AN ACT relating to marijuana; providing that a person who is 21 years of age or older is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for the possession, use and transfer of one ounce or less of marijuana and the use and possession of marijuana paraphernalia under certain circumstances; providing that retailers and wholesalers who perform certain acts pertaining to marijuana and marijuana paraphernalia are exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution; providing a penalty for a person who is 18 years of age or older who knowingly furnishes marijuana to a person who is under 18 years of age and at least 3 years his junior; providing a penalty for a minor to falsely represent himself to be 21 years of age in order to obtain marijuana; providing for the regulation of the cultivation, sale, transfer, possession and use of marijuana and marijuana paraphernalia under certain circumstances; providing for the licensing of retailers and wholesalers of marijuana and establishing fees for such licensing; enacting provisions governing the taxation and sale of marijuana by retailers and wholesalers; increasing the penalty for the offense of operating a vehicle while under the influence of or while having a certain amount of alcohol or a controlled or prohibited substance in the body that results in substantial bodily harm or death; providing penalties; and providing other matters properly relating thereto.
WHEREAS, Approximately 700,000 people are arrested for marijuana offenses in the United States each year, which is more than the entire populations of Las Vegas and Reno combined; and

WHEREAS, Because decades of arresting millions of marijuana users has failed to prevent teenagers—or anyone else—from using marijuana, the State of Nevada should take a new approach by strictly regulating marijuana with the goal of reducing teenage access to marijuana; and

WHEREAS, Rather than spending millions of taxpayer dollars arresting marijuana users, the State of Nevada should instead generate millions of dollars by taxing and regulating marijuana, and earmark part of these revenues to prevent and treat the abuse of marijuana, tobacco, alcohol, and other drugs; and

WHEREAS, By allowing adults aged 21 and older to use marijuana legally in the privacy of the home, police will be able to spend more time preventing and investigating serious crimes like murder, rape, assault, robbery, burglary and driving under the influence of alcohol and other drugs; and

WHEREAS, Patients with cancer, AIDS, multiple sclerosis, and other serious illnesses should be able to obtain medical marijuana from legally regulated establishments instead of illegal drug dealers; and

WHEREAS, If certain portions of this initiative are found to be inoperable or unconstitutional, it is the intent of the people of the State of Nevada to implement as much of the initiative as possible; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA
DO ENACT AS FOLLOWS:

Section 1. Title 40 of NRS is hereby amended by adding thereto a new chapter consisting of the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. “Marijuana” means a plant of the genus Cannabis or its product, but the term does not include hashish.

Sec. 4. “Marijuana paraphernalia” means objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana into the human body.

Sec. 5. “Retailer” means an establishment licensed pursuant to sections 15 to 28, inclusive, of this act to purchase marijuana from a wholesaler and to sell marijuana and marijuana paraphernalia to the customer.
Sec. 6. “State prosecution” means prosecution initiated or maintained by the State of Nevada or an agency or political subdivision of the State of Nevada.

Sec. 7. “Wholesaler” means an establishment licensed pursuant to sections 15 to 28, inclusive, of this act to cultivate, prepare, package and sell marijuana to a retailer or another wholesaler, but not to sell marijuana to the customer or general public.

Sec. 8. Except as otherwise provided in this chapter:

1. A person who is 21 years of age or older and who acts in compliance with the provisions of this chapter is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for the following acts:

(a) Possession or use of one ounce or less of marijuana.

(b) Possession or use of marijuana paraphernalia.

(c) Transfer of one ounce or less of marijuana without remuneration to a person who is 21 years of age or older.

(d) Aiding and abetting another person who is 21 years of age or older in the possession or use of one ounce or less of marijuana.

(e) Aiding and abetting another person who is 21 years of age or older in the possession or use of marijuana paraphernalia.

(f) Any combination of the acts described in paragraphs (a) to (e), inclusive.

2. A retailer or any person who is 21 years of age or older and acting in his capacity as an owner, employee or agent of a retailer who acts in compliance with the provisions of this chapter is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for the following acts:

(a) Possession of marijuana.

(b) Possession of marijuana paraphernalia.

(c) Purchasing or selling marijuana or marijuana paraphernalia.

(d) Aiding and abetting any person who is 21 years of age or older in the possession or use of one ounce or less of marijuana.

(e) Aiding and abetting another person who is 21 years of age or older in the possession or use of marijuana paraphernalia.

(f) Any combination of the acts described in paragraphs (a) to (e), inclusive.

3. A wholesaler or any person who is 21 years of age or older and acting in his capacity as an owner, employee or agent of a wholesaler who acts in compliance with the provisions of this
chapter is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for the following acts:

(a) Cultivating, packing, processing, transporting or manufacturing marijuana.
(b) Possession of marijuana.
(c) Selling marijuana to a retailer or a wholesaler.
(d) Purchasing marijuana from a wholesaler.
(e) Aiding and abetting any person who is 21 years of age or older in the possession or use of one ounce or less of marijuana.
(f) Any combination of the acts described in paragraphs (a) to (e), inclusive.

4. Except as otherwise provided in subsection 5, in a prosecution for selling, giving or otherwise furnishing marijuana or marijuana paraphernalia to any person who is under 21 years of age, it is a complete defense if:

(a) The person who sold, gave or otherwise furnished marijuana or marijuana paraphernalia to a person who is under 21 years of age was a retailer or was acting in his capacity as an owner, employee or agent of a retailer at the time the marijuana or marijuana paraphernalia was sold, given or otherwise furnished to the person; and
(b) Immediately before selling, giving or otherwise furnishing marijuana or marijuana paraphernalia to a person who is under 21 years of age, the person who sold, gave or otherwise furnished the marijuana or marijuana paraphernalia was shown a document which appeared to be issued by an agency of a federal, state or local government and which indicated that the person to whom the marijuana or marijuana paraphernalia was sold, given or otherwise furnished was 21 years of age or older at the time the marijuana or marijuana paraphernalia was sold, given or otherwise furnished to the person.

5. The complete defense set forth in subsection 4 does not apply if:

(a) The document which was shown to the person who sold, gave or otherwise furnished the marijuana or marijuana paraphernalia was counterfeit, forged or altered, or was issued to a person other than the person to whom the marijuana or marijuana paraphernalia was sold, given or otherwise furnished; and
(b) Under the circumstances, a reasonable person would have known or suspected that the document was counterfeit, forged or altered, or was issued to a person other than the person to whom
the marijuana or marijuana paraphernalia was sold, given or otherwise furnished.

Sec. 9. The provisions of this chapter do not authorize, and no person is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for, nor may he establish an affirmative defense to charges arising from, any of the following acts:

1. Driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of marijuana.
2. Engaging in any other conduct prohibited by NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 493.130.
3. Possessing a firearm in violation of paragraph (b) of subsection 1 of NRS 202.257.
4. Possessing marijuana if the person is a prisoner. As used in this subsection, “prisoner” has the meaning ascribed to it in NRS 208.085.
5. Possessing marijuana in violation of NRS 453.336 or possessing drug paraphernalia in violation of NRS 453.560 or 453.566, if the possession of the marijuana or drug paraphernalia is discovered because the person engaged or assisted in the use of marijuana in:
   (a) Any public place or in any place open to the public or exposed to public view; or
   (b) Any local detention facility, county jail, state prison, reformatory or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders.
   (c) Any public school or private school.
6. Possessing, using, transferring, selling or cultivating marijuana or committing any other act involving marijuana in violation of the provisions of this chapter.

Sec. 10. The provisions of this chapter do not require employers to accommodate the use, possession or being under the influence of marijuana in a place of employment.

Sec. 11. Unless a greater penalty is provided pursuant to specific statute, a person who is 18 years of age or older and who knowingly sells, gives or otherwise furnishes marijuana to a person who is under 18 years of age and at least 3 years his junior is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 8 years, and may be further punished by a fine of not more than $10,000.
Sec. 12. Any minor who falsely represents himself to be 21 years of age or older in order to obtain any marijuana or marijuana paraphernalia pursuant to this chapter is guilty of a misdemeanor.

Sec. 13. NRS 453.005 is hereby amended to read as follows:

453.005 The provisions of this chapter do not apply to the extent that they are inconsistent with the provisions of chapter 453A of NRS or sections 2 to 12, inclusive, of this act.

Sec. 14. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 15 to 28, inclusive, of this act.

Sec. 15. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 16, 17 and 18 of this act have the meanings ascribed to them in those sections.

Sec. 16. “Marijuana” has the meaning ascribed to it in section 3 of this act.

Sec. 17. “Retailer” has the meaning ascribed to it in section 5 of this act.

Sec. 18. “Wholesaler” has the meaning ascribed to it in section 7 of this act.

Sec. 19. Except as otherwise provided in section 21 of this act:

1. An establishment may apply, in accordance with the provisions of this chapter and the regulations adopted pursuant thereto, for the issuance of a license authorizing the establishment to act as a retailer pursuant to the provisions of this chapter.

2. The Department shall issue a license authorizing an establishment to act as a retailer pursuant to the provisions of this chapter if the Department determines that the applicant satisfies the requirements set forth in this chapter and the regulations adopted pursuant thereto. The Department shall approve each qualified applicant within 90 days of its submission of its application.

3. The fee for the initial issuance of a license as a retailer is $1,000. A license as a retailer must be renewed annually. The fee for renewal of a license as a retailer is $1,000.

4. If the Department fails to issue a retailer license to a qualified applicant within 90 days of its submission of its application and the applicant is licensed as a retail dealer of tobacco pursuant to chapter 370, the licensed retail dealer of tobacco shall be deemed to be a retailer.

5. As used in this section, “qualified applicant” means any establishment that:
Sec. 20. Except as otherwise provided in section 21 of this act:

1. An establishment may apply, in accordance with the provisions of this chapter and the regulations adopted pursuant thereto, for the issuance of a license authorizing the establishment to act as a wholesaler pursuant to the provisions of this chapter.

2. The Department shall issue a license authorizing an establishment to act as a wholesaler pursuant to the provisions of this chapter if the Department determines that the applicant satisfies the requirements set forth in this chapter and the regulations adopted pursuant thereto. The Department shall approve each qualified applicant within 90 days of its submission of its application.

3. The fee for the initial issuance of a license as a wholesaler is $1,000. A license as a wholesaler must be renewed annually. The fee for renewal of a license as a wholesaler is $1,000.

4. If the Department fails to issue a wholesaler license to a qualified applicant within 90 days of its submission of its application and the applicant is licensed as a wholesale dealer of tobacco pursuant to chapter 370, the licensed wholesale dealer of tobacco shall be deemed to be a wholesaler.

5. As used in this section, “qualified applicant” means any establishment that:
   (a) Complies with any regulations adopted pursuant to section 28 of this act concerning application for and issuance of a license; and
   (b) Satisfies the requirements set forth in this chapter and the regulations adopted pursuant thereto.

Sec. 21. 1. The Department may not issue a license as a retailer or wholesaler to an establishment:
   (a) That is located within 500 feet of the property line of a public school, private school or structure used primarily for religious services or worship;
   (b) That is engaged in business as a gas station, convenience store, grocery store, night club, dance hall or licensed gaming establishment; or
   (c) That sells intoxicating liquor for consumption on or off the premises.

2. As used in this section:
(a) “Licensed gaming establishment” has the meaning ascribed to it in NRS 463.0169.
(b) “Private school” has the meaning ascribed to it in NRS 394.103.
(c) “Public school” has the meaning ascribed to it in NRS 385.007.

Sec. 22. 1. A retailer shall not:
(a) Sell, give or otherwise furnish marijuana or marijuana paraphernalia to any person who is under 21 years of age.
(b) Allow any person who is under 21 years of age to be present on the premises of its establishment.
(c) Knowingly sell, give or otherwise furnish an amount of marijuana to a person that would cause that person to possess more than one ounce of marijuana.
(d) Purchase marijuana from any person other than a wholesaler.
(e) Purchase or sell, give or otherwise furnish marijuana in any manner other than as authorized pursuant to the provisions of this chapter and any regulations adopted pursuant thereto.
(f) Sell marijuana that has been adulterated or contaminated by any other substance including, without limitation, any controlled substance.

2. In addition to any other penalty provided pursuant to specific statute, a person who violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than $1,000.

3. Except as otherwise provided in this subsection, in a prosecution for a violation of paragraph (b) of subsection 1, it is a complete defense that immediately before allowing the person who is under 21 years of age onto the premises, the person who allowed the person onto the premises was shown a document which appeared to be issued by an agency of a federal, state or local government and which indicated that the person who was allowed onto the premises of the retailer was 21 years of age or older at the time the person was allowed onto the premises of the retailer. The complete defense set forth in this subsection does not apply if:
(a) The document which was shown to the person who allowed the person who is under 21 years of age onto the premises of the retailer was counterfeit, forged or altered, or was issued to a person other than the person who was allowed onto the premises of the retailer; and
(b) Under the circumstances, a reasonable person would have known or suspected that the document was counterfeit, forged or...
altered, or was issued to a person other than the person who was
allowed onto the premises.

4. As used in this section, “marijuana paraphernalia” has the
meaning ascribed to it in section 4 of this act.

Sec. 23. 1. A wholesaler shall not:
(a) Allow any person who is under 21 years of age to be
present on the premises of its establishment.
(b) Sell, give or otherwise furnish marijuana to any person
other than a retailer or wholesaler.
(c) Purchase marijuana from any person other than a
wholesaler.
(d) Purchase or sell, give or otherwise furnish marijuana in
any manner other than as authorized pursuant to the provisions of
this chapter and any regulations adopted pursuant thereto.
(e) Sell marijuana that has been adulterated or contaminated
by any other substance, including, without limitation, any
controlled substance.

2. In addition to any other penalty provided pursuant to
specific statute, a person who violates this section is guilty of a
misdemeanor and shall be punished by a fine of not more than
$1,000.

3. Except as otherwise provided in this subsection, in a
prosecution for a violation of paragraph (a) of subsection 1, it is a
complete defense that immediately before allowing the person who
is under 21 years of age onto the premises, the person who allowed
the person onto the premises was shown a document which
appeared to be issued by an agency of a federal, state or local
government and which indicated that the person who was allowed
onto the premises of the wholesaler was 21 years of age or older at
the time the person was allowed onto the premises of the
wholesaler. The complete defense set forth in this subsection does
not apply if:
(a) The document which was shown to the person who allowed
the person who is under 21 years of age onto the premises of the
wholesaler was counterfeit, forged or altered, or was issued to a
person other than the person who was allowed onto the premises
of the wholesaler; and
(b) Under the circumstances, a reasonable person would have
known or suspected that the document was counterfeit, forged or
altered, or was issued to a person other than the person who was
allowed onto the premises.
Sec. 24. 1. An excise tax is hereby levied upon wholesalers and must be collected respecting all marijuana sold to retailers at the rate of $45 per ounce or proportionate part thereof.

2. For the purpose of determining the tax for the retail sale of marijuana pursuant to this chapter, the tax for the sale of marijuana must be the same as the taxes for the retail sale of other products generally.

Sec. 25. The Department shall apportion the money remitted to the Department from license fees and taxes collected pursuant to this chapter in the following manner:

1. The Department shall retain sufficient money to defray the entire cost of administration of this chapter.

2. After retaining sufficient money to defray the entire cost of administration of this chapter pursuant to subsection 1, the Department shall remit the remaining money to the State General Fund, 50 percent of which must be distributed to the Health Division of the Department of Human Resources for use in voluntary programs for the prevention or treatment of the abuse of alcohol, tobacco or controlled substances.

Sec. 26. 1. A person shall not advertise the sale of marijuana through television, radio, newspapers, magazines, billboards, the Internet or any other written or oral commercial media.

2. As used in this section, “Internet” has the meaning ascribed to it in NRS 453.3625.

Sec. 27. The provisions of this chapter do not authorize any person to transport marijuana into or outside the State of Nevada unless federal law permits such transport.

Sec. 28. 1. The Department is responsible for administering and carrying out the provisions of this chapter.

2. The Department may adopt regulations that are necessary and convenient to administer and carry out the provisions of this chapter.

3. The Department shall adopt regulations that:

   (a) Set forth the procedures for the application for and issuance of licenses to retailers and wholesalers, including, without limitation, the content and form for an application to be licensed as a retailer or wholesaler.

   (b) Specify the procedures for the collection of taxes levied pursuant to this chapter.

   (c) Specify the content, form and timing of reports which must be submitted to the Department by a retailer or wholesaler, including, without limitation, the requirement that information on
sales, expenses, inventory and taxes collected must be reported to
the Department.
(d) Establish the requirements concerning the records that
must be created and maintained by a retailer or wholesaler.
(e) Specify the requirements for the packaging and labeling of
marijuana.
(f) Require the posting or display of the license of a retailer or
wholesaler.
(g) Establish the procedures for inspecting and auditing the
records or premises of a retailer or wholesaler.
(h) Set forth the procedures for hearings to contest the denial
of an application for a license as a retailer or wholesaler.
(i) Set forth the procedures for hearings to contest the
suspension or revocation of a license as a retailer or wholesaler
for a violation of any provision of this chapter, the regulations
adopted pursuant to this chapter or any provision of the Nevada
Revised Statutes.

Sec. 29. NRS 372A.060 is hereby amended to read as follows:
372A.060  1.  This chapter does not apply to
(a) Any person who is registered or exempt from registration
pursuant to NRS 453.226 or any;
(b) Any retailer or wholesaler or any owner, employee or agent
acting on behalf of a retailer or wholesaler; or
(c) Any other person who is lawfully in possession of a
controlled substance.
2.  Compliance with this chapter does not immunize a person
from criminal prosecution for the violation of any other provision of
law.
3.  As used in this section:
(a) “Retailer” has the meaning ascribed to it in section 5 of
this act.
(b) “Wholesaler” has the meaning ascribed to it in section 7 of
this act.

Sec. 30. NRS 484.3795 is hereby amended to read as follows:
484.3795  1.  A person who:
(a) Is under the influence of intoxicating liquor;
(b) Has a concentration of alcohol of 0.08 or more in his blood
or breath;
(c) Is found by measurement within 2 hours after driving or
being in actual physical control of a vehicle to have a concentration
of alcohol of 0.08 or more in his blood or breath;
(d) Is under the influence of a controlled substance or is under
the combined influence of intoxicating liquor and a controlled
substance;
(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379, and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 40 years and must be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

Sec. 31. If any provision of this act, or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the provisions or application of this act which can be
given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 32. 1. The Department of Taxation shall adopt regulations to implement this act and shall begin processing applications for retailers and wholesalers within 180 days of the effective date of this act.

2. If the Department fails to issue such regulations within 180 days of the effective date of this act, any establishment that is licensed as a retail dealer of tobacco pursuant to chapter 370 shall be deemed to be a retailer if the establishment that is licensed as a retail dealer of tobacco:
   (a) Notifies the Department in writing of its readiness to apply;
   (b) Pays the Department the $1,000 license fee; and
   (c) Satisfies the requirements set forth in sections 15 to 28, inclusive, of this act.

3. If the Department fails to issue such regulations within 180 days of the effective date of this act, any establishment that is licensed as a wholesale dealer of tobacco pursuant to chapter 370 shall be deemed to be a licensed wholesaler if the establishment that is licensed as a wholesale dealer of tobacco:
   (a) Notifies the Department in writing of its readiness to apply;
   (b) Pays the Department the $1,000 license fee; and
   (c) Satisfies the requirements set forth in sections 15 to 28, inclusive, of this act.

4. If the Department fails to adopt regulations to implement this act and begin processing applications for retailers and wholesalers within 180 days of the effective date of this act, a retailer, wholesaler or person who desires to purchase marijuana pursuant to this act may commence an action in a court of competent jurisdiction to compel the Department to perform the actions mandated pursuant to the provisions of this act.

5. As used in this section:
   (a) “Retailer” has the meaning ascribed to it in section 5 of this act.
   (b) “Wholesaler” has the meaning ascribed to it in section 7 of this act.