

SENATE BILL NO. 328—SENATORS TITUS AND NGUYEN

MARCH 20, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Revises the procedures by which the Cannabis Compliance Board is required to adopt, amend or repeal regulations. (BDR 56-519)

FISCAL NOTE: Effect on Local Government: No.  
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 cannabis; eliminating the exemption of the Cannabis Compliance Board from the provisions of the Nevada Administrative Procedure Act with respect to the adoption, amendment or repeal of regulations; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law sets forth the Nevada Administrative Procedure Act, which  
2 establishes the procedures for state agencies to adopt, amend or repeal  
3 administrative regulations and adjudicate contested cases. (Chapter 233B of NRS)  
4 Existing law exempts the Cannabis Compliance Board from the provisions of the  
5 Act. (NRS 233B.039) Existing law instead sets forth specific procedures for the  
6 Board to adopt, amend or repeal regulations. (NRS 678A.460) **Sections 1 and 2** of  
7 this bill repeal those procedures and eliminate the exemption of the Board from the  
8 provisions of the Act with respect to the adoption, amendment or repeal of  
9 regulations, thereby requiring the Board to adopt, amend and repeal regulations in  
10 the same manner as other state agencies subject to the provisions of the Act.  
11 **Section 1** retains the exemption of the Board from the provisions of the Act with  
12 respect to adjudication of contested cases.

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

1 **Section 1.** NRS 233B.039 is hereby amended to read as  
2 follows:  
3 233B.039 1. The following agencies are entirely exempted  
4 from the requirements of this chapter:



- 1 (a) The Governor.  
2 (b) Except as otherwise provided in NRS 209.221 and 209.2473,  
3 the Department of Corrections.  
4 (c) The Nevada System of Higher Education.  
5 (d) The Office of the Military.  
6 (e) The Nevada Gaming Control Board.  
7 (f) Except as otherwise provided in NRS 368A.140 and 463.765,  
8 the Nevada Gaming Commission.  
9 (g) Except as otherwise provided in NRS 425.620, the Division  
10 of Welfare and Supportive Services of the Department of Health and  
11 Human Services.  
12 (h) Except as otherwise provided in NRS 422.390, the Division  
13 of Health Care Financing and Policy of the Department of Health  
14 and Human Services.  
15 (i) Except as otherwise provided in NRS 533.365, the Office of  
16 the State Engineer.  
17 (j) The Division of Industrial Relations of the Department of  
18 Business and Industry acting to enforce the provisions of  
19 NRS 618.375.  
20 (k) The Administrator of the Division of Industrial Relations of  
21 the Department of Business and Industry in establishing and  
22 adjusting the schedule of fees and charges for accident benefits  
23 pursuant to subsection 2 of NRS 616C.260.  
24 (l) The Board to Review Claims in adopting resolutions to carry  
25 out its duties pursuant to NRS 445C.310.  
26 (m) The Silver State Health Insurance Exchange.  
27 ~~[(n) The Cannabis Compliance Board.]~~  
28 2. Except as otherwise provided in subsection 5 and NRS  
29 391.323, the Department of Education, the Board of the Public  
30 Employees' Benefits Program and the Commission on Professional  
31 Standards in Education are subject to the provisions of this chapter  
32 for the purpose of adopting regulations but not with respect to any  
33 contested case.  
34 3. The special provisions of:  
35 (a) Chapter 612 of NRS for the adoption of an emergency  
36 regulation or the distribution of regulations by and the judicial  
37 review of decisions of the Employment Security Division of the  
38 Department of Employment, Training and Rehabilitation;  
39 (b) Chapters 616A to 617, inclusive, of NRS for the  
40 determination of contested claims;  
41 (c) Chapter 91 of NRS for the judicial review of decisions of the  
42 Administrator of the Securities Division of the Office of the  
43 Secretary of State; and



1 (d) NRS 90.800 for the use of summary orders in contested  
2 cases,

3 ➔ prevail over the general provisions of this chapter.

4 4. The provisions of NRS 233B.122, 233B.124, 233B.125 and  
5 233B.126 do not apply to the Department of Health and Human  
6 Services in the adjudication of contested cases involving the  
7 issuance of letters of approval for health facilities and agencies.

8 5. The provisions of this chapter do not apply to:

9 (a) Any order for immediate action, including, but not limited  
10 to, quarantine and the treatment or cleansing of infected or infested  
11 animals, objects or premises, made under the authority of the State  
12 Board of Agriculture, the State Board of Health, or any other agency  
13 of this State in the discharge of a responsibility for the preservation  
14 of human or animal health or for insect or pest control;

15 (b) An extraordinary regulation of the State Board of Pharmacy  
16 adopted pursuant to NRS 453.2184;

17 (c) A regulation adopted by the State Board of Education  
18 pursuant to NRS 388.255 or 394.1694;

19 (d) The judicial review of decisions of the Public Utilities  
20 Commission of Nevada;

21 (e) The adoption, amendment or repeal of policies by the  
22 Rehabilitation Division of the Department of Employment, Training  
23 and Rehabilitation pursuant to NRS 426.561 or 615.178;

24 (f) The adoption or amendment of a rule or regulation to be  
25 included in the State Plan for Services for Victims of Crime by the  
26 Department of Health and Human Services pursuant to  
27 NRS 217.130;

28 (g) The adoption, amendment or repeal of rules governing the  
29 conduct of contests and exhibitions of unarmed combat by the  
30 Nevada Athletic Commission pursuant to NRS 467.075;

31 (h) The adoption, amendment or repeal of regulations by the  
32 Director of the Department of Health and Human Services pursuant  
33 to NRS 447.335 to 447.350, inclusive;

34 (i) The adoption, amendment or repeal of standards of content  
35 and performance for courses of study in public schools by the  
36 Council to Establish Academic Standards for Public Schools and the  
37 State Board of Education pursuant to NRS 389.520;

38 (j) The adoption, amendment or repeal of the statewide plan to  
39 allocate money from the Fund for a Resilient Nevada created by  
40 NRS 433.732 established by the Department of Health and Human  
41 Services pursuant to paragraph (b) of subsection 1 of NRS 433.734;  
42 or

43 (k) The adoption or amendment of a data request by the  
44 Commissioner of Insurance pursuant to NRS 687B.404.



1 6. The State Board of Parole Commissioners ~~is~~ *and the*  
2 *Cannabis Compliance Board are* subject to the provisions of this  
3 chapter for the purpose of adopting regulations but not with respect  
4 to any contested case.

5 **Sec. 2.** NRS 678A.460 is hereby repealed.

6 **Sec. 3.** This act becomes effective upon passage and approval.

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**TEXT OF REPEALED SECTION**

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**678A.460 Regulations: Procedure for adoption, amendment and repeal.**

1. The Board shall adopt, amend and repeal regulations in accordance with the following procedures:

(a) At least 30 days before a meeting of the Board at which the adoption, amendment or repeal of a regulation is considered, notice of the proposed action must be:

(1) Posted on the Internet website of the Board;

(2) Mailed to every person who has filed a request therefor with the Board; and

(3) When the Board deems advisable, mailed to any person whom the Board believes would be interested in the proposed action, and published in such additional form and manner as the Board prescribes.

(b) The notice of proposed adoption, amendment or repeal must include:

(1) A statement of the time, place and nature of the proceedings for adoption, amendment or repeal;

(2) Reference to the authority under which the action is proposed; and

(3) Either the express terms or an informative summary of the proposed action.

(c) On the date and at the time and place designated in the notice, the Board shall afford any interested person or his or her authorized representative, or both, the opportunity to present statements, arguments or contentions in writing, with or without opportunity to present them orally. The Board shall consider all relevant matter presented to it before adopting, amending or repealing any regulation.

(d) Any interested person may file a petition with the Board requesting the adoption, amendment or repeal of a regulation. The petition must state, clearly and concisely:



(1) The substance or nature of the regulation, amendment or repeal requested;

(2) The reasons for the request; and

(3) Reference to the authority of the Board to take the action requested.

↳ Upon receipt of the petition, the Board shall within 45 days deny the request in writing or schedule the matter for action pursuant to this subsection.

2. In emergencies, the Board may summarily adopt, amend or repeal any regulation if:

(a) The Board submits to the Governor:

(1) A written finding that such action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare; and

(2) A written statement of the facts constituting an emergency;

(b) The Governor endorses the written finding and written statement described in paragraph (a) by written endorsement at the end of the full text of the written statement and written finding; and

(c) The Board files the written statement and written finding endorsed by the Governor at the same time it adopts, amends or repeals the regulation.

3. In any hearing held pursuant to this section, the Board or its authorized representative may administer oaths or affirmations, and may continue or postpone the hearing from time to time and at such places as it prescribes.

4. The Board shall file a copy of any regulation adopted, amended or repealed by the Board with the Legislative Counsel as soon as practicable after adoption, amendment or repeal. The adoption, amendment or repeal of a regulation by the Board becomes effective upon filing with the Secretary of State. The Board shall not file a regulation with the Secretary of State until 15 days after the date on which the regulation was adopted, amended or repealed by the Board.

5. Upon the request of a Legislator, the Legislative Commission may examine a regulation adopted, amended or repealed by the Board that is not yet effective pursuant to subsection 4 to determine whether the regulation conforms to the statutory authority pursuant to which it was adopted and whether the regulation carries out the intent of the Legislature in granting that authority.

6. Except as otherwise provided in subsection 7, the Legislative Commission shall:



(a) Review the regulation at its next regularly scheduled meeting if the request for examination of the regulation is received more than 10 working days before the meeting; or

(b) Refer the regulation for review to the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067.

7. If the Board determines that an emergency exists which requires a regulation of the Board for which a Legislator requested an examination pursuant to subsection 5 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the Board may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the regulation for review by the Subcommittee to Review Regulations as soon as practicable.

8. If the Legislative Commission, or the Subcommittee to Review Regulations if the regulation was referred to the Subcommittee, approves the regulation, the Legislative Counsel shall notify the Board that the Board may file the regulation with the Secretary of State. If the Commission or the Subcommittee objects to the regulation after determining that:

(a) The regulation does not conform to statutory authority; or

(b) The regulation does not carry out legislative intent,

↳ the Legislative Counsel shall attach to the regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the regulation to the Board.

9. If the Legislative Commission or the Subcommittee to Review Regulations has objected to a regulation, the Board shall revise the regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the Legislative Counsel within 60 days after the Board received the written notice of the objection to the regulation pursuant to subsection 8. Upon receipt of the revised regulation, the Legislative Counsel shall resubmit the regulation to the Legislative Commission or the Subcommittee for review. If the Legislative Commission or the Subcommittee approves the revised regulation, the Legislative Counsel shall notify the Board that the Board may file the revised regulation with the Secretary of State.

10. If the Legislative Commission or the Subcommittee to Review Regulations objects to the revised regulation, the Legislative Counsel shall attach to the revised regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised regulation to the Board. The Board shall continue to revise the regulation and



resubmit it to the Legislative Commission or the Subcommittee within 30 days after the Board receives a written notice of the objection to the revised regulation.

