

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Senate Committee on Commerce and Labor

This measure may be considered for action during today's work session.

SENATE BILL 195

Revises provisions related to cannabis. (BDR 56-452)

Sponsored By: Senators Nguyen, Spearman, D. Harris, Stone, Buck, Donate, Dondero Loop, and Scheible and Assembly Members Yeager and Watts, et al.

Date Heard: March 8, 2023

Fiscal Notes: Effect on Local Government: No.
Effect on the State: Yes.

Senate Bill 195 revises various provisions relating to disciplinary action taken by the Cannabis Compliance Board against a holder of a license or registration card issued by the Board. Specifically, it authorizes the Board to resolve any disciplinary action by entering into a consent or settlement agreement with the licensee or registrant, so long as the terms are discussed and approved at a meeting of the Board. The bill sets forth mitigating circumstances that the Board is required to consider in determining whether to approve or modify the terms of a consent or settlement agreement. If a licensee or registrant is alleged to have committed multiple violations, the bill requires such violations to be charged as a single complaint. Further, the bill limits the amount of a civil penalty that the Board may impose for a single violation to \$20,000 and provides additional actions that the Board may take to remedy a violation.

In addition, the bill requires the Board to establish regulations that authorize a holder of an ownership interest in a cannabis establishment to transfer all or any portion of the ownership interest to another party who is qualified to hold an ownership interest in a cannabis establishment. An applicant for a license is required to pay the Board the actual costs paid to conduct any background checks in connection to the application or transfer of ownership. Finally, the Board is prohibited from charging a licensee, registrant, or applicant for a license or registrant any fee, cost, fine or other charge that is not expressly authorized by the statute.

Amendments:

The Nevada Cannabis Association proposes the following amendments (attached):

1. Amend subsection 2 of Section 3 to replace "Board" with "appropriate Board agent."
2. Delete Sections 8 and 9, which make conforming changes concerning the proper placement of Section 3 in the *Nevada Revised Statutes*.
3. Amend Section 13 to make the provisions of the bill effective upon passage and approval.

Senate Bill 195 – Proposed Amendment

Proposed by: Nevada Cannabis Association

Intent of the Amendment:

- Correct drafting errors in Sections 3, 8 and 9 of the bill.
- Amend Section 13 to change the effective date of the bill.

Sec. 3. 1. *A violation of any provision of this title or any regulation adopted pursuant thereto may be mitigated by any of the following circumstances:*

(a) The licensee or registrant self-reported the violation to the Board or an agent of the Board.

(b) For a violation committed by a licensee, the licensee has:

(1) Submitted to the Board a plan to correct the violation which has been approved by the Board; and

(2) Taken action to correct the violation.

(c) The licensee or registrant has made a good faith effort to prevent violations from occurring, including, without limitation, by:

(1) Providing regular training to the employees of the licensee or registrant which has been documented and which was provided before the commencement of an investigation by the Board concerning the violation; or

(2) Establishing, before the commencement of an investigation by the Board concerning the violation, standard operating procedures that include procedures which directly address the conduct constituting the violation.

(d) The licensee or registrant has cooperated in the investigation of the violation in such a manner as to demonstrate that the licensee or registrant accepts responsibility for the violation.

(e) Any other mitigating circumstance established by the Board by regulation exists.

2. For the purposes of subparagraph (1) of paragraph (b) of subsection 1, if a licensee has submitted a plan to correct a violation and the Board does not take action to approve or reject the plan within 30 days after the date on which the plan was submitted, the plan shall be deemed to be approved by the appropriate Board agent. ~~Board.~~

Sec. 8. NRS 678A.610 is hereby amended to read as follows: 678A.610 1. Any person aggrieved by a final decision or order of the Board made after hearing or rehearing by the Board pursuant to NRS 678A.520 to 678A.600, inclusive, ~~and sections 2 and 3 of this act~~ and whether or not a motion for rehearing was filed, may obtain a judicial review thereof in the district court of the county in which the petitioner resides or has his, her or its principal place of business.

2. The judicial review must be instituted by filing a petition within 20 days after the effective date of the final decision or order. A petition may not be filed while a motion for rehearing or a rehearing is pending before the Board. The petition must set forth the order or decision appealed from and the grounds or reasons why petitioner contends a reversal or modification should be ordered.

3. Copies of the petition must be served upon the Board and all other parties of record, or their counsel of record, either personally or by certified mail.

4. The court, upon a proper showing, may permit other interested persons to intervene as parties to the appeal or as friends of the court.

5. The filing of the petition does not stay enforcement of the decision or order of the Board, but the Board itself may grant a stay upon such terms and conditions as it deems proper.

Sec. 9. NRS 678A.640 is hereby amended to read as follows: 678A.640 1. Any party aggrieved by the final decision in the district court after a review of the decision and order of the Board may appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution in the manner and within the time provided by law for appeals in civil cases. The appellate court of competent jurisdiction shall follow the same procedure thereafter as in appeals in civil actions, and may affirm, reverse or modify the decision as the record and law warrant.

2. The judicial review by the district court and the appellate court of competent jurisdiction afforded in this chapter is the exclusive method of review of the Board's actions, decisions and orders in disciplinary hearings against a licensee held pursuant to NRS 678A.520 to 678A.600, inclusive [.] , ~~and sections 2 and 3 of this act~~. Judicial review is not available for actions, decisions and orders of the Board relating to the denial of a license or registration card. Extraordinary common-law writs or equitable proceedings are available except where statutory judicial review is made exclusive or is precluded, or the use of those writs or proceedings is precluded by specific statute.

Sec. 13. This act becomes effective upon passage and approval ~~on July 1, 2023~~.