

Amendment No. 473

Senate Amendment to Senate Bill No. 281	(BDR 32-974)
Proposed by: Senate Committee on Revenue and Economic Development	
Amendment Box: Replaces Amendment No. 393.	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 281 (§§ 10, 11).
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ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date					
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) **orange double underlining** is deleted language in the original bill proposed to be retained in this amendment.

SJQ/AAK



Date: 4/18/2021

S.B. No. 281—Enacts provisions relating to certain products containing hemp.
(BDR 32-974)



SENATE BILL NO. 281—SENATOR NEAL

MARCH 18, 2021

Referred to Committee on Revenue and Economic Development

SUMMARY—Enacts provisions relating to certain products containing hemp. (BDR 32-974)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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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 hemp; imposing an excise tax on retail sales of consumable hemp products; providing for the administration and enforcement of the excise tax; prohibiting a person from selling or offering to sell a consumable hemp product unless the product satisfies certain requirements established by the ~~{State}~~ Department of ~~{Agriculture,}~~ **Health and Human Services**; requiring the Department to establish certain requirements relating to the testing and labeling of consumable hemp products; authorizing the Department to take certain actions against a person who violates such requirements; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law ~~{provides for the regulation of growers and handlers of hemp and producers~~
2 ~~of agricultural hemp seed by the State Department of Agriculture. (Chapter 557 of NRS)~~
3 ~~However, existing law requires}~~ **prohibits a person from selling or offering to sell any**
4 **commodity or product containing hemp which is intended for human consumption**
5 **unless the commodity or product has been tested and labeled in accordance with**
6 **requirements set forth by the Department of Health and Human Services.** ~~{to establish}~~
7 **Existing law requires the Department to adopt regulations establishing such** requirements
8 ~~{for the testing and labeling of commodities and products that contain hemp which are~~
9 ~~intended for human consumption.} (NRS 439.532) **Section 40** of this bill repeals ~~{the~~
10 ~~requirement}~~ **those provisions that :** (1) **prohibit the sale or offering for sale of a**
11 **commodity or product that contains hemp that is intended for human consumption**
12 **unless the commodity or product meets certain requirements; and (2) require** the
13 Department ~~{of Health and Human Services regulate commodities and products that contain~~
14 ~~hemp which are intended for human consumption. Sections 25-37 of this bill provide, instead,~~
15 ~~for the regulation of consumable hemp products by the State Department of Agriculture.}~~ **to**
16 **adopt regulations establishing such requirements. Section ~~{26}~~ 31** of this bill ~~{defines}~~
17 **repeals those provisions, but limits their applicability to** “consumable hemp ~~{product}~~”
18 **products,” which are defined in section 26 of this bill** generally to mean a commodity or
19 product that contains hemp, **other than a component of hemp that the United States Food**~~

20 and Drug Administration has determined to be safe for human consumption, and: (1) has
21 a THC concentration that does not exceed the maximum THC concentration for hemp
22 established by federal law; and (2) is intended for human consumption. ~~f~~

23 ~~— Section 31 of this bill prohibits a person from selling or offering to sell a consumable~~
24 ~~hemp product unless the product has been tested and labeled in accordance with requirements~~
25 ~~set forth by the State Department of Agriculture. Section 32 of this bill requires a person who~~
26 ~~wishes to sell a consumable hemp product to first submit that product to the Department or a~~
27 ~~cannabis independent testing laboratory for testing. Section 39 of this bill authorizes a~~
28 ~~cannabis independent testing laboratory to perform such testing. Section 32 also requires the~~
29 ~~Department to adopt certain regulations relating to the testing of consumable hemp products~~
30 ~~and the standards that such products must satisfy. Section 33 of this bill requires the~~
31 ~~Department to adopt regulations establishing requirements for the labeling of consumable~~
32 ~~hemp products.] **Sections 25-37 of the bill provide for the regulation of consumable hemp**~~
33 ~~**products by the Department.**~~

34 **Section 34** of this bill authorizes the Department and a local board of health to
35 investigate apparent violations of the provisions of **sections 25-37** and authorizes
36 representatives of the Department and a local board of health to inspect any premises at
37 which a consumable hemp product is sold. **Section 35** of this bill authorizes the Department to
38 bring an action to enjoin violations of the provisions of **sections 25-37**. **Section 36** of this bill
39 makes it a misdemeanor to violate any provision of **sections 25-37** and authorizes the
40 Department to impose an administrative fine of not more than \$2,500 for such a violation.
41 **Section 38** of this bill makes a conforming change to reflect the repeal of the previous
42 authority of the Department [of Health and Human Services] to regulate commodities and
43 products that contain hemp [H] and the addition of sections 25-37 governing the regulation
44 of consumable hemp products by the Department.

45 **Section 4** of this bill defines “consumable hemp product retailer” to mean a person who
46 makes any retail sales of consumable hemp products. **Section 11** of this bill imposes an excise
47 tax on each retail sale of consumable hemp products by a consumable hemp product retailer at
48 the rate of ~~[H]~~ **3** percent of the sales price of the consumable hemp products. Under **section 11**,
49 the revenues collected from the excise tax are required to be distributed: (1) to the ~~[State]~~
50 Department of ~~[Agriculture]~~ Health and Human Services in an amount necessary to carry
51 out the provisions of **sections 25-37**; ~~and~~ (2) to the State Department of Agriculture in an
52 amount necessary to carry out the provisions of existing law governing the regulation of
53 growers and handlers of hemp and producers of agricultural hemp seed; and (3) if any
54 money remains, to the State Education Fund. Section 23 of this bill makes a conforming
55 change to account for the addition of such revenue in the State Education Fund.

56 **Sections 2-10 and 12-20** of this bill provide generally for the administration and
57 enforcement of the excise tax on consumable hemp products. **Section 8** of this bill adopts by
58 reference provisions of general applicability relating to the payment, collection, administration
59 and enforcement of taxes. **Sections 9 and 10** of this bill require a consumable hemp product
60 retailer to maintain certain records and provide for the inspection of those records by the
61 Department of Taxation. **Sections 12-14, 21 and 22** of this bill adopt provisions governing
62 penalties for failures to pay, claims for refunds and credits and the payment of interest on any
63 overpayment of the excise tax on consumable hemp products. **Section 15** of this bill sets forth
64 the procedure by which the denial of a claim for a refund or credit may be appealed to the
65 Nevada Tax Commission. **Section 16** of this bill denies standing to commence or maintain a
66 proceeding for judicial review to anyone other than the person who made the disputed
67 payment. If judgment is rendered for the claimant in such a proceeding, **section 17** of this bill
68 provides for the allowance and computation of interest on the amount found to have been
69 erroneously or illegally collected. **Section 18** of this bill prohibits proceedings to prevent or
70 enjoin the collection of the tax and requires that a timely claim for a refund or credit be made
71 as a prerequisite to any proceeding for the recovery of a refund. **Section 19** of this bill makes
72 it a gross misdemeanor for any person to file a false or fraudulent return or engage in other
73 conduct with intent to defraud the State or evade payment of the tax. **Section 20** of this bill
74 provides that the remedies of the State relating to the administration of the tax are cumulative.

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

1 **Section 1.** Title 32 of NRS is hereby amended by adding thereto a new
2 chapter to consist of the provisions set forth as sections 2 to 20, inclusive, of this
3 act.

4 **Sec. 2.** *As used in this chapter, unless the context otherwise requires, the*
5 *words and terms defined in sections 3 to 7, inclusive, of this act have the*
6 *meanings ascribed to them in those sections.*

7 **Sec. 3.** *“Consumable hemp product” has the meaning ascribed to it in*
8 *section 26 of this act.*

9 **Sec. 4. 1.** *“Consumable hemp product retailer” means any person who*
10 *makes any retail sale or sales of consumable hemp products.*

11 **2.** *The term does not include a cannabis establishment, as defined in NRS*
12 *678A.095.*

13 **Sec. 5.** *“Excise tax on consumable hemp products” means the excise tax*
14 *imposed by section 11 of this act.*

15 **Sec. 6.** *“Retail sale” means any sale for any purposes other than for resale.*

16 **Sec. 7.** *“Sales price” has the meaning ascribed to it in NRS 372A.247.*

17 **Sec. 8.** *The provisions of chapter 360 of NRS relating to the payment,*
18 *collection, administration and enforcement of taxes, including, without*
19 *limitation, any provisions relating to the imposition of penalties and interest,*
20 *shall be deemed to apply to the payment, collection, administration and*
21 *enforcement of the excise tax on consumable hemp products to the extent that*
22 *those provisions do not conflict with the provisions of this chapter.*

23 **Sec. 9. 1.** *Each person responsible for maintaining the records of a*
24 *consumable hemp product retailer shall:*

25 **(a)** *Keep such records as may be necessary to determine the amount of the*
26 *liability of the consumable hemp product retailer pursuant to the provisions of*
27 *this chapter;*

28 **(b)** *Preserve those records for 4 years or until any litigation or prosecution*
29 *pursuant to the provisions of this chapter is finally determined, whichever is*
30 *longer; and*

31 **(c)** *Make the records available for inspection by the Department upon*
32 *demand at reasonable times during regular business hours.*

33 **2.** *Any person who violates the provisions of subsection 1 is guilty of*
34 *misdemeanor.*

35 **Sec. 10. 1.** *To verify the accuracy of any return filed by a consumable*
36 *hemp product retailer or, if no return is filed, to determine the amount required*
37 *to be paid, the Department, or any person authorized in writing by the*
38 *Department, may examine the books, papers and records of any person who may*
39 *be liable for the excise tax on consumable hemp products.*

40 **2.** *Any person who may be liable for the excise tax on consumable hemp*
41 *products and who keeps outside of this State any books, papers and records*
42 *relating thereto shall pay to the Department an amount equal to the allowance*
43 *provided for state officers and employees generally while traveling outside of the*
44 *State for each day or fraction thereof during which an employee of the*
45 *Department is engaged in examining those documents, plus any other actual*
46 *expenses incurred by the employee while he or she is absent from his or her*
47 *regular place of employment to examine those documents.*

48 **Sec. 11. 1.** *An excise tax is hereby imposed on each retail sale in this*
49 *State of consumable hemp products by a consumable hemp product retailer at the*

1 rate of ~~1~~ 3 percent of the sales price of the consumable hemp products. The
2 excise tax imposed pursuant to this subsection:

3 (a) Is the obligation of the consumable hemp product retailer; and
4 (b) Is separate from and in addition to any general and local sales and use
5 taxes that apply to retail sales of tangible personal property.

6 2. The revenues collected from the excise tax imposed pursuant to
7 subsection 1 must be distributed to:

8 (a) The ~~State~~ Department of ~~Agriculture~~ Health and Human Services in
9 an amount determined to be necessary by the ~~State~~ Department of ~~Agriculture~~
10 Health and Human Services to pay the costs of carrying out the provisions of the
11 chapter consisting of sections 25 to 37, inclusive, of this act; ~~and~~

12 (b) The State Department of Agriculture in an amount determined to be
13 necessary by the State Department of Agriculture to pay the costs of carrying out
14 the provisions of chapter 557 of NRS; and

15 (c) If any money remains after the revenues are distributed pursuant to
16 paragraphs (a) ~~and~~ (b), to the State Treasurer to be deposited to
17 the credit of the State Education Fund.

18 **Sec. 12.** *If the Department determines that the excise tax on consumable*
19 *hemp products or any penalty or interest has been paid more than once or has*
20 *been erroneously or illegally collected or computed, the Department shall set*
21 *forth that fact in the records of the Department and certify to the State Board of*
22 *Examiners the amount collected in excess of the amount legally due and the*
23 *person from whom it was collected or by whom it was paid. If approved by the*
24 *State Board of Examiners, the excess amount collected or paid must, after being*
25 *credited against any amount then due from the person in accordance with NRS*
26 *360.236, be refunded to the person or his or her successors in interest.*

27 **Sec. 13.** *1. Except as otherwise provided in NRS 360.235 and 360.395:*

28 (a) *No refund of the excise tax on consumable hemp products may be*
29 *allowed unless a claim for refund is filed with the Department within 3 years*
30 *after the last day of the month following the month for which the overpayment*
31 *was made.*

32 (b) *No credit may be allowed after the expiration of the period specified for*
33 *filing claims for refund unless a claim for credit is filed with the Department*
34 *within that period.*

35 2. *Each claim must be in writing and must state the specific grounds upon*
36 *which the claim is founded.*

37 3. *The failure to file a claim within the time prescribed in subsection 1*
38 *constitutes a waiver of any demand against the State on account of any*
39 *overpayment.*

40 **Sec. 14.** *1. Except as otherwise provided in subsection 2, NRS 360.320 or*
41 *any other specific statute, interest must be paid upon any overpayment of the*
42 *excise tax on consumable hemp products at the rate set forth in, and in*
43 *accordance with the provisions of, NRS 360.2937.*

44 2. *If the Department determines that any overpayment has been made*
45 *intentionally or by reason of carelessness, the Department shall not allow any*
46 *interest on the overpayment.*

47 **Sec. 15.** *1. Within 30 days after rejecting a claim for refund or credit in*
48 *whole or in part, the Department shall serve written notice of its action on the*
49 *claimant in the manner prescribed for service of a notice of deficiency*
50 *determination. Within 30 days after the date of service of the notice, a claimant*
51 *who is aggrieved by the action of the Department may file an appeal with the*
52 *Nevada Tax Commission.*

1 2. *If the Department fails to serve notice of its action on a claim for refund*
2 *or credit within 6 months after the claim is filed, the claimant may consider the*
3 *claim to be disallowed and file an appeal with the Nevada Tax Commission*
4 *within 30 days after the last day of the 6-month period.*

5 3. *The final decision of the Nevada Tax Commission on an appeal is a final*
6 *decision for the purposes of judicial review pursuant to chapter 233B of NRS.*

7 **Sec. 16.** *1. A proceeding for judicial review of a decision of the Nevada*
8 *Tax Commission may not be commenced or maintained by an assignee of the*
9 *claimant or by any other person other than the person who paid the amount at*
10 *issue in the claim.*

11 2. *The failure of a claimant to file a timely petition for judicial review*
12 *constitutes a waiver of any demand against the State on account of any*
13 *overpayment.*

14 **Sec. 17.** *1. If judgment is rendered for the claimant in a proceeding for*
15 *judicial review, any amount found by the court to have been erroneously or*
16 *illegally collected must first be credited to any tax due from the claimant. The*
17 *balance of the amount must be refunded to the claimant.*

18 2. *In any such judgment, interest must be allowed at the rate of 3 percent*
19 *per annum upon any amount found to have been erroneously or illegally*
20 *collected from the date of payment of the amount to the date of allowance of*
21 *credit on account of the judgment, or to a date preceding the date of the refund*
22 *warrant by not more than 30 days. The date must be determined by the*
23 *Department.*

24 **Sec. 18.** *1. No injunction, writ of mandate or other legal or equitable*
25 *process may issue in any suit, action or proceeding in any court against this State*
26 *or against any officer of the State to prevent or enjoin the collection of the excise*
27 *tax on consumable hemp products or any amount of tax, penalty or interest*
28 *required to be collected.*

29 2. *No suit or proceeding, including, without limitation, a proceeding for*
30 *judicial review, may be maintained in any court for the recovery of any amount*
31 *alleged to have been erroneously or illegally determined or collected unless a*
32 *claim for refund or credit has been filed within the time prescribed in section 13*
33 *of this act.*

34 **Sec. 19.** *1. A person shall not, with intent to defraud the State or evade*
35 *payment of the excise tax on consumable hemp products or any part of the tax:*

36 (a) *Make, cause to be made or permit to be made any false or fraudulent*
37 *return or declaration or false statement in any return or declaration.*

38 (b) *Make, cause to be made or permit to be made any false entry in books,*
39 *records or accounts.*

40 (c) *Keep, cause to be kept or permit to be kept more than one set of books,*
41 *records or accounts.*

42 2. *Any person who violates the provisions of subsection 1 is guilty of a gross*
43 *misdemeanor.*

44 **Sec. 20.** *The remedies of the State provided for in this chapter are*
45 *cumulative, and no action taken by the Department or the Attorney General*
46 *constitutes an election by the State to pursue any remedy to the exclusion of any*
47 *other remedy for which provision is made in those sections.*

48 **Sec. 21.** NRS 360.2937 is hereby amended to read as follows:

49 360.2937 1. Except as otherwise provided in this section, NRS 360.320 or
50 any other specific statute, and notwithstanding the provisions of NRS 360.2935,
51 interest must be paid upon an overpayment of any tax provided for in chapter 362,
52 363A, 363B, 363C, 369, 370, 372, 372B, 374, 377, 377A, 377C or 377D of NRS ~~4~~
53 *or the chapter consisting of sections 2 to 20, inclusive, of this act, any of the taxes*

1 provided for in NRS 372A.290, any fee provided for in NRS 444A.090 or 482.313,
2 or any assessment provided for in NRS 585.497, at the rate of 0.25 percent per
3 month from the last day of the calendar month following the period for which the
4 overpayment was made.

5 2. No refund or credit may be made of any interest imposed on the person
6 making the overpayment with respect to the amount being refunded or credited.

7 3. The interest must be paid:

8 (a) In the case of a refund, to the last day of the calendar month following the
9 date upon which the person making the overpayment, if the person has not already
10 filed a claim, is notified by the Department that a claim may be filed or the date
11 upon which the claim is certified to the State Board of Examiners, whichever is
12 earlier.

13 (b) In the case of a credit, to the same date as that to which interest is computed
14 on the tax or the amount against which the credit is applied.

15 **Sec. 22.** NRS 360.417 is hereby amended to read as follows:

16 360.417 Except as otherwise provided in NRS 360.232 and 360.320, and
17 unless a different penalty or rate of interest is specifically provided by statute, any
18 person who fails to pay any tax provided for in chapter 362, 363A, 363B, 363C,
19 369, 370, 372, 372B, 374, 377, 377A, 377C, 377D, 444A or 585 of NRS ~~§~~ *or the*
20 *chapter consisting of sections 2 to 20, inclusive, of this act*, any of the taxes
21 provided for in NRS 372A.290, or any fee provided for in NRS 482.313, and any
22 person or governmental entity that fails to pay any fee provided for in NRS
23 360.787, to the State or a county within the time required, shall pay a penalty of not
24 more than 10 percent of the amount of the tax or fee which is owed, as determined
25 by the Department, in addition to the tax or fee, plus interest at the rate of 0.75
26 percent per month, or fraction of a month, from the last day of the month following
27 the period for which the amount or any portion of the amount should have been
28 reported until the date of payment. The amount of any penalty imposed must be
29 based on a graduated schedule adopted by the Nevada Tax Commission which
30 takes into consideration the length of time the tax or fee remained unpaid.

31 **Sec. 23.** NRS 387.1212 is hereby amended to read as follows:

32 387.1212 1. The State Education Fund is hereby created as a special
33 revenue fund to be administered by the Superintendent of Public Instruction for the
34 purpose of supporting the operation of the public schools in this State. The interest
35 and income earned on the money in the Fund, after deducting any applicable
36 charges, must be credited to the Fund.

37 2. Money which must be deposited for credit to the State Education Fund
38 includes, without limitation:

39 (a) All money derived from interest on the State Permanent School Fund, as
40 provided in NRS 387.030;

41 (b) The proceeds of the tax imposed pursuant to NRS 244.33561 and any
42 applicable penalty or interest, less any amount retained by the county treasurer for
43 the actual cost of collecting and administering the tax;

44 (c) The proceeds of the tax imposed pursuant to subsection 1 of NRS 387.195;

45 (d) The portion of the money in each special account created pursuant to
46 subsection 1 of NRS 179.1187 which is identified in paragraph (d) of subsection 2
47 of NRS 179.1187;

48 (e) The money identified in subsection 1 of NRS 328.450;

49 (f) The money identified in subsection 1 of NRS 328.460;

50 (g) The money identified in paragraph (a) of subsection 2 of NRS 360.850;

51 (h) The money identified in paragraph (a) of subsection 2 of NRS 360.855;

52 (i) The money required to be paid over to the State Treasurer for deposit to the
53 credit of the State Education Fund pursuant to subsection 4 of NRS 362.170;

1 (j) The portion of the proceeds of the tax imposed pursuant to subsection 1 of
2 NRS 372A.290 identified in paragraph (b) of subsection 4 of NRS 372A.290;

3 (k) The proceeds of the tax imposed pursuant to subsection 3 of NRS
4 372A.290;

5 (l) The proceeds of the fees, taxes, interest and penalties imposed pursuant to
6 chapter 374 of NRS, as transferred pursuant to subsection 3 of NRS 374.785;

7 (m) The money identified in paragraph (b) of subsection 3 of NRS 678B.390;

8 (n) The portion of the proceeds of the excise tax imposed pursuant to
9 subsection 1 of NRS 463.385 identified in paragraph (c) of subsection 5 of NRS
10 463.385;

11 (o) The money required to be distributed to the State Education Fund pursuant
12 to subsection 3 of NRS 482.181;

13 (p) The portion of the net profits of the grantee of a franchise, right or privilege
14 identified in NRS 709.110;

15 (q) The portion of the net profits of the grantee of a franchise identified in NRS
16 709.230;

17 (r) The portion of the net profits of the grantee of a franchise identified in NRS
18 709.270; ~~and~~

19 (s) *The portion of the proceeds of the tax imposed pursuant to subsection 1*
20 *of section 11 of this act identified in paragraph ~~(b)~~ (c) of subsection 2 of section*
21 *11 of this act; and*

22 (t) The direct legislative appropriation from the State General Fund required by
23 subsection 3.

24 3. In addition to money from any other source provided by law, support for
25 the State Education Fund must be provided by direct legislative appropriation from
26 the State General Fund in an amount determined by the Legislature to be sufficient
27 to fund the operation of the public schools in this State for kindergarten through
28 grade 12 for the next ensuing biennium for the population reasonably estimated for
29 that biennium. Money in the State Education Fund does not revert to the State
30 General Fund at the end of a fiscal year, and the balance in the State Education
31 Fund must be carried forward to the next fiscal year.

32 4. Money in the Fund must be paid out on claims as other claims against the
33 State are paid.

34 5. The Superintendent of Public Instruction may create one or more accounts
35 in the State Education Fund for the purpose of administering any money received
36 from the Federal Government for the support of education and any State money
37 required to be administered separately to satisfy any requirement imposed by the
38 Federal Government. The money in any such account must not be considered when
39 calculating the statewide base per pupil funding amount or appropriating money
40 from the State Education Fund pursuant to NRS 387.1214. The interest and income
41 earned on the money in any such account, after deducting any applicable charges,
42 must be credited to the account.

43 **Sec. 24.** Title 49 of NRS is hereby amended by adding thereto a new chapter
44 to consist of the provisions set forth as sections 25 to 37, inclusive, of this act.

45 **Sec. 25.** *As used in this chapter, unless the context otherwise requires, the*
46 *words and terms defined in sections 26 to 29, inclusive, of this act have the*
47 *meanings ascribed to them in those sections.*

48 **Sec. 26.** *“Consumable hemp product” means a commodity or product that*
49 *contains hemp, other than a component of hemp which the United States Food*
50 *and Drug Administration has been generally recognized as safe for human*
51 *consumption, and:*

52 *1. Has a THC concentration that does not exceed the maximum THC*
53 *concentration established by federal law for hemp; and*

1 2. Is intended for ingestion or inhalation by a human or for topical
2 application to the skin or hair of a human.

3 Sec. 27. "Department" means the ~~[State]~~ Department of ~~[Agriculture]~~
4 Health and Human Services.

5 Sec. 28. "Hemp" has the meaning ascribed to it in NRS 557.160.

6 Sec. 29. "THC" has the meaning ascribed to it in NRS 453.139.

7 Sec. 30. The provisions of this chapter do not apply to a cannabis
8 establishment, as defined in NRS 678A.095.

9 Sec. 31. 1. A person shall not sell or offer to sell a consumable hemp
10 product in this State unless the consumable hemp product:

11 ~~1. (a) Has been tested [in accordance with section 32 of this act and~~
12 ~~satisfies the requirements set forth in that section; and~~

13 ~~2.] by a cannabis independent testing laboratory and satisfies any standards~~
14 ~~established by regulation of the Department pursuant to subsection 3; and~~

15 ~~(b) Is labeled in accordance with the [requirements set forth by regulation~~
16 ~~off regulations adopted by the Department pursuant to [section 33 of this act.]~~
17 ~~subsection 3.~~

18 2. A person who produces or offers for sale a consumable hemp product
19 may submit the consumable hemp product to a cannabis independent testing
20 laboratory for testing pursuant to this section and a cannabis independent testing
21 laboratory may perform such testing.

22 3. The Department shall adopt regulations requiring the testing and
23 labeling of any consumable hemp product. Such regulations must:

24 (a) Set forth protocols and procedures for the testing of consumable hemp
25 products; and

26 (b) Require that any consumable hemp product is labeled in a manner that is
27 not false or misleading in accordance with the applicable provisions of chapters
28 446 and 585 of NRS.

29 4. As used in this section "cannabis independent testing laboratory" has the
30 meaning ascribed to it in NRS 678A.115.

31 Sec. 32. ~~[1. Each consumable hemp product sold in this State must:~~

32 ~~(a) Have a THC concentration that does not exceed the maximum THC~~
33 ~~concentration established by federal law for hemp; and~~

34 ~~(b) Meet all standards for content, quality and potency established by~~
35 ~~regulation of the Department pursuant to subsection 3.~~

36 ~~2. A person who wishes to sell a consumable hemp product shall, before the~~
37 ~~sale, submit the product to the Department or a cannabis independent testing~~
38 ~~laboratory approved by the Department for testing to determine whether the~~
39 ~~product satisfies the requirements set forth in subsection 1. The Department may~~
40 ~~adopt regulations relating to such testing which include, without limitation:~~

41 ~~(a) Protocols and procedures for the testing of a consumable hemp product;~~
42 ~~and~~

43 ~~(b) A requirement that a cannabis independent testing laboratory provide the~~
44 ~~results of the testing directly to the Department in a manner prescribed by the~~
45 ~~Department.~~

46 ~~3. The Department shall adopt regulations establishing standards for~~
47 ~~content, quality and potency of consumable hemp products sold in this State.~~

48 ~~4. As used in this section, "cannabis independent testing laboratory" has~~
49 ~~the meaning ascribed to it in NRS 678A.115.] (Deleted by amendment.)~~

50 Sec. 33. ~~[The Department shall adopt regulations establishing~~
51 ~~requirements for the labeling of consumable hemp products. Such regulations~~
52 ~~must require, without limitation, a consumable hemp product to be labeled in a~~

1 ~~manner that is not false or misleading in accordance with the applicable~~
2 ~~provisions of chapters 446 and 585 of NRS.] (Deleted by amendment.)~~

3 **Sec. 34. 1.** *The Department ~~[shall receive reports and]~~ or a local board of*
4 *health may investigate apparent violations of the provisions of this chapter or the*
5 *regulations adopted pursuant thereto.*

6 *2. Any duly authorized officer, employee or representative of the*
7 *Department or a local board of health may enter into and inspect at any*
8 *reasonable time any premises at which a consumable hemp product is sold for*
9 *purposes of ascertaining compliance with the provisions of this chapter.*

10 *3. A person shall not:*

11 *(a) Refuse entry or access to any authorized representative of the Department*
12 *or a local board of health who requests entry for the purposes of inspection, as*
13 *provided in this section, and who presents appropriate credentials; or*

14 *(b) Obstruct, hamper or interfere with any such inspection.*

15 **Sec. 35. 1.** *If the Department determines that a person has violated or is*
16 *about to violate any provision of this chapter, the Department may bring an*
17 *action in a court of competent jurisdiction to enjoin the person from engaging in*
18 *or continuing the violation.*

19 *2. An injunction ~~is~~ in an action brought the Department pursuant to*
20 *subsection 1.*

21 *(a) May be issued without proof of actual damage sustained by any person.*

22 *(b) Does not prohibit the criminal prosecution and punishment of the person*
23 *who commits the violation.*

24 *3. If a local board of health determines that a person has violated or is*
25 *about to violate any provision of this chapter, the local board of health may*
26 *report the violation to the Department, which may proceed in the manner*
27 *described in subsection 1.*

28 **Sec. 36.** *Any person violating the provisions of this chapter, or the*
29 *regulations adopted pursuant thereto, is guilty of a misdemeanor and, in addition*
30 *to any criminal penalty, shall pay to the Department an administrative fine of not*
31 *more than \$2,500 per violation. If an administrative fine is imposed pursuant to*
32 *this section, the costs of the proceeding, including investigative costs and*
33 *attorney's fees, may be recovered by the Department.*

34 **Sec. 37.** *The Department shall adopt such regulations as it determines are*
35 *necessary to carry out the provisions of this chapter.*

36 **Sec. 38.** NRS 557.270 is hereby amended to read as follows:

37 557.270 1. A grower, handler or producer may submit hemp or a
38 commodity or product made using hemp, ~~other than a [commodity or]~~ consumable
39 hemp product [described in subsection 1 of NRS 439.532,], as defined in section
40 26 of this act, to a cannabis independent testing laboratory for testing pursuant to
41 this section and a cannabis independent testing laboratory may perform such
42 testing.

43 2. A grower or producer shall, before harvesting, submit a sample of each
44 crop to the Department or a cannabis independent testing laboratory approved by
45 the Department to determine whether the crop has a THC concentration that
46 exceeds the maximum THC concentration established by federal law for hemp. The
47 Department may adopt regulations relating to such testing which include, without
48 limitation:

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

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

4 3. A crop which is harvested before the testing required by subsection 2 is
 5 completed shall be deemed to have failed the testing and may be detained, seized or
 6 embargoed by the Department. The Department shall not renew the registration of a
 7 grower or producer who harvests a crop before the testing required by subsection 2
 8 is completed.

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

13 5. As used in this section, "cannabis independent testing laboratory" has the
 14 meaning ascribed to it in NRS 678A.115.

15 **Sec. 39.** ~~[NRS 678B.200 is hereby amended to read as follows:~~

16 ~~678B.200 1. The Board shall establish standards for and certify one or more~~
 17 ~~cannabis independent testing laboratories to:~~

18 ~~(a) Test cannabis for adult use and adult use cannabis products that are to be~~
 19 ~~sold in this State;~~

20 ~~(b) Test cannabis for medical use and medical cannabis products that are to be~~
 21 ~~sold in this State; and~~

22 ~~(c) In addition to the testing described in paragraph (a) or (b), test~~
 23 ~~[commodities];~~

24 ~~(1) Commodities or products containing hemp, as defined in NRS 557.160,~~
 25 ~~or cannabidiol which are intended for human or animal consumption and sold by a~~
 26 ~~cannabis establishment [.] ; and~~

27 ~~(2) Consumable hemp products, as defined in section 26 of this act, in~~
 28 ~~accordance with the provisions of the chapter consisting of sections 25 to 37,~~
 29 ~~inclusive, of this act.~~

30 ~~2. Such a cannabis independent testing laboratory must be able to:~~

31 ~~(a) Determine accurately, with respect to cannabis or cannabis products that are~~
 32 ~~sold or will be sold at cannabis sales facilities in this State:~~

33 ~~(1) The concentration therein of THC and cannabidiol;~~

34 ~~(2) The presence and identification of microbes, molds and fungi;~~

35 ~~(3) The composition of the tested material;~~

36 ~~(4) The presence of chemicals in the tested material, including, without~~
 37 ~~limitation, pesticides, heavy metals, herbicides or growth regulators;~~

38 ~~(b) Demonstrate the validity and accuracy of the methods used by the cannabis~~
 39 ~~independent testing laboratory to test cannabis and cannabis products.~~

40 ~~3. To obtain a license to operate a cannabis independent testing laboratory, an~~
 41 ~~applicant must:~~

42 ~~(a) Apply successfully as required pursuant to NRS 678B.210 or 678B.250, as~~
 43 ~~applicable;~~

44 ~~(b) Pay the fees required pursuant to NRS 678B.300;~~

45 ~~(c) Agree to become accredited pursuant to standard ISO/IEC 17025 of the~~
 46 ~~International Organization for Standardization within 1 year after licensure.]~~

47 **(Deleted by amendment.)**

48 **Sec. 40.** NRS 439.532 is hereby repealed.

49 **Sec. 41.** 1. This ~~act~~ section becomes effective ~~on~~ upon passage and
 50 approval.

51 2. Sections 1 to 40, inclusive, of this act become effective:

1 (a) On January 1, 2022 for the purpose of adopting any regulations and
2 performing any other preparatory administrative tasks that are necessary to
3 carry out the provisions of this act; and
4 (b) On January 1, 2023 for all other purposes.

TEXT OF REPEALED SECTION

439.532 Testing and labeling of certain products containing cannabidiol; regulations.

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 a cannabis independent testing laboratory for testing pursuant to this section and a cannabis 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) "Cannabis independent testing laboratory" has the meaning ascribed to it in NRS 678A.115.

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

(c) "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.

(d) "THC" has the meaning ascribed to it in NRS 453.139.