

Chapter 453D of NAC

EMERGENCY REGULATION OF
THE NEVADA TAX COMMISSION

LCB File No. E001-17

(Effective for 120 days after June 26, 2017)

Explanation – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

Filing of an Emergency Administrative Regulation

AUTHORITY: 2016 initiative petition, Ballot Question No. 2; NRS 453D

Sec. 1. *Packaging and Labeling Requirements for marijuana and marijuana products that are not sold as medical marijuana: Generally.*

1. *Relevant provisions in NRS 453A and NAC 453A are applicable herein.*

Sec. 2. *Packaging and Labeling Requirements for marijuana edible products.*

1. *Each retail marijuana store and marijuana product manufacturing facility shall, in consultation with the Department, cooperate to ensure that all marijuana edible products offered for sale:*

a. *Are labeled clearly and unambiguously:*

i. *As marijuana with the words “THIS IS A MARIJUANA PRODUCT” in bold type or similar alternate language that clearly identifies that the product contains marijuana; and*

ii. *As required by NRS 453A and NAC 453A.*

- b. Are not presented in packaging that contains an image of a cartoon character, mascot, action figure, balloon or toy, except that such an item may appear in the logo of the marijuana product manufacturing facility which produced the product.*
 - c. Are not packaged and labeled in a manner which is modeled after a brand of products primarily consumed by or marketed to children.*
 - d. Are labeled in a manner which indicates the number of servings of THC in the product, measured in servings of a maximum of 10 milligrams per serving, and includes a statement that the product contains marijuana and its potency was tested with an allowable variance of plus or minus 15%.*
 - e. A marijuana product sold as a food product must be sold in a single package. A single package must not contain more than 100 milligrams of THC, and includes a statement that the product contains marijuana and its potency was tested with an allowable variance of plus or minus 15%.*
- 2. A marijuana product manufacturing facility shall not produce marijuana products in any form that:*
- a. Is or appears to be a lollipop or ice cream.*
 - b. Bears the likeness or contains characteristics of a real or fictional person, animal or fruit, including, without limitation, a caricature, cartoon or artistic rendering.*
 - c. Is modeled after a brand of products primarily consumed by or marketed to children.*

d. Is made by applying concentrated marijuana to a commercially available candy or snack food item other than dried fruit, nuts or granola.

3. A marijuana product manufacturing facility shall:

a. Seal any marijuana product that consists of cookies or brownies in a bag or other container which is not transparent.

b. If not already included on the packaging, affix a label to each marijuana product intended for human consumption by oral ingestion which includes, without limitation, in a manner which must not mislead consumers, the following information:

i. The words “Keep out of reach of children”;

ii. A list of all ingredients used in the marijuana product;

iii. A list of all allergens in the marijuana product; and

iv. The total weight of marijuana contained in the marijuana product or an equivalent measure of THC concentration.

4. A retail marijuana store shall:

a. Include a written notification with each sale of marijuana or marijuana products which advises the purchaser:

i. To keep marijuana and marijuana products out of the reach of children;

ii. That marijuana and marijuana products can cause severe illness in children;

iii. That allowing children to ingest marijuana or marijuana products, or storing marijuana or marijuana products in a location which is accessible to children may result in an investigation by an agency which

provides child welfare services or criminal prosecution for child abuse or neglect;

- iv. THAT THE INTOXICATING EFFECTS OF MARIJUANA PRODUCTS MAY BE DELAYED BY 2 HOURS OR MORE AND USERS OF MARIJUANA PRODUCTS SHOULD INITIALLY INGEST A SMALL AMOUNT OF THE PRODUCT CONTAINING NO MORE THAN 10 MILLIGRAMS OF THC, THEN WAIT AT LEAST 2 HOURS BEFORE INGESTING ANY ADDITIONAL AMOUNT OF THE PRODUCT, capitalized in bold type;*
- v. That pregnant women should consult with a physician before ingesting marijuana or marijuana products;*
- vi. That ingesting marijuana or marijuana products with alcohol or other drugs, including prescription medication, may result in unpredictable levels of impairment and that a person should consult with a physician before doing so;*
- vii. That marijuana or marijuana products can impair concentration, coordination and judgment and a person should not operate a motor vehicle while under the influence of marijuana or marijuana products; and*
- viii. That ingestion of any amount of marijuana or marijuana products before driving may result in criminal prosecution for driving under the influence.*

5. A marijuana establishment:

- a. Shall not engage in advertising which contains any statement or illustration that:*
- i. Is false or misleading;*
 - ii. Promotes overconsumption of marijuana or marijuana products;*
 - iii. Depicts the actual consumption of marijuana or marijuana products; or*
 - iv. Depicts a child or other person who is less than 21 years of age consuming marijuana or marijuana products or objects suggesting the presence of a child, including, without limitation, toys, characters or cartoons, or contains any other depiction which is designed in any manner to be appealing to or encourage consumption of marijuana or marijuana products by a person who is less than 21 years of age.*
- b. Shall not advertise in any publication or on radio, television or any other medium if 30 percent or more of the audience of that medium is reasonably expected to be persons who are less than 21 years of age.*
- c. Shall not place an advertisement:*
- i. Within 1,000 feet of a public or private school, playground, public park or library, but may maintain such an advertisement if it was initially placed before the school, playground, public park or library was located within 1,000 feet of the location of the advertisement;*
 - ii. On or inside of a motor vehicle used for public transportation or any shelter for public transportation; or*
 - iii. At a sports or entertainment event to which persons who are less than 21 years of age are allowed entry.*

- d. *Shall not advertise or offer any marijuana or marijuana product as “free” or “donated” without a purchase.*
- e. *Shall ensure that all advertising by the marijuana establishment contains such warnings as may be prescribed by the Department, which must include, without limitation, the following words:*
 - i. *“Keep out of reach of children”; and*

“For use only by adults 21 years of age and older.

Statement of Emergency
Regulation to implement packaging and labeling provisions for
The Regulation and Taxation of Marijuana Act under NRS 453D

Voters approved the Regulation and Taxation of Marijuana Act at the 2016 General Election. The Act is codified in Chapter 453D and provides that the Department shall adopt all regulations necessary or convenient to carry out the provisions of this chapter, including the requirements for the packaging of marijuana and marijuana products and the requirements for the testing and labeling of marijuana and marijuana products sold by marijuana establishments.

As of July 1, 2017, certain medical marijuana establishments will be licensed to sell marijuana and marijuana products to anyone over 21 (adult-use marijuana). While the Department is relying on the medical marijuana statutes and regulations on packaging and labeling in regulating the adult-use marijuana market, the current regulations do not contain strict dosing requirements nor strong warnings regarding the intoxicating effect of edibles and that those effects may differ from other forms of marijuana consumption. Additionally, legislation enacted in the 2017 session provides other restrictions that are effective to the medical marijuana establishments and these regulations are necessary to provide parity between those legislative provisions and the adult-use market as the Department has sole responsibility to regulate packaging and labeling of adult-use marijuana and marijuana products.

First, these regulations provide limitations in the amount of THC that may be included in each serving of an edible to 10 milligrams. Additionally, it requires specific consumer protection warnings be placed on the labels and information that is given to the consumer when a purchase is made. Specifically, the required warnings address, among other things, certain effects of the product, warns consumers that they are prohibited from consuming marijuana and driving and points out the intoxicating effects of certain marijuana products.

A recent study found that 70% of the people who tried marijuana when it became legal in Colorado tried a new product such as an edible when they had previously only smoked marijuana. That same study found that those who tried a new product had substantially greater odds of experiencing an unexpected high than those who had not tried a new product. Like Colorado, Nevada does not allow for public consumption so it is likely that many residents and tourist will consume marijuana in the form of an edible.

Additionally, these regulations contain provisions regarding child proof packaging of marijuana and marijuana products, restrictions on marketing to children and prohibits certain products that are normally consumed by or found appealing to children, such as lollipops.

