

**PROPOSED REGULATION OF THE
DIRECTOR OF THE DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB FILE NO. R089-19I

**The following document is the initial draft regulation proposed
by the agency submitted on 10/15/2019**

**DRAFT PROPOSED REGULATION OF THE DIRECTOR OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R089-19.

[Date]

Explanation: Material in *bold italics* is new material; material lined out within ~~bold brackets~~ is material to be omitted.

Purpose: To adopt regulations under the Nevada Administrative Code, as provided by S.B. 161 (2019), relating to a “Regulatory Experimentation Program for Product Innovation” which allows individuals or companies to apply to the Director of the Department of Business and Industry for a temporary waiver of licensing and regulatory requirements under NRS chapters 645A, 645B, 645F or 645G; NRS titles 55 or 56; or any regulation adopted pursuant thereto, to test innovative products or services within the Nevada marketplace; providing for certain definitions and policies; and providing other matters properly relating thereto.

Authority: Senate Bill No. 161, Chapter 611, Statutes of Nevada 2019, sections 2 through 31.

**DRAFT PROPOSED REGULATION OF THE DIRECTOR
OF THE DEPARTMENT OF BUSINESS AND INDUSTRY**

(Regulatory Experimentation Program for Product Innovation)

LCB File No. R089-19

EXPLANATION – Material in *italics* is new; material in ~~bold brackets~~ is to be omitted.

AUTHORITY: Sections 2 to 31 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019.

Section 1. Chapter 597 of the NAC is hereby created by adding thereto the provisions set forth as sections 2 through 13, inclusive, of this regulation.

Sec. 2. *Unless the context otherwise requires, the words and terms used in this chapter have the meanings ascribed to them in sections 3 through 10 of Senate Bill No. 161 and sections 3 through 5 of this chapter.*

Sec. 3. *“Change request” means a request submitted by the participant to the Director pursuant to sections 19 and 26 of Senate Bill No. 161 or subsections 3 and 4 of section 7 of this chapter.*

Sec. 4. *“Document” means and includes, but is not limited to, any and all records, documents, data, and information inscribed on a tangible medium or that is stored in an electronic or other format and is retrievable in perceivable form including any and all original and non-identical copies of any information or communication (whether different from the original because of notes, underlining, attachments, or otherwise), audio and/or video recordings of any kind, or any electronic or written, printed, recorded material of every kind in the possession, custody, or control of the participant.*

Sec. 5. *“Program” or “Nevada Sandbox Program” means the Regulatory Experimentation Program for Product Innovation established pursuant to Senate Bill No. 161.*

Sec. 6. *1. Any authority granted to the Director and any duty or responsibility assigned to the Director by any provision of this chapter or Senate Bill No. 161, including, without limitation, pursuant to subsection 2, may be exercised or performed by any employee of the Department who is designated by the Director for that purpose.*

2. Any authority granted to the Department and any duty or responsibility assigned to the Department by any provision of this chapter or Senate Bill No. 161 may be exercised or performed by the Director.

Sec. 7. 1. *The physical or virtual location required pursuant to subsection 2(b) of section 12 of Senate Bill No. 161 must:*

(a) Be a commercial place of business and not residential;

(b) Have a physical presence in this state; and

(c) Comply with the provisions of all applicable planning and zoning ordinances.

2. *Except as otherwise provided for by sections 2 through 31 of Senate Bill No. 161, a participant must possess each license, registration and permit required by this state or by a local governmental entity as a condition to conducting business.*

3. *A participant shall not engage in its product or service testing within any office, suite, room or business location in which any other business is solicited or engaged, or in association or conjunction with any other business, unless the participant receives prior written approval from the Director.*

4. *A participant shall not move the place of business without first obtaining the written approval of the Director.*

Sec. 8. *Before the Director will consider a product or service for admission into the program, the applicant must consent in writing as part of the application to:*

1. *The applicability of Nevada law and the exercise of personal jurisdiction by the courts of Nevada over all matters associated with the program and the product or service test, if approved;*

2. The review or investigation, at the Director's discretion and applicant's expense, of the credit history, criminal history and background of the applicant and, if the applicant is not a natural person, each officer, director or other principal of the applicant; and

3. Comply with all program requirements and regulations, including any requirements imposed by the Director as a condition to the product or service test at the time of approval or in response to actions taken pursuant to authorities described in sections 26.3 and 27 of Senate Bill No. 161.

Sec. 9. 1. *A complaint that relates to a product or service test under the program and is submitted to the Director pursuant to subsection 1(g) of section 20 or section 21 of Senate Bill No. 161 may be managed by the Department:*

(a) Through facilitation of informal discussion and resolution between the consumer and the program participant conducting the product or service test;

(b) Pursuant to NAC 598.100-174;

(c) Pursuant to provisions or regulations of the applicable regulator then in effect; or

(d) Through involvement of the Office of the Attorney General as provided for by NRS 598 and Senate Bill No. 161; or

(e) Any combination of subsections (a) through (d) above;

→ as the Director, in consultation with the applicable regulator, deems appropriate.

2. Nothing in this provision limits the authority of the Director to terminate a participant's participation in the program or take any other action at any time for any reason deemed appropriate by the Director pursuant to the Director's authority provided in Senate Bill No. 161.

3. The Director shall forward copies of complaints received pursuant to subsection 1(g) of section 20 or section 21 of Senate Bill No. 161 to the Bureau of Consumer Protection.

Sec. 10. *1. Each participant shall submit a regular or periodic reports to the Director on the status of the product or service test as determined by the Director.*

2. The report must be in a format determined by the Director for that product or service and include, with respect to the product or service test for which the report is being submitted, any data and information required by the Director.

3. The frequency and timeline for report submission, including the data and information required by the Director, shall be determined at the Director's discretion and communicated to program participants in any manner deemed appropriate by the Director for that product or service.

Sec. 11. *1. A participant must retain all records and data produced in the ordinary course of business relating to a product or service tested in the program for not less than six (6) years after the end of the period of testing, unless otherwise required by subsection 3.*

2. The records and data must contain specific consumer information and any other records or data deemed appropriate by the Director for that product or service, including but not limited to:

a. Each consumer's name and contact information;

b. Product or service type; and

c. Transaction information.

3. The Director may increase the retention period under subsection 1 at any time and for any reason pursuant to the authority granted the Director in Senate Bill No. 161.

Sec. 12. In the interest of ensuring the protection of consumers in this state, each participant must, during the period of testing and for not less than six (6) years after the end of the period of testing, allow the Office of Attorney General, upon request and regardless of any other request made by the Director, to examine the documents of the participant related to the product or service tested in the program.

Sec. 13. The Director may deviate or impose additional or more restrictive provisions from these regulations at any time and for any reason pursuant to the authority granted the Director in Senate Bill No. 161.