

SENATE BILL NO. 236—SENATOR SEGERBLOM

MARCH 6, 2017

Referred to Committee on Judiciary

SUMMARY—Requires a license or permit issued by a local government to operate certain businesses in which the use of marijuana is allowed or to allow the use of marijuana at certain events. (BDR 20-43)

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.

AN ACT relating to marijuana; authorizing a county or city to require a person who wishes to operate a business in which the use of marijuana is allowed or to hold a special event at which the use of marijuana is allowed to obtain a license or permit; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law: (1) exempts a person who holds a valid registry identification
2 card or letter of approval from state prosecution for possession, delivery and
3 production of marijuana; and (2) generally decriminalizes the purchase, possession
4 and use of marijuana and marijuana paraphernalia for persons who are 21 years of
5 age or older. (NRS 453A.200, 453A.250, 453D.110, 453D.130) Existing law also
6 generally authorizes the regulation, taxation and licensing of businesses by local
7 governments. (NRS 244.335-244.3525, 268.090-268.0975) **Section 1** of this bill
8 authorizes the board of county commissioners of each county to adopt an ordinance
9 which requires a person who wishes to operate a business in which the use of
10 marijuana is allowed or hold a special event at which the use of marijuana is
11 allowed in an unincorporated area of the county to obtain a license or permit,
12 respectively, before operating the business or holding the special event. **Section 1**
13 establishes requirements for the operation of such a business or holding of such a
14 special event. **Section 1** allows the board of county commissioners to establish and
15 collect a fee for such a license or permit that does not exceed the fee charged for
16 similar businesses or special events. **Section 1** prohibits a board of county
17 commissioners from arbitrarily limiting the number of licenses or permits issued.
18 **Section 2** of this bill establishes similar provisions for the governing body of an
19 incorporated city for similar businesses or special events located in the incorporated
20 city.



21 While existing law generally decriminalizes the purchase, possession and use of
22 marijuana, existing law also prohibits the consumption of marijuana in a public
23 place. (NRS 453A.300, 453D.400) For the purpose of marijuana not for medical
24 use, existing law defines a public place as an area “in which the public is permitted
25 regardless of age.” (NRS 453D.030) **Sections 1 and 2** prohibit the issuance of a
26 license to a business in which the use of marijuana is allowed or a permit to a
27 special event at which the use of marijuana is allowed to a business or special event
28 which allows entry of persons who are less than 21 years of age. **Sections 1 and 2**
29 also exempt from state prosecution for possession, delivery and production
30 of marijuana a person who holds a license or permit or a person who consumes
31 marijuana at a licensed business or permitted special event if the person consumes
32 marijuana in a place which is not viewable from any public place. **Section 3** of this
33 bill makes a conforming change relating to the medical use of marijuana.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 244 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. The board of county commissioners of each county may, by*
4 *ordinance, require each person who wishes to operate a business*
5 *in which the use of marijuana is allowed or hold a special event at*
6 *which the use of marijuana is allowed in an unincorporated area*
7 *of the county to obtain a license issued by the board before the*
8 *person operates the business or a permit issued by the board*
9 *before the person holds the special event.*

10 *2. The ordinance must require each applicant for such a*
11 *license or permit to submit an application for the license or permit*
12 *to the board of county commissioners in a form prescribed by the*
13 *board.*

14 *3. The board of county commissioners shall not issue a*
15 *license or permit pursuant to this section if the proposed business*
16 *in which the use of marijuana is allowed or special event:*

17 *(a) Would be located within 1,000 feet of a public or private*
18 *school or community facility;*

19 *(b) Would allow the consumption of marijuana at any place*
20 *which is viewable from a public place; or*

21 *(c) Would allow any person who is less than 21 years of age to*
22 *enter the business or special event.*

23 *4. The board of county commissioners may:*

24 *(a) Establish and collect a fee for the issuance or renewal of a*
25 *license issued pursuant to this section which does not exceed the*
26 *fee charged for a business license for similar businesses;*

27 *(b) Establish and collect a fee for the issuance of a permit*
28 *issued pursuant to this section which does not exceed the fee*
29 *charged for other special event permits;*



1 (c) Grant or deny applications for licenses and permits and
2 impose reasonable conditions, limitations or restrictions upon the
3 license or permit; and

4 (d) Establish any other requirements necessary to carry out the
5 provisions of this section.

6 5. The board of county commissioners shall not arbitrarily or
7 unreasonably limit the number of licenses or permits issued
8 pursuant to this section.

9 6. A person who holds a license or permit issued pursuant to
10 this section or who consumes marijuana at a business in which
11 the use of marijuana is allowed licensed pursuant to this section
12 or a special event at which the use of marijuana is allowed which
13 has received a permit pursuant to this section in a place which is
14 not viewable from a public place is exempt from state prosecution
15 for:

16 (a) Possession, delivery or production of marijuana;

17 (b) Possession or delivery of paraphernalia;

18 (c) Aiding and abetting another in the possession, delivery or
19 production of marijuana;

20 (d) Aiding and abetting another in the possession or delivery of
21 paraphernalia;

22 (e) Any combination of the acts described in paragraphs (a) to
23 (d), inclusive; and

24 (f) Any other criminal offense in which the possession,
25 delivery or production of marijuana or the possession or delivery
26 of paraphernalia is an element.

27 7. As used in this section:

28 (a) "Business in which the use of marijuana is allowed"
29 means a business which allows marijuana to be consumed on the
30 premises of the business and which is licensed pursuant to this
31 section.

32 (b) "Community facility" means:

33 (1) A facility that provides day care services for children.

34 (2) A public park.

35 (3) A playground.

36 (4) A public swimming pool.

37 (5) A center or facility, the primary purpose of which is to
38 provide recreational opportunities or services to children or
39 adolescents.

40 (6) A church, synagogue or other building, structure or
41 place used for religious worship or other religious purpose.

42 (7) A center or facility, the primary purpose of which is the
43 treatment or rehabilitation for the abuse of alcohol or drugs.

44 (c) "Marijuana" has the meaning ascribed to it in
45 NRS 453.096.



1 *(d) “Paraphernalia” means accessories, devices and other*
2 *equipment that is necessary or useful for a person to engage in the*
3 *use of marijuana.*

4 **Sec. 2.** Chapter 268 of NRS is hereby amended by adding
5 thereto a new section to read as follows:

6 *1. The governing body of an incorporated city in this State,*
7 *whether organized pursuant to general law or special charter,*
8 *may, by ordinance, require each person who wishes to operate a*
9 *business in which the use of marijuana is allowed or hold a*
10 *special event at which the use of marijuana is allowed in the*
11 *incorporated city to obtain a license issued by the governing body*
12 *before the person operates the business or a permit issued by the*
13 *governing body before the person holds the special event.*

14 *2. The ordinance must require each applicant for such a*
15 *license or permit to submit an application for the license or permit*
16 *to the governing body of the incorporated city in a form prescribed*
17 *by the governing body.*

18 *3. The governing body of the incorporated city shall not issue*
19 *a license or permit pursuant to this section if the proposed*
20 *business in which the use of marijuana is allowed or special event:*

21 *(a) Would be located within 1,000 feet of a public or private*
22 *school or community facility;*

23 *(b) Would allow the consumption of marijuana at any place*
24 *which is viewable from a public place; or*

25 *(c) Would allow any person who is less than 21 years of age to*
26 *enter the business or special event.*

27 *4. The governing body of the incorporated city may:*

28 *(a) Establish and collect a fee for the issuance or renewal of a*
29 *license issued pursuant to this section which does not exceed the*
30 *fee charged for a business license for similar businesses;*

31 *(b) Establish and collect a fee for the issuance of a permit*
32 *issued pursuant to this section which does not exceed the fee*
33 *charged for other special event permits;*

34 *(c) Grant or deny applications for licenses and permits and*
35 *impose reasonable conditions, limitations or restrictions upon the*
36 *license or permit; and*

37 *(d) Establish any other requirements necessary to carry out the*
38 *provisions of this section.*

39 *5. The governing body of the incorporated city shall not*
40 *arbitrarily or unreasonably limit the number of licenses or permits*
41 *issued pursuant to this section.*

42 *6. A person who holds a license or permit issued pursuant to*
43 *this section or who consumes marijuana at a business in which*
44 *the use of marijuana is allowed licensed pursuant to this section*
45 *or a special event at which the use of marijuana is allowed which*



1 *has received a permit pursuant to this section in a place which is*
2 *not viewable from a public place is exempt from state prosecution*
3 *for:*

4 (a) *Possession, delivery or production of marijuana;*

5 (b) *Possession or delivery of paraphernalia;*

6 (c) *Aiding and abetting another in the possession, delivery or*
7 *production of marijuana;*

8 (d) *Aiding and abetting another in the possession or delivery of*
9 *paraphernalia;*

10 (e) *Any combination of the acts described in paragraphs (a) to*
11 *(d), inclusive; and*

12 (f) *Any other criminal offense in which the possession,*
13 *delivery or production of marijuana or the possession or delivery*
14 *of paraphernalia is an element.*

15 7. *As used in this section:*

16 (a) *“Business in which the use of marijuana is allowed”*
17 *means a business which allows marijuana to be consumed on the*
18 *premises of the business and which is licensed pursuant to this*
19 *section.*

20 (b) *“Community facility” means:*

21 (1) *A facility that provides day care services for children.*

22 (2) *A public park.*

23 (3) *A playground.*

24 (4) *A public swimming pool.*

25 (5) *A center or facility, the primary purpose of which is to*
26 *provide recreational opportunities or services to children or*
27 *adolescents.*

28 (6) *A church, synagogue or other building, structure or*
29 *place used for religious worship or other religious purpose.*

30 (7) *A center or facility, the primary purpose of which is the*
31 *treatment or rehabilitation for the abuse of alcohol or drugs.*

32 (c) *“Marijuana” has the meaning ascribed to it in*
33 *NRS 453.096.*

34 (d) *“Paraphernalia” means accessories, devices and other*
35 *equipment that is necessary or useful for a person to engage in the*
36 *use of marijuana.*

37 **Sec. 3.** NRS 453A.300 is hereby amended to read as follows:

38 453A.300 1. A person who holds a registry identification
39 card or letter of approval issued to him or her pursuant to NRS
40 453A.220 or 453A.250 is not exempt from state prosecution for, nor
41 may the person establish an affirmative defense to charges arising
42 from, any of the following acts:

43 (a) Driving, operating or being in actual physical control of a
44 vehicle or a vessel under power or sail while under the influence of
45 marijuana.



1 (b) Engaging in any other conduct prohibited by NRS 484C.110,
2 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS
3 488.410, 488.420, 488.425 or 493.130.

4 (c) Possessing a firearm in violation of paragraph (b) of
5 subsection 1 of NRS 202.257.

6 (d) Possessing marijuana in violation of NRS 453.336 or
7 possessing paraphernalia in violation of NRS 453.560 or 453.566:

8 (1) If the possession of the marijuana or paraphernalia is
9 discovered because the person engaged or assisted in the medical
10 use of marijuana in:

11 (I) ~~Any~~ *Except as otherwise provided in section 1 or 2*
12 *of this act, any* public place or in any place open to the public or
13 exposed to public view; or

14 (II) Any local detention facility, county jail, state prison,
15 reformatory or other correctional facility, including, without
16 limitation, any facility for the detention of juvenile offenders; or

17 (2) If the possession of the marijuana or paraphernalia occurs
18 on school property.

19 (e) Delivering marijuana to another person who he or she knows
20 does not lawfully hold a registry identification card or letter of
21 approval issued by the Division or its designee pursuant to NRS
22 453A.220 or 453A.250.

23 (f) Delivering marijuana for consideration to any person,
24 regardless of whether the recipient lawfully holds a registry
25 identification card or letter of approval issued by the Division or its
26 designee pursuant to NRS 453A.220 or 453A.250.

27 2. Except as otherwise provided in NRS 453A.225 and in
28 addition to any other penalty provided by law, if the Division
29 determines that a person has willfully violated a provision of this
30 chapter or any regulation adopted by the Division to carry out the
31 provisions of this chapter, the Division may, at its own discretion,
32 prohibit the person from obtaining or using a registry identification
33 card or letter of approval for a period of up to 6 months.

34 3. As used in this section, "school property" means the grounds
35 of any public school described in NRS 388.020 and any private
36 school as defined in NRS 394.103.

