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FIRST REPRINT

S.B. 32

SENATE BILL NO. 32—COMMITTEE ON REVENUE  
AND ECONOMIC DEVELOPMENT

(ON BEHALF OF THE DEPARTMENT OF TAXATION)

PREFILED NOVEMBER 16, 2018

Referred to Committee on Revenue and  
Economic Development

SUMMARY—Revises provisions relating to the confidentiality and  
privilege of certain records and files of the  
Department of Taxation. (BDR 32-189)

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 taxation; revising provisions relating to the  
confidentiality and privilege of the records and files of the  
Department of Taxation concerning the administration of  
certain taxes, fees and assessments, the processing of  
certain applications and the imposition of disciplinary  
action; and providing other matters properly relating  
thereto.

**Legislative Counsel’s Digest:**

1 Existing law makes confidential and privileged certain records and files of the  
2 Department of Taxation concerning the administration and collection of certain  
3 taxes, fees and assessments. However, existing law authorizes the disclosure of  
4 such records and files of the Department under certain circumstances. (NRS  
5 360.255) **Section 1** of this bill makes confidential and privileged the records and  
6 files of the Department concerning the imposition of disciplinary action against a  
7 person to whom the Department has issued a license, registration, permit or  
8 certificate. Under **section 1**, such records and files of the Department are  
9 confidential and privileged to the same extent as the records and files of the  
10 Department concerning the administration and collections of taxes, fees and  
11 assessments. Finally, **section 1**: (1) authorizes the disclosure of the records  
12 and files of the Department concerning the administration of taxes, fees and  
13 assessments, the processing of applications to operate a marijuana establishment or  
14 the imposition of disciplinary action to grand juries, to state and local law  
15 enforcement agencies and to local regulatory agencies under certain circumstances;  
16 (2) authorizes certain disclosures to any court in this State rather than only to courts



\* S B 3 2 R 1 \*

17 of this State; (3) removes the requirement that certain disclosures to federal  
18 agencies, state or local law enforcement agencies and local regulatory agencies be  
19 made in confidence; and (4) authorizes certain disclosures of information relating to  
20 an application to operate a marijuana establishment or a person who is licensed to  
21 operate a marijuana establishment, including the methodology used to rank  
22 applicants for a license to operate a marijuana establishment.

23 **Section 2** of this bill makes a conforming change to authorize the Department  
24 to disclose information provided to the Department by an applicant for a license,  
25 registration, permit or certificate related to medical marijuana, or an affiliate of  
26 such an applicant, when such disclosure is authorized by **section 1**.

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

1 **Section 1.** NRS 360.255 is hereby amended to read as follows:  
2 360.255 1. Except as otherwise provided in this section and  
3 NRS 239.0115 and 360.250, the records and files of the Department  
4 concerning the administration or collection of any tax, fee,  
5 assessment or other amount required by law to be collected , *the*  
6 *processing of an application for a registration certificate to*  
7 *operate a medical marijuana establishment submitted pursuant to*  
8 *chapter 453A of NRS or for a license to operate a marijuana*  
9 *establishment submitted pursuant to chapter 453D of NRS, or the*  
10 *imposition of disciplinary action*, are confidential and privileged.

11 The Department, an employee of the Department and any other  
12 person engaged in the administration or collection of any tax, fee,  
13 assessment or other amount required by law to be collected , *the*  
14 *processing of an application for a registration certificate to*  
15 *operate a medical marijuana establishment submitted pursuant to*  
16 *chapter 453A of NRS or for a license to operate a marijuana*  
17 *establishment submitted pursuant to chapter 453D of NRS, or the*  
18 *imposition of disciplinary action*, or charged with the custody of  
19 any such records or files:

20 (a) Shall not disclose any information obtained from those  
21 records or files; and

22 (b) May not be required to produce any of the records or files for  
23 the inspection of any person or governmental entity or for use in any  
24 action or proceeding.

25 2. The records and files of the Department concerning the  
26 administration and collection of any tax, fee, assessment or other  
27 amount required by law to be collected , *the processing of an*  
28 *application for a registration certificate to operate a medical*  
29 *marijuana establishment submitted pursuant to chapter 453A of*  
30 *NRS or for a license to operate a marijuana establishment*  
31 *submitted pursuant to chapter 453D of NRS, or the imposition of*



1 **disciplinary action**, are not confidential and privileged in the  
2 following cases:

3 (a) Testimony by a member or employee of the Department and  
4 production of records, files and information on behalf of the  
5 Department or a person in any action or proceeding before  
6 the Nevada Tax Commission, the State Board of Equalization, the  
7 Department, **a grand jury** or any court ~~of~~ **in** this State if that  
8 testimony or the records, files or information, or the facts shown  
9 thereby, are directly involved in the action or proceeding.

10 (b) Delivery to a person or his or her authorized representative  
11 of a copy of any document filed by the person pursuant to the  
12 provisions of any law of this State.

13 (c) Publication of statistics so classified as to prevent the  
14 identification of a particular business or document.

15 (d) Exchanges of information with the Internal Revenue Service  
16 in accordance with compacts made and provided for in such cases,  
17 or disclosure ~~in confidence~~ to any federal agency, **state or local**  
18 **law enforcement agency or local regulatory agency** that requests  
19 the information for the use of the agency in a federal, **state or local**  
20 prosecution or criminal, **civil or regulatory** investigation.

21 (e) Disclosure in confidence to the Governor or his or her agent  
22 in the exercise of the Governor's general supervisory powers, or to  
23 any person authorized to audit the accounts of the Department in  
24 pursuance of an audit, or to the Attorney General or other legal  
25 representative of the State in connection with an action or  
26 proceeding relating to a taxpayer ~~of~~ **or licensee**, or to any agency of  
27 this or any other state charged with the administration or  
28 enforcement of laws relating to workers' compensation,  
29 unemployment compensation, public assistance, taxation, labor or  
30 gaming.

31 (f) Exchanges of information pursuant to an agreement between  
32 the Nevada Tax Commission and any county fair and recreation  
33 board or the governing body of any county, city or town.

34 (g) Upon written request made by a public officer of a local  
35 government, disclosure of the name and address of a taxpayer **or**  
36 **licensee** who must file a return with the Department. The request  
37 must set forth the social security number of the taxpayer **or licensee**  
38 about which the request is made and contain a statement signed by  
39 the proper authority of the local government certifying that the  
40 request is made to allow the proper authority to enforce a law to  
41 recover a debt or obligation owed to the local government. Except  
42 as otherwise provided in NRS 239.0115, the information obtained  
43 by the local government is confidential and privileged and may not  
44 be used or disclosed for any purpose other than the collection of a  
45 debt or obligation owed to that local government. The Executive



1 Director may charge a reasonable fee for the cost of providing the  
2 requested information.

3 (h) Disclosure of information as to amounts of any unpaid tax or  
4 amounts of tax required to be collected, interest and penalties to  
5 successors, receivers, trustees, executors, administrators, assignees  
6 and guarantors, if directly interested.

7 (i) Disclosure of relevant information as evidence in an appeal  
8 by the taxpayer from a determination of tax due if the Nevada Tax  
9 Commission has determined the information is not proprietary or  
10 confidential in a hearing conducted pursuant to NRS 360.247.

11 (j) Disclosure of the identity of a person and the amount of tax  
12 assessed and penalties imposed against the person at any time after a  
13 determination, decision or order of the Executive Director or other  
14 officer of the Department imposing upon the person a penalty for  
15 fraud or intent to evade a tax imposed by law becomes final or is  
16 affirmed by the Nevada Tax Commission.

17 (k) *Disclosure of the identity of a licensee against whom*  
18 *disciplinary action has been taken and the type of disciplinary*  
19 *action imposed against the licensee at any time after a*  
20 *determination, decision or order of the Executive Director or other*  
21 *officer of the Department imposing upon the licensee disciplinary*  
22 *action becomes final or is affirmed by the Nevada Tax*  
23 *Commission.*

24 (l) Disclosure of information pursuant to subsection 2 of  
25 NRS 370.257.

26 (m) *Disclosure of the identity of an applicant for a registration*  
27 *certificate to operate a medical marijuana establishment pursuant*  
28 *to chapter 453A of NRS or a license to operate a marijuana*  
29 *establishment pursuant to chapter 453D of NRS who submitted*  
30 *the application on or after May 1, 2017, and any action taken with*  
31 *respect to such an application, including, without limitation, the*  
32 *methodology used to score and rank applicants and any*  
33 *documentation or other evidence showing how that methodology*  
34 *was applied and the final rankings of all applicants, except that*  
35 *the Department shall not disclose:*

36 (1) *Investigative materials compiled by investigative staff or*  
37 *law enforcement, the disclosure of which would likely prejudice*  
38 *the effectiveness of law enforcement operations;*

39 (2) *Records, including, without limitation, blueprints,*  
40 *plans, policies, procedures, schematic drawings which relate to*  
41 *internal layout and structural elements, security measures,*  
42 *emergency preparedness, threat or vulnerability assessments or*  
43 *any other records relating to the security or safety of persons or*  
44 *buildings, structures, facilities, utilities, transportation,*  
45 *cybersecurity or other infrastructure located within this State if, in*



1 *the reasonable judgment of the custodian of the records, the*  
2 *disclosure of such records is likely to jeopardize public safety or*  
3 *cybersecurity;*

4 *(3) Personal information, as defined in NRS 603A.040;*

5 *(4) Trade secret information, as defined in subsection 5 of*  
6 *NRS 600A.030, if the word “confidential” or “private” or another*  
7 *indication of secrecy is placed in a reasonably noticeable manner*  
8 *on any medium or container that describes or includes any portion*  
9 *of the trade secret information;*

10 *(5) Documentation relating to finances, earnings or*  
11 *revenue of an applicant or any owner of the applicant; or*

12 *(6) Information received from law enforcement sources,*  
13 *confidential documents or other information disclosed to the*  
14 *Department based on the assurance that the information would be*  
15 *held in confidence and treated as confidential.*

16 *(n) Disclosure of the name of a licensee and the jurisdiction of*  
17 *that licensee pursuant to chapter 453A or 453D of NRS, and any*  
18 *regulations adopted pursuant thereto.*

19 3. The Executive Director shall periodically, as he or she  
20 deems appropriate, but not less often than annually, transmit to the  
21 Administrator of the Division of Industrial Relations of the  
22 Department of Business and Industry a list of the businesses of  
23 which the Executive Director has a record. The list must include the  
24 mailing address of the business as reported to the Department.

25 4. The Executive Director may request from any other  
26 governmental agency or officer such information as the Executive  
27 Director deems necessary to carry out his or her duties with respect  
28 to the administration or collection of any tax, fee, assessment or  
29 other amount required by law to be collected ~~or~~ *or the imposition of*  
30 *disciplinary action.* If the Executive Director obtains any  
31 confidential information pursuant to such a request, he or she shall  
32 maintain the confidentiality of that information in the same manner  
33 and to the same extent as provided by law for the agency or officer  
34 from whom the information was obtained.

35 5. As used in this section:

36 (a) *“Applicant” means any person listed on the application for*  
37 *a registration certificate to operate a medical marijuana*  
38 *establishment pursuant to chapter 453A of NRS or a license to*  
39 *operate a marijuana establishment pursuant to chapter 453D of*  
40 *NRS.*

41 (b) *“Disciplinary action” means any suspension or revocation*  
42 *of a license, registration, permit or certificate issued by the*  
43 *Department pursuant to this title or chapter 453A or 453D of NRS*  
44 *or any other disciplinary action against the holder of such a*  
45 *license, registration, permit or certificate.*



1 (c) "Licensee" means a person to whom the Department has  
2 issued a license, registration, permit or certificate pursuant to this  
3 title or chapter 453A or 453D of NRS. The term includes, without  
4 limitation, any owner, officer or board member of an entity to  
5 whom the Department has issued a license.

6 (d) "Records" or "files" means any records and files related to  
7 an investigation or audit ~~[(b)]~~ or a disciplinary action, financial  
8 information, correspondence, advisory opinions, decisions of a  
9 hearing officer in an administrative hearing and any other  
10 information specifically related to a taxpayer ~~[(b)]~~ or licensee.

11 ~~[(b)]~~ (e) "Taxpayer" means a person who pays any tax, fee,  
12 assessment or other amount required by law to the Department.

13 Sec. 2. NRS 453A.700 is hereby amended to read as follows:

14 453A.700 1. Except as otherwise provided in this section,  
15 NRS 239.0115 and 360.255 and subsection 4 of NRS 453A.210, the  
16 Division and the Department shall not disclose:

17 (a) ~~[(b)]~~ The contents of any tool used by the Department to evaluate  
18 an applicant or its affiliate.

19 ~~[(b)]~~ Any information, documents or communications provided  
20 to the Department by an applicant or its affiliate pursuant to the  
21 provisions of this chapter, without the prior written consent of the  
22 applicant or affiliate or pursuant to a lawful court order after timely  
23 notice of the proceedings has been given to the applicant or affiliate.

24 ~~[(e)]~~ (b) The name or any other identifying information of:

25 (1) An attending provider of health care; or

26 (2) A person who has applied for or to whom the Division or  
27 its designee has issued a registry identification card or letter of  
28 approval.

29 ➤ Except as otherwise provided in NRS 239.0115 ~~[(b)]~~ and 360.255,  
30 the items of information described in this subsection are  
31 confidential, not subject to subpoena or discovery and not subject to  
32 inspection by the general public.

33 2. Notwithstanding the provisions of subsection 1, the Division  
34 or its designee:

35 (a) Shall release the name and other identifying information of a  
36 person who has applied for a registry identification card to  
37 authorized employees of the Division of Parole and Probation of the  
38 Department of Public Safety, if notified by the Division of Parole  
39 and Probation that the applicant is on parole or probation.

40 (b) May release the name and other identifying information of a  
41 person to whom the Division or its designee has issued a registry  
42 identification card or letter of approval to:

43 (1) Authorized employees of the Division or its designee as  
44 necessary to perform official duties of the Division; and



1           (2) Authorized employees of state and local law enforcement  
2 agencies, only as necessary to verify that a person is the lawful  
3 holder of a registry identification card or letter of approval issued to  
4 him or her pursuant to NRS 453A.220 or 453A.250.

5       **Sec. 3.** This act becomes effective upon passage and approval.

