

ASSEMBLY BILL NO. 326—ASSEMBLYMAN ROBERTS

MARCH 17, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing cannabis.
(BDR 56-641)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to cannabis; authorizing a district attorney or city attorney to bring a civil action against a person for engaging in certain activities relating to cannabis without a license or registration card issued by the Cannabis Compliance Board; requiring advertising by a cannabis establishment to include the name and license number or other unique identifier of the cannabis establishment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prohibits a person from possessing, delivering or producing
2 marijuana or paraphernalia, or aiding and abetting another in doing so, but creates
3 an exemption from state prosecution for such crimes in certain circumstances for
4 persons who are at least 21 years of age or hold a registry identification card, letter
5 of approval, cannabis establishment agent registration card, adult-use cannabis
6 establishment license or medical cannabis establishment license. A person who
7 engages in activities relating to cannabis for which a license or registration card is
8 required without the appropriate license or registration card does not qualify for
9 such an exemption and is therefore subject to prosecution for such crimes. (NRS
10 453.316, 453.321, 453.336, 453.337, 453.339, 453.3393, 678C.200, 678D.200)
11 Existing law additionally prohibits a person from engaging in the business of a
12 medical cannabis establishment or adult-use cannabis establishment without a
13 license issued by the Cannabis Compliance Board. (NRS 678B.210, 678B.250) If
14 a licensee has violated the provisions of law relating to the regulation of cannabis,
15 the Board may impose certain penalties, including the revocation of the license of
16 the licensee and the imposition of a civil penalty. (NRS 678A.600) **Section 1.5** of
17 this bill provides that if a person engages in certain activities relating to cannabis
18 without a license or registration card issued by the Board in violation of the
19 provisions of existing law governing the regulation of cannabis, the district attorney
20 or city attorney for the jurisdiction in which the violation occurred is authorized to



21 bring an action against the person to recover a civil penalty of not more \$50,000 for
22 each violation. **Section 1.5** also authorizes a district attorney or city attorney to
23 bring an action to enjoin such violations.

24 Under existing law, certain activities concerning advertising by a cannabis
25 establishment are prohibited or required, such as prohibiting a cannabis
26 establishment from engaging in advertising which contains a statement or
27 illustration that is false or misleading and requiring advertising to contain a warning
28 that cannabis is for use only by adults who are 21 years of age or older. (NRS
29 678B.520) **Section 2** of this bill requires that all advertising by a cannabis
30 establishment contain: (1) the name of the cannabis establishment; and (2) the
31 adult-use cannabis establishment license number or other unique identifier or the
32 medical cannabis establishment license number or other unique identifier of
33 the cannabis establishment.

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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 1.5.** Chapter 678A of NRS is hereby amended by adding
3 thereto a new section to read as follows:

4 *1. A person who does not hold a license and who, in violation*
5 *of the provisions of this title:*

6 *(a) Cultivates, delivers, transfers, supplies or sells cannabis; or*

7 *(b) Manufacturers, delivers, transfers, supplies or sells*
8 *cannabis products,*

9 *↳ is liable for a civil penalty of not more than \$50,000 to be*
10 *recovered in an action brought by the district attorney or city*
11 *attorney for the jurisdiction in which the violation occurred. Any*
12 *civil penalty collected by a district attorney or city attorney*
13 *pursuant to this section must be deposited in the county or city*
14 *treasury, as applicable.*

15 *2. The district attorney or city attorney of any county or city,*
16 *respectively, in which a person engages in any of the conduct*
17 *described in subsection 1 in violation of the provisions of this title*
18 *may bring an action to enjoin the violation.*

19 **Sec. 2.** NRS 678B.520 is hereby amended to read as follows:

20 678B.520 1. Each cannabis establishment shall, in
21 consultation with the Board, cooperate to ensure that all cannabis
22 products offered for sale:

23 (a) Are labeled clearly and unambiguously:

24 (1) As cannabis or medical cannabis with the words "THIS
25 IS A MEDICAL CANNABIS PRODUCT" or "THIS IS A
26 CANNABIS PRODUCT," as applicable, in bold type; and

27 (2) As required by the provisions of this chapter and chapters
28 678C and 678D of NRS.

29 (b) Are not presented in packaging that contains an image of a
30 cartoon character, mascot, action figure, balloon or toy, except that



1 such an item may appear in the logo of the cannabis production
2 facility which produced the product.

3 (c) Are regulated and sold on the basis of the concentration of
4 THC in the products and not by weight.

5 (d) Are packaged and labeled in such a manner as to allow
6 tracking by way of an inventory control system.

7 (e) Are not packaged and labeled in a manner which is modeled
8 after a brand of products primarily consumed by or marketed to
9 children.

10 (f) Are labeled in a manner which indicates the amount of THC
11 in the product, measured in milligrams, and includes a statement
12 that the product contains cannabis and its potency was tested with an
13 allowable variance of the amount determined by the Board by
14 regulation.

15 (g) Are not labeled or marketed as candy.

16 2. A cannabis production facility shall not produce cannabis
17 products in any form that:

18 (a) Is or appears to be a lollipop.

19 (b) Bears the likeness or contains characteristics of a real or
20 fictional person, animal or fruit, including, without limitation, a
21 caricature, cartoon or artistic rendering.

22 (c) Is modeled after a brand of products primarily consumed by
23 or marketed to children.

24 (d) Is made by applying concentrated cannabis, as defined in
25 NRS 453.042, to a commercially available candy or snack food item
26 other than dried fruit, nuts or granola.

27 3. A cannabis production facility shall:

28 (a) Seal any cannabis product that consists of cookies or
29 brownies in a bag or other container which is not transparent.

30 (b) Affix a label to each cannabis product which includes
31 without limitation, in a manner which must not mislead consumers,
32 the following information:

33 (1) The words "Keep out of reach of children";

34 (2) A list of all ingredients used in the cannabis product;

35 (3) A list of all allergens in the cannabis product; and

36 (4) The total content of THC measured in milligrams.

37 (c) Maintain a hand washing area with hot water, soap and
38 disposable towels which is located away from any area in which
39 cannabis products are cooked or otherwise prepared.

40 (d) Require each person who handles cannabis products to
41 restrain his or her hair, wear clean clothing and keep his or her
42 fingernails neatly trimmed.

43 (e) Package all cannabis products produced by the cannabis
44 production facility on the premises of the cannabis production
45 facility.



1 4. A cannabis establishment shall not engage in advertising that
2 in any way makes cannabis or cannabis products appeal to children,
3 including, without limitation, advertising which uses an image of a
4 cartoon character, mascot, action figure, balloon, fruit or toy.

5 5. Each cannabis sales facility shall offer for sale containers for
6 the storage of cannabis and cannabis products which lock and are
7 designed to prohibit children from unlocking and opening the
8 container.

9 6. A cannabis sales facility shall:

10 (a) Include a written notification with each sale of cannabis or
11 cannabis products which advises the purchaser:

12 (1) To keep cannabis and cannabis products out of the reach
13 of children;

14 (2) That cannabis products can cause severe illness in
15 children;

16 (3) That allowing children to ingest cannabis or cannabis
17 products or storing cannabis or cannabis products in a location
18 which is accessible to children may result in an investigation by an
19 agency which provides child welfare services or criminal
20 prosecution for child abuse or neglect;

21 (4) That the intoxicating effects of edible cannabis products
22 may be delayed by 2 hours or more and users of edible cannabis
23 products should initially ingest a small amount of the product, then
24 wait at least 120 minutes before ingesting any additional amount of
25 the product;

26 (5) That pregnant women should consult with a physician
27 before ingesting cannabis or cannabis products;

28 (6) That ingesting cannabis or cannabis products with
29 alcohol or other drugs, including prescription medication, may result
30 in unpredictable levels of impairment and that a person should
31 consult with a physician before doing so;

32 (7) That cannabis or cannabis products can impair
33 concentration, coordination and judgment and a person should not
34 operate a motor vehicle while under the influence of cannabis or
35 cannabis products; and

36 (8) That ingestion of any amount of cannabis or cannabis
37 products before driving may result in criminal prosecution for
38 driving under the influence.

39 (b) Enclose all cannabis and cannabis products in opaque, child-
40 resistant packaging upon sale.

41 7. A cannabis sales facility shall allow any person who is at
42 least 21 years of age to enter the premises of the cannabis sales
43 facility.

44 8. If the health authority, as defined in NRS 446.050, where a
45 cannabis production facility or cannabis sales facility which sells



1 edible cannabis products is located requires persons who handle
2 food at a food establishment to obtain certification, the cannabis
3 production facility or cannabis sales facility shall ensure that at least
4 one employee maintains such certification.

5 9. A cannabis production facility may sell a commodity or
6 product made using hemp, as defined in NRS 557.160, or containing
7 cannabidiol to a cannabis sales facility.

8 10. In addition to any other product authorized by the
9 provisions of this title, a cannabis sales facility may sell:

10 (a) Any commodity or product made using hemp, as defined in
11 NRS 557.160;

12 (b) Any commodity or product containing cannabidiol with a
13 THC concentration of not more than 0.3 percent; and

14 (c) Any other product specified by regulation of the Board.

15 11. A cannabis establishment:

16 (a) Shall not engage in advertising which contains any statement
17 or illustration that:

18 (1) Is false or misleading;

19 (2) Promotes overconsumption of cannabis or cannabis
20 products;

21 (3) Depicts the actual consumption of cannabis or cannabis
22 products; or

23 (4) Depicts a child or other person who is less than 21 years
24 of age consuming cannabis or cannabis products or objects
25 suggesting the presence of a child, including, without limitation,
26 toys, characters or cartoons, or contains any other depiction which is
27 designed in any manner to be appealing to or encourage
28 consumption of cannabis or cannabis products by a person who is
29 less than 21 years of age.

30 (b) Shall not advertise in any publication or on radio, television
31 or any other medium if 30 percent or more of the audience of that
32 medium is reasonably expected to be persons who are less than 21
33 years of age.

34 (c) Shall not place an advertisement:

35 (1) Within 1,000 feet of a public or private school,
36 playground, public park or library, but may maintain such an
37 advertisement if it was initially placed before the school,
38 playground, public park or library was located within 1,000 feet of
39 the location of the advertisement;

40 (2) On or inside of a motor vehicle used for public
41 transportation or any shelter for public transportation;

42 (3) At a sports event to which persons who are less than 21
43 years of age are allowed entry; or



1 (4) At an entertainment event if it is reasonably estimated
2 that 30 percent or more of the persons who will attend that event are
3 less than 21 years of age.

4 (d) Shall not advertise or offer any cannabis or cannabis product
5 as "free" or "donated" without a purchase.

6 (e) Shall ensure that all advertising by the cannabis
7 establishment contains such warnings as may be prescribed by the
8 Board, which must include, without limitation, the following words:

9 (1) "Keep out of reach of children"; and

10 (2) "For use only by adults 21 years of age and older."

11 *(f) Shall ensure that all advertising by the cannabis*
12 *establishment contain:*

13 *(1) The name of the cannabis establishment; and*

14 *(2) The adult-use cannabis establishment license number*
15 *or medical cannabis establishment license number of the cannabis*
16 *establishment or any other unique identifier assigned to the*
17 *cannabis establishment by the Board.*

18 12. Nothing in subsection 11 shall be construed to prohibit a
19 local government, pursuant to chapter 244, 268 or 278 of NRS, from
20 adopting an ordinance for the regulation of advertising relating to
21 cannabis which is more restrictive than the provisions of subsection
22 11 relating to:

23 (a) The number, location and size of signs, including, without
24 limitation, any signs carried or displayed by a natural person;

25 (b) Handbills, pamphlets, cards or other types of advertisements
26 that are distributed, excluding an advertisement placed in a
27 newspaper of general circulation, trade publication or other form of
28 print media;

29 (c) Any stationary or moving display that is located on or near
30 the premises of a cannabis establishment; and

31 (d) The content of any advertisement used by a cannabis
32 establishment if the ordinance sets forth specific prohibited content
33 for such an advertisement.

34 13. If a cannabis establishment engages in advertising for
35 which it is required to determine the percentage of persons who are
36 less than 21 years of age and who may reasonably be expected to
37 view or hear the advertisement, the cannabis establishment shall
38 maintain documentation for not less than 5 years after the date on
39 which the advertisement is first broadcasted, published or otherwise
40 displayed that demonstrates the manner in which the cannabis
41 establishment determined the reasonably expected age of the
42 audience for that advertisement.

43 14. In addition to any other penalties provided for by law, the
44 Board may impose a civil penalty upon a cannabis establishment
45 that violates the provisions of subsection 11 or 13 as follows:



1 (a) For the first violation in the immediately preceding 2 years, a
2 civil penalty not to exceed \$1,250.

3 (b) For the second violation in the immediately preceding 2
4 years, a civil penalty not to exceed \$2,500.

5 (c) For the third violation in the immediately preceding 2 years,
6 a civil penalty not to exceed \$5,000.

7 (d) For the fourth violation in the immediately preceding 2
8 years, a civil penalty not to exceed \$10,000.

9 15. As used in this section, "motor vehicle used for public
10 transportation" does not include a taxicab, as defined in
11 NRS 706.124.

12 **Sec. 3.** This act becomes effective on July 1, 2021.



