

Senate Bill No. 209—Senators D. Harris, Ratti, Parks, Brooks,
Cannizzaro; Dondero Loop and Spearman

CHAPTER.....

AN ACT relating to hemp; replacing the term “industrial hemp” with the term “hemp” and revising the definition thereof; requiring the Department of Health and Human Services to adopt regulations requiring the testing and labeling of certain commodities and products made using hemp and certain similar products which are intended for human consumption; prohibiting a person from selling or offering to sell such commodities or products unless the commodities or products satisfy certain standards relating to testing and labeling; authorizing the retesting of a crop of hemp that has failed certain tests prescribed by the State Department of Agriculture; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the growing and cultivation of industrial hemp for purposes relating to research and the growing and handling of industrial hemp and the production of agricultural hemp seed by persons registered with the State Department of Agriculture. (Chapter 557 of NRS) On December 20, 2018, the President of the United States signed the Agricultural Improvement Act of 2018 into law. Section 10113 of the Act authorizes the production of hemp under the primary jurisdiction of a state or tribal government if the state or tribal government submits a plan to the United States Secretary of Agriculture that satisfies certain requirements. (Public Law 115-334) Because federal law now refers to plants of the genus *Cannabis sativa* L. with a THC concentration of not more than 0.3 percent as “hemp” rather than “industrial hemp,” **sections 5-8 and 10-17** of this bill revise various sections of state law to use the term “hemp” for this plant and its derivatives.

Existing law authorizes the State Department of Agriculture to adopt certain regulations relating to the testing of crops of industrial hemp and commodities and products made using industrial hemp by an independent testing laboratory. (NRS 557.270) **Sections 12 and 13.5** of this bill divide the responsibility for the adoption of regulations relating to the testing of hemp and commodities and products made using hemp between the State Department of Agriculture and the Department of Health and Human Services. **Section 13.5** of this bill authorizes the Department of Health and Human Services to adopt regulations relating to the testing and labeling of commodities and products containing hemp and certain other products containing cannabidiol that are intended for human consumption. **Section 12** of this bill requires a grower or producer to submit, before harvesting, a sample of each crop of hemp to the State Department of Agriculture or an independent testing laboratory to determine the THC concentration of the crop. **Section 12** authorizes the State Department of Agriculture to adopt regulations relating to such testing.

Existing law prohibits a handler of industrial hemp from selling a commodity or product made using industrial hemp which is intended for human consumption unless the product has been tested in accordance with protocols and procedures established by the State Department of Agriculture. (NRS 557.270) **Section 13.5**



prohibits a person from selling or offering to sell such commodities or products unless the commodities or products satisfy the testing and labeling requirements set forth by the Department of Health and Human Services.

Existing law authorizes the State Department of Agriculture to adopt certain regulations relating to the testing of crops of industrial hemp and commodities and products made using industrial hemp by an independent testing laboratory. (NRS 557.270) **Section 12** provides that a grower or producer whose crop has failed a test prescribed by the State Department of Agriculture is authorized to submit that crop for retesting.

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

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

Sections 1-4. (Deleted by amendment.)

Sec. 5. NRS 557.120 is hereby amended to read as follows:

557.120 “Crop” means all ~~industrial~~ hemp grown by a grower.

Sec. 6. NRS 557.140 is hereby amended to read as follows:

557.140 “Grower” means a person who is registered by the Department and produces ~~industrial~~ hemp.

Sec. 7. NRS 557.150 is hereby amended to read as follows:

557.150 “Handler” means a person who is registered by the Department pursuant to NRS 557.100 to 557.290, inclusive, and receives ~~industrial~~ hemp for processing into commodities, products or agricultural hemp seed.

Sec. 8. NRS 557.160 is hereby amended to read as follows:

557.160 1. ~~“Industrial hemp”~~ **“Hemp”** means ~~∓~~

~~— (a) Any~~ **any** plant of the genus *Cannabis sativa L.* and any part of such a plant ~~{other than a seed,}~~ **, including, without limitation, the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers,** whether growing or not, with a THC concentration ~~{of not more than 0.3 percent on a dry weight basis; and~~

~~— (b) A seed of any plant of the genus Cannabis that:~~

~~— (1) Is part of a crop;~~

~~— (2) Is retained by a grower for future planting;~~

~~— (3) Is agricultural hemp seed;~~

~~— (4) Is intended for processing into or for use as agricultural hemp seed; or~~

~~— (5) Has been processed in a manner that renders it incapable of germination;}~~ **that does not exceed the maximum THC concentration established by federal law for hemp.**



2. ~~["Industrial hemp"]~~ **"Hemp"** does not include any commodity or product made using ~~[industrial]~~ hemp.

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 557.200 is hereby amended to read as follows:

557.200 1. A person shall not grow or handle ~~[industrial]~~ hemp or produce agricultural hemp seed unless the person is registered with the Department as a grower, handler or producer, as applicable.

2. A person who wishes to grow or handle ~~[industrial]~~ hemp must register with the Department as a grower or handler, as applicable.

3. A person who wishes to produce agricultural hemp seed must register with the Department as a producer unless the person is:

(a) A grower registered pursuant to subsection 2 who retains agricultural hemp seed solely pursuant to subsection 3 of NRS 557.250; or

(b) A grower or handler registered pursuant to subsection 2 who processes seeds of any plant of the genus Cannabis which are incapable of germination into commodities or products.

↳ A person may not register as a producer unless the person is also registered as a grower or handler.

4. A person who wishes to register with the Department as a grower, handler or producer must submit to the Department the fee established pursuant to subsection 7 and an application, on a form prescribed by the Department, which includes:

(a) The name and address of the applicant;

(b) The name and address of the applicant's business in which ~~[industrial]~~ hemp or agricultural hemp seed will be grown, handled or produced, if different than that of the applicant; and

(c) Such other information as the Department may require by regulation.

5. Registration as a grower, handler or producer expires on December 31 of each year and may be renewed upon submission of an application for renewal containing such information as the Department may require by regulation.

6. Registration as a grower, handler or producer is not transferable. If a grower, handler or producer changes its business name or the ownership of the grower, handler or producer changes, the grower, handler or producer must obtain a new registration pursuant to NRS 557.100 to 557.290, inclusive.

7. The Department shall establish by regulation fees for the issuance and renewal of registration as a grower, handler or



producer in an amount necessary to cover the costs of carrying out NRS 557.100 to 557.290, inclusive.

Sec. 11. NRS 557.250 is hereby amended to read as follows:

557.250 1. Each grower shall provide the Department with a description of the property on which the crop of the grower is or will be located. Such a description must be in a manner prescribed by the Department and include, without limitation, global positioning system coordinates.

2. A grower may use any method for the propagation of ~~industrial~~ hemp to produce ~~industrial~~ hemp, including, without limitation, planting seeds or starts, using clones or cuttings or cultivating ~~industrial~~ hemp in a greenhouse.

3. A grower may retain agricultural hemp seed for the purpose of propagating ~~industrial~~ hemp in future years.

Sec. 12. NRS 557.270 is hereby amended to read as follows:

557.270 1. A grower, handler or producer may submit ~~industrial~~ hemp or a commodity or product made using ~~industrial~~ hemp, *other than a commodity or product which is intended for human consumption*, to an independent testing laboratory for testing pursuant to this section and an independent testing laboratory may perform such testing.

~~2. [A handler may not sell a commodity or product made using industrial hemp which is intended for human consumption unless the commodity or product has been submitted to an independent testing laboratory for testing and the independent testing laboratory has confirmed that the commodity or product satisfies the standards established by the Department for the content and quality of industrial hemp.~~

~~—3. The Department shall adopt regulations establishing protocols and procedures for the testing of commodities and products made using industrial hemp, including, without limitation, determining appropriate standards for sampling and for the size of batches for testing.~~

~~—4.] A grower or producer shall, before harvesting, submit a sample of each crop to the Department or an independent testing laboratory approved by the Department to determine whether the crop has a THC concentration established by federal law for hemp.~~ The Department may adopt regulations ~~[requiring the submission of a sample of a crop of industrial hemp by a grower to an independent testing laboratory to determine whether the crop has a THC concentration of not more than 0.3 percent on a dry weight basis. The regulations may]~~ *relating to such testing which* include, without limitation:



(a) Protocols and procedures for the testing of a crop, including, without limitation, determining appropriate standards for sampling and for the size of batches for testing; and

(b) A requirement that an independent testing laboratory provide the results of the testing directly to the Department in a manner prescribed by the Department.

~~5.1~~ **3.** *Except as otherwise provided by federal law, a grower or producer whose crop fails a test prescribed by the Department pursuant to this section may submit that same crop for retesting. The Department shall adopt regulations establishing protocols and procedures for such retesting.*

4. As used in this section:

(a) “Independent testing laboratory” means a facility certified as an independent testing laboratory pursuant to NRS 453A.368.

(b) “Intended for human consumption” means intended for ingestion or inhalation by a human or for topical application to the skin or hair of a human.

Sec. 13. NRS 557.290 is hereby amended to read as follows:

557.290 Any person who grows or handles ~~industrial~~ hemp or produces agricultural hemp seed without being registered with the Department pursuant to NRS 557.200 is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment. The prosecuting attorney and the Department may recover the costs of the proceeding, including investigative costs and attorney’s fees, against a person convicted of a misdemeanor pursuant to this section.

Sec. 13.5. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Unless federal law or regulation otherwise requires, a person shall not sell or offer to sell any commodity or product containing hemp which is intended for human consumption or any other commodity or product that purports to contain cannabidiol with a THC concentration that does not exceed the maximum THC concentration established by federal law for hemp unless such a commodity or product:*

(a) Has been tested by an independent testing laboratory and meets the standards established by regulation of the Department pursuant to subsection 3; and

(b) Is labeled in accordance with the regulations adopted by the Department pursuant to subsection 3.

2. *A person who produces or offers for sale a commodity or product described in subsection 1 may submit such a commodity*



or product to an independent testing laboratory for testing pursuant to this section and an independent testing laboratory may perform such testing.

3. The Department shall adopt regulations requiring the testing and labeling of any commodity or product described in subsection 1. Such regulations must:

(a) Set forth protocols and procedures for the testing of the commodities and products described in subsection 1; and

(b) Require that any commodity or product described in subsection 1 is labeled in a manner that is not false or misleading in accordance with the applicable provisions of chapters 446 and 585 of NRS.

4. As used in this section:

(a) "Hemp" has the meaning ascribed to it in NRS 557.160.

(b) "Independent testing laboratory" means a facility certified as an independent testing laboratory pursuant to NRS 453A.368.

(c) "Intended for human consumption" has the meaning ascribed to it in NRS 557.270.

(d) "THC" has the meaning ascribed to it in NRS 453A.155.

Sec. 14. NRS 453.096 is hereby amended to read as follows:

453.096 1. "Marijuana" means:

(a) All parts of any plant of the genus Cannabis, whether growing or not;

(b) The seeds thereof;

(c) The resin extracted from any part of the plant, including concentrated cannabis; and

(d) Every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

2. "Marijuana" does not include:

(a) ~~Industrial hemp;~~ **Hemp**, as defined in NRS ~~[557.040,]~~ **557.160**, which is grown or cultivated pursuant to the provisions of chapter 557 of NRS ~~[;]~~ **or any commodity or product made using such hemp;** or

(b) The mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stems (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

Sec. 15. NRS 453.339 is hereby amended to read as follows:

453.339 1. Except as otherwise provided in NRS 453.011 to 453.552, inclusive, a person who knowingly or intentionally sells, manufactures, delivers or brings into this State or who is knowingly



or intentionally in actual or constructive possession of marijuana or concentrated cannabis shall be punished, if the quantity involved:

(a) Is 50 pounds or more, but less than 1,000 pounds, of marijuana or 1 pound or more, but less than 20 pounds, of concentrated cannabis, for a category C felony as provided in NRS 193.130 and by a fine of not more than \$25,000.

(b) Is 1,000 pounds or more, but less than 5,000 pounds, of marijuana or 20 pounds or more, but less than 100 pounds, of concentrated cannabis, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years and by a fine of not more than \$50,000.

(c) Is 5,000 pounds or more of marijuana or 100 pounds or more of concentrated cannabis, for a category A felony by imprisonment in the state prison:

(1) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served; or

(2) For a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served,

↪ and by a fine of not more than \$200,000.

2. For the purposes of this section:

(a) "Marijuana" means all parts of any plant of the genus Cannabis, whether growing or not, except for ~~[industrial]~~ hemp, as defined in NRS ~~557.040,~~ **557.160**, which is grown or cultivated pursuant to the provisions of chapter 557 of NRS ~~557.160~~ **or any commodity or product made using such hemp**. The term does not include concentrated cannabis.

(b) The weight of marijuana or concentrated cannabis is its weight when seized or as soon as practicable thereafter. If marijuana and concentrated cannabis are seized together, each must be weighed separately and treated as separate substances.

Sec. 16. NRS 453A.352 is hereby amended to read as follows:

453A.352 1. The operating documents of a medical marijuana establishment must include procedures:

(a) For the oversight of the medical marijuana establishment; and

(b) To ensure accurate recordkeeping, including, without limitation, the provisions of NRS 453A.354 and 453A.356.

2. Except as otherwise provided in this subsection, a medical marijuana establishment:

(a) That is a medical marijuana dispensary must have a single entrance for patrons, which must be secure, and shall implement



strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

(b) That is not a medical marijuana dispensary must have a single secure entrance and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

↳ The provisions of this subsection do not supersede any state or local requirements relating to minimum numbers of points of entry or exit, or any state or local requirements relating to fire safety.

3. A medical marijuana establishment is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to:

(a) Directly or indirectly assist patients who possess valid registry identification cards;

(b) Assist patients who possess valid registry identification cards or letters of approval by way of those patients' designated primary caregivers; and

(c) Return for a refund marijuana, edible marijuana products or marijuana-infused products to the medical marijuana establishment from which the marijuana, edible marijuana products or marijuana-infused products were acquired.

↳ For the purposes of this subsection, a person shall be deemed to be a patient who possesses a valid registry identification card or letter of approval if he or she qualifies for nonresident reciprocity pursuant to NRS 453A.364.

4. All cultivation or production of marijuana that a cultivation facility carries out or causes to be carried out must take place in an enclosed, locked facility at the physical address provided to the Department during the registration process for the cultivation facility. Such an enclosed, locked facility must be accessible only by medical marijuana establishment agents who are lawfully associated with the cultivation facility, except that limited access by persons necessary to perform construction or repairs or provide other labor is permissible if such persons are supervised by a medical marijuana establishment agent.

5. A medical marijuana dispensary and a cultivation facility may acquire usable marijuana or marijuana plants from a person who holds a valid registry identification card, including, without limitation, a designated primary caregiver. Except as otherwise provided in this subsection, the patient or caregiver, as applicable, must receive no compensation for the marijuana. A patient who holds a valid registry identification card, and the designated primary



caregiver of such a patient, or the designated primary caregiver of a person who holds a letter of approval may sell usable marijuana to a medical marijuana dispensary one time and may sell marijuana plants to a cultivation facility one time.

6. A medical marijuana establishment shall not allow any person to consume marijuana on the property or premises of the establishment.

7. Medical marijuana establishments are subject to reasonable inspection by the Department at any time, and a person who holds a medical marijuana establishment registration certificate must make himself or herself, or a designee thereof, available and present for any inspection by the Department of the establishment.

8. A dual licensee, as defined in NRS 453D.030:

(a) Shall comply with the regulations adopted by the Department pursuant to paragraph (k) of subsection 1 of NRS 453D.200 with respect to the medical marijuana establishment operated by the dual licensee; and

(b) May, to the extent authorized by such regulations, combine the location or operations of the medical marijuana establishment operated by the dual licensee with the marijuana establishment, as defined in NRS 453D.030, operated by the dual licensee.

9. Each medical marijuana establishment shall install a video monitoring system which must, at a minimum:

(a) Allow for the transmission and storage, by digital or analog means, of a video feed which displays the interior and exterior of the medical marijuana establishment; and

(b) Be capable of being accessed remotely by a law enforcement agency in real-time upon request.

10. A medical marijuana establishment shall not dispense or otherwise sell marijuana, edible marijuana products or marijuana-infused products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises of the medical marijuana establishment.

11. If a medical marijuana establishment is operated by a dual licensee, as defined in NRS 453D.030, any provision of this section which is determined by the Department to be unreasonably impracticable pursuant to subsection 9 of NRS 453A.370 does not apply to the medical marijuana establishment.

12. A facility for the production of edible marijuana products or marijuana-infused products and a medical marijuana dispensary may acquire ~~industrial~~ hemp, as defined in NRS 557.160, *or a commodity or product made using such hemp* from a grower or handler registered by the State Department of Agriculture pursuant



to NRS 557.100 to 557.290, inclusive. A facility for the production of edible marijuana products or marijuana-infused products may use ~~[industrial]~~ hemp *or a commodity or product made using such hemp* to manufacture edible marijuana products and marijuana-infused products. A medical marijuana dispensary may dispense ~~[industrial]~~ hemp *or a commodity or product made using such hemp* and edible marijuana products and marijuana-infused products manufactured using ~~[industrial]~~ hemp ~~[]~~ *or a commodity or product made using such hemp*.

Sec. 17. NRS 453A.370 is hereby amended to read as follows:

453A.370 The Department shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of NRS 453A.320 to 453A.370, inclusive. Such regulations are in addition to any requirements set forth in statute and must, without limitation:

1. Prescribe the form and any additional required content of registration and renewal applications submitted pursuant to NRS 453A.322 and 453A.332.

2. Set forth rules pertaining to the safe and healthful operation of medical marijuana establishments, including, without limitation:

(a) The manner of protecting against diversion and theft without imposing an undue burden on medical marijuana establishments or compromising the confidentiality of the holders of registry identification cards and letters of approval.

(b) Minimum requirements for the oversight of medical marijuana establishments.

(c) Minimum requirements for the keeping of records by medical marijuana establishments.

(d) Provisions for the security of medical marijuana establishments, including, without limitation, requirements for the protection by a fully operational security alarm system of each medical marijuana establishment.

(e) Procedures pursuant to which medical marijuana dispensaries must use the services of an independent testing laboratory to ensure that any marijuana, edible marijuana products and marijuana-infused products sold by the dispensaries to end users are tested for content, quality and potency in accordance with standards established by the Department.

(f) Procedures pursuant to which a medical marijuana dispensary will be notified by the Department if a patient who holds a valid registry identification card or letter of approval has chosen the dispensary as his or her designated medical marijuana dispensary, as described in NRS 453A.366.



(g) Minimum requirements for ~~industrial~~ hemp, as defined in NRS 557.160, *or a commodity or product made using such hemp* which is used by a facility for the production of edible marijuana products or marijuana-infused products to manufacture edible marijuana products or marijuana-infused products or dispensed by a medical marijuana dispensary.

3. Establish circumstances and procedures pursuant to which the maximum fees set forth in NRS 453A.344 may be reduced over time to ensure that the fees imposed pursuant to NRS 453A.344 are, insofar as may be practicable, revenue neutral.

4. Set forth the amount of usable marijuana that a medical marijuana dispensary may dispense to a person who holds a valid registry identification card, including, without limitation, a designated primary caregiver, in any one 14-day period. Such an amount must not exceed the limits set forth in NRS 453A.200.

5. As far as possible while maintaining accountability, protect the identity and personal identifying information of each person who receives, facilitates or delivers services in accordance with this chapter.

6. In cooperation with the applicable professional licensing boards, establish a system to:

(a) Register and track attending providers of health care who advise their patients that the medical use of marijuana may mitigate the symptoms or effects of the patient's medical condition;

(b) Insofar as is possible, track and quantify the number of times an attending provider of health care described in paragraph (a) makes such an advisement; and

(c) Provide for the progressive discipline of attending providers of health care who advise the medical use of marijuana at a rate at which the Department, in consultation with the Division, and applicable board determine and agree to be unreasonably high.

7. Establish different categories of medical marijuana establishment agent registration cards, including, without limitation, criteria for training and certification, for each of the different types of medical marijuana establishments at which such an agent may be employed or volunteer or provide labor as a medical marijuana establishment agent.

8. Provide for the maintenance of a log by the Department, in consultation with the Division, of each person who is authorized to cultivate, grow or produce marijuana pursuant to subsection 6 of NRS 453A.200. The Department shall ensure that the contents of the log are available for verification by law enforcement personnel 24 hours a day.



9. Determine whether any provision of NRS 453A.350 or 453A.352 would make the operation of a medical marijuana establishment or marijuana establishment, as defined in NRS 453D.030, by a dual licensee, as defined in NRS 453D.030, unreasonably impracticable, as defined in NRS 453D.030.

10. Address such other matters as may assist in implementing the program of dispensation contemplated by NRS 453A.320 to 453A.370, inclusive.

Sec. 18. 1. This section and sections 5 to 8, inclusive, 10 to 13, inclusive, and 14 to 17, inclusive, of this act become effective on July 1, 2019.

2. Section 13.5 of this act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of that section; and

(b) On July 1, 2020, for all other purposes.

