

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 the records and files of the Department of Taxation concerning the administration and collection of certain taxes, fees and assessments and the imposition of disciplinary action. (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. Variations of **green bold underlining** is language proposed to be added in this amendment.

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 and files
12 of the Department concerning the administration of taxes, fees and assessments or
13 the imposition of disciplinary action to grand juries, to state and local law
14 enforcement agencies and to local regulatory agencies under certain circumstances;

15 (2) authorizes certain disclosures to any court in this State rather than only to courts
16 of this State; and (3) removes the requirement that certain disclosures to federal
17 agencies, state or local law enforcement agencies and local regulatory agencies be
18 made in confidence.

19 **Section 2** of this bill makes a conforming change to authorize the Department
20 to disclose information provided to the Department by an applicant for a license,
21 registration, permit or certificate related to medical marijuana, or an affiliate of
22 such an applicant, when such disclosure is authorized by **section 1** because the
23 information concerns the administration and collection of certain taxes, fees and
24 assessment or the imposition of disciplinary action.

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
11 any 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, the processing of
20 marijuana establishment applications or the imposition of
21 disciplinary action, are not confidential and privileged in the
22 following cases:

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

30 (b) Delivery to a person or his or her authorized representative
31 of a copy of any document filed by the person pursuant to the
32 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 ~~in~~ *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

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

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

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

(m) Beginning May 1, 2017, and retroactive thereto, disclosure of the identity of an applicant for a medical marijuana establishment registration certificate and a recreational marijuana establishment license pursuant to Chapter 453A or 453D of the NRS and NAC, and all action taken with respect to any such applications including the methodology used to score and rank applicants and any documentation or other evidence showing how the methodology was applied and the final rankings of all applicants, regardless of any statute or regulation to the contrary, with the following exceptions:

(1) Investigative materials compiled by investigative staff and/or law enforcement, the disclosure of which would likely prejudice effective law enforcement activities;

(2) Records, including, but not limited to, blueprints, plans, policies, procedures, schematic drawings, which related to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation, cyber security or other infrastructure located within the State, the disclosure of which, in the reasonable judgment of the records custodian, is likely to jeopardize public safety or cyber security;

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

(4) Trade secret information, as defined in NRS 600A.030 (5), if properly marked in accordance with NRS 600A.032;

(5) Documentation relative to the finances, earnings or revenue of an applicant or the individual owners of the applicant; and,

(6) Information received from law enforcement sources, confidential informants, or otherwise received on the assurance that the information will be held in confidence and treated as confidential.

(n) Disclosure of the name of a licensee and jurisdiction of that licensee pursuant to Chapter 453A and 453D of NRS and all regulations adopted pursuant thereto.

3.The Executive Director shall periodically, as he or she

45 deems appropriate, but not less often than annually, transmit to the
46 Administrator of the Division of Industrial Relations of the
47 Department of Business and Industry a list of the businesses of
48 which the Executive Director has a record. The list must include the
49 mailing address of the business as reported to the Department.

50 4. The Executive Director may request from any other
51 governmental agency or officer such information as the Executive
52 Director deems necessary to carry out his or her duties with respect
53 to the administration or collection of any tax, fee, assessment or
54 other amount required by law to be collected ~~+~~*or the imposition of*
55 *disciplinary action*. If the Executive Director obtains any
56 confidential information pursuant to such a request, he or she shall
57 maintain the confidentiality of that information in the same manner
58 and to the same extent as provided by law for the agency or officer
59 from whom the information was obtained.

60 5. As used in this section:

61 (a) "Applicant" means the entity listed on the application for a
62 marijuana establishment license.

63 *(b) "Disciplinary action" means any suspension or revocation*
64 *of a license, registration, permit or certificate issued by the*
65 *Department pursuant to this title or chapter 453A or 453D of NRS*
66 *or any other disciplinary action against the holder of such a*
67 *license, registration, permit or certificate.*

68 *(c) "Licensee" means a person to whom the Department has*
69 *issued a license, registration, permit or certificate pursuant to this*
70 *title or chapter 453A or 453D of NRS.*

71 *(d) "Records" or "files" means any records and files related to*
72 *an investigation or audit ~~+~~*or a disciplinary action*, financial*
73 *information, correspondence, advisory opinions, decisions of a*
74 *hearing officer in an administrative hearing and any other*
75 *information specifically related to a taxpayer ~~+~~*or licensee.**

76 ~~(b)-(e)~~ *(e) "Taxpayer" means a person who pays any tax, fee,*
77 *assessment or other amount required by law to the Department.*

1 **Sec. 2.** NRS 453A.700 is hereby amended to read as follows:
2 453A.700 1. Except as otherwise provided in this section,
3 NRS 239.0115 **and 360.255** and subsection 4 of NRS 453A.210, the
4 Division and the Department shall not disclose:

5 (a) The contents of any tool used by the Department to evaluate
6 an applicant or its affiliate.

7 (b) Any information, documents or communications provided to
8 the Department by an applicant or its affiliate pursuant to the
9 provisions of this chapter, without the prior written consent of the
10 applicant or affiliate or pursuant to a lawful court order after timely
11 notice of the proceedings has been given to the applicant or affiliate.

12 (c) The name or any other identifying information of:

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

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

17 ↪ Except as otherwise provided in NRS 239.0115 ~~H~~ **and 360.255**,
18 the items of information described in this subsection are
19 confidential, not subject to subpoena or discovery and not subject to
20 inspection by the general public.

21 2. Notwithstanding the provisions of subsection 1, the Division
22 or its designee:

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

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

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

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

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

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