

ASSEMBLY BILL NO. 326—ASSEMBLYMAN ROBERTS

MARCH 17, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing cannabis. (BDR 56-641)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: No.

~

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

AN ACT relating to cannabis; authorizing the Cannabis Compliance Board to impose certain penalties for engaging in the business of a cannabis establishment without a license; requiring advertising by a cannabis establishment to include the name and license number or other unique identifier of the cannabis establishment; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law prohibits a person from possessing, delivering or producing
2 marijuana or paraphernalia, or aiding and abetting another in doing so, but creates
3 an exemption from state prosecution for such crimes in certain circumstances for
4 persons who are at least 21 years of age or hold a registry identification card, letter
5 of approval, cannabis establishment agent registration card, adult-use cannabis
6 establishment license or medical cannabis establishment license. A person who
7 engages in the business of a cannabis establishment without an appropriate license
8 does not qualify for such an exemption and is therefore subject to prosecution for
9 such crimes. (NRS 453.316, 453.321, 453.336, 453.337, 453.339, 453.3393,
10 678C.200, 678D.200) Existing law additionally prohibits a person from engaging in
11 the business of a medical cannabis establishment or adult-use cannabis
12 establishment without a license issued by the Cannabis Compliance Board. (NRS
13 678B.210, 678B.250) If a licensee has violated the provisions of law relating to the
14 regulation of cannabis, the Board may impose certain penalties, including the
15 revocation of the license of the licensee and the imposition of a civil penalty. (NRS
16 678A.600) **Section 1** of this bill additionally authorizes the Board to impose certain
17 penalties, in addition to any criminal prosecution, for engaging in the business of a
18 medical cannabis establishment or adult-use cannabis establishment without a
19 license. If a person violates such provisions, the Board may require the person to
20 pay: (1) court costs; (2) reasonable costs of the investigation of the violation by the
21 Board; (3) damages caused as a result of the violation up to the amount of the



22 pecuniary gain of the person from the violation; or (4) any combination of these
23 penalties.

24 Under existing law, certain activities concerning advertising by a cannabis
25 establishment are prohibited or required, such as prohibiting a cannabis
26 establishment from engaging in advertising which contains a statement or
27 illustration that is false or misleading and requiring advertising to contain a warning
28 that cannabis is for use only by adults who are 21 years of age or older. (NRS
29 678B.520) **Section 2** of this bill requires that all advertising by a cannabis
30 establishment contain: (1) the name of the cannabis establishment; and (2) the
31 adult-use cannabis establishment license number or other unique identifier or the
32 medical cannabis establishment license number or other unique identifier of the
33 cannabis establishment.

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

1 **Section 1.** NRS 678A.600 is hereby amended to read as
2 follows:

3 678A.600 *1.* If the Board finds that a licensee or registrant
4 has violated a provision of this title or any regulation adopted
5 pursuant thereto, the Board may take any or all of the following
6 actions:

7 ~~(1)~~ (a) Limit, condition, suspend or revoke the license or
8 registration card of the licensee or registrant.

9 ~~(2)~~ (b) Impose a civil penalty in an amount established by
10 regulation for each violation.

11 *2. If the Board finds that a person has violated the provisions*
12 *of subsection 1 of NRS 678B.210 or subsection 1 of NRS*
13 *678B.250, in addition to any criminal penalty imposed on the*
14 *person, the Board may require the person to pay:*

15 (a) *Court costs;*

16 (b) *Reasonable costs incurred by the Board during the course*
17 *of the investigation of the violation;*

18 (c) *Damages the person caused as a result of the violation up*
19 *to the amount of the pecuniary gain of the person from the*
20 *violation; or*

21 (d) *Any combination of paragraphs (a), (b) and (c).*

22 **Sec. 2.** NRS 678B.520 is hereby amended to read as follows:

23 678B.520 1. Each cannabis establishment shall, in
24 consultation with the Board, cooperate to ensure that all cannabis
25 products offered for sale:

26 (a) Are labeled clearly and unambiguously:

27 (1) As cannabis or medical cannabis with the words "THIS
28 IS A MEDICAL CANNABIS PRODUCT" or "THIS IS A
29 CANNABIS PRODUCT," as applicable, in bold type; and



1 (2) As required by the provisions of this chapter and chapters
2 678C and 678D of NRS.

3 (b) Are not presented in packaging that contains an image of a
4 cartoon character, mascot, action figure, balloon or toy, except that
5 such an item may appear in the logo of the cannabis production
6 facility which produced the product.

7 (c) Are regulated and sold on the basis of the concentration of
8 THC in the products and not by weight.

9 (d) Are packaged and labeled in such a manner as to allow
10 tracking by way of an inventory control system.

11 (e) Are not packaged and labeled in a manner which is modeled
12 after a brand of products primarily consumed by or marketed to
13 children.

14 (f) Are labeled in a manner which indicates the amount of THC
15 in the product, measured in milligrams, and includes a statement
16 that the product contains cannabis and its potency was tested with an
17 allowable variance of the amount determined by the Board by
18 regulation.

19 (g) Are not labeled or marketed as candy.

20 2. A cannabis production facility shall not produce cannabis
21 products in any form that:

22 (a) Is or appears to be a lollipop.

23 (b) Bears the likeness or contains characteristics of a real or
24 fictional person, animal or fruit, including, without limitation, a
25 caricature, cartoon or artistic rendering.

26 (c) Is modeled after a brand of products primarily consumed by
27 or marketed to children.

28 (d) Is made by applying concentrated cannabis, as defined in
29 NRS 453.042, to a commercially available candy or snack food item
30 other than dried fruit, nuts or granola.

31 3. A cannabis production facility shall:

32 (a) Seal any cannabis product that consists of cookies or
33 brownies in a bag or other container which is not transparent.

34 (b) Affix a label to each cannabis product which includes
35 without limitation, in a manner which must not mislead consumers,
36 the following information:

37 (1) The words "Keep out of reach of children";

38 (2) A list of all ingredients used in the cannabis product;

39 (3) A list of all allergens in the cannabis product; and

40 (4) The total content of THC measured in milligrams.

41 (c) Maintain a hand washing area with hot water, soap and
42 disposable towels which is located away from any area in which
43 cannabis products are cooked or otherwise prepared.



1 (d) Require each person who handles cannabis products to
2 restrain his or her hair, wear clean clothing and keep his or her
3 fingernails neatly trimmed.

4 (e) Package all cannabis products produced by the cannabis
5 production facility on the premises of the cannabis production
6 facility.

7 4. A cannabis establishment shall not engage in advertising that
8 in any way makes cannabis or cannabis products appeal to children,
9 including, without limitation, advertising which uses an image of a
10 cartoon character, mascot, action figure, balloon, fruit or toy.

11 5. Each cannabis sales facility shall offer for sale containers for
12 the storage of cannabis and cannabis products which lock and are
13 designed to prohibit children from unlocking and opening the
14 container.

15 6. A cannabis sales facility shall:

16 (a) Include a written notification with each sale of cannabis or
17 cannabis products which advises the purchaser:

18 (1) To keep cannabis and cannabis products out of the reach
19 of children;

20 (2) That cannabis products can cause severe illness in
21 children;

22 (3) That allowing children to ingest cannabis or cannabis
23 products or storing cannabis or cannabis products in a location
24 which is accessible to children may result in an investigation by an
25 agency which provides child welfare services or criminal
26 prosecution for child abuse or neglect;

27 (4) That the intoxicating effects of edible cannabis products
28 may be delayed by 2 hours or more and users of edible cannabis
29 products should initially ingest a small amount of the product, then
30 wait at least 120 minutes before ingesting any additional amount of
31 the product;

32 (5) That pregnant women should consult with a physician
33 before ingesting cannabis or cannabis products;

34 (6) That ingesting cannabis or cannabis products with
35 alcohol or other drugs, including prescription medication, may result
36 in unpredictable levels of impairment and that a person should
37 consult with a physician before doing so;

38 (7) That cannabis or cannabis products can impair
39 concentration, coordination and judgment and a person should not
40 operate a motor vehicle while under the influence of cannabis or
41 cannabis products; and

42 (8) That ingestion of any amount of cannabis or cannabis
43 products before driving may result in criminal prosecution for
44 driving under the influence.



1 (b) Enclose all cannabis and cannabis products in opaque, child-
2 resistant packaging upon sale.

3 7. A cannabis sales facility shall allow any person who is at
4 least 21 years of age to enter the premises of the cannabis sales
5 facility.

6 8. If the health authority, as defined in NRS 446.050, where a
7 cannabis production facility or cannabis sales facility which sells
8 edible cannabis products is located requires persons who handle
9 food at a food establishment to obtain certification, the cannabis
10 production facility or cannabis sales facility shall ensure that at least
11 one employee maintains such certification.

12 9. A cannabis production facility may sell a commodity or
13 product made using hemp, as defined in NRS 557.160, or containing
14 cannabidiol to a cannabis sales facility.

15 10. In addition to any other product authorized by the
16 provisions of this title, a cannabis sales facility may sell:

17 (a) Any commodity or product made using hemp, as defined in
18 NRS 557.160;

19 (b) Any commodity or product containing cannabidiol with a
20 THC concentration of not more than 0.3 percent; and

21 (c) Any other product specified by regulation of the Board.

22 11. A cannabis establishment:

23 (a) Shall not engage in advertising which contains any statement
24 or illustration that:

25 (1) Is false or misleading;

26 (2) Promotes overconsumption of cannabis or cannabis
27 products;

28 (3) Depicts the actual consumption of cannabis or cannabis
29 products; or

30 (4) Depicts a child or other person who is less than 21 years
31 of age consuming cannabis or cannabis products or objects
32 suggesting the presence of a child, including, without limitation,
33 toys, characters or cartoons, or contains any other depiction which is
34 designed in any manner to be appealing to or encourage
35 consumption of cannabis or cannabis products by a person who is
36 less than 21 years of age.

37 (b) Shall not advertise in any publication or on radio, television
38 or any other medium if 30 percent or more of the audience of that
39 medium is reasonably expected to be persons who are less than 21
40 years of age.

41 (c) Shall not place an advertisement:

42 (1) Within 1,000 feet of a public or private school,
43 playground, public park or library, but may maintain such an
44 advertisement if it was initially placed before the school,



1 playground, public park or library was located within 1,000 feet of
2 the location of the advertisement;

3 (2) On or inside of a motor vehicle used for public
4 transportation or any shelter for public transportation;

5 (3) At a sports event to which persons who are less than 21
6 years of age are allowed entry; or

7 (4) At an entertainment event if it is reasonably estimated
8 that 30 percent or more of the persons who will attend that event are
9 less than 21 years of age.

10 (d) Shall not advertise or offer any cannabis or cannabis product
11 as “free” or “donated” without a purchase.

12 (e) Shall ensure that all advertising by the cannabis
13 establishment contains such warnings as may be prescribed by the
14 Board, which must include, without limitation, the following words:

15 (1) “Keep out of reach of children”; and

16 (2) “For use only by adults 21 years of age and older.”

17 *(f) Shall ensure that all advertising by the cannabis*
18 *establishment contain:*

19 *(1) The name of the cannabis establishment; and*

20 *(2) The adult-use cannabis establishment license number*
21 *or medical cannabis establishment license number of the cannabis*
22 *establishment or any other unique identifier assigned to the*
23 *cannabis establishment by the Board.*

24 12. Nothing in subsection 11 shall be construed to prohibit a
25 local government, pursuant to chapter 244, 268 or 278 of NRS, from
26 adopting an ordinance for the regulation of advertising relating to
27 cannabis which is more restrictive than the provisions of subsection
28 11 relating to:

29 (a) The number, location and size of signs, including, without
30 limitation, any signs carried or displayed by a natural person;

31 (b) Handbills, pamphlets, cards or other types of advertisements
32 that are distributed, excluding an advertisement placed in a
33 newspaper of general circulation, trade publication or other form of
34 print media;

35 (c) Any stationary or moving display that is located on or near
36 the premises of a cannabis establishment; and

37 (d) The content of any advertisement used by a cannabis
38 establishment if the ordinance sets forth specific prohibited content
39 for such an advertisement.

40 13. If a cannabis establishment engages in advertising for
41 which it is required to determine the percentage of persons who are
42 less than 21 years of age and who may reasonably be expected to
43 view or hear the advertisement, the cannabis establishment shall
44 maintain documentation for not less than 5 years after the date on
45 which the advertisement is first broadcasted, published or otherwise



1 displayed that demonstrates the manner in which the cannabis
2 establishment determined the reasonably expected age of the
3 audience for that advertisement.

4 14. In addition to any other penalties provided for by law, the
5 Board may impose a civil penalty upon a cannabis establishment
6 that violates the provisions of subsection 11 or 13 as follows:

7 (a) For the first violation in the immediately preceding 2 years, a
8 civil penalty not to exceed \$1,250.

9 (b) For the second violation in the immediately preceding 2
10 years, a civil penalty not to exceed \$2,500.

11 (c) For the third violation in the immediately preceding 2 years,
12 a civil penalty not to exceed \$5,000.

13 (d) For the fourth violation in the immediately preceding 2
14 years, a civil penalty not to exceed \$10,000.

15 15. As used in this section, "motor vehicle used for public
16 transportation" does not include a taxicab, as defined in
17 NRS 706.124.

18 **Sec. 3.** This act becomes effective on July 1, 2021.

