

(Reprinted with amendments adopted on April 29, 2019)

SECOND 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.

~

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 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 or the imposition of disciplinary action to grand juries, to state and  
14 local law enforcement agencies and to local regulatory agencies under certain  
15 circumstances; (2) authorizes certain disclosures to any court in this State rather  
16 than only to courts of this State; (3) removes the requirement that certain  
17 disclosures to federal agencies, state or local law enforcement agencies and local



\* S B 3 2 R 2 \*

18 regulatory agencies be made in confidence; and (4) authorizes certain disclosures of  
19 information relating to an application to operate a marijuana establishment or a  
20 person who is licensed to operate a marijuana establishment, including, without  
21 limitation, the identity of an applicant and any owner, officer or board member of  
22 an applicant, the methodology used to rank applicants for a license to operate a  
23 marijuana establishment and the score assigned to applicants.

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

---

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 *or the*  
6 *imposition of disciplinary action* are confidential and privileged.  
7 The Department, an employee of the Department and any other  
8 person engaged in the administration or collection of any tax, fee,  
9 assessment or other amount required by law to be collected *or the*  
10 *imposition of disciplinary action* or charged with the custody of any  
11 such records or files:

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

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

17 2. The records and files of the Department concerning the  
18 administration and collection of any tax, fee, assessment or other  
19 amount required by law to be collected *or the imposition of*  
20 *disciplinary action* are not confidential and privileged in the  
21 following cases:

22 (a) Testimony by a member or employee of the Department and  
23 production of records, files and information on behalf of the  
24 Department or a person in any action or proceeding before  
25 the Nevada Tax Commission, the State Board of Equalization, the  
26 Department, *a grand jury* or any court ~~to~~ *in* this State if that  
27 testimony or the records, files or information, or the facts shown  
28 thereby, are directly involved in the action or proceeding.

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



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

3 (d) Exchanges of information with the Internal Revenue Service  
4 in accordance with compacts made and provided for in such cases,  
5 or disclosure ~~[in confidence]~~ to any federal agency , *state or local*  
6 *law enforcement agency or local regulatory agency* that requests  
7 the information for the use of the agency in a federal , *state or local*  
8 prosecution or criminal , *civil or regulatory* investigation.

9 (e) Disclosure in confidence to the Governor or his or her agent  
10 in the exercise of the Governor's general supervisory powers, or to  
11 any person authorized to audit the accounts of the Department in  
12 pursuance of an audit, or to the Attorney General or other legal  
13 representative of the State in connection with an action or  
14 proceeding relating to a taxpayer ~~[ ]~~ *or licensee*, or to any agency of  
15 this or any other state charged with the administration or  
16 enforcement of laws relating to workers' compensation,  
17 unemployment compensation, public assistance, taxation, labor or  
18 gaming.

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

22 (g) Upon written request made by a public officer of a local  
23 government, disclosure of the name and address of a taxpayer *or*  
24 *licensee* who must file a return with the Department. The request  
25 must set forth the social security number of the taxpayer *or licensee*  
26 about which the request is made and contain a statement signed by  
27 the proper authority of the local government certifying that the  
28 request is made to allow the proper authority to enforce a law to  
29 recover a debt or obligation owed to the local government. Except  
30 as otherwise provided in NRS 239.0115, the information obtained  
31 by the local government is confidential and privileged and may not  
32 be used or disclosed for any purpose other than the collection of a  
33 debt or obligation owed to that local government. The Executive  
34 Director may charge a reasonable fee for the cost of providing the  
35 requested information.

36 (h) Disclosure of information as to amounts of any unpaid tax or  
37 amounts of tax required to be collected, interest and penalties to  
38 successors, receivers, trustees, executors, administrators, assignees  
39 and guarantors, if directly interested.

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

44 (j) Disclosure of the identity of a person and the amount of tax  
45 assessed and penalties imposed against the person at any time after a



1 determination, decision or order of the Executive Director or other  
2 officer of the Department imposing upon the person a penalty for  
3 fraud or intent to evade a tax imposed by law becomes final or is  
4 affirmed by the Nevada Tax Commission.

5 (k) *Disclosure of the identity of a licensee against whom*  
6 *disciplinary action has been taken and the type of disciplinary*  
7 *action imposed against the licensee at any time after a*  
8 *determination, decision or order of the Executive Director or other*  
9 *officer of the Department imposing upon the licensee disciplinary*  
10 *action becomes final or is affirmed by the Nevada Tax*  
11 *Commission.*

12 (l) Disclosure of information pursuant to subsection 2 of  
13 NRS 370.257.

14 (m) *With respect to an application for a registration certificate*  
15 *to operate a medical marijuana establishment pursuant to chapter*  
16 *453A of NRS or a license to operate a marijuana establishment*  
17 *pursuant to chapter 453D of NRS which was submitted on or after*  
18 *May 1, 2017, and regardless of whether the application was*  
19 *ultimately approved, disclosure of the following information:*

20 (1) *The identity of an applicant, including, without*  
21 *limitation, any owner, officer or board member of an applicant;*

22 (2) *The contents of any tool used by the Department to*  
23 *evaluate an applicant;*

24 (3) *The methodology used by the Department to score and*  
25 *rank applicants and any documentation or other evidence showing*  
26 *how that methodology was applied; and*

27 (4) *The final ranking and scores of an applicant, including,*  
28 *without limitation, the score assigned to each criterion in the*  
29 *application that composes a part of the total score of an applicant.*

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

33 3. The Executive Director shall periodically, as he or she  
34 deems appropriate, but not less often than annually, transmit to the  
35 Administrator of the Division of Industrial Relations of the  
36 Department of Business and Industry a list of the businesses of  
37 which the Executive Director has a record. The list must include the  
38 mailing address of the business as reported to the Department.

39 4. The Executive Director may request from any other  
40 governmental agency or officer such information as the Executive  
41 Director deems necessary to carry out his or her duties with respect  
42 to the administration or collection of any tax, fee, assessment or  
43 other amount required by law to be collected ~~§~~ *or the imposition of*  
44 *disciplinary action.* If the Executive Director obtains any  
45 confidential information pursuant to such a request, he or she shall



1 maintain the confidentiality of that information in the same manner  
2 and to the same extent as provided by law for the agency or officer  
3 from whom the information was obtained.

4 5. As used in this section:

5 (a) *“Applicant” means any person listed on the application for*  
6 *a registration certificate to operate a medical marijuana*  
7 *establishment pursuant to chapter 453A of NRS or a license to*  
8 *operate a marijuana establishment pursuant to chapter 453D of*  
9 *NRS.*

10 (b) *“Disciplinary action” means any suspension or revocation*  
11 *of a license, registration, permit or certificate issued by the*  
12 *Department pursuant to this title or chapter 453A or 453D of NRS*  
13 *or any other disciplinary action against the holder of such a*  
14 *license, registration, permit or certificate.*

15 (c) *“Licensee” means a person to whom the Department has*  
16 *issued a license, registration, permit or certificate pursuant to this*  
17 *title or chapter 453A or 453D of NRS. The term includes, without*  
18 *limitation, any owner, officer or board member of an entity to*  
19 *whom the Department has issued a license.*

20 (d) “Records” or “files” means any records and files related to  
21 an investigation or audit ~~[(b)]~~ *or a disciplinary action*, financial  
22 information, correspondence, advisory opinions, decisions of a  
23 hearing officer in an administrative hearing and any other  
24 information specifically related to a taxpayer ~~[(b)]~~ *or licensee.*

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

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

28 453A.700 1. Except as otherwise provided in this section,  
29 NRS 239.0115 *and 360.255* and subsection 4 of NRS 453A.210, the  
30 Division and the Department shall not disclose:

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

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

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

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

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

43 ↪ Except as otherwise provided in NRS 239.0115 ~~[(b)]~~ *and 360.255*,  
44 the items of information described in this subsection are



1 confidential, not subject to subpoena or discovery and not subject to  
2 inspection by the general public.

3 2. Notwithstanding the provisions of subsection 1, the Division  
4 or its designee:

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

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

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

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

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

