

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.

~

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 the Board to adopt regulations relating to a cannabis establishment that is subject to a receivership; authorizing the Board to adopt regulations governing the transfer of licenses which give a priority in processing such transfers to certain types of transfers; 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 **Section 1.7** of this bill requires the Board to adopt regulations prescribing
25 procedures and requirements by which a person who has been appointed by a court
26 as a receiver may take possession of, manage the operations of and take any other
27 action authorized by the court with respect to a cannabis establishment subject to a
28 receivership. **Section 1.7** requires such regulations to: (1) set forth the
29 qualifications for such a receiver; (2) prescribe procedures and requirements for
30 certain actions taken by a receiver; and (3) require a receiver to obtain a cannabis
31 establishment agent registration card and comply with all other applicable laws.

32 Existing law requires the Board to adopt regulations prescribing procedures and
33 requirements by which the holder of a license issued by the Board may transfer the
34 license to another qualified person. (NRS 678B.380) **Section 1.9** of this bill
35 authorizes such regulations to give priority in the processing of such a transfer to
36 transfers in which the transferor is: (1) subject to a receivership; (2) involved in a
37 recapitalization; or (3) a party to a court proceeding involving financial distress.

38 Under existing law, certain activities concerning advertising by a cannabis
39 establishment are prohibited or required, such as prohibiting a cannabis
40 establishment from engaging in advertising which contains a statement or
41 illustration that is false or misleading and requiring advertising to contain a warning
42 that cannabis is for use only by adults who are 21 years of age or older. (NRS
43 678B.520) **Section 2** of this bill requires that all advertising by a cannabis
44 establishment contain: (1) the name of the cannabis establishment; and (2) the
45 adult-use cannabis establishment license number or other unique identifier or the
46 medical cannabis establishment license number or other unique identifier of
47 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*



1 *pursuant to this section must be deposited in the county or city*
2 *treasury, as applicable.*

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

7 **Sec. 1.7.** Chapter 678B of NRS is hereby amended by adding
8 thereto a new section to read as follows:

9 *The Board shall adopt regulations which prescribe procedures*
10 *and requirements by which a receiver appointed by a court may*
11 *take possession of, manage the operations of and take any other*
12 *action authorized by a court with respect to a cannabis*
13 *establishment subject to a receivership. Such regulations must,*
14 *without limitation:*

15 1. *Set forth the required qualifications for such a receiver,*
16 *which must include, without limitation, requiring that the receiver*
17 *have:*

18 (a) *Experience in or knowledge of the cannabis industry;*

19 (b) *Experience as a receiver appointed by a court;*

20 (c) *The knowledge and skills necessary to make reasonable*
21 *financial decisions with respect to the finances of a cannabis*
22 *establishment subject to a receivership; and*

23 (d) *Adequate financial capacity to fulfill the duties of a*
24 *receiver;*

25 2. *Prescribe procedures and requirements for the*
26 *management, liquidation, sale or transfer of a cannabis*
27 *establishment subject to a receivership by such a receiver,*
28 *including, without limitation, procedures and requirements for the*
29 *transfer of a license by a receiver in accordance with the*
30 *regulations adopted pursuant to NRS 678B.380; and*

31 3. *Require such a receiver to:*

32 (a) *Obtain a cannabis establishment agent registration card;*
33 *and*

34 (b) *Comply with all applicable provisions of this title and the*
35 *regulations adopted pursuant thereto.*

36 **Sec. 1.9.** NRS 678B.380 is hereby amended to read as follows:
37 678B.380 1. Except as otherwise provided by regulations
38 adopted by the Board pursuant to subsection 2, the following are
39 nontransferable:

40 (a) A cannabis establishment agent registration card.

41 (b) A cannabis establishment agent registration card for a
42 cannabis executive.

43 (c) A medical cannabis establishment license.

44 (d) An adult-use cannabis establishment license.



1 2. The Board shall adopt regulations which prescribe
2 procedures and requirements by which a holder of a license may
3 transfer the license to another party who is qualified to hold such a
4 license pursuant to the provisions of this chapter. *Such regulations*
5 *may give priority in the processing of transfers of licenses to a*
6 *transfer in which the transferor is:*

- 7 (a) *Subject to a receivership;*
- 8 (b) *Involved in a recapitalization; or*
- 9 (c) *A party to a court proceeding involving financial distress.*

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

11 678B.520 1. Each cannabis establishment shall, in
12 consultation with the Board, cooperate to ensure that all cannabis
13 products offered for sale:

14 (a) Are labeled clearly and unambiguously:

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

18 (2) As required by the provisions of this chapter and chapters
19 678C and 678D of NRS.

20 (b) Are not presented in packaging that contains an image of a
21 cartoon character, mascot, action figure, balloon or toy, except that
22 such an item may appear in the logo of the cannabis production
23 facility which produced the product.

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

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

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

31 (f) Are labeled in a manner which indicates the amount of THC
32 in the product, measured in milligrams, and includes a statement
33 that the product contains cannabis and its potency was tested with an
34 allowable variance of the amount determined by the Board by
35 regulation.

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

37 2. A cannabis production facility shall not produce cannabis
38 products in any form that:

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

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

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



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

4 3. A cannabis production facility shall:

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

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

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

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

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

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

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

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

20 (e) Package all cannabis products produced by the cannabis
21 production facility on the premises of the cannabis production
22 facility.

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

27 5. Each cannabis sales facility shall offer for sale containers for
28 the storage of cannabis and cannabis products which lock and are
29 designed to prohibit children from unlocking and opening the
30 container.

31 6. A cannabis sales facility shall:

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

34 (1) To keep cannabis and cannabis products out of the reach
35 of children;

36 (2) That cannabis products can cause severe illness in
37 children;

38 (3) That allowing children to ingest cannabis or cannabis
39 products or storing cannabis or cannabis products in a location
40 which is accessible to children may result in an investigation by an
41 agency which provides child welfare services or criminal
42 prosecution for child abuse or neglect;

43 (4) That the intoxicating effects of edible cannabis products
44 may be delayed by 2 hours or more and users of edible cannabis
45 products should initially ingest a small amount of the product, then



1 wait at least 120 minutes before ingesting any additional amount of
2 the product;

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

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

9 (7) That cannabis or cannabis products can impair
10 concentration, coordination and judgment and a person should not
11 operate a motor vehicle while under the influence of cannabis or
12 cannabis products; and

13 (8) That ingestion of any amount of cannabis or cannabis
14 products before driving may result in criminal prosecution for
15 driving under the influence.

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

18 7. A cannabis sales facility shall allow any person who is at
19 least 21 years of age to enter the premises of the cannabis sales
20 facility.

21 8. If the health authority, as defined in NRS 446.050, where a
22 cannabis production facility or cannabis sales facility which sells
23 edible cannabis products is located requires persons who handle
24 food at a food establishment to obtain certification, the cannabis
25 production facility or cannabis sales facility shall ensure that at least
26 one employee maintains such certification.

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

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

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

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

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

37 11. A cannabis establishment:

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

40 (1) Is false or misleading;

41 (2) Promotes overconsumption of cannabis or cannabis
42 products;

43 (3) Depicts the actual consumption of cannabis or cannabis
44 products; or



1 (4) Depicts a child or other person who is less than 21 years
2 of age consuming cannabis or cannabis products or objects
3 suggesting the presence of a child, including, without limitation,
4 toys, characters or cartoons, or contains any other depiction which is
5 designed in any manner to be appealing to or encourage
6 consumption of cannabis or cannabis products by a person who is
7 less than 21 years of age.

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

12 (c) Shall not place an advertisement:

13 (1) Within 1,000 feet of a public or private school,
14 playground, public park or library, but may maintain such an
15 advertisement if it was initially placed before the school,
16 playground, public park or library was located within 1,000 feet of
17 the location of the advertisement;

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

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

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

25 (d) Shall not advertise or offer any cannabis or cannabis product
26 as “free” or “donated” without a purchase.

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

30 (1) “Keep out of reach of children”; and

31 (2) “For use only by adults 21 years of age and older.”

32 *(f) Shall ensure that all advertising by the cannabis*
33 *establishment contains:*

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

35 *(2) The adult-use cannabis establishment license number*
36 *or medical cannabis establishment license number of the cannabis*
37 *establishment or any other unique identifier assigned to the*
38 *cannabis establishment by the Board.*

39 12. Nothing in subsection 11 shall be construed to prohibit a
40 local government, pursuant to chapter 244, 268 or 278 of NRS, from
41 adopting an ordinance for the regulation of advertising relating to
42 cannabis which is more restrictive than the provisions of subsection
43 11 relating to:

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



1 (b) Handbills, pamphlets, cards or other types of advertisements
2 that are distributed, excluding an advertisement placed in a
3 newspaper of general circulation, trade publication or other form of
4 print media;

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

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

10 13. If a cannabis establishment engages in advertising for
11 which it is required to determine the percentage of persons who are
12 less than 21 years of age and who may reasonably be expected to
13 view or hear the advertisement, the cannabis establishment shall
14 maintain documentation for not less than 5 years after the date on
15 which the advertisement is first broadcasted, published or otherwise
16 displayed that demonstrates the manner in which the cannabis
17 establishment determined the reasonably expected age of the
18 audience for that advertisement.

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

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

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

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

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

30 15. As used in this section, "motor vehicle used for public
31 transportation" does not include a taxicab, as defined in
32 NRS 706.124.

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

