applicant and the applicant obtains the necessary local government approvals to operate the establishment. ▪ Proof that the applicant has adequate funds to cover all expenses and costs of the first year of operation.	30
Documentation from a financial institution in this state or in any other state or the District of Columbia which demonstrates: ▪ That the applicant has at least $250,000 in liquid assets which are unencumbered and can be converted within 30 days after a request to liquidate such assets. ▪ The source of those liquid assets.	10
Documentation concerning the integrated plan of the proposed marijuana establishment for the care, quality and safekeeping of marijuana from seed to sale, including: ▪ A plan for testing recreational marijuana. ▪ A transportation plan. ▪ Procedures to ensure adequate security measures for building security. ▪ Procedures to ensure adequate security measures for product security. *Please note: The content of this response must be in a **non-identified** format.*	40
Evidence that the applicant has a plan to staff, educate and manage the proposed recreational marijuana establishment on a daily basis, which must include: ▪ A detailed budget for the proposed establishment including pre-opening, construction and first year operating expenses. ▪ An operations manual that demonstrates compliance with the regulations of the Department. ▪ An education plan which must include providing educational materials to the staff of the proposed establishment. ▪ A plan to minimize the environmental impact of the proposed establishment.	30

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*Please note: The content of this response must be in a **non-identified** format.*	
A plan which includes: ▪ A description of the operating procedures for the electronic verification system of the proposed marijuana establishment. ▪ A description of the inventory control system of the proposed marijuana establishment. *Please note: The content of this response must be in a **non-identified** format.*	20
Documentation concerning the adequacy of the size of the proposed marijuana establishment to serve the needs of persons who are authorized to engage in the use of marijuana, including: ▪ Building plans with supporting details. *Please note: The content of this response must be in a **non-identified** format.*	20
A proposal demonstrating: ▪ The likely impact of the proposed marijuana establishment in the community in which it is proposed to be located. ▪ The manner in which the proposed marijuana establishment will meet the needs of the persons who are authorized to use marijuana. *Please note: The content of this response must be in a **non-identified** format.*	15
Application Total	**250**
Unweighted: ▪ Review plan for all names and logos for the establishment and any signage or advertisement. ▪ Review results of background check(s). Applicant has until the end of the 90-day application period to resolve background check information which may cause the application to be rejected.	

6.2. If the Department receives more than one application for a license for a retail marijuana store in response to a request for applications made pursuant to R092-17, Sec. 76 and the Department determines that more than one of the applications is complete and in compliance with R092-17, Sec. 78 and Chapter 453D of the NRS, the Department will rank the applications within each applicable locality for any applicants which are in a jurisdiction that limits the number of retail marijuana stores in order from first to last. Ranking will be based on compliance with the provisions of R092-17 Sec. 80,Chapter 453D of NRS and on the content of the applications relating to:

6.2.1. Operating experience of another kind of business by the owners, officers or board members that has given them experience which is applicable to the operation of a marijuana establishment.
6.2.2. Diversity of the owners, officers or board members.
6.2.3. Evidence of the amount of taxes paid and other beneficial financial contributions.
6.2.4. Educational achievements of the owners, officers or board members.
6.2.5. The applicant's plan for care, quality and safekeeping of marijuana from seed to sale.
6.2.6. The financial plan and resources of the applicant, both liquid and illiquid.
6.2.7. The experience of key personnel that the applicant intends to employ.
6.2.8. Direct experience of the owners, officers or board members of a medical marijuana establishment or marijuana establishment in this State.

6.3. Applications that have not demonstrated a sufficient response related to the criteria set forth above will not have additional criteria considered in determining whether to issue a license and will not move forward in the application process.

6.4. Any findings from a report concerning the criminal history of an applicant or person who is proposed to be an owner, officer or board member of a proposed recreational marijuana establishment that disqualify that individual from serving in that capacity will also result in the disqualification of the application. The applicant will have the opportunity to resolve such an issue within the 90-day application period.

6.5. The Department and evaluation committee may also contact anyone referenced in any information provided for the owners, officers and board members of the proposed establishment; contact any applicant to clarify any response; solicit information from any available source concerning any aspect of an application; and, seek and review any other information deemed pertinent to the evaluation process. The evaluation committee shall not be obligated to accept any application, but shall make an award in the best interests of the State of Nevada per Regulation R092-17 and Chapter 453D of the NRS.

6.6. Clarification discussions may, at the Department's sole discretion, be conducted with applicants who submit applications determined to be acceptable and competitive per R092-17, Sec. 77-80 and NRS 453D.210. Applicants shall be afforded fair and equal treatment with respect to any opportunity for discussion and/or written clarifications of applications. Such clarifications may be permitted after submissions and prior to award for the purpose of obtaining best and final ranking of applications. In conducting discussions, there shall be no disclosure of any information derived from applications submitted by competing applicants. Any clarification given for the original application during the clarification discussions will be included as part of the application.

6.7. The Department will issue conditional recreational marijuana establishment licenses subject to final inspection in accordance with R092-17, Sec. 87 and subject to local jurisdiction to the highest ranked applicants up to the designated number of licenses the Department plans to issue.

6.8. If two or more applicants have the same total number of points for the last application being awarded a conditional license, the Department shall select the applicant which has scored the highest number of points as it is related to the proposed organizational structure of the proposed marijuana establishment and the information concerning each owner, officer and board member of the proposed marijuana establishment.

6.9. If the Department receives only one response within a specific jurisdiction; and, if the jurisdiction limits the number of a type of establishment to one; and, statewide, if there is not a limit on the number of a type of establishments to a request for applications for recreational marijuana establishments issued pursuant to R092-17, Sec. 76 (3) within 10 business days after the Department begins accepting responses to the request for applications; and, the

Department determines that the response is complete and in compliance with the regulations, the Department will issue a conditional license to that applicant to operate a recreational marijuana establishment in accordance with R092-17.

6.10. The issuance by the Department of a recreational marijuana establishment license is conditional and not an approval to begin business operations until such time as:

6.10.1. The marijuana establishment is in compliance with all applicable local government ordinances and rules; and

6.10.2. The local government has issued a business license or otherwise approved the applicant for the operation of the establishment.

6.11. If the local government does not issue business licenses and does not approve or disapprove marijuana establishments in its jurisdiction, a recreational marijuana establishment license becomes an approval to begin business operations when the marijuana establishment is in compliance with all applicable local government ordinances and rules and has fulfilled all the requirements of the approval to operate by the Department.

6.12. Any license resulting from this application shall not be effective until approved by the Department.

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ATTACHMENT A
RECREATIONAL MARIJUANA ESTABLISHMENT APPLICATION

GENERAL INFORMATION

Type of Marijuana Establishment: ☐ Recreational Retail Marijuana Store			
Marijuana Establishment's proposed physical address if the applicant owns property or has secured a lease or other property agreement (this must be a Nevada address and cannot be a P.O. Box).			
City:	County:	State:	Zip Code:
Proposed Hours of Operation : Sunday Monday Tuesday Wednesday Thursday Friday Saturday			

APPLYING ENTITY INFORMATION

Applying Entity's Name:			
Business Organization: ☐ Individual ☐ LLC ☐ Corp. ☐ Assoc. /Coop. ☐ Partnership ☐ Other specify:			
Telephone #:	E-Mail Address:		
State Business License #:	Expiration Date:		
Mailing Address:			
City:	State:	Zip Code:	

DESIGNEE INFORMATION

Name of individual designated to manage agent registration card applications on behalf of the establishment.

Last Name:	First Name:	MI:

SUPPLEMENTAL REQUESTS

Does the applicant agree to allow the Nevada Department of Taxation (Department) to submit supplemental requests for information? ☐ Yes ☐ No

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ATTACHMENT A (continued)

Recreational Marijuana Establishment Owner (OR), Officer (OF), Board Member (BM) Names

For each owner, officer and board member listed below, please fill out a corresponding Establishment Principal Officers and Board Members Information Form (Attachment C).

Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
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Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM

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ATTACHMENT A (continued)

A marijuana agent identification card or recreational marijuana establishment license issued by the Nevada Department of Taxation (Department) pursuant to R092-17, Sec. 95 does not protect the applicant from legal action by federal authorities, including possible criminal prosecution for violations of federal law for the sale, manufacture, distribution, use, dispensing, possession, etc. of marijuana.

The acquisition, possession, cultivation, manufacturing, delivery, transfer, transportation, supplying, selling, distributing, or dispensing of "recreational" marijuana under state law is lawful only if done in strict compliance with the requirements of the State Medical & Recreational Marijuana Act(s) & Regulations (NAC- 453, NRS-453D, R092-17). Any failure to comply with these requirements may result in revocation of the marijuana agent identification card or Recreational Marijuana Establishment License issued by the Department.

The issuance of a license pursuant to section 80 of R092-17 of this regulation is conditional and not an approval to begin operations as a marijuana establishment until such time as all requirements in section 83 of R092-17 are completed and approved by the Department by means of a final inspection.

The State of Nevada, including but not limited to the employees of the Department, is not facilitating or participating in any way with my acquisition, possession, cultivation, manufacturing, delivery, transfer, transportation, supplying, selling, distributing, or dispensing of marijuana.

I attest that the information provided to the Department for this Recreational Marijuana Establishment License application is true and correct.

Print Name	Title
Signature	Date Signed
Print Name	Title
Signature	Date Signed

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ATTACHMENT B

OWNER, OFFICER AND BOARD MEMBER ATTESTATION FORM

I, _____(PRINT NAME)

Attest that:

I have not been convicted of an excluded felony offense as defined in NRS 453D; and

I agree that the Department may investigate my background information by any means feasible to the Department; and

I will not divert marijuana to any individual or person who is not allowed to possess marijuana pursuant t o R092-17, Sec. 94 and 453D of the NRS; and

All information provided is true and correct.

_____ _____

Signature of Owner, Officer or Board Member Date Signed

State of Nevada County of _____ Signed and sworn to (or affirmed) before me on _____(date) By_____ (name(s) of person(s) making statement)	
Notary Stamp	Signature of notarial officer

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ATTACHMENT C
OWNER, OFFICER AND BOARD MEMBER INFORMATION FORM

Provide the following information for each owner, officer and board member listed on the Recreational Marijuana Establishment Application. Use as many sheets as needed.			
Last Name:	First Name:	MI:	☐ OR ☐ OF ☐ BM
Date of Birth: Gender:	Race:	Ethnicity:	
Residence Address:			
City:	County:	State:	Zip:
Describe the individual's title, role in the organization and the responsibilities of the position of the individual:			
Has this individual served as a principal officer or board member for a marijuana establishment that has had their establishment license or certificate revoked? ☐ Yes ☐ No			
Has this individual previously had a medical marijuana establishment agent registration card or marijuana establishment agent registration card revoked ☐ Yes ☐ No			
Is this individual an attending provider of health care currently providing written documentation for the issuance of registry identification cards or letters of approval? ☐ Yes ☐ No			
Is this individual employed by or a contractor of the Department? ☐ Yes ☐ No			
Has a copy of this individual's signed and dated Recreational Retail Marijuana Store Principal Officer or Board Member Attestation Form been submitted with this application? ☐ Yes ☐ No			
Is this individual a law enforcement officer? ☐ Yes ☐ No			
Has a copy of this individual's fingerprints on a fingerprint card been submitted to the Nevada Department of Public Safety? ☐ Yes ☐ No			
Has a copy of the Request and Consent to Release Application Form been submitted with this application? ☐ Yes ☐ No			

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ATTACHMENT C (continued)

Has an ownership or financial investment interest in any other MME or ME. ☐ Yes ☐ No
If yes, list the person, the other ME(s) and describe the interest.

NAME	OTHER MARIJUANA ESTABLISHMENT	MME / ME ID#	INTEREST DESCRIPTION

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ATTACHMENT C (continued)

For each owner (OR), officer (OF) and board member (BM) that is currently serving as an owner, officer or board member for another medical marijuana establishment or marijuana establishment, please fill out the information below.

NAME	OTHER MARIJUANA ESTABLISHMENT	MME / ME ID#	Capacity (OR, OF, BM)

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ATTACHMENT D
REQUEST AND CONSENT TO RELEASE APPLICATION FORM
RECREATIONAL MARIJUANA ESTABLISHMENT LICENSE

I,_____, am the duly authorized representative of

_____to represent and interact with the Department of Taxation (Department) on all matters and questions in relation to the Nevada Recreational Marijuana Establishment License(s) Application. I understand that R092-17, Sec. 242 makes all applications submitted to the Department confidential but that local government authorities, including but not limited to the licensing or zoning departments of cities, towns or counties, may need to review this application in order to authorize the operation of an establishment under local requirements. Therefore, I consent to the release of this application to any local governmental authority in the jurisdiction where the address listed on this application is located.

By signing this Request and Consent to Release Application Form, I hereby acknowledge and agree that the State of Nevada, its sub-departments including the Department of Taxation and its employees are not responsible for any consequences related to the release of the information identified in this consent. I further acknowledge and agree that the State and its sub-departments and its employees cannot make any guarantees or be held liable related to the confidentiality and safe keeping of this information once it is released.

_____ Date: _____
Signature of Requestor/Applicant or Designee

State of Nevada County of _____ Signed and sworn to (or affirmed) before me on _____(date) By_____(name(s) of person(s) making statement)

Notary Stamp	Signature of notarial officer

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ATTACHMENT E
PROPOSED ESTABLISHMENT PROPERTY ADDRESS

To be completed by the applicant for the physical address of the proposed marijuana establishment if the applicant owns property or has secured a lease or other property agreement.			
Name of Individual or Entity Applying for a Marijuana Establishment License:			
Physical Address of Proposed Marijuana Establishment (must be a Nevada address, not a P.O. Box):			
City:	County:	State:	Zip Code:
Legal Description of the Property:			

STATE OF NEVADA
DEPARTMENT OF TAXATION
Web Site: https://tax.nv.gov
1550 College Parkway, Suite 115
Carson City, Nevada 89706-7937
Phone: (775) 684-2000 Fax: (775) 684-2020

RENO OFFICE
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BRIAN SANDOVAL
Governor
JAMES DEVOLLD
Chair, Nevada Tax Commission
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HENDERSON OFFICE
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Fax: (702) 486-3377

ATTACHMENT F
MULTI-ESTABLISHMENT LIMITATIONS FORM

NRS 453D.210 places a limitation on the total number of Recreational Retail Marijuana Store licenses that can be issued within each county, and R092-17, Sec. 80 (5) places limitations on the number of recreational marijuana retail stores located in any one governmental jurisdiction and a limitation on the number of licenses issued to any one person, group or entity. Due to these limitations, please list below all applications submitted from this business organization and/or persons as identified in the recreational marijuana establishment owner, officer and board member names section of Attachment A in the 10-day window of **September 7, 2018 – September 20, 2018.**

If this business organization were to not receive approval on all applications submitted, would the applicant still want approval on the applications determined by the ranking below? ☐ Yes ☐ No

Please list in order of preference for approval (use as many sheets as needed).

Type of Establishment: Recreational Retail Marijuana Store ☐			
Recreational Marijuana Establishment's Proposed Physical Address (Must be a Nevada address, not a P.O. Box.):			
City:	County:	State:	Zip Code:

Type of Establishment: Recreational Retail Marijuana Store ☐			
Recreational Marijuana Establishment's Proposed Physical Address (Must be a Nevada address, not a P.O. Box.):			
City:	County:	State:	Zip Code:

Type of Establishment: Recreational Retail Marijuana Store ☐			
Recreational Marijuana Establishment's Proposed Physical Address (Must be a Nevada address, not a P.O. Box.):			
City:	County:	State:	Zip Code:

Type of Establishment: Recreational Retail Marijuana Store ☐			
Recreational Marijuana Establishment's Proposed Physical Address (Must be a Nevada address, not a P.O. Box.):			
City:	County:	State:	Zip Code:

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ATTACHMENT G
NAME, SIGNAGE, AND ADVERTISING PLAN FORM

A recreational marijuana establishment must have all advertising plans approved by the Department as a requirement for approval to operate a recreational marijuana establishment. A recreational marijuana establishment shall not use:

- A name or logo unless the name or logo has been approved by the Department; or
- Any sign of advertisement unless the sign or advertisement has been approved by the Department.

Please demonstrate the Name, Signage and Advertising Plans for the proposed marijuana establishment. Additional pages and documents can be included to demonstrate the full advertising plans of the proposed establishment.

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ATTACHMENT H
IDENTIFIER LEGEND FORM

In a Non-Identified Criteria Response, when a specific person or company is referenced, the identity must remain confidential. A person may be addressed through their position, discipline or job title, or be assigned an identifier. Identifiers assigned to people or companies must be detailed in a legend (Attachment H) to be submitted in the Identified Criteria Response section (use as many sheets as needed).

Criteria Response Identifier	**Actual Person or Company (for Department verification outside the evaluation process)**
Example: Owner A	*John Smith*
Example: Owner B	*John Doe*
Example: Construction Company A	*Acme Construction*

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ATTACHMENT I
FACILITY JURISDICTION FORM

Mark the jurisdiction(s) and number of stores in each jurisdiction for which you are applying. Only one application is necessary for multiple jurisdictions and licenses, however, you must submit attachments "A" & "E" for each jurisdiction, location and the appropriate application fee for each of the jurisdictions/locality and number of licenses requested.

No applicant may be awarded more than 1 (one) retail store license in a jurisdiction/locality, unless there are less applicants than licenses allowed in the jurisdiction.

Jurisdiction	*Indicate Number of Licenses Requested*
Unincorporated Clark County	
City of Henderson	
City of Las Vegas	
City of Mesquite	
City of North Las Vegas	
Carson City	
Churchill County	
Douglas County	
Elko County	
Esmeralda County	
Eureka County	
Humboldt County	

Jurisdiction	*Indicate Number of Licenses Requested*
Unincorporated Washoe County	
City of Reno	
City of Sparks	
Lander County	
Lincoln County	
Lyon County	
Mineral County	
Nye County	
Pershing County	
Storey County	
White Pine County	

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ATTACHMENT J

FEDERAL LAWS AND AUTHORITIES

(Apply outside of NAC 453, NAC 453A, NRS 453A, NRS 453D, R092-17)

The information in this section does not need to be returned with the applicant's application. The following is a list of federal laws and authorities with which the awarded Applicant will be required to comply.

ENVIRONMENTAL:

- Archeological and Historic Preservation Act of 1974, PL 93-291
- Clean Air Act, 42 U.S.C. 7506(c)
- Endangered Species Act 16 U.S.C. 1531, ET seq.
- Executive Order 11593, Protection and Enhancement of the Cultural Environment
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands Farmland Protection Policy Act, 7 U.S.C. 4201 ET seq.
- Fish and Wildlife Coordination Act, PL 85-624, as amended
- National Historic Preservation Act of 1966, PL 89-665, as amended
- Safe Drinking Water Act, Section 1424(e), PL 92-523, as amended

ECONOMIC:

- Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754, as amended
- Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants or Loans

SOCIAL LEGISLATION:

- Age Discrimination Act, PL 94-135 Civil Rights Act of 1964, PL 88-352
- Section 13 of PL 92-500; Prohibition against sex discrimination under the Federal Water Pollution Control Act
- Executive Order 11246, Equal Employment Opportunity
- Executive Orders 11625 and 12138, Women's and Minority Business Enterprise Rehabilitation Act of 1973, PL 93, 112

MISCELLANEOUS AUTHORITY:

- Uniform Relocation and Real Property Acquisition Policies Act of 1970, PL 91-646 Executive Order 12549 – Debarment and Suspension

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Attorneys for Defendant State of Nevada Department of Taxation

DISTRICT COURT

CLARK COUNTY, NEVADA

SERENITY WELLNESS CENTER, LLC, a Nevada limited liability company, TGIG, LLC, a Nevada limited liability company, NULEAF INCLINE DISPENSARY, LLC, a Nevada limited liability company, NEVADA HOLISTIC MEDICINE, LLC, a Nevada limited liability company, TRYKE COMPANIES SO NV, LLC, a Nevada limited liability company, TRYKE COMPANIES RENO, LLC, a Nevada limited liability company, PARADISE WELLNESS CENTER, LLC, a Nevada limited liability company, GBS NEVADA PARTNERS, LLC, a Nevada limited liability company, FIDELIS HOLDINGS, LLC, a Nevada limited liability company, GRAVITAS NEVADA, LLC, a Nevada limited liability company, NEVADA PURE, LLC, a Nevada limited liability company, MEDIFARM, LLC, a Nevada limited liability company, DOE PLAINTIFFS I through X; and ROE ENTITY PLAINTIFFS I through X,

Plaintiff(s),

Case No. A-19-786962-B
Dept. No. 11

POCKET BRIEF REGARDING THE MEANING OF THE PHRASE "ALL REGULATIONS NECESSARY OR CONVENIENT TO CARRY OUT THE PROVISIONS OF"

vs.

THE STATE OF NEVADA, DEPARTMENT OF TAXATION,

Defendant(s).

and

NEVADA ORGANIC REMEDIES, LLC; INTEGRAL ASSOCIATES LLC d/b/a ESSENCE CANNABIS DISPENSARIES, a Nevada limited liability company; ESSENCE TROPICANA, LLC, a Nevada limited liability company; ESSENCE HENDERSON, LLC, a Nevada limited liability company; CPCM HOLDINGS, LLC d/b/a THRIVE CANNABIS MARKETPLACE, COMMERCE PARK MEDICAL, LLC, a Nevada limited liability company; and CHEYENNE MEDICAL, LLC, a Nevada limited liability company; LONE MOUNTAIN PARTNERS, LLC, a Nevada limited liability partnership; HELPING HANDS WELLNESS CENTER, INC., a Nevada corporation; GREENMART OF NEVADA NLV LLC, a Nevada limited liability company; and CLEAR RIVER, LLC,

Intervenors.

I. Introduction

This Court requested briefing regarding the meaning of the phrase "all regulations necessary or convenient to carry out the provisions of" an initiative petition—as opposed to legislation—given the limits of Article 19 of the Nevada Constitution. The touchstones of this analysis is the voters' intent, as gleaned from the pamphlet materials, and the distinct role of initiatives and the Nevada Administrative Code, as elucidated in *Garvin v. District Court*, 118 Nev. 749, 751, 59 P.3d 1180 (2002) and its progeny.

The ballot initiative's pamphlet endorses a policy choice to have retail marijuana, but leaves the necessary or convenient administrative details to the Department of Taxation. This choice is consistent with the proper role of an initiative, which our court has construed as forbidding an imposition by the electorate of mandatory administrative

details on the regulating body. *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 915, 141 P.3d 1235, 1249 (2006).

Finally, the ballot initiative's necessary or convenient language is remarkably similar to the language of the initiatives in other states that have legalized retail marijuana. This widespread use of delegated broad administrative power to the regulating body represents a thoughtful recognition of the need to ensure administrative flexibility to act responsively to this nascent industry. Such language, in the State of Washington, for example, has been used to uphold challenged administrative regulations. This Court should—consistent with voter intent, the distinct roles of the initiative power and the administrative state, and similar language in similar initiatives—uphold the Nevada Department of Taxation's regulations codified in Nevada Administrative Code 453D.

II. Legal discussion

The phrase in question reads as follows:

> Not later than January 1, 2018, the Department shall adopt all regulations necessary or convenient to carry out the provisions of this chapter.

NRS 453D.200(1). This part of the statute was the result of an initiative, which according to Nevada's constitution, cannot be amended, annulled, repealed, set aside or suspended by the Legislature within three years from the date it takes effect." Nev. Const. Art. 19, §2(3). The question is what does "necessary or convenient" mean in light of the constitutional prohibition against amending, annulling, repealing, setting aside, or suspending for three years. The answer lies in how courts interpret initiatives.

"In construing constitutional and statutory provisions, whether enacted by the Legislature or by initiative, the intent of the enacting body is the paramount consideration." *In re Lance W.*, 694 P.2d 734, 889 (Cal. 1985). To be sure, the starting point is the language of the initiative itself, but our court looks to the ballot materials as guidance to determine the voters' intent. *Sustainable Growth Initiative Comm. v. Jumpers, LLC*, 122 Nev. 53, 63, 65–66, 128 P.3d 452, 460–61 (2006); *see also Guinn v. Legislature of State of Nev.*, 119 Nev. 460, 467, 76 P.3d 22, 26 (2003). Here, because the initiative does not define

what "necessary or convenient" means, this Court should look to the ballot pamphlet for guidance as to the voters' intent.

The Initiative, which appeared on the November 8, 2016 General Election Ballot, did principally two things. *Id.* at p. 14. First, it made it lawful for a person 21 years of age or older to cultivate, purchase, and consume marijuana within certain limits. Second, it "allow[ed] for the operation of marijuana establishments, which would be regulated by the Department of Taxation." *Id*. It read:

> Shall the Nevada Revised Statutes be amended to allow a person, 21 years old or older, to purchase, cultivate, possess, or consume a certain amount of marijuana or concentrated marijuana, as well as manufacture, possess, use, transport, purchase, distribute, or sell marijuana paraphernalia; impose a 15 percent excise tax on wholesale sales of marijuana; require the regulation and licensing of marijuana cultivators, testing facilities, distributors, suppliers, and retailers; and provide for certain criminal penalties?

Simply put, the People of Nevada voted to legalize the retail production, sale, and consumption of marijuana.

The pamphlet was careful to steer clear of dictating to the Department of Taxation how it ought to create procedures and requirements for this nascent industry. The pamphlet provided as follows regarding the Department of Taxation's role in creating regulations for licensure:

> The ballot measure would also allow for the operation of marijuana establishments, which would be regulated by the Department of Taxation. . . . For the first 18 months, the Department of Taxation would only accept license applications for retail marijuana stores, marijuana product manufacturing facilities, and marijuana cultivation facilities from persons holding a medical marijuana establishment registration certificate.

Ex. A at p. 16. The ballot pamphlet informed voters that regulation of the operation of retail marijuana establishments would simply be left to the Department of Taxation.

. . .

. . .

. . .

The pamphlet was also careful to avoid dictating to the Department of Taxation how to regulate the application process and licensee qualifications. The pamphlet provides in broad language:

> In addition to licensing, the Department of Taxation would be charged with adopting regulations necessary to carry out the provisions of this ballot measure. The regulations must address ***licensing procedures; licensee qualifications***; security of marijuana establishments; testing, labeling, and packaging requirements; reasonable restrictions on advertising; and civil penalties for violating any regulation adopted by the Department.

Id. at p. 17 (emphasis added). Again, no voter would have understood by reviewing these voter pamphlets explaining Question 2 that by voting for retail marijuana they were also dictating to the Department of Taxation what qualifications must be included in the Department of Taxation's regulations. Indeed, the opposite is true. The pamphlet specifically said that the Department of Taxation was to adopt regulations regarding licensee qualifications.

Put in this proper context, the sentence which follows the "necessary or convenient" language becomes more easily understood as a non-exhaustive list of categories of regulations which must be included, but by no means exclusively limited to. The Department of Taxation's regulations shall "include" "[q]ualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment" does not mean that the Department of Taxation is forbidden from considering other qualifications. To read that provision so narrowly is inconsistent not just with the rules for statutory interpretation, but also with the ballot pamphlet, which left the details of regulations to the Department of Taxation.

Indeed, the narrow reading urged by Plaintiffs violates the proper role of an initiative in our constitutional scheme. As explained in *Garvin v. District Court*, "the initiative and referendum powers reserved to the people, although broad, are limited to legislation and do not extend to administrative matters." 118 Nev. 749, 751, 59 P.3d 1180, 1181 (2002). The power to dictate administrative details is power vested in the

administrative agency responsible with carrying out the initiative. *Nevadans for the Prot. of Prop. Rights, Inc.*, 122 Nev. at 915, 141 P.3d at 1249.

This Court should not infer an intent by the voters to step outside the proper role of the initiative process. The electorate is presumed to know the law. *Educ. Init. v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 45, 293 P.3d 874, 881 (2013). The voters would not have intended to violate *Garvin* and its progeny by mandating administrative details to the Department of Taxation. *In re Lance W.*, 694 P.2d at 890 n. 11 ("The adopting body is presumed to be aware of existing laws and judicial construction thereof (citation omitted) and to have intended that its enactments be constitutionally valid").

Many states, and the District of Columbia, have also approved recreational marijuana. These states are Alaska,[1] Arizona,[2] Arkansas,[3] California,[4] Colorado,[5] Connecticut,[6] Delaware,[7] District of Columbia,[8] Florida,[9] Hawaii,[10] Illinois,[11] Louisiana,[12] Maine,[13] Maryland,[14] Massachusetts,[15] Michigan,[16] Minnesota,[17] Missouri,[18] Montana,[19]

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[1] Alaska Stat. Ann. §§17.37.010-17.37.080.
[2] Ariz. Rev. Stat. §§36-2801-36-2819.
[3] Ar. Const. Amend. 98, §§1-25.
[4] Cal. Health & Safety Code §§1362.5 and 11362.7 to 11362.83.
[5] Colo. Rev. Stat. Ann. §§44-11-101-44-11-106, 18-18-406.3 and 25-1.5-106.
[6] Conn. Gen. Stat. Ann. §§21a-408-21a-414 and Conn. Agencies Reg. §§21a-408-1 to 21a-408-70.
[7] 16 Del. C. §§ 4901A to 4926A.
[8] D.C. Code §§ 7-1671.01 to 7-1671.13.
[9] § 381.986, Fla. Stat.
[10] HRS §§ 329-121 to 329-128 and HAR §§ 11-160-1 to 11-160-56.
[11] 410 ILCS 130/1 to 410 ILCS 130/999.
[12] La. R.S. 40:1046.
[13] 22 M.R.S.A. §§ 2421 to 2430-H and 10-144 Code Me. R. ch. 122, § 1-11.
[14] Md. Code Ann. Health-Gen. §§ 13-3301 to 13-3316.
[15] M.G.L. c. 94I §§ 1 to 8.
[16] MCL §§ 333.26421 to 333.26430
[17] Minn. Stat. Ann. §§ 152.22 to 152.37.
[18] Mo Const. Art. 14, § 1.
[19] Mont. Code Ann. §§ 50-46-301 to 50-46-345.

Nevada,[20] New Hampshire,[21] New Jersey,[22] New Mexico,[23] New York,[24] North Dakota,[25] Ohio,[26] Oklahoma,[27] Oregon,[28] Pennsylvania,[29] Rhode Island,[30] Utah,[31] Vermont,[32] Washington,[33] and West Virginia.[34] With the exception of Vermont, these laws were created through the initiative process.

Relevant here, the initiatives in these states all gave the administrative body responsible for regulating recreational broad power to do so. For example, in Alaska, the ballot measure provided, "the board shall adopt regulations necessary for implementation of this chapter." Alaska Stat. Ann. §17.38.090. Similarly, Colorado's initiative contained the following language, "the department shall adopt regulations necessary for implementation of this section." Colo. Const. Ar. 18, Sec. 16(5). Likewise, the initiative in California contained language that required "reasonable" regulations "necessary to implement, administer, and enforce their respective duties," and which, are consistent with the "intent and spirit" of the initiative. Cal. Bus. & Prof. Code § 26013(a).

The initiatives in Oregon and Washington granted the regulating body even more discretion in creating regulations for recreational marijuana. Oregon's initiative contained language granting regulators "all powers incidental, convenient or necessary to enable [it] the commission to administer or carry out [any of] the provisions…" Or. Rev. Stat. §475B.025(2)(d). Washington's initiative contained language authorizing the state liquor

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[20] Nev. Const. Art. 4, § 38 and NRS 453A.010 to 453A.810.
[21] N.H. RSA §§ 126-X:1 to 126-X:12.
[22] N.J.S.A. §§ 24:6I-1 to 24:6I-16. N.J.A.C. §§ 8:64-1.1 to 8:64-13.11.
[23] NMSA 1978, §§ 26-2B-1 to 26-2A-7.
[24] N.Y. Pub. Health Law §§ 3360 to 3369-E.
[25] N.D.C.C §§ 19-24.1-01 to 19-24.1-40.
[26] Ohio R.C. 3796.01 to 3796.30.
[27] Okla. Stat. tit. 63, §§ 420 to 426.
[28] Or. Rev. Stat. §§ 475B.785 to 475B.949.
[29] PA ST 35 P.S. §§ 10231.101 to 10231.2110.
[30] R. I. Gen. Laws §§ 21-28.6-1 to 21-28.6-17 and 216 RICR 20-10-3.1 to 20-10-3.15.
[31] Utah Code § 26-61a-101 to 26-61a-703.
[32] 18 V.S.A. §§ 4471 to 4474m.
[33] RCW 69.51A.005 to 69.51A.900.
[34] W. Va. Code §§ 16A-1-1 to 16A-16-1.

board to "adopt rules not inconsistent with the spirit of this act as are deemed necessary or advisable." Rev. Code. Wash. 69.50.342(1). These provisions in the several states demonstrate a recognized need to permit the regulating body flexibility in regulating a nascent industry such as retail marijuana, and such has been the holding of a recent case interpreting Washington's retail marijuana initiative.

Washington's Court of Appeals interpreted that state's retail marijuana initiative two years ago. The regulation at issue forbade issuing a retail marijuana license to a limited liability company unless all members and their spouses were qualified to obtain a license. *Haines-Marchel v. Wash. State Liquor & Cannabis Bd.*, 406 P.3d 1199, 1203 (Wash. Ct. App. 2017). The court upheld the regulation for several reasons. The enacting statute, i.e. initiative, merely stated that the license had to be issued in the name of the applicant, but the enacting statute left the necessary or advisable details to the regulating body. *Id*. at 1218-19. So long as the regulation was consistent with the spirit of the initiative, the regulation passed muster. *Id*. at 1218.

III. Conclusion

Far from arguing that the Department of Taxation has a blank check to create regulations in the retail marijuana sphere, the Department of Taxation's regulations are wholly consistent with the initiative's text and spirit. This Court should hold that the initiative, through the necessary or convenient clause, left the administrative details of how to implement marijuana licensure to the Department of Taxation. Doing so, would simply recognize the distinct role of direct democracy under Article 19 of the Nevada Constitution to propose new policy and the role of the Nevada Administrative Code to fill in the details of how that policy ought to function.

DATED this 10th day of June, 2019.

AARON D. FORD
Attorney General

By: /s/ Ketan D. Bhirud
Ketan D. Bhirud (Bar No. 10515)
Chief Litigation Counsel

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court by using the electronic filing system on the 10th day of June, 2019.

I certify that the following participants in this case are registered electronic filing systems users and will be served electronically:

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/s/ *Traci Plotnick*
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Office of the Attorney General

EHIXIBIT A

EHIXIBIT A

State of Nevada

STATEWIDE
BALLOT QUESTIONS

2016

To Appear on the November 8, 2016 General Election Ballot

Issued by

Barbara K. Cegavske
Secretary of State

STATE OF NEVADA

BARBARA K. CEGAVSKE
Secretary of State

WAYNE THORLEY
Deputy for Elections

GAIL J. ANDERSON
Deputy Secretary for Southern Nevada

OFFICE OF THE SECRETARY OF STATE

SCOTT ANDERSON
Chief Deputy Secretary of State

CADENCE MATIJEVICH
Deputy Secretary for Operations

Dear Fellow Nevadan:

As the November 8, 2016, general election approaches, it is my responsibility as the state's Chief Elections Officer to ensure voters have all the information necessary to make informed decisions on the four statewide ballot questions that will be presented to them this year. Accordingly, my office has prepared this informational booklet that provides the exact wording and a brief summary of each question, as well as fiscal notes detailing the potential financial impacts to the State of Nevada. Arguments for and against passage of each ballot question are also provided.

For your reference, Ballot Question Numbers 1 and 2 propose new statute or amend existing statute and qualified for the ballot through initiative petitions filed in 2014. Both petitions were presented to the Nevada Legislature in 2015 but were not acted upon and therefore will be presented to the voters.

Ballot Question Numbers 3 and 4 propose amendments to the *Nevada Constitution* and qualified for the ballot through initiative petitions filed in 2016. If successful at this election, these questions will appear again on the 2018 general election ballot.

I encourage you to carefully review and consider each of the ballot questions prior to Election Day on November 8, 2016. As a voter, your decisions on these ballot questions are very important, as they may create new laws, amend existing laws, or amend the *Nevada Constitution*.

Thank you for your attention on this important matter. If you require additional information, please do not hesitate to contact my office at (775) 684-5705, or visit my website: www.nvsos.gov.

Respectfully,

Barbara K. Cegavske

BARBARA K. CEGAVSKE
Secretary of State

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nvsos.gov

2016
STATEWIDE BALLOT QUESTIONS
SUMMARY

Question #	Title	Originated	If Passed in 2016
1	The Background Check Initiative	Initiative Petition	Becomes Law
2	Initiative to Regulate and Tax Marijuana	Initiative Petition	Becomes Law
3	The Energy Choice Initiative	Initiative Petition	Will go to the 2018 General Election Ballot
4	Medical Patient Tax Relief Act	Initiative Petition	Will go to the 2018 General Election Ballot

STATE QUESTION NO. 1

Amendment to Title 15 of the *Nevada Revised Statutes*

Shall Chapter 202 of the *Nevada Revised Statutes* be amended to prohibit, except in certain circumstances, a person from selling or transferring a firearm to another person unless a federally-licensed dealer first conducts a federal background check on the potential buyer or transferee?

Yes ☐ No ☐

EXPLANATION & DIGEST

EXPLANATION—This ballot measure proposes to amend Chapter 202 of the *Nevada Revised Statutes* to prohibit, except in certain defined circumstances, any person who is not a licensed dealer, importer, or manufacture of firearms from selling or transferring a firearm to another unlicensed person unless a licensed dealer first conducts a background check on the buyer or transferee. To request the required background check, the law would require both the seller/transferor and the buyer/transferee to appear jointly with the firearm before a federally licensed firearms dealer. The background check would be conducted using the National Instant Criminal Background Check System administered by the Federal Bureau of Investigations (FBI), and the federally-licensed dealer would be able to charge a reasonable fee for conducting the background check and facilitating the firearm transfer between unlicensed persons.

The measure would establish various exemptions to the mandatory background check requirements, including:

- The sale or transfer of a firearm by or to any law enforcement agency;
- To the extent he or she is acting within the course and scope of his or her employment and official duties, the sale or transfer of a firearm by or to any peace officer, security guard entitled to carry a weapon, member of the armed forces, and federal official;
- The sale or transfer of an antique firearm;
- The sale or transfer of a firearm between immediate family members, defined as spouses and domestic partners, as well as parents, children, siblings, grandparents, grandchildren, aunts, uncles, nieces, and nephews, whether whole or half blood, adoption or step-relation; and
- The transfer of a firearm to an executor, administrator, trustee, or personal representative of an estate or trust that occurs by operation of law upon the death of the former owner of the firearm.

Certain temporary transfers of a firearm without a background check would also be allowed under the measure, as long as the temporary transfer is to a person who is not prohibited from

buying or possessing a firearm under state or federal law, the transferor has no reason to believe that the transferee is prohibited from buying or possessing firearms under state or federal law, and the transferor has no reason to believe that the transferee will use or intends to use the firearm in the commission of a crime. Allowable temporary transfers would include:

- Temporary transfers required to prevent imminent death or great bodily harm;
- Temporary transfers at an established shooting range authorized by the governing body of the jurisdiction in which the range is located;
- Temporary transfers at a lawfully organized competition involving the use of a firearm;
- Temporary transfers while participating in or practicing for a performance by an organized group that uses firearms as part of a public performance;
- Temporary transfers while hunting or trapping if the transfer occurs in the area where hunting and trapping is legal and the transferee holds all licenses or permits required for such hunting or trapping; and
- Temporary transfers while in the presence of the transferor.

Lastly, approval of this ballot measure would establish criminal penalties on an unlicensed person who sells or transfers one or more firearms to another unlicensed person in violation of the provisions of the measure. For the first conviction involving the sale or transfer of one or more firearms, the seller or transferor would be guilty of a gross misdemeanor, punishable by up to a year in county jail, a fine up $1,000, or both imprisonment and a fine. For the second and each subsequent conviction, the seller or transferor would be guilty of a category C felony, which is punishable by imprisonment between one and five years in state prison and a fine of not more than $10,000.

A "Yes" vote would amend Chapter 202 of the *Nevada Revised Statutes* to prohibit, except in certain circumstances, any person who is not a licensed dealer, importer, or manufacture of firearms from selling or transferring a firearm to another unlicensed person unless a licensed dealer first conducts a background check on the buyer or transferee.

A "No" vote would retain the provisions of Chapter 202 of the *Nevada Revised Statutes* in their current form. These provisions currently allow, but do not require, a background check be performed on a firearm buyer or transferee before the private sale or transfer of a firearm.

DIGEST— Chapter 202 of the *Nevada Revised Statutes* contains provisions relating to crimes against public health and safety. Approval of this ballot measure would amend Chapter 202 of the *Nevada Revised Statutes* to require that a federal background check be performed before private sales and transfers of firearms, except in certain defined circumstances. In order to obtain a required background check, both the firearm seller/transferor and the firearm buyer/transferee would be required to appear together before a federally licensed firearms dealer. The background check would be conducted using the National Instant Criminal Background Check System administered by the Federal Bureau of Investigations (FBI), and the

federally-licensed dealer would be able to charge a reasonable fee for conducting the background check and facilitating the firearm transfer. A person who violates the new background check requirements would be guilty of a gross misdemeanor for the first offence and a category C felony for the second or subsequent offences. It is undetermined at this time whether approval of this ballot measure would have any impact on public revenue.

If this ballot measure is approved, the following sales or transfers would be exempt from the background check requirement: firearm sales or transfers between law enforcement agencies, peace officers, security guards, armed forces members, and federal officials; the sale or transfer of an antique firearm; the sale or transfer of a firearm between immediate family members; the transfer of a firearm to an estate or trust that occurs upon the death of the former owner of the firearm; temporary firearm transfers to prevent imminent death or great bodily harm; and temporary firearm transfers at authorized shooting ranges, at lawful firearm competitions, for use in public performances; while hunting or trapping, or while in the presence of the transferor.

Current Nevada law, found in Chapter 202 of the *Nevada Revised Statutes*, allows, but does not require, a private person who wishes to transfer a firearm to another person to request a background check from the Central Repository for Nevada Records of Criminal History on the person who wishes to acquire the firearm. If a background check is requested, the Central Repository has five days to perform the background check and notify the person who requested the background check if the receipt of a firearm by the person who wished to acquire the firearm would violate a state or federal law. The current law allows the Central Repository to charge a reasonable fee for performing a requested background check.

ARGUMENT FOR PASSAGE

The Background Check Initiative

Vote yes on Question 1.

Vote yes on Question 1 and close the loophole that makes it easy for convicted felons, domestic abusers, and people with severe mental illness to buy guns without a criminal background check.

It is illegal for these dangerous people to buy guns.[1] That's why criminal background checks are required for every gun sale from a licensed dealer.[2] But no background check is required in Nevada if a person buys a gun from an unlicensed seller, including buying from a stranger they meet online or at a gun show.

Question 1 would create a level playing field where everyone would have to follow the same rules, whether they buy and sell at a gun store, at a gun show, or using the Internet.

Voting yes on Question 1 protects our rights and meets our responsibilities.

We have the right to bear arms. And with rights come responsibilities, including the responsibility to keep guns out of the hands of felons, domestic abusers, and the severely mentally ill.

Question 1 won't stop all gun violence—nothing will. But in states that require criminal background checks for all handgun sales, almost 50% fewer police are killed with handguns[3] and about half as many women are shot to death by abusive partners.[4]

Since 1980, over 50% of police officers murdered with guns in the line of duty in Nevada were shot by people who would have likely failed a background check.[5]

There are more than 35,000 guns for sale in Nevada each year on just four websites—and no background check is required for most of these sales.[6] Question 1 closes these loopholes.

No Nevada tax dollars will be used to conduct Question 1 background checks because the checks will be run by the FBI.

The Nevada Association of Public Safety Officers and Las Vegas Fraternal Order of Police—representing thousands of law enforcement officers—urge yes on Question 1.[7]

Nevada doctors[8], crime victims[9], the Nevada Parent Teacher Association[10], and the Nevada State Education Association[11] all agree—passing Question 1 will help save lives.

We need to close this dangerous loophole and make sure criminal background checks are required on all gun sales in Nevada. Please vote yes on Question 1.

The above argument was submitted by the Ballot Question Committee composed of citizens in favor of this question as provided for in NRS 293.252. Committee members: Matt Griffin (Chair), Nevadans for Background Checks; Justin Jones, private citizen; Elaine Wynn, Nevadans for Background Checks. Pursuant to NRS 293.252(5)(f), the Committee does not believe the measure will have any environmental impact. This argument, with active hyperlinks, can be found at www.nvsos.gov.

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[1] 18 U.S.C. § 922(g); Nev. Rev. Stat. § 202.360.
[2] 18 U.S.C. § 922(t).
[3] Everytown for Gun Safety Support Fund, *State Background Check Requirements and Firearm Homicide Against Law Enforcement,* January 15, 2015, http://every.tw/1FpRqkh.
[4] Everytown for Gun Safety Support Fund, *State Background Check Requirements and Rates of Domestic Violence Homicide,* January 15, 2015, http://every.tw/1y3kxCb.
[5] Everytown for Gun Safety Support Fund, *Nevada Law Enforcement Deaths and Illegal Guns,* November 9, 2015, http://every.tw/1q2kqck.
[6] Everytown for Gun Safety Support Fund, *The Wild Wild Web: Investigating Online Gun Markets in Nevada,* January 29, 2016, http://every.tw/26XLqeY.

[7] Letter from the Nevada Association of Public Safety Officers, January 12, 2016; and Letter from the Las Vegas Fraternal Order of Police.
[8] Letter from Nevadans for Background Checks; and Letter from the Nevada Public Health Association, April 19, 2016.
[9] Letter from Nevadans for Background Checks.
[10] Letter from Nevada Parent Teacher Association, February 2, 2016.
[11] Letter from the Nevada State Education Association, April 11, 2016.

REBUTTAL TO ARGUMENT FOR PASSAGE

Question 1 will do nothing to promote public safety. It is about destroying the Second Amendment freedoms of law-abiding Nevadans by out-of-state gun control groups.[1]

Criminals, by definition, do not obey laws.

U.S. Department of Justice statistics show that criminals obtain guns illegally--through straw-purchasers, theft, and the black market.[2] Question 1 does nothing to stop these methods of obtaining guns.

The supporters of Question 1 mislead Nevada voters by arguing that this initiative is about gun sales to violent criminals and the mentally ill. If this were about violent criminals and gun sales, supporters would have written the initiative to focus on sales, but they chose instead to cover all transfers, including those between friends and family.

Prohibiting someone from loaning a gun to a friend for an afternoon of target shooting or to go hunting – without a background check – will do nothing to stop violent crime. Rather, it advances another stated goal of gun control groups: establishing a federal registry of gun owners across America.

Supporters of Question 1 use self-generated statistics in their attempts to fool the public into ignoring the base, common-sense reality that criminals will not be dissuaded from violent crime if Question 1 passes.

The above rebuttal was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252. Committee members: Daniel Reid (Chair), NRA Nevadans for Freedom; Blayne Osborn, private citizen; Don Turner, Nevada Firearms Coalition. Pursuant to NRS 293.252(5)(f), the Committee does not believe the measure will have any environmental impact. This rebuttal, with active hyperlinks, can be found at www.nvsos.gov.

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[1] Nevadans for Background Checks, Contributions and Expenses Report, Nevada Secretary of State web page available at: https://nvsos.gov/SOSCandidateServices/AnonymousAccess/CEFDSearchUU/GroupDetails.aspx?o=xLkkWMf4XkrEVN%252bbfpbfTQ%253d%253d.

[2] *Special Report: Firearm Violence, 1993-2011,* U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, May 2013, http://www.bjs.gov/content/pub/pdf/fv9311.pdf; *Guns Used in Crime,* U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, July 1995, http://www.bjs.gov/content/pub/pdf/GUIC.PDF; and *Following the Gun: Enforcing Federal Laws against Firearms Traffickers,* Department of the Treasury, Bureau of Alcohol, Tobacco & Firearms, June 2000, http://everytown.org/wp-content/uploads/2014/08/Following-the-Gun_Enforcing-Federal-Laws-Against-Firearms-Traffickers.pdf.

ARGUMENT AGAINST PASSAGE

Question 1 is not what its supporters claim it is and *goes well beyond sales to include loans, leases and gifts*. Imagine a soldier being required to run a background check on their fiancé or roommate just to store their firearms in anticipation of an upcoming deployment. That's exactly what this initiative will do. Or maybe you'd like to loan your firearm to a friend of 20 years to go target shooting on BLM land. Again, Question 1 would mandate that you run a background check on this trusted friend.

Question 1 goes even further than that. *If passed, this new law would require Nevadans to appear jointly at a federal firearms dealer who may charge a fee anytime they relinquish possession of a firearm and to have it returned*.[1] Failure to do so will constitute a serious crime and up to a year in prison. This complex, unenforceable, and overly burdensome change places more bureaucratic restrictions on law abiding citizens while not impacting criminals.

Under current law, federal firearms dealers are required to run a background check when selling a firearm regardless of where the transfer takes place.[2] Question 1 would expand this to include private transfers of a firearm, all to be conducted through a federal firearms dealer and subject to fees.[3] In the case of loaning a firearm to your friend for a target shooting trip, this would mean each of you making two separate trips to a federal firearms dealer and two separate fees just to loan and return the firearm.[4] There are no limits to the fees that can be charged for the two mandated trips.[5]

If supporters of Question 1 were truly interested in stopping crime, QUESTION 1 WOULD HAVE BEEN WRITTEN TO TARGET CRIMINAL ACTIVITY, NOT TO ENSNARE THE INNOCENT. Question 1 will expose law-abiding Nevadans to criminal penalties and burdensome costs without making our state any safer.

The supporters of Question 1 have given no regard to fixing the current system and focusing attention on criminals. During a 2014 hearing in the legislature, it was revealed that 800,000 criminal records were missing from the current state crime database.[6] Instead of addressing this obvious failure in the system, Question 1 targets law-abiding citizens and otherwise legal behavior.

Question 1 won't make Nevada safer. Laws that target criminals or criminal behavior are what reduce crime and promote public safety. Question 1 does neither.

The above argument was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252. Committee members: Daniel Reid (Chair), NRA Nevadans for Freedom; Blayne Osborn, private citizen; Don Turner, Nevada Firearms Coalition. Pursuant to NRS 293.252(5)(f), the Committee does not believe the measure will have any environmental impact. This argument, with active hyperlinks, can be found at www.nvsos.gov.

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[1] The Background Check Initiative.
[2] 18 U.S.C. § 922(t).
[3] The Background Check Initiative.
[4] Id.
[5] Id.
[6] *Report: Nevada repository missing thousands of criminal records,* Las Vegas Review Journal, June 20, 2014, http://www.reviewjournal.com/news/nevada/report-nevada-repository-missing-thousands-criminal-records.

REBUTTAL TO ARGUMENT AGAINST PASSAGE

Opponents of Question 1 are trying to confuse voters, but Question 1 will make Nevada safer.

Background checks work, and they're convenient for law-abiding gun owners.

Over the last three years, background checks at Nevada gun dealers blocked 5,379 gun sales to criminals and other dangerous people who cannot legally buy guns, including felons, domestic abusers, and people with dangerous mental illness.[1]

But under current law, dangerous people can avoid background checks and buy guns from strangers they meet online or at gun shows, no questions asked.

Question 1 closes that loophole, requiring all gun sellers to play by the same rules.

Question 1 will help save lives. In states with background checks for all handgun sales, 48% fewer law enforcement officers are killed with handguns,[2] and 46% fewer women are shot to death by abusive partners.[3]

Background checks are quick and easy. 97.1% of Nevadans live within 10 miles of a gun dealer.[4] And over 90% of FBI background checks are completed on the spot.[5]

We have a right to bear arms and a responsibility to keep guns away from criminals, domestic abusers, and people with dangerous mental illness.

YES on Question 1 will make our communities safer.

The above rebuttal was submitted by the Ballot Question Committee composed of citizens in favor of this question as provided for in NRS 293.252. Committee members: Matt Griffin

(Chair), Nevadans for Background Checks; Justin Jones, private citizen; Elaine Wynn, Nevadans for Background Checks. Pursuant to NRS 293.252(5)(f), the Committee does not believe the measure will have any environmental impact. This rebuttal, with active hyperlinks, can be found at www.nvsos.gov.

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[1] Everytown for Gun Safety Support Fund, *Gun Violence and Background Checks in Nevada*, August 27, 2015, https://everytownresearch.org/gun-violence-and-background-checks-in-nevada/.
[2] Everytown for Gun Safety Support Fund, *State Background Check Requirements and Firearm Homicide against Law Enforcement*, January 15, 2015, http://every.tw/1FpRqkh.
[3] Everytown for Gun Safety Support Fund, *State Background Check Requirements and Rates of Domestic Violence Homicide*, January 15, 2015, http://every.tw/1y3kxCb.
[4] Everytown for Gun Safety Support Fund analysis of U.S. Census data, May 2015. (There are 515 federally licensed gun dealers in Nevada able to conduct background checks on unlicensed sales. Bureau of Alcohol, Tobacco, Firearms and Explosives, data for type 1 and 2 FFL licenses in Nevada in May 2015, http://1.usa.gov/1JOixGK.)
[5] U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, *2014 NICS Operations Report*, http://bit.ly/29YNKMh.

FISCAL NOTE

FINANCIAL IMPACT – CANNOT BE DETERMINED

OVERVIEW

Question 1 proposes to amend various sections of the *Nevada Revised Statutes* to require that a background check be conducted by a licensed dealer before a firearm is transferred from one unlicensed person to another unlicensed person (private-party sales) under certain circumstances. Question 1 also establishes criminal penalties for violations of these provisions by unlicensed persons who sell or transfer firearms.

FINANCIAL IMPACT OF QUESTION 1

Pursuant to the provisions of the federal Brady Handgun Violence Prevention Act (Public Law 103-159), federally licensed firearm dealers are required to obtain a background check on an individual before a firearm may be purchased by that person. The law requires that the background check be conducted either directly through the National Instant Criminal Background Check System (NICS) maintained by the Federal Bureau of Investigation (FBI), or through a point of contact (POC) established within each state.

The Department of Public Safety has indicated that the Department's Criminal History Repository (CHR) serves as Nevada's POC based on the provisions of the Brady Act. As a result of this POC status, licensed firearm dealers contact the CHR to initiate background checks on retail firearm sales instead of contacting NICS directly. Currently, the CHR assesses a $25 fee for each background check that is conducted for this purpose.

The Department of Public Safety has indicated that passage of Question 1 would require a renegotiation of POC status or the development of an alternative agreement with the FBI in

order to accommodate the provisions of the question. Based on this requirement, the Fiscal Analysis Division has identified three potential scenarios that could occur due to the implementation of Question 1:

1. If the agreement between the State and the FBI required the CHR to perform all background checks, it would result in additional expenditures of approximately $650,000 per year. However, the Department has estimated that the additional revenue that would be generated from the $25 fee imposed on the private-party background checks would be sufficient to defray these expenditures, which would result in no financial impact upon state government.

2. If the agreement between the State and the FBI allows licensed firearms dealers to contact NICS directly to conduct federal background checks for private-party sales, but allows the State to maintain POC status and continue to conduct background checks through the CHR for all other sales by licensed firearm dealers as is currently required by federal law, there would be no financial impact upon state government.

3. If the agreement between the State and the FBI removes Nevada's POC status under the Brady Act, licensed firearms dealers would be required to contact NICS directly to obtain background check information for retail and private-party sales rather than contacting the CHR. The Department has indicated that, if licensed dealers are required to access NICS directly for background checks on all gun sales, this would result in the elimination of approximately 13 positions and a loss in revenue of approximately $2.7 million per year, which is used to support the current operations of the CHR. This loss in revenue would result in a negative financial impact upon state government, as additional revenue would be required from the State General Fund or other sources to supplant revenues used to support the CHR's functions.

Because the Fiscal Analysis Division cannot determine what agreement may be reached between the Department and the FBI with respect to Nevada's status as a POC state under the Brady Act, the resultant financial impact upon state government cannot be determined with any reasonable degree of certainty.

The provisions creating misdemeanor and felony provisions for violations of the requirements of Question 1 may increase the workload of various state and local government agencies with respect to enforcement, investigation, incarceration, probation, and parole. The Department of Corrections, the Department of Public Safety, and the Fiscal Analysis Division are unable to determine the number of persons who may be investigated, prosecuted, or incarcerated as a result of violations of these provisions. Thus, the resultant financial effect upon state and local government cannot be determined with any reasonable degree of certainty.

The provisions creating misdemeanor and felony provisions for violations of the requirements of Question 1 will require two changes to the Nevada Offense Codes used in the CHR. The

Department of Public Safety has indicated that these changes can be accommodated with existing staff, and that no additional financial impact would be incurred by the Department.

Prepared by the Fiscal Analysis Division of the Legislative Counsel Bureau – August 12, 2016

THE BACKGROUND CHECK INITIATIVE

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. Sections 1 to 8, inclusive, of this act may be cited as The Background Check Act.

Sec. 2. The People of Nevada do hereby find and declare that:

1. To promote public safety, federal law currently prohibits felons, domestic abusers, the severely mentally ill, and other dangerous people from buying or possessing firearms;
2. Federally licensed firearms dealers are required to run background checks on their prospective buyers to ensure they are not prohibited from buying or possessing firearms;
3. Criminals and other dangerous people can avoid background checks by buying guns from unlicensed firearms sellers, whom they can easily meet online or at gun shows and who are not legally required to run background checks before selling or transferring firearms;
4. Due to this loophole, millions of guns exchange hands each year in the United States without a background check;
5. The background check process is quick and convenient: Over 90% of federal background checks are completed instantaneously and over 97% of Nevadans live within 10 miles of a licensed gun dealer;
6. We have the right to bear arms, but with rights come responsibilities, including the responsibility to keep guns out of the hands of convicted felons and domestic abusers;
7. To promote public safety and protect our communities, and to create a fair, level playing field for all gun sellers, the people of Nevada find it necessary to more effectively enforce current law prohibiting dangerous persons from purchasing and possessing firearms by requiring background checks on all firearms sales and transfers, with reasonable exceptions, including for immediate family members, hunting, and self-defense.

Sec. 3. Chapter 202 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 6, inclusive, of this act.

Sec. 4. ***As used NRS 202.254 and sections 4, 5 and 6 of this act, unless the context otherwise requires:***

1. "Central Repository" has the meaning ascribed to it in NRS 179A.045.

2. "Hunting" has the meaning ascribed to it in NRS 501.050.

3. "Licensed dealer" means a person who holds a license as a dealer in firearms issued pursuant to 18 U.S.C. § 923(a).

4. "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

5. "Transferee" means an unlicensed person who wishes or intends to receive a firearm from another unlicensed person.

6. "Transferor" means an unlicensed person who wishes or intends to transfer a firearm to another unlicensed person.

7. "Trapping" has the meaning ascribed to it in NRS 501.090.

8. "Unlicensed person" means a person who does not hold a license as a dealer, importer, or manufacturer in firearms issued pursuant to 18 U.S.C. § 923(a).

Sec. 5. ***The provisions of NRS 202.254 do not apply to:***

1. The sale or transfer of a firearm by or to any law enforcement agency and, to the extent he or she is acting within the course and scope of his or her employment and official duties, any peace officer, security guard entitled to carry a firearm under NAC 648.345, member of the armed forces, or federal official.

2. The sale or transfer of an antique firearm, as defined in 18 U.S.C. § 921(16).

3. The sale or transfer of a firearm between immediate family members, which for the purposes of this chapter means spouses and domestic partners and any of the following relations, whether by whole or half blood, adoption, or step-relation: parents, children, siblings, grandparents, grandchildren, aunts, uncles, nieces and nephews.

4. The transfer of a firearm to an executor, administrator, trustee, or personal representative of an estate or a trust that occurs by operation of law upon the death of the former owner of the firearm.

5. A temporary transfer of a firearm to a person who is not prohibited from buying or possessing firearms under state or federal law if such transfer:

(a) Is necessary to prevent imminent death or great bodily harm; and

(b) Lasts only as long as immediately necessary to prevent such imminent death or great bodily harm.

6. A temporary transfer of a firearm if:

(a) The transferor has no reason to believe that the transferee is prohibited from buying or possessing firearms under state or federal law;

(b) The transferor has no reason to believe that the transferee will use or intends to use the firearm in the commission of a crime; and

(c) Such transfer occurs and the transferee's possession of the firearm following the transfer is exclusively:

(1) At an established shooting range authorized by the governing body of the jurisdiction in which such range is located;

(2) At a lawful organized competition involving the use of a firearm;

(3) While participating in or practicing for a performance by an organized group that uses firearms as a part of the public performance;

(4) While hunting or trapping if the hunting or trapping is legal in all places where the transferee possesses the firearm and the transferee holds all licenses or permits required for such hunting or trapping; or

(5) While in the presence of the transferor.

Sec. 6. ***An unlicensed person who sells or voluntarily transfers one or more firearms to another unlicensed person in violation of NRS 202.254:***

1. For a first conviction involving the sale or transfer of one or more firearms, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140; and

2. For a second or subsequent conviction involving the sale or transfer of one or more firearms, is guilty of a category C felony and shall be punished as provided in NRS 193.130(2)(c).

Sec. 7. NRS 202.254 is hereby amended to read as follows:

202.254 1. ~~[A private person who wishes to transfer a firearm to another person may, before transferring the firearm, request that the Central Repository for Nevada Records of Criminal History perform a background check on the person who wishes to acquire the firearm.~~

~~2. The person who requests the information pursuant to subsection 1 shall provide the Central Repository with identifying information about the person who wishes to acquire the firearm.~~

~~3. Upon receiving a request from a private person pursuant to subsection 1 and the identifying information required pursuant to subsection 2, the Central Repository shall within 5 business days after receiving the request:~~

~~(a) Perform a background check on the person who wishes to acquire the firearm; and~~

~~(b) Notify the person who requests the information whether the information available to the Central Repository indicates that the receipt of a firearm by the person who wishes to acquire the firearm would violate a state or federal law.~~

~~4. If the person who requests the information does not receive notification from the Central Repository regarding the request within 5 business days after making the request, the person may presume that the receipt of a firearm by the person who wishes to acquire the firearm would not violate a state or federal law.~~

~~5. The Central Repository may not charge a fee for performing a background check and notifying a person of the results of the background check pursuant to this section.~~

~~6. A private person who transfers a firearm to another person is immune from civil liability for failing to request a background check pursuant to this section or for any act or omission relating to a background check requested pursuant to this section if the act or omission was taken in good faith and without malicious intent.~~

~~7. The Director of the Department of Public Safety may request an allocation from the Contingency Account pursuant to NRS 353.266, 353.268 and 353.269 to cover the costs incurred by the Department to carry out the provisions of subsection 5.~~] ***Except as otherwise provided in section 5 of this act, an unlicensed person shall not sell or transfer a firearm to another unlicensed person unless a licensed dealer first conducts a background check on the buyer or transferee in compliance with this section.***

2. The seller or transferor and buyer or transferee shall appear jointly with the firearm and request that a licensed dealer conduct a background check on the buyer or transferee.

3. A licensed dealer who agrees to conduct a background check pursuant to this section shall take possession of the firearm and comply with all requirements of federal and state law as though the licensed dealer were selling or transferring the firearm from his or her own inventory to the buyer or transferee, including, but not limited to, all recordkeeping requirements, except that:

(a) The licensed dealer must contact the National Instant Criminal Background Check System, as described in 18 U.S.C. § 922(t), and not the Central Repository, to determine whether the buyer or transferee is eligible to purchase and possess firearms under state and federal law; and

(b) The seller or transferor may remove the firearm from the business premises while the background check is being conducted, provided that before the seller or transferor sells or transfers the firearm to the buyer or transferee, the seller or transferor and the buyer or transferee shall return to the licensed dealer who shall again take possession of the firearm prior to the completion of the sale or transfer.

4. A licensed dealer who agrees to conduct a background check pursuant to this section shall inform the seller or transferor and the buyer or transferee of the response from the National Instant Criminal Background Check System. If the response indicates that the buyer or transferee is ineligible to purchase or possess the firearm, the licensed dealer shall return the firearm to the seller or transferor and the seller or transferor shall not sell or transfer the firearm to the buyer or transferee.

5. A licensed dealer may charge a reasonable fee for conducting a background check and facilitating a firearm transfer between unlicensed persons pursuant to this section.

Sec. 8. 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. 9. This act shall become effective on October 1, 2015, if approved by the legislature, or on January 1, 2017, if approved by the voters.

STATE QUESTION NO. 2

Amendment to the *Nevada Revised Statutes*

Shall the *Nevada Revised Statutes* be amended to allow a person, 21 years old or older, to purchase, cultivate, possess, or consume a certain amount of marijuana or concentrated marijuana, as well as manufacture, possess, use, transport, purchase, distribute, or sell marijuana paraphernalia; impose a 15 percent excise tax on wholesale sales of marijuana; require the regulation and licensing of marijuana cultivators, testing facilities, distributors, suppliers, and retailers; and provide for certain criminal penalties?

Yes ☐ No ☐

EXPLANATION & DIGEST

EXPLANATION—This ballot measure proposes to amend the *Nevada Revised Statutes* to make it lawful for a person 21 years of age or older to purchase and consume one ounce or less of marijuana other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana. It would also make it lawful for a person 21 years of age or older to cultivate not more than six marijuana plants for personal use, as well as obtain and use marijuana paraphernalia.

The ballot measure would also allow for the operation of marijuana establishments, which would be regulated by the Department of Taxation. Regulated marijuana establishments would include marijuana cultivation facilities, marijuana testing facilities, marijuana product manufacturing facilities, marijuana distributors, and retail marijuana stores. For the first 18 months, the Department of Taxation would only accept license applications for retail marijuana stores, marijuana product manufacturing facilities, and marijuana cultivation facilities from persons holding a medical marijuana establishment registration certificate. Similarly, for the first 18 months, the Department of Taxation would only issue marijuana distributors' licenses to persons holding a Nevada wholesale liquor dealers' license, unless the Department determines an insufficient number of marijuana distributors would result from this limitation.

If the ballot measure is approved, no marijuana establishments would be allowed within 1,000 feet of a public or private K-12 school or 300 feet of a community facility. There would also be limits on the number of retail marijuana store licenses issued in each county by the Department of Taxation. In a county with a population greater than 700,000, up to 80 retail marijuana store licenses would be allowed; in a county with a population greater than 100,000 but less than 700,000, up to 20 retail marijuana store licenses would be allowed; in a county with a population greater than 55,000 but less than 100,000, up to 4 retail marijuana store licenses would be allowed; and in a county with a population less than 55,000, up to 2 retail marijuana

store licenses would be allowed. At the request of a county government, the Department of Taxation may issue retail marijuana store licenses in excess of the number otherwise allowed.

In addition to licensing, the Department of Taxation would be charged with adopting regulations necessary to carry out the provisions of this ballot measure. The regulations must address licensing procedures; licensee qualifications; security of marijuana establishments; testing, labeling, and packaging requirements; reasonable restrictions on advertising; and civil penalties for violating any regulation adopted by the Department.

Approval of the ballot measure would not prevent the imposition of civil or criminal penalties for driving under the influence of marijuana; knowingly selling or giving marijuana to a person under 21 years of age; possessing or using marijuana or marijuana paraphernalia in state correctional centers; possessing or using marijuana on school grounds; or undertaking any task under the influence of marijuana that constitutes negligence or professional malpractice. The measure would also not prevent employers from enforcing marijuana bans for their workers; marijuana bans in public buildings or on private property; and localities from adopting control measures pertaining to zoning and land use for marijuana establishments.

Under the provisions of the ballot measure, all applicants for a marijuana establishment license would be required to pay a one-time application fee of $5,000. Additionally, the Department of Taxation may require the payment of an annual licensing fee ranging from $3,300 to $30,000, depending on type of license. The measure would also impose a 15 percent excise tax on wholesale sales of marijuana in Nevada by a marijuana cultivation facility. Revenue from this excise tax, as well as revenue from licensing fees and penalties collected by the Department of Taxation related to the regulation of marijuana, would first go to the Department of Taxation and local governments to cover the costs of carrying out the provisions of this measure. Any remaining revenue would be deposited in the State Distributive School Account.

Lastly, this ballot measure would impose criminal penalties for certain violations related to the possession, use, sale, and cultivation of marijuana and marijuana plants. Criminal offenses would include violations of the marijuana cultivation laws set forth in the measure; public consumption of marijuana; a person falsely representing himself or herself to be 21 years of age or older in order to obtain marijuana; and knowingly giving marijuana to a person under 21 years of age.

A "Yes" vote would amend the *Nevada Revised Statutes* to allow a person, 21 years old or older, to purchase, cultivate, possess, or consume a certain amount of marijuana or concentrated marijuana, as well as manufacture, possess, use, transport, purchase, distribute, or sell marijuana paraphernalia; impose a 15 percent excise tax on wholesale sales of marijuana; require the regulation and licensing of marijuana cultivators, testing facilities, distributors, suppliers, and retailers; and provide for certain criminal penalties.

A "No" vote would retain the provisions of the *Nevada Revised Statutes* in their current form. These provisions prohibit the possession, use, cultivation, and sale or delivery of marijuana in

the State of Nevada for non-medical purposes, as well as the possession, use, sale, delivery, or manufacture of marijuana paraphernalia for non-medical purposes.

DIGEST—Chapter 453 of the *Nevada Revised Statutes*, known as the Uniform Controlled Substances Act, concerns the classification, enforcement, regulation, and offenses related to marijuana. Approval of this ballot measure would amend the *Nevada Revised Statutes* to make it lawful for a person 21 years of age or older to purchase and consume one ounce or less of marijuana other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana. It would also make it lawful for a person 21 years of age or older to cultivate not more than six marijuana plants for personal use, as well as obtain and use marijuana paraphernalia. Approval of this ballot measure would increase public revenue due to revenue collections from license fees for marijuana establishments and the 15 percent wholesale marijuana excise tax.

The ballot measure would also allow for the operation of marijuana establishments, which would be regulated by the Department of Taxation. Regulated marijuana establishments would include marijuana cultivation facilities, marijuana testing facilities, marijuana product manufacturing facilities, marijuana distributors, and retail marijuana stores. In addition to licensing, the Department of Taxation would be charged with adopting regulations necessary to carry out the provisions of this ballot measure. The regulations must address licensing procedures; licensee qualifications; security of marijuana establishments; testing, labeling, and packaging requirements; reasonable restrictions on advertising; and civil penalties for violating any regulation adopted by the Department.

Under the provisions of the ballot measure, all applicants for a marijuana establishment license would be required to pay a one-time application fee of $5,000. Additionally, the Department of Taxation may require the payment of an annual licensing fee ranging from $3,300 to $30,000, depending on type of license. The measure would also impose a 15 percent excise tax on wholesale sales of marijuana in Nevada by a marijuana cultivation facility. Revenue from this excise tax, as well as revenue from licensing fees and penalties collected by the Department of Taxation related to the regulation of marijuana, would first go to the Department of Taxation and local governments to cover the costs of carrying out the provisions of this measure. Any remaining revenue would be deposited in the State Distributive School Account.

Approval of this ballot measure would impose criminal penalties for certain violations related to the possession, use, sale, and cultivation of marijuana and marijuana plants. Criminal offenses would include violations of the marijuana cultivation laws set forth in the measure; public consumption of marijuana; a person falsely representing himself or herself to be 21 years of age or older in order to obtain marijuana; and knowingly giving marijuana to a person under 21 years of age.

Current Nevada law, found in Chapter 453 of the *Nevada Revised Statutes*, prohibits various actions related to marijuana. Under current law, possession of marijuana for personal use is prohibited. Current law also prohibits the sale or delivery of marijuana; the cultivation of

marijuana plants; and the possession, use, sale, delivery, or manufacture of marijuana paraphernalia for non-medical purposes. Possession and use of hashish and marijuana concentrates is also prohibited under current Nevada law. Criminal and civil penalties are provided for in current law for violations of the marijuana prohibitions established in Chapter 453 of the *Nevada Revised Statutes*.

ARGUMENT FOR PASSAGE

Initiative to Regulate and Tax Marijuana

Vote Yes On 2! Question 2 will benefit Nevada by regulating marijuana in a manner similar to alcohol:

- It makes possession of small amounts of marijuana legal for adults 21 years of age or older;
- It establishes strict rules for the cultivation, production, distribution, and sale of marijuana in Nevada; and
- It will generate millions of dollars in new tax revenue to support K-12 education.

Question 2 is a sensible change in law for the state.

Marijuana prohibition is a failed policy in every sense of the word. Our government took a substance less harmful than alcohol[1] and made it completely illegal. This resulted in the growth of a multi-billion-dollar underground market driven by drug cartels and criminals operating in our communities. We have forced law enforcement to focus on the sale and use of marijuana instead of on serious, violent, and unsolved crimes.

Question 2 is a better way. We need to eliminate the criminal market by shifting the production and sale of marijuana into the hands of tightly regulated Nevada businesses, who will be required to comply with state and local laws, including environmental standards.

By regulating marijuana like alcohol, marijuana businesses will be required to:

- Test marijuana products to ensure that they are safe and properly labeled;
- Sell marijuana products in child-resistant packaging; and
- Check identification of customers to ensure marijuana is not sold to minors.

None of that occurs in the illegal market.

The initiative provides for a 15% excise tax on marijuana, which will generate an estimated $20 million annually.[2] This will cover the cost of enforcing regulations and will also support K-12 education in the state. In addition to this tax, legal marijuana sales will generate more than $30 million annually in state and local sales tax revenue.[3]

To enhance public safety, the initiative:

- Leaves in place Nevada's strict laws against driving under the influence of marijuana;
- Allows employers to have policies against the use of marijuana by employees;
- Prohibits the use of marijuana in public; and
- Imposes significant penalties for distribution of marijuana to minors.

It's time to stop punishing adults who use marijuana responsibly. This initiative will accomplish that goal in a manner that protects consumers, enhances public safety, provides for local control, generates tax revenue, and creates thousands of new jobs in the state. Vote Yes on 2!

The above argument was submitted by the Ballot Question Committee composed of citizens in favor of this question as provided for in NRS 293.252. Committee members: Amanda Connor (Chair), private citizen; Riana Durrett, Riana Durrett PLLC; and John Ritter, Coalition to Regulate Marijuana Like Alcohol. This argument, with active hyperlinks, can also be found at www.nvsos.gov.

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[1] *Marijuana is Less Harmful than Alcohol: It's Time to Treat it that Way,* Regulate Marijuana Like Alcohol in Nevada, https://www.regulatemarijuanainnevada.org/safer/.

[2] *Nevada Adult-Use Marijuana; Economic & Fiscal Benefits Analysis, July 2016,* RCG Economics and Marijuana Policy Group, p. ES-5.

[3] Id.

REBUTTAL TO ARGUMENT FOR PASSAGE

Question 2 is nothing more than a power grab from mostly out-of-state special interests who want to get rich. It even legalizes pot candies and allows pot advertising.

This initiative lets marijuana businesses line their pockets while the black market thrives. Legalization has done nothing to end the black market in Colorado, and has even allowed Mexican cartels to hide in plain sight.[1] In Denver, drug and narcotics crime rose an average of 13% per year since 2014.[2]

Question 2 also isn't about personal freedom – instead, it makes it a crime to home-cultivate pot within 25 miles of a retail marijuana store, and it doesn't even allow for local "opt-out" provisions as Colorado did.

Enriching marijuana business executives won't be a boon for K-12 education, either. Projected annual tax revenues from pot sales won't be enough to build even one Nevada middle school.[3] Exposing our children to industrially-produced, kid-friendly pot gummy bears is not worth it.

Finally, Nevada taxpayers don't need a new government-run bureaucracy with troubling long-term societal costs.

At the end of the day, Question 2 benefits Big Marijuana at your expense. Vote NO--it's bad for Nevada's children, families, and taxpayers.

The above rebuttal was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252. Committee members: Pat Hickey (Chair), Nevadans for Responsible Drug Policy; Pam Graber, private citizen; and Kyle Stephens, Nevadans for Responsible Drug Policy. Pursuant to NRS 293.252(5)(f), the Committee does not believe the measure will have any environmental impact. This argument, with active hyperlinks, can also be found at www.nvsos.gov.

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[1] *Marijuana grow connected to Mexican cartel dismantled south of Pueblo,* The Denver Post, July 7, 2016, http://www.denverpost.com/2016/07/07/illegal-marijuana-grow-mexican-cartel-confiscated-pueblo/; *Mexican Drug Cartels are taking full advantage of Colorado's marijuana laws,* Denver7, April 7, 2016, http://www.thedenverchannel.com/news/local-news/marijuana/mexican-drug-cartels-are-taking-full-advantage-of-colorados-marijuana-laws; and *Feds worry that drug cartels are moving into Colo,* USA Today, February 14, 2014, http://www.usatoday.com/story/news/nation/2014/02/14/colorado-pot-drug-cartels/5485421/.

[2] Crime Reports, City of Denver, https://www.denvergov.org/content/dam/denvergov/Portals/720/documents/statistics/2016/Xcitywide_Reported_Offenses_2016.pdf and https://www.denvergov.org/content/dam/denvergov/Portals/720/documents/statistics/2015/Xcitywide_Reported_Offenses_2015.pdf.

[3] Email correspondence, Clark County School District, July 25, 2016.

ARGUMENT AGAINST PASSAGE

Vote NO on Question 2. It's bad for Nevada children, bad for Nevada families, and bad for Nevada taxpayers.

Question 2 is about one thing—making out-of-state pot companies rich at your expense. It will bring marijuana stores to your neighborhood allowing kid-friendly, pot gummy bears and candies.[1] It also allows the selling of high-potency pot—today's pot is more than 20 times stronger than the marijuana of the 1960s.[2] It gives shadowy corporations and Nevada's alcohol industry special monopoly-like powers, at the expense of ordinary Nevadans. Question 2 is funded and supported by special interests in Washington, D.C.[3], who simply want to get rich.

More specifically:

- Question 2 would allow marijuana shops in neighborhoods—where your children live—to sell pot-laced edibles that are easily mistaken for ordinary candy. Since Colorado legalized pot, marijuana use by youth is now ranked 56% higher than the national average.[4] Studies show THC, the psychoactive component in today's marijuana has devastating effects on the developing teenage brain.[5] So Question 2 isn't about protecting children, and would provide children with easier access to marijuana.

- Question 2 would permit new pot products with high potency levels. Fatal accidents involving stoned drivers have more than doubled in Washington where pot has been legalized.[6] Question 2 isn't about public health and safety. It's about marketing a harmful drug to people for profit.

- Studies show teenagers who regularly use marijuana have lower IQs[7] and higher dropout rates, and do worse on college entrance exams.[8] Nevada is currently near the bottom of most U.S. rankings in education. At a time when skilled graduates are needed to fill Nevada jobs, we can't afford to fall any further.

- Question 2 would give special treatment and benefits to corporate interests and select alcohol companies involved in recreational marijuana sales. So Question 2 isn't about business opportunities for average Nevadans, but about corporate handouts to a privileged few.

The black market for pot will not go away by legalizing marijuana. "We have plenty of cartel activity in Colorado [and] plenty of illegal activity that has not decreased at all," said Colorado Attorney General, Cynthia Coffman.[9]

Bottom line: Legalizing marijuana will send a message to Nevada's children and teens that drug use is acceptable.

Question 2 is bad for Nevada children, bad for Nevada's families, and bad for Nevada taxpayers. Just say NO, to Question 2.

The above argument was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252. Committee members: Pat Hickey (Chair), Nevadans for Responsible Drug Policy; Pam Graber, private citizen; and Kyle Stephens, Nevadans for Responsible Drug Policy. Pursuant to NRS 293.252(5)(f), the Committee does not believe the measure will have any environmental impact. This rebuttal, with active hyperlinks, can also be found at www.nvsos.gov.

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[1] *Reefer Sanity in the Marijuana Debate,* Project SAM Presentation, Kevin A. Sabet. Ph.D.
[2] Id.
[3] Coalition to Regulate Marijuana Like Alcohol, Contributions and Expenses Report, Nevada Secretary of State web site available at: https://nvsos.gov/SOSCandidateServices/AnonymousAccess/CEFDSearchUU/GroupDetails.aspx?o=Yno8I9PHpIECbJmkeEEJ7w%253d%253d.
[4] *The Legalization of Marijuana in Colorado: The Impact*, Volume 3, Rocky Mountain High Intensity Drug Trafficking Area, September 2015, http://wsnia.org/wp-content/uploads/2015/09/The-Legalization-of-Marijuana-in-Colorado-the-Impact.pdf.
[5] *Reefer Sanity in the Marijuana Debate,* Project SAM Presentation, Kevin A. Sabet. Ph.D.
[6] *Fatal Road Crashes Involving Marijuana Double after State Legalizes Drug,* AAA Newsroom, May 10, 2016, http://newsroom.aaa.com/2016/05/fatal-road-crashes-involving-marijuana-double-state-legalizes-drug/.
[7] *Reefer Sanity in the Marijuana Debate,* Project SAM Presentation, Kevin A. Sabet. Ph.D.

[8] Cobb-Clark, Deborah A. and Kassenboehmer, Sonja C. and Le, Trinh and McVicar, Duncan and Zhang, Rong, *'High'-School: The Relationship between Early Marijuana Use and Educational Outcomes* (October 2013), Melbourne Institute Working Paper No. 38/13, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2359183.
[9] *Special report, 'Clearing the Haze:' Black market is thriving in Colorado,* The Gazette, March 20, 2015, http://gazette.com/special-report-clearing-the-haze-black-market-is-thriving-in-colorado/article/1548305.

REBUTTAL TO ARGUMENT AGAINST PASSAGE

"Reefer Madness." The term has been used for decades to describe exaggerated claims about marijuana that are designed to scare people into keeping marijuana illegal. We hope you recognize the argument above as modern-day Reefer Madness.

Here are just a few examples:

- The largest and most recent surveys of teen marijuana use showed that Colorado's marijuana use rate among high school students is actually below the national average.[1]

- Since Colorado regulated medical marijuana and then adult-use marijuana, high school dropout rates have actually fallen.[2]

- Regarding things like gummy bears, the argument above fails to mention that the Colorado legislature recently banned marijuana products shaped like animals (or other attractive figures)[3] and we expect thoughtful Nevada lawmakers will do the same.

- The argument above suggest that Question 2 would allow marijuana sales "where your children live," despite the fact that the measure gives all localities the ability to ban sales in residential districts.

Don't let opponents of Question 2 scare you into keeping marijuana illegal. That would simply leave the marijuana market in the hands of drug cartels and criminals. Let's put criminals out of business. Let's regulate marijuana and generate tax revenue for schools.

Please vote Yes on Question 2!

The above rebuttal was submitted by the Ballot Question Committee composed of citizens in favor of this question as provided for in NRS 293.252. Committee members: Amanda Connor (Chair), private citizen; Riana Durrett, Riana Durrett PLLC; and John Ritter, Coalition to Regulate Marijuana Like Alcohol. This rebuttal, with active hyperlinks, can also be found at www.nvsos.gov.

[1] Healthy Kids Colorado Survey 2015, *Marijuana Use Among Youth in Colorado,* https://www.colorado.gov/pacific/sites/default/files/PF_Youth_MJ-Infographic-Digital.pdf.

[2] Colorado Department of Education, *Colorado Dropout Data Dashboard*, http://www2.cde.state.co.us/cdereval/dropoutdatamap2014.asp; and *Dropout Data for 2013-14 – Historical Overview,* http://www.cde.state.co.us/cdereval/dropoutcurrenthistory.
[3] *Ban On Pot Gummy Bears signed into Colorado Law,* CBS Denver 4, June 10, 2016, http://denver.cbslocal.com/2016/06/10/ban-on-pot-gummy-bears-signed-into-colorado-law/.

FISCAL NOTE

FINANCIAL IMPACT – CANNOT BE DETERMINED

OVERVIEW

Question 2 proposes to amend the *Nevada Revised Statutes* to add several new sections that would require the Department of Taxation to regulate and administer the operation of facilities that cultivate, produce, and dispense marijuana products in the state. Question 2 additionally requires the Department to collect a 15 percent excise tax upon the wholesale value of marijuana sold by a marijuana cultivation facility in Nevada. The proceeds from the excise tax, less costs incurred by the Department of Taxation and counties, cities, and towns to carry out certain provisions of Question 2, must be deposited in the State Distributive School Account.

Question 2 also decriminalizes the personal use, possession, or cultivation of marijuana under certain circumstances and provides for criminal penalties related to the unlawful cultivation, consumption, manufacture, or distribution of marijuana.

FINANCIAL IMPACT OF QUESTION 2

State and local governments will receive additional revenue from the following provisions of Question 2:

1. The Department of Taxation shall collect a one-time fee of $5,000 from each applicant for a marijuana establishment license.
2. The Department of Taxation may impose fees for the initial issuance and annual renewal of marijuana establishment licenses for retail stores, cultivation facilities, product manufacturing facilities, distributors, and testing facilities, with the maximum fee that can be imposed for each license specified in Question 2.
3. An excise tax of 15 percent must be collected on the fair market wholesale value of marijuana sold by a marijuana cultivation facility and remitted to the Department of Taxation. The Department must establish regulations to determine the fair market wholesale value for marijuana in the state.
4. Marijuana, marijuana products, and marijuana paraphernalia sold as tangible personal property by a retail marijuana store would be subject to state and local sales and use taxes under current statute.

The proceeds from the application fee, license fees, and excise tax, less costs incurred by the Department of Taxation and counties, cities, and towns to carry out certain provisions of