
ASSEMBLY BILL NO. 503—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE DEPARTMENT OF ADMINISTRATION)

MARCH 24, 2003

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to medical use of marijuana. (BDR 40-1248)

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 the medical use of marijuana; defining the term “propagation facility”; expanding the definition of “attending physician” to include certain physicians who are licensed to practice osteopathic medicine; revising the definition of “usable marijuana” to include the seeds of a plant of the genus *Cannabis*; providing that, with the written authorization of the State Department of Agriculture, not more than two persons who engage in the medical use of marijuana may use a single propagation facility to produce marijuana for both such persons; providing that such a single propagation facility must not contain an amount of marijuana which exceeds the amount allowed for two persons; requiring that a person with a qualifying medical condition to whom the Department issues a registry identification card be a resident of this state; revising the types of information which must be set forth upon a registry identification card; authorizing the Department to establish by regulation certain fees relating to the application for and issuance of a registry identification card; and providing other matters properly relating thereto.



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

- 1 **Section 1.** Chapter 453A of NRS is hereby amended by
2 adding thereto a new section to read as follows:
3 *“Propagation facility” means a parcel of privately owned real*
4 *property on which a person who holds a valid registry*
5 *identification card issued to him pursuant to NRS 453A.220 or*
6 *453A.250 produces marijuana for medical use in accordance with*
7 *this chapter.*
- 8 **Sec. 2.** NRS 453A.010 is hereby amended to read as follows:
9 453A.010 As used in this chapter, unless the context otherwise
10 requires, the words and terms defined in NRS 453A.020 to
11 453A.170, inclusive, *and section 1 of this act* have the meanings
12 ascribed to them in those sections.
- 13 **Sec. 3.** NRS 453A.030 is hereby amended to read as follows:
14 453A.030 “Attending physician” means a physician who:
15 1. Is licensed to practice ~~medicine~~ :
16 (a) *Medicine* pursuant to the provisions of chapter 630 of NRS;
17 or
18 (b) *Osteopathic medicine pursuant to the provisions of chapter*
19 *633 of NRS*; and
20 2. Has ~~primary~~ responsibility for the care and treatment of a
21 person diagnosed with a chronic or debilitating medical condition.
- 22 **Sec. 4.** NRS 453A.160 is hereby amended to read as follows:
23 453A.160 1. “Usable marijuana” means ~~the~~ :
24 (a) *The* dried leaves and flowers of a plant of the genus
25 *Cannabis*, and any mixture or preparation thereof, that are
26 appropriate for the medical use of marijuana ~~+~~; and
27 (b) *The seeds of a plant of the genus Cannabis.*
28 2. The term does not include the ~~seeds,~~ stalks and roots of the
29 plant.
- 30 **Sec. 5.** NRS 453A.200 is hereby amended to read as follows:
31 453A.200 1. Except as otherwise provided in this section and
32 NRS 453A.300, a person who holds a valid registry identification
33 card issued to him pursuant to NRS 453A.220 or 453A.250 is
34 exempt from state prosecution for:
35 (a) Possession, delivery or production of marijuana;
36 (b) Possession or delivery of drug paraphernalia;
37 (c) Aiding and abetting another in the possession, delivery or
38 production of marijuana;
39 (d) Aiding and abetting another in the possession or delivery of
40 drug paraphernalia;
41 (e) Any combination of the acts described in paragraphs (a) to
42 (d), inclusive; and



1 (f) Any other criminal offense in which the possession, delivery
2 or production of marijuana or the possession or delivery of drug
3 paraphernalia is an element.

4 2. In addition to the provisions of subsection 1, no person may
5 be subject to state prosecution for constructive possession,
6 conspiracy or any other criminal offense solely for being in the
7 presence or vicinity of the medical use of marijuana in accordance
8 with the provisions of this chapter.

9 3. ~~[The]~~ *Except as otherwise provided in subsection 4, the*
10 exemption from state prosecution set forth in subsection 1 applies
11 only to the extent that a person who holds a registry identification
12 card issued to him pursuant to paragraph (a) of subsection 1 of NRS
13 453A.220 and the designated primary caregiver, if any, of such a
14 person:

15 (a) Engage in or assist in, as applicable, the medical use of
16 marijuana in accordance with the provisions of this chapter as
17 justified to mitigate the symptoms or effects of the person's chronic
18 or debilitating medical condition; and

19 (b) Do not, at any one time, collectively possess, deliver or
20 produce more than:

- 21 (1) One ounce of usable marijuana;
- 22 (2) Three mature marijuana plants; and
- 23 (3) Four immature marijuana plants.

24 4. *With the written authorization of the Department and*
25 *except as otherwise provided in this subsection, not more than two*
26 *persons who hold registry identification cards issued to them*
27 *pursuant to paragraph (a) of subsection 1 of NRS 453A.220 and*
28 *their designated primary caregivers, if any, may use a single*
29 *propagation facility to produce marijuana for both such persons*
30 *who hold registry identification cards issued to them pursuant to*
31 *paragraph (a) of subsection 1 of NRS 453A.220. If the use of a*
32 *single propagation facility to produce marijuana for not more*
33 *than two persons is authorized by the Department pursuant to this*
34 *subsection:*

35 (a) *The propagation facility must not, at any one time, contain*
36 *more than:*

- 37 (1) *Two ounces of usable marijuana;*
- 38 (2) *Six mature marijuana plants; and*
- 39 (3) *Eight immature marijuana plants; and*

40 (b) *The exemption from state prosecution set forth in*
41 *subsection 1 applies only to the extent that the persons who hold*
42 *registry identification cards issued to them pursuant to paragraph*
43 *(a) of subsection 1 of NRS 453A.220 and the designated primary*
44 *caregivers, if any, of such persons:*



- 1 (1) *Engage in or assist in, as applicable, the medical use of*
2 *marijuana in accordance with the provisions of this chapter as*
3 *justified to mitigate the symptoms or effects of the persons'*
4 *chronic or debilitating medical conditions; and*
5 (2) *Do not, at any one time, collectively possess, deliver or*
6 *produce more than:*
7 (I) *Two ounces of usable marijuana;*
8 (II) *Six mature marijuana plants; and*
9 (III) *Eight immature marijuana plants.*
10 5. If the persons described in subsection 3 possess, deliver or
11 produce marijuana in an amount which exceeds the amount
12 described in paragraph (b) of that subsection ~~(4)~~ *or if the persons*
13 *described in subsection 4 possess, deliver or produce marijuana in*
14 *an amount which exceeds the amount described in subparagraph*
15 *(2) of paragraph (b) of that subsection,* those persons:
16 (a) Are not exempt from state prosecution for possession,
17 delivery or production of marijuana.
18 (b) May establish an affirmative defense to charges of
19 possession, delivery or production of marijuana, or any combination
20 of those acts, in the manner set forth in NRS 453A.310.
21 **Sec. 6.** NRS 453A.210 is hereby amended to read as follows:
22 453A.210 1. The Department shall establish and maintain a
23 program for the issuance of registry identification cards to persons
24 who meet the requirements of this section.
25 2. Except as otherwise provided in subsections 3 and 5, the
26 Department or its designee shall issue a registry identification card
27 to a person who *is a resident of this state and who* submits an
28 application on a form prescribed by the Department accompanied by
29 the following:
30 (a) Valid, written documentation from the person's attending
31 physician stating that:
32 (1) The person has been diagnosed with a chronic or
33 debilitating medical condition;
34 (2) The medical use of marijuana may mitigate the symptoms
35 or effects of that condition; and
36 (3) The attending physician has explained the possible risks
37 and benefits of the medical use of marijuana;
38 (b) The name, address, telephone number, social security
39 number and date of birth of the person;
40 (c) *Proof satisfactory to the Department that the person is a*
41 *resident of this state;*
42 (d) The name, address and telephone number of the person's
43 attending physician; and
44 ~~(d)~~ (e) If the person elects to designate a primary caregiver at
45 the time of application:



- 1 (1) The name, address, telephone number and social security
2 number of the designated primary caregiver; and
- 3 (2) A written, signed statement from his attending physician
4 in which the attending physician approves of the designation of the
5 primary caregiver.
- 6 3. The Department or its designee shall issue a registry
7 identification card to a person who is under 18 years of age if:
- 8 (a) The person submits the materials required pursuant to
9 subsection 2; and
- 10 (b) The custodial parent or legal guardian with responsibility for
11 health care decisions for the person under 18 years of age signs a
12 written statement setting forth that:
- 13 (1) The attending physician of the person under 18 years of
14 age has explained to that person and to the custodial parent or legal
15 guardian with responsibility for health care decisions for the person
16 under 18 years of age the possible risks and benefits of the medical
17 use of marijuana;
- 18 (2) The custodial parent or legal guardian with responsibility
19 for health care decisions for the person under 18 years of age
20 consents to the use of marijuana by the person under 18 years of age
21 for medical purposes;
- 22 (3) The custodial parent or legal guardian with responsibility
23 for health care decisions for the person under 18 years of age agrees
24 to serve as the designated primary caregiver for the person under 18
25 years of age; and
- 26 (4) The custodial parent or legal guardian with responsibility
27 for health care decisions for the person under 18 years of age agrees
28 to control the acquisition of marijuana and the dosage and frequency
29 of use by the person under 18 years of age.
- 30 4. The form prescribed by the Department to be used by a
31 person applying for a registry identification card pursuant to this
32 section must be a form that is in quintuplicate. Upon receipt of an
33 application that is completed and submitted pursuant to this section,
34 the Department shall:
- 35 (a) Record on the application the date on which it was received;
- 36 (b) Retain one copy of the application for the records of the
37 Department; and
- 38 (c) Distribute the other four copies of the application in the
39 following manner:
- 40 (1) One copy to the person who submitted the application;
- 41 (2) One copy to the applicant's designated primary caregiver,
42 if any;
- 43 (3) One copy to the Central Repository for Nevada Records
44 of Criminal History; and
- 45 (4) One copy to the Board of Medical Examiners.



1 The Central Repository for Nevada Records of Criminal History
2 shall report to the Department its findings as to the criminal history,
3 if any, of an applicant within 15 days after receiving a copy of an
4 application pursuant to subparagraph (3) of paragraph (c). The
5 Board of Medical Examiners shall report to the Department its
6 findings as to the licensure and standing of the applicant's attending
7 physician within 15 days after receiving a copy of an application
8 pursuant to subparagraph (4) of paragraph (c).

9 5. The Department shall verify the information contained in an
10 application submitted pursuant to this section and shall approve or
11 deny an application within 30 days after receiving the application.
12 The Department may contact an applicant, his attending physician
13 and designated primary caregiver, if any, by telephone to determine
14 that the information provided on or accompanying the application is
15 accurate. The Department may deny an application only on the
16 following grounds:

17 (a) The applicant failed to provide the information required
18 pursuant to subsections 2 and 3 to:

- 19 (1) Establish his chronic or debilitating medical condition; or
20 (2) Document his consultation with an attending physician
21 regarding the medical use of marijuana in connection with that
22 condition;

23 (b) The applicant failed to comply with regulations adopted by
24 the Department, including, without limitation, the regulations
25 adopted by the Director pursuant to NRS 453A.740;

26 (c) The Department determines that the information provided by
27 the applicant was falsified;

28 (d) The Department determines that the attending physician of
29 the applicant is not licensed to practice medicine in this state or is
30 not in good standing, as reported by the Board of Medical
31 Examiners;

32 (e) The Department determines that the applicant, or his
33 designated primary caregiver, if applicable, has been convicted of
34 knowingly or intentionally selling a controlled substance;

35 (f) The Department has prohibited the applicant from obtaining
36 or using a registry identification card pursuant to subsection 2 of
37 NRS 453A.300; or

38 (g) In the case of a person under 18 years of age, the custodial
39 parent or legal guardian with responsibility for health care decisions
40 for the person has not signed the written statement required pursuant
41 to paragraph (b) of subsection 3.

42 6. The decision of the Department to deny an application for a
43 registry identification card is a final decision for the purposes of
44 judicial review. Only the person whose application has been denied
45 or, in the case of a person under 18 years of age whose application



1 has been denied, the person's parent or legal guardian, has standing
2 to contest the determination of the Department. A judicial review
3 authorized pursuant to this subsection must be limited to a
4 determination of whether the denial was arbitrary, capricious or
5 otherwise characterized by an abuse of discretion and must be
6 conducted in accordance with the procedures set forth in chapter
7 233B of NRS for reviewing a final decision of an agency.

8 7. A person whose application has been denied may not
9 reapply for 6 months after the date of the denial, unless the
10 Department or a court of competent jurisdiction authorizes
11 reapplication in a shorter time.

12 8. Except as otherwise provided in this subsection, if a person
13 has applied for a registry identification card pursuant to this section
14 and the Department has not yet approved or denied the application,
15 the person, and his designated primary caregiver, if any, shall be
16 deemed to hold a registry identification card upon the presentation
17 to a law enforcement officer of the copy of the application provided
18 to him pursuant to subsection 4. A person may not be deemed to
19 hold a registry identification card for a period of more than 30 days
20 after the date on which the Department received the application.

21 **9. As used in this section, "resident" has the meaning**
22 **ascribed to it in NRS 483.141.**

23 **Sec. 7.** NRS 453A.220 is hereby amended to read as follows:

24 453A.220 1. If the Department approves an application
25 pursuant to subsection 5 of NRS 453A.210, the Department or its
26 designee shall, as soon as practicable after the Department approves
27 the application:

28 (a) Issue a serially numbered registry identification card to the
29 applicant; and

30 (b) If the applicant has designated a primary caregiver, issue a
31 serially numbered registry identification card to the designated
32 primary caregiver.

33 2. A registry identification card issued pursuant to paragraph
34 (a) of subsection 1 must set forth:

35 (a) The name, address, photograph and date of birth of the
36 applicant;

37 (b) The date of issuance and date of expiration of the registry
38 identification card;

39 (c) The ~~name and address of~~ **identification number assigned**
40 **by the Department to** the applicant's designated primary caregiver,
41 if any; and

42 (d) Any other information prescribed by regulation of the
43 Department.

44 3. A registry identification card issued pursuant to paragraph
45 (b) of subsection 1 must set forth:



- 1 (a) The name, address and photograph of the designated primary
- 2 caregiver;
- 3 (b) The date of issuance and date of expiration of the registry
- 4 identification card;
- 5 (c) The ~~{name and address of}~~ *identification number assigned*
- 6 *by the Department to* the applicant for whom the person is the
- 7 designated primary caregiver; and
- 8 (d) Any other information prescribed by regulation of the
- 9 Department.

10 4. A registry identification card issued pursuant to this section

11 is valid for a period of 1 year and may be renewed in accordance

12 with regulations adopted by the Department.

13 **Sec. 8.** NRS 453A.250 is hereby amended to read as follows:

14 453A.250 1. If a person who applies to the Department for a

15 registry identification card or to whom the Department or its

16 designee has issued a registry identification card pursuant to

17 paragraph (a) of subsection 1 of NRS 453A.220 desires to designate

18 a primary caregiver, the person must:

19 (a) To designate a primary caregiver at the time of application,

20 submit to the Department the information required pursuant to

21 paragraph ~~(d)~~ (e) of subsection 2 of NRS 453A.210; or

22 (b) To designate a primary caregiver after the Department or its

23 designee has issued a registry identification card to him, submit to

24 the Department the information required pursuant to subparagraph

25 (2) of paragraph (b) of subsection 1 of NRS 453A.230.

26 2. A person may have only one designated primary caregiver at

27 any one time.

28 3. If a person designates a primary caregiver after the time that

29 he initially applies for a registry identification card, the Department

30 or its designee shall, except as otherwise provided in subsection 5 of

31 NRS 453A.210, issue a registry identification card to the designated

32 primary caregiver as soon as practicable after receiving the

33 information submitted pursuant to paragraph (b) of subsection 1.

34 **Sec. 9.** NRS 453A.310 is hereby amended to read as follows:

35 453A.310 1. Except as otherwise provided in this section and

36 NRS 453A.300, it is an affirmative defense to a criminal charge of

37 possession, delivery or production of marijuana, or any other

38 criminal offense in which possession, delivery or production of

39 marijuana is an element, that the person charged with the offense:

40 (a) Is a person who:

41 (1) Has been diagnosed with a chronic or debilitating

42 medical condition within the 12-month period preceding his arrest

43 and has been advised by his attending physician that the medical use

44 of marijuana may mitigate the symptoms or effects of that chronic

45 or debilitating medical condition;



1 (2) Is engaged in the medical use of marijuana; and
2 (3) Possesses, delivers or produces marijuana only in the
3 amount described in ~~paragraph (b) of~~ subsection 3 *or 4* of NRS
4 453A.200 , *as applicable*, or in excess of that amount if the person
5 proves by a preponderance of the evidence that the greater amount is
6 medically necessary as determined by the person's attending
7 physician to mitigate the symptoms or effects of the person's
8 chronic or debilitating medical condition; or

9 (b) Is a person who:
10 (1) Is assisting a person described in paragraph (a) in the
11 medical use of marijuana; and

12 (2) Possesses, delivers or produces marijuana only in the
13 amount described in ~~paragraph (b) of~~ subsection 3 *or 4* of NRS
14 453A.200 , *as applicable*, or in excess of that amount if the person
15 proves by a preponderance of the evidence that the greater amount is
16 medically necessary as determined by the assisted person's
17 attending physician to mitigate the symptoms or effects of the
18 assisted person's chronic or debilitating medical condition.

19 2. A person need not hold a registry identification card issued
20 to him by the Department or its designee pursuant to NRS 453A.220
21 or 453A.250 to assert an affirmative defense described in this
22 section.

23 3. Except as otherwise provided in this section and in addition
24 to the affirmative defense described in subsection 1, a person
25 engaged or assisting in the medical use of marijuana who is charged
26 with a crime pertaining to the medical use of marijuana is not
27 precluded from:

28 (a) Asserting a defense of medical necessity; or
29 (b) Presenting evidence supporting the necessity of marijuana
30 for treatment of a specific disease or medical condition,
31 if the amount of marijuana at issue is not greater than the amount
32 described in ~~paragraph (b) of~~ subsection 3 *or 4* of NRS 453A.200 ,
33 *as applicable*, and the person has taken steps to comply
34 substantially with the provisions of this chapter.

35 4. A defendant who intends to offer an affirmative defense
36 described in this section shall, not less than 5 days before trial or at
37 such other time as the court directs, file and serve upon the
38 prosecuting attorney a written notice of his intent to claim the
39 affirmative defense. The written notice must:

40 (a) State specifically why the defendant believes he is entitled to
41 assert the affirmative defense; and

42 (b) Set forth the factual basis for the affirmative defense.
43 A defendant who fails to provide notice of his intent to claim an
44 affirmative defense as required pursuant to this subsection may not



1 assert the affirmative defense at trial unless the court, for good cause
2 shown, orders otherwise.

3 **Sec. 10.** NRS 453A.400 is hereby amended to read as follows:

4 453A.400 1. The fact that a person possesses a registry
5 identification card issued to him by the Department or its designee
6 pursuant to NRS 453A.220 or 453A.250 does not, alone:

7 (a) Constitute probable cause to search the person or his
8 property ~~§~~, *including, without limitation, a propagation facility;*
9 or

10 (b) Subject the person or his property , *including, without*
11 *limitation, a propagation facility,* to inspection by any
12 governmental agency.

13 2. Except as otherwise provided in this subsection, if officers
14 of a state or local law enforcement agency seize marijuana, drug
15 paraphernalia or other related property from a person engaged or
16 assisting in the medical use of marijuana:

17 (a) The law enforcement agency shall ensure that the marijuana,
18 drug paraphernalia or other related property is not destroyed while
19 in the possession of the law enforcement agency.

20 (b) Any property interest of the person from whom the
21 marijuana, drug paraphernalia or other related property was seized
22 must not be forfeited pursuant to any provision of law providing for
23 the forfeiture of property, except as part of a sentence imposed after
24 conviction of a criminal offense.

25 (c) Upon a determination by the district attorney of the county in
26 which the marijuana, drug paraphernalia or other related property
27 was seized, or his designee, that the person from whom the
28 marijuana, drug paraphernalia or other related property was seized is
29 engaging in or assisting in the medical use of marijuana in
30 accordance with the provisions of this chapter, the law enforcement
31 agency shall immediately return to that person any usable
32 marijuana, marijuana plants, drug paraphernalia or other related
33 property that was seized.

34 The provisions of this subsection do not require a law enforcement
35 agency to care for live marijuana plants.

36 3. For the purposes of paragraph (c) of subsection 2, the
37 determination of a district attorney or his designee that a person is
38 engaging in or assisting in the medical use of marijuana in
39 accordance with the provisions of this chapter shall be deemed to be
40 evidenced by:

41 (a) A decision not to prosecute;

42 (b) The dismissal of charges; or

43 (c) Acquittal.



* A B 5 0 3 *

1 **Sec. 11.** NRS 453A.740 is hereby amended to read as follows:
2 453A.740 The Director of the Department shall adopt such
3 regulations as the Director determines are necessary to carry out the
4 provisions of this chapter. The regulations must set forth, without
5 limitation:

6 1. Procedures pursuant to which the State Department of
7 Agriculture will, in cooperation with the Department of Motor
8 Vehicles, cause a registry identification card to be prepared and
9 issued to a qualified person as a type of identification card described
10 in NRS 483.810 to 483.890, inclusive. The procedures described in
11 this subsection must provide that the State Department of
12 Agriculture will:

13 (a) Issue a registry identification card to a qualified person after
14 the card has been prepared by the Department of Motor Vehicles; or

15 (b) Designate the Department of Motor Vehicles to issue a
16 registry identification card to a person if:

17 (1) The person presents to the Department of Motor Vehicles
18 valid documentation issued by the State Department of Agriculture
19 indicating that the State Department of Agriculture has approved the
20 issuance of a registry identification card to the person; and

21 (2) The Department of Motor Vehicles, before issuing the
22 registry identification card, confirms by telephone or other reliable
23 means that the State Department of Agriculture has approved the
24 issuance of a registry identification card to the person.

25 2. Criteria for determining whether a marijuana plant is a
26 mature marijuana plant or an immature marijuana plant.

27 **3. Fees for:**

28 (a) *Providing to an applicant an application for a registry*
29 *identification card, which fee must not exceed \$50; and*

30 (b) *Processing and issuing a registry identification card, which*
31 *fee must not exceed \$150.*

32 **Sec. 12.** This act becomes effective on July 1, 2003.

