
ASSEMBLY BILL NO. 235—ASSEMBLYMEN AIZLEY; CARRILLO,
FLORES, HOGAN, OHRENSCHALL, PIERCE AND SEGERBLOM

MARCH 4, 2011

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions regarding the medical use of marijuana. (BDR 40-912)

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.

~

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

AN ACT relating to marijuana; exempting from state prosecution certain persons who engage in the medical use of marijuana; authorizing the production of marijuana under certain circumstances; authorizing the compensation of certain persons who provide marijuana for medical use under certain circumstances; authorizing a local government to adopt ordinances relating to the medical use of marijuana; increasing the amount of marijuana that a person may legally possess for medical use under certain circumstances; providing that the obtaining of a registry identification card for the medical use of marijuana is voluntary; prohibiting a person from engaging in the medical use of marijuana within a certain distance of certain places; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes the limited and regulated use of marijuana by a person
2 who suffers from certain chronic and debilitating medical conditions and who
3 obtains a registry identification card from the Health Division of the Department of
4 Health and Human Services. Existing law also authorizes a person who is
5 designated as a primary caregiver and who obtains a registry identification card to
6 assist in the limited and regulated use of marijuana. (Chapter 453A of NRS)

7 **Section 3** of this bill makes it optional for a person to obtain a registry
8 identification card and exempts from prosecution any person who has not obtained



* A B 2 3 5 *

9 a registry identification card if the person has written documentation identifying the
10 person as a qualified patient or as a designated primary caregiver of a qualified
11 patient. **Section 11** of this bill revises the requirements for obtaining a registry
12 identification card, including, without limitation, eliminating the requirement that
13 the criminal history of an applicant be considered before the Health Division issues
14 such a card.

15 **Section 4** of this bill authorizes qualified patients and designated primary
16 caregivers to coordinate the production of marijuana for one or more qualified
17 patients and authorizes reimbursement for costs and services relating to producing
18 marijuana.

19 **Section 8** of this bill revises the definition of “designated primary caregiver” to
20 specify that such a person may be responsible for managing the well-being of more
21 than one patient. **Section 5** of this bill requires a designated primary caregiver who
22 is so designated for more than one qualified patient to reside in the same county as
23 each such qualified patient.

24 **Section 6** of this bill authorizes a governing body of a county, city or town to
25 adopt ordinances consistent with state law governing the medical use of marijuana.

26 Existing law limits the amount of marijuana that a person may possess, deliver
27 or produce to not more than 1 ounce of usable marijuana, three mature marijuana
28 plants and four immature marijuana plants. (NRS 453A.200) It is an affirmative
29 defense to a charge of exceeding this amount that the attending physician of the
30 patient determined that a greater amount is medically necessary. (NRS 453A.310)
31 **Sections 10 and 15** of this bill authorize a qualified patient or a designated primary
32 caregiver to possess an amount of marijuana determined medically necessary by the
33 attending physician of the qualified patient and eliminate this affirmative defense.

34 Existing law imposes criminal penalties for possessing marijuana and
35 possessing drug paraphernalia. (NRS 453.336, 453.560, 453.566) Existing law
36 further provides that a person engaged or assisting in the medical use of marijuana
37 is not subject to those penalties unless the person is discovered engaging or
38 assisting in the medical use of marijuana in certain public places. **Section 14** of this
39 bill provides that a person shall not engage or assist in the medical use of marijuana
40 within 1,000 feet of a church, synagogue or other place of religious worship, a
41 public or private school or a recreational center for youths unless such use occurs in
42 the person’s residence.

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

1 **Section 1.** Chapter 453A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 6, inclusive,
3 of this act.

4 **Sec. 2.** *“Qualified patient” means a person diagnosed with a*
5 *chronic and debilitating medical condition who:*

- 6 1. *Has been issued a registry identification card; or*
- 7 2. *Possesses written documentation indicating that the person*
8 *is engaging in the medical use of marijuana.*

9 **Sec. 3.** 1. *A person who is exempt from state prosecution*
10 *pursuant to NRS 453A.200 must provide proof that the person is a*
11 *qualified patient or a designated primary caregiver, as applicable,*
12 *by showing:*



1 (a) A valid registry identification card issued pursuant to NRS
2 453A.220 or 453A.250; or

3 (b) Written documentation issued within the immediately
4 preceding 12 months.

5 2. Except as otherwise provided in this section, a law
6 enforcement officer, pharmacy, dispensary or other person shall
7 recognize the proof provided by a qualified patient or a designated
8 primary caregiver pursuant to subsection 1 as evidence that the
9 qualified patient or designated primary caregiver has the right to
10 engage or assist in the medical use of marijuana.

11 3. A law enforcement officer, pharmacy, dispensary or other
12 person is not required to accept the written documentation
13 described in paragraph (b) of subsection 1 as proof of the right to
14 engage or assist in the medical use of marijuana if the law
15 enforcement officer, pharmacy, dispensary or other person has
16 reasonable cause to believe that such written documentation:

17 (a) Was not issued within the immediately preceding 12
18 months;

19 (b) Has been falsified, including, without limitation, that the
20 attending physician is not licensed to practice medicine pursuant
21 to chapter 630 of NRS or osteopathic medicine pursuant to
22 chapter 633 of NRS; or

23 (c) Does not otherwise comply with the requirements of this
24 chapter.

25 **Sec. 4. 1. Qualified patients and designated primary**
26 **caregivers may coordinate the production of marijuana for one or**
27 **more qualified patients, except that, if producing marijuana for**
28 **one qualified patient, the qualified patients and designated**
29 **primary caregivers shall not produce marijuana in an amount**
30 **which exceeds:**

31 (a) The amount described in subsection 3 of NRS 453A.200 as
32 applied for the qualified patient; or

33 (b) The cumulative amount described in subsection 3 of NRS
34 453A.200 as applied for all qualified patients for whom the
35 marijuana is being produced.

36 2. Except as otherwise provided in subsection 3, a qualified
37 patient or a designated primary caregiver, individually or in
38 cooperation with another qualified patient or designated primary
39 caregiver pursuant to subsection 1, shall not produce marijuana
40 for consideration.

41 3. A qualified patient or a designated primary caregiver may
42 receive reimbursement for the actual cost of producing marijuana,
43 including, without limitation, reasonable reimbursement for the
44 time and services provided by the person.



1 **Sec. 5.** *If a designated primary caregiver is so designated for*
2 *more than one qualified patient, the designated primary caregiver*
3 *and each qualified patient must reside in the same county.*

4 **Sec. 6.** *The governing board of a county, city or town may*
5 *adopt such ordinances relating to the medical use of marijuana as*
6 *are consistent with the provisions of this chapter.*

7 **Sec. 7.** NRS 453A.010 is hereby amended to read as follows:

8 453A.010 As used in this chapter, unless the context otherwise
9 requires, the words and terms defined in NRS 453A.020 to
10 453A.170, inclusive, *and section 2 of this act* have the meanings
11 ascribed to them in those sections.

12 **Sec. 8.** NRS 453A.080 is hereby amended to read as follows:

13 453A.080 1. “Designated primary caregiver” means a person
14 who:

15 (a) Is 18 years of age or older;

16 (b) Has significant responsibility for managing the well-being of
17 ~~[a person]~~ *one or more persons who are* diagnosed with a chronic
18 or debilitating medical condition; and

19 (c) Is designated as such in the manner required pursuant to
20 NRS 453A.250 ~~[]~~ *or has written documentation designating him*
21 *or her as such.*

22 2. The term does not include the attending physician of a
23 person diagnosed with a chronic or debilitating medical condition.

24 **Sec. 9.** NRS 453A.170 is hereby amended to read as follows:

25 453A.170 “Written documentation” means:

26 1. A statement signed by the attending physician of a person
27 diagnosed with a chronic or debilitating medical condition ~~[; or]~~
28 *which identifies the person as a qualified patient;*

29 2. Copies of the relevant medical records of a person diagnosed
30 with a chronic or debilitating medical condition ~~[]~~ *which identifies*
31 *a person as a qualified patient;*

32 3. *A written prescription for the medical use of marijuana or*
33 *a label affixed to a container containing marijuana which shows*
34 *that a person is diagnosed with a chronic or debilitating medical*
35 *condition and is a qualified patient engaged in the medical use of*
36 *marijuana; or*

37 4. *A statement signed by an attending physician of a qualified*
38 *patient in which the attending physician approves of the*
39 *designation of a person as a designated primary caregiver.*

40 **Sec. 10.** NRS 453A.200 is hereby amended to read as follows:

41 453A.200 1. Except as otherwise provided in this section and
42 NRS 453A.300, a ~~[person who holds a valid registry identification~~
43 ~~card issued to the person pursuant to NRS 453A.220 or 453A.250]~~
44 *qualified patient or a designated primary caregiver* is exempt from
45 state prosecution for:



- 1 (a) Possession, delivery or production of marijuana;
2 (b) Possession or delivery of drug paraphernalia;
3 (c) Aiding and abetting another in the possession, delivery or
4 production of marijuana ~~{}~~, *including, without limitation,*
5 *coordinating the production of marijuana for one or more*
6 *qualified patients pursuant to section 4 of this act;*
7 (d) Aiding and abetting another in the possession or delivery of
8 drug paraphernalia;
9 (e) *Providing reimbursement to a qualified patient or a*
10 *designated primary caregiver or receiving reimbursement*
11 *pursuant to subsection 3 of section 4 of this act;*

12 (f) Any combination of the acts described in paragraphs (a) to
13 ~~{(d)}~~ (e), inclusive; and

14 ~~{(f)}~~ (g) Any other criminal offense in which the possession,
15 delivery or production of marijuana or the possession or delivery of
16 drug paraphernalia is an element.

17 2. In addition to the provisions of subsection 1, no person may
18 be subject to state prosecution for constructive possession,
19 conspiracy or any other criminal offense solely for being in the
20 presence or vicinity of the medical use of marijuana in accordance
21 with the provisions of this chapter.

22 3. The exemption from state prosecution set forth in subsection
23 1 applies only to the extent that a ~~{person who holds a registry~~
24 ~~identification card issued to the person pursuant to paragraph (a) of~~
25 ~~subsection 1 of NRS 453A.220}~~ *qualified patient* and the designated
26 primary caregiver, if any, of such a ~~{person:}~~ *qualified patient:*

27 (a) Engage in or assist in, as applicable, the medical use of
28 marijuana in accordance with the provisions of this chapter as
29 justified to mitigate the symptoms or effects of the ~~{person's}~~
30 chronic or debilitating medical condition ~~{}~~ *of the qualified patient;*
31 and

32 (b) ~~{Do}~~ *Except as otherwise provided in section 4 of this act,*
33 *do* not, at any one time, collectively possess, deliver or produce
34 ~~{more}~~ :

35 (1) *More* than:

36 ~~{(1)}~~ (I) One ounce of usable marijuana;

37 ~~{(2)}~~ (II) Three mature marijuana plants; and

38 ~~{(3)}~~ (III) Four immature marijuana plants ~~{}~~; or

39 (2) *Marijuana in an amount that is more than medically*
40 *necessary as determined by the attending physician of the*
41 *qualified patient to mitigate the symptoms or effects of the chronic*
42 *or debilitating medical condition of the qualified patient, which*
43 *may be greater than the amount provided in subparagraph (1).*



1 4. If the persons described in subsection 3 possess, deliver or
2 produce marijuana in an amount which exceeds the amount
3 described in paragraph (b) of that subsection, those persons ~~[-~~
4 ~~—(a) Are]~~ **are** not exempt from state prosecution for possession,
5 delivery or production of marijuana.

6 ~~[(b) May establish an affirmative defense to charges of~~
7 ~~possession, delivery or production of marijuana, or any combination~~
8 ~~of those acts, in the manner set forth in NRS 453A.310.]~~

9 **Sec. 11.** NRS 453A.210 is hereby amended to read as follows:

10 453A.210 1. The Division shall establish and maintain a
11 program for the issuance of registry identification cards to persons
12 who meet the requirements of this section. *A person who is*
13 *diagnosed with a chronic or debilitating medical condition and*
14 *whose attending physician has prescribed the medical use of*
15 *marijuana may, but is not required to, apply for a registry*
16 *identification card pursuant to this section.*

17 2. Except as otherwise provided in subsections 3 and 5 , ~~[and~~
18 ~~NRS 453A.225,]~~ the Division or its designee shall issue a registry
19 identification card to a person who is a resident of this State and
20 who submits an application on a form prescribed by the Division
21 accompanied by the following:

22 (a) ~~[Valid, written]~~ **Written** documentation from the person's
23 attending physician stating that:

24 (1) The person has been diagnosed with a chronic or
25 debilitating medical condition;

26 (2) The medical use of marijuana may mitigate the symptoms
27 or effects of that condition; and

28 (3) The attending physician has explained the possible risks
29 and benefits of the medical use of marijuana;

30 (b) The name, address, telephone number, social security
31 number and date of birth of the person;

32 (c) Proof satisfactory to the Division that the person is a resident
33 of this State;

34 (d) The name, address and telephone number of the person's
35 attending physician; and

36 (e) If the person elects to designate a primary caregiver at the
37 time of application:

38 (1) The name, address, telephone number and social security
39 number of the designated primary caregiver; and

40 (2) A written, signed statement from the person's attending
41 physician in which the attending physician approves of the
42 designation of the primary caregiver.

43 3. The Division or its designee shall issue a registry
44 identification card to a person who is under 18 years of age if:



1 (a) The person submits the materials required pursuant to
2 subsection 2; and

3 (b) The custodial parent or legal guardian with responsibility for
4 health care decisions for the person under 18 years of age signs a
5 written statement setting forth that:

6 (1) The attending physician of the person under 18 years of
7 age has explained to that person and to the custodial parent or legal
8 guardian with responsibility for health care decisions for the person
9 under 18 years of age the possible risks and benefits of the medical
10 use of marijuana;

11 (2) The custodial parent or legal guardian with responsibility
12 for health care decisions for the person under 18 years of age
13 consents to the use of marijuana by the person under 18 years of age
14 for medical purposes;

15 (3) The custodial parent or legal guardian with responsibility
16 for health care decisions for the person under 18 years of age agrees
17 to serve as the designated primary caregiver for the person under 18
18 years of age; and

19 (4) The custodial parent or legal guardian with responsibility
20 for health care decisions for the person under 18 years of age agrees
21 to control the acquisition of marijuana and the dosage and frequency
22 of use by the person under 18 years of age.

23 4. The form prescribed by the Division to be used by a person
24 applying for a registry identification card pursuant to this section
25 must be a form that is in ~~quintuplicate.~~ *triplicate*. Upon receipt of
26 an application that is completed and submitted pursuant to this
27 section, the Division shall:

28 (a) Record on the application the date on which it was received;

29 (b) Retain one copy of the application for the records of the
30 Division; and

31 (c) Distribute the other ~~four~~ *two* copies of the application in
32 the following manner:

33 (1) One copy to the person who submitted the application;
34 *and*

35 (2) One copy to the applicant's designated primary caregiver,
36 if any. ~~;~~

37 ~~(3) One copy to the Central Repository for Nevada Records
38 of Criminal History; and~~

39 ~~(4) One copy to:~~

40 ~~(I) If the attending physician of the applicant is licensed
41 to practice medicine pursuant to the provisions of chapter 630 of
42 NRS, the Board of Medical Examiners; or~~

43 ~~(II) If the attending physician of the applicant is licensed
44 to practice osteopathic medicine pursuant to the provisions of
45 chapter 633 of NRS, the State Board of Osteopathic Medicine.~~



~~1 → The Central Repository for Nevada Records of Criminal History
2 shall report to the Division its findings as to the criminal history, if
3 any, of an applicant within 15 days after receiving a copy of an
4 application pursuant to subparagraph (3) of paragraph (c). The
5 Board of Medical Examiners or the State Board of Osteopathic
6 Medicine, as applicable, shall report to the Division its findings as to
7 the licensure and standing of the applicant's attending physician
8 within 15 days after receiving a copy of an application pursuant to
9 subparagraph (4) of paragraph (c).]~~

10 5. The Division shall verify the information contained in an
11 application submitted pursuant to this section and shall approve or
12 deny an application within 30 days after receiving the application.
13 The Division may contact an applicant, the applicant's attending
14 physician and *the applicant's* designated primary caregiver, if any,
15 by telephone to determine that the information provided on or
16 accompanying the application is accurate. The Division may deny
17 an application only on the following grounds:

18 (a) The applicant failed to provide the information required
19 pursuant to subsections 2 and 3 to:

20 (1) Establish the applicant's chronic or debilitating medical
21 condition; or

22 (2) Document the applicant's consultation with an attending
23 physician regarding the medical use of marijuana in connection with
24 that condition;

25 (b) The applicant failed to comply with regulations adopted by
26 the Division, including, without limitation, the regulations adopted
27 by the Administrator pursuant to NRS 453A.740;

28 (c) The Division determines that the information provided by
29 the applicant was falsified;

30 (d) The Division determines that the attending physician of the
31 applicant is not licensed to practice medicine or osteopathic
32 medicine in this State ~~for is not in good standing, as reported by the
33 Board of Medical Examiners or the State Board of Osteopathic
34 Medicine, as applicable;~~

35 ~~—(e) The Division determines that the applicant, or the applicant's
36 designated primary caregiver, if applicable, has been convicted of
37 knowingly or intentionally selling a controlled substance;~~

38 ~~—(f) The Division has prohibited the applicant from obtaining or
39 using a registry identification card pursuant to subsection 2 of
40 NRS 453A.300;~~

41 ~~—(g) The Division determines that the applicant, or the applicant's
42 designated primary caregiver, if applicable, has had a registry
43 identification card revoked pursuant to NRS 453A.225; or~~

44 ~~—(h) } ; or~~



1 (e) In the case of a person under 18 years of age, the custodial
2 parent or legal guardian with responsibility for health care decisions
3 for the person has not signed the written statement required pursuant
4 to paragraph (b) of subsection 3.

5 6. The decision of the Division to deny an application for a
6 registry identification card is a final decision for the purposes of
7 judicial review. Only the person whose application has been denied
8 or, in the case of a person under 18 years of age whose application
9 has been denied, the person's parent or legal guardian, has standing
10 to contest the determination of the Division. A judicial review
11 authorized pursuant to this subsection must be limited to a
12 determination of whether the denial was arbitrary, capricious or
13 otherwise characterized by an abuse of discretion and must be
14 conducted in accordance with the procedures set forth in chapter
15 233B of NRS for reviewing a final decision of an agency.

16 7. ~~[A person whose application has been denied may not~~
17 ~~reapply for 6 months after the date of the denial, unless the Division~~
18 ~~or a court of competent jurisdiction authorizes reapplication in a~~
19 ~~shorter time.~~

20 ~~—8.]~~ Except as otherwise provided in this subsection, if a person
21 has applied for a registry identification card pursuant to this section
22 and the Division has not yet approved or denied the application, the
23 person, and the person's designated primary caregiver, if any, shall
24 be deemed to hold a registry identification card upon the
25 presentation to a law enforcement officer of the copy of the
26 application provided to him or her pursuant to subsection 4. A
27 person may not be deemed to hold a registry identification card for a
28 period of more than 30 days after the date on which the Division
29 received the application.

30 ~~[9.]~~ 8. As used in this section, "resident" has the meaning
31 ascribed to it in NRS 483.141.

32 **Sec. 12.** NRS 453A.220 is hereby amended to read as follows:

33 453A.220 1. If the Division approves an application pursuant
34 to subsection 5 of NRS 453A.210, the Division or its designee shall,
35 as soon as practicable after the Division approves the application:

36 (a) Issue a serially numbered registry identification card to the
37 applicant; and

38 (b) If the applicant has designated a primary caregiver, issue a
39 serially numbered registry identification card to the designated
40 primary caregiver.

41 2. A registry identification card issued pursuant to paragraph
42 (a) of subsection 1 must set forth:

43 (a) The name, address, photograph and date of birth of the
44 applicant;



1 (b) The date of issuance and date of expiration of the registry
2 identification card;

3 (c) The name and address of the applicant's designated primary
4 caregiver, if any; and

5 (d) Any other information prescribed by regulation of the
6 Division.

7 3. A registry identification card issued pursuant to paragraph
8 (b) of subsection 1 must set forth:

9 (a) The name, address and photograph of the designated primary
10 caregiver;

11 (b) The date of issuance and date of expiration of the registry
12 identification card;

13 (c) The name and address of the applicant for whom the person
14 is the designated primary caregiver; and

15 (d) Any other information prescribed by regulation of the
16 Division.

17 4. Except as otherwise provided in NRS 453A.225 ~~{,}~~ and
18 subsection 3 of NRS 453A.230 , ~~{and subsection 2 of NRS~~
19 ~~453A.300,}~~ a registry identification card issued pursuant to this
20 section is valid for a period of 1 year and may be renewed in
21 accordance with regulations adopted by the Division.

22 **Sec. 13.** NRS 453A.225 is hereby amended to read as follows:

23 453A.225 1. If, at any time after the Division or its designee
24 has issued a registry identification card to a person pursuant to
25 paragraph (a) of subsection 1 of NRS 453A.220, the Division
26 determines, on the basis of official documents or records or other
27 credible evidence, that the person ~~{:~~

28 ~~—(a) Provided}~~ *provided* falsified information on his or her
29 application to the Division or its designee, as described in paragraph
30 (c) of subsection 5 of NRS 453A.210, ~~{; or~~

31 ~~—(b) Has been convicted of knowingly or intentionally selling a~~
32 ~~controlled substance, as described in paragraph (e) of subsection 5~~
33 ~~of NRS 453A.210,~~

34 ~~→}~~ the Division shall immediately revoke the registry identification
35 card issued to that person and shall immediately revoke the registry
36 identification card issued to that person's designated primary
37 caregiver, if any.

38 2. ~~If, at any time after the Division or its designee has issued a~~
39 ~~registry identification card to a person pursuant to paragraph (b) of~~
40 ~~subsection 1 of NRS 453A.220 or pursuant to NRS 453A.250, the~~
41 ~~Division determines, on the basis of official documents or records or~~
42 ~~other credible evidence, that the person has been convicted of~~
43 ~~knowingly or intentionally selling a controlled substance, as~~
44 ~~described in paragraph (e) of subsection 5 of NRS 453A.210, the~~



1 ~~Division shall immediately revoke the registry identification card~~
2 ~~issued to that person.~~

3 ~~—3.]~~ Upon the revocation of a registry identification card
4 pursuant to this section:

5 (a) The Division shall send, by certified mail, return receipt
6 requested, notice to the person whose registry identification card has
7 been revoked, advising the person of the requirements of paragraph
8 (b); and

9 (b) The person shall return his or her registry identification card
10 to the Division within 7 days after receiving the notice sent pursuant
11 to paragraph (a).

12 ~~[4.]~~ 3. The decision of the Division to revoke a registry
13 identification card pursuant to this section is a final decision for the
14 purposes of judicial review.

15 ~~[5. A person whose registry identification card has been~~
16 ~~revoked pursuant to this section may not reapply for a registry~~
17 ~~identification card pursuant to NRS 453A.210 for 12 months after~~
18 ~~the date of the revocation, unless the Division or a court of~~
19 ~~competent jurisdiction authorizes reapplication in a shorter time.]~~

20 **Sec. 14.** NRS 453A.300 is hereby amended to read as follows:

21 453A.300 1. A ~~[person who holds a registry identification~~
22 ~~card issued to him or her pursuant to NRS 453A.220 or 453A.250]~~
23 *qualified patient or a designated primary caregiver* is not exempt
24 from state prosecution for, nor may the ~~[person]~~ *qualified patient or*
25 *designated primary caregiver*, establish an affirmative defense to
26 charges arising from, any of the following acts:

27 (a) Driving, operating or being in actual physical control of a
28 vehicle or a vessel under power or sail while under the influence of
29 marijuana.

30 (b) Engaging in any other conduct prohibited by NRS 484C.110,
31 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS
32 488.410, 488.420, 488.425 or 493.130.

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

35 (d) Possessing marijuana in violation of NRS 453.336 or
36 possessing drug paraphernalia in violation of NRS 453.560 or
37 453.566, if the possession of the marijuana or drug paraphernalia is
38 discovered because the ~~[person]~~ *qualified patient* engaged or *the*
39 *designated primary caregiver* assisted in the medical use of
40 marijuana: ~~[in:]~~

41 (1) ~~[Any]~~ *In any* public place or in any place open to the
42 public or exposed to public view; ~~[or]~~

43 (2) ~~[Any]~~ *In any* local detention facility, county jail, state
44 prison, reformatory or other correctional facility, including, without
45 limitation, any facility for the detention of juvenile offenders ~~[:]~~; *or*



1 (3) *In or within 1,000 feet of a church, synagogue or other*
2 *place of religious worship, a public or private school or a*
3 *recreational center for youths, unless the medical use of*
4 *marijuana occurs in the residence of the qualified patient or*
5 *designated primary caregiver and that residence is located within*
6 *1,000 feet of the church, synagogue or other place of religious*
7 *worship, the public or private school or the recreational center for*
8 *youths.*

9 (e) Delivering marijuana to another person who he or she knows
10 ~~[does not lawfully hold a registry identification card issued by the~~
11 ~~Division or its designee pursuant to NRS 453A.220 or 453A.250.] is~~
12 ~~not a qualified patient or a designated primary caregiver.~~

13 (f) ~~[Delivering]~~ *Except as otherwise provided in section 4 of*
14 *this act, delivering* marijuana for consideration to any person,
15 regardless of whether the recipient ~~[lawfully holds a registry~~
16 ~~identification card issued by the Division or its designee pursuant to~~
17 ~~NRS 453A.220 or 453A.250.] is a qualified patient or a designated~~
18 ~~primary caregiver.~~

19 2. ~~[Except as otherwise provided in NRS 453A.225 and in~~
20 ~~addition to any other penalty provided by law, if the Division~~
21 ~~determines that a person has willfully violated a provision of this~~
22 ~~chapter or any regulation adopted by the Division to carry out the~~
23 ~~provisions of this chapter, the Division may, at its own discretion,~~
24 ~~prohibit the person from obtaining or using a registry identification~~
25 ~~card for a period of up to 6 months.] As used in this section:~~

26 (a) *“Recreational center for youths” has the meaning ascribed*
27 *to it in NRS 453.3345.*

28 (b) *“Residence” has the meaning ascribed to it in*
29 *NRS 453.3351.*

30 **Sec. 15.** NRS 453A.310 is hereby amended to read as follows:

31 453A.310 1. Except as otherwise provided in this section and
32 NRS 453A.300, it is an affirmative defense to a criminal charge of
33 possession, delivery or production of marijuana, or any other
34 criminal offense in which possession, delivery or production of
35 marijuana is an element, that the person charged with the offense:

36 (a) Is a person who:

37 (1) Has been diagnosed with a chronic or debilitating
38 medical condition within the 12-month period preceding his or her
39 arrest and has been advised by his or her attending physician that the
40 medical use of marijuana may mitigate the symptoms or effects of
41 that chronic or debilitating medical condition;

42 (2) Is engaged in the medical use of marijuana; and

43 (3) Possesses, delivers or produces marijuana only in the
44 amount described in paragraph (b) of subsection 3 of NRS
45 453A.200 ; ~~[or in excess of that amount if the person proves by a~~



1 ~~preponderance of the evidence that the greater amount is medically~~
2 ~~necessary as determined by the person's attending physician to~~
3 ~~mitigate the symptoms or effects of the person's chronic or~~
4 ~~debilitating medical condition;]~~ or

5 (b) Is a person who:

6 (1) Is assisting a person described in paragraph (a) in the
7 medical use of marijuana; and

8 (2) Possesses, delivers or produces marijuana only in the
9 amount described in paragraph (b) of subsection 3 of NRS
10 453A.200 . ~~[or in excess of that amount if the person proves by a~~
11 ~~preponderance of the evidence that the greater amount is medically~~
12 ~~necessary as determined by the assisted person's attending physician~~
13 ~~to mitigate the symptoms or effects of the assisted person's chronic~~
14 ~~or debilitating medical condition.]~~

15 2. A person need not ~~[hold a registry identification card issued~~
16 ~~to the person by the Division or its designee pursuant to NRS~~
17 ~~453A.220 or 453A.250]~~ *be a qualified patient or a designated*
18 *primary caregiver at the time of allegedly committing the criminal*
19 *offense* to assert an affirmative defense described in this section.

20 3. Except as otherwise provided in this section and in addition
21 to the affirmative defense described in subsection 1, a person
22 engaged or assisting in the medical use of marijuana who is charged
23 with a crime pertaining to the medical use of marijuana is not
24 precluded from:

25 (a) Asserting a defense of medical necessity; or

26 (b) Presenting evidence supporting the necessity of marijuana
27 for treatment of a specific disease or medical condition,
28 ➔ if the amount of marijuana at issue is not greater than the amount
29 described in paragraph (b) of subsection 3 of NRS 453A.200 and the
30 person has taken steps to comply substantially with the provisions of
31 this chapter.

32 4. A defendant who intends to offer an affirmative defense
33 described in this section shall, not less than 5 days before trial or at
34 such other time as the court directs, file and serve upon the
35 prosecuting attorney a written notice of the defendant's intent to
36 claim the affirmative defense. The written notice must:

37 (a) State specifically why the defendant believes he or she is
38 entitled to assert the affirmative defense; and

39 (b) Set forth the factual basis for the affirmative defense.

40 ➔ A defendant who fails to provide notice of his or her intent to
41 claim an affirmative defense as required pursuant to this subsection
42 may not assert the affirmative defense at trial unless the court, for
43 good cause shown, orders otherwise.



1 **Sec. 16.** NRS 453A.400 is hereby amended to read as follows:
2 453A.400 1. The fact that a person ~~possesses a registry~~
3 ~~identification card issued to the person by the Division or its~~
4 ~~designee pursuant to NRS 453A.220 or 453A.250~~ *is a qualified*
5 *patient or a designated primary caregiver* does not, alone:

6 (a) Constitute probable cause to search the person or the
7 person's property; or

8 (b) Subject the person or the person's property to inspection by
9 any governmental agency.

10 2. Except as otherwise provided in this subsection, if officers
11 of a state or local law enforcement agency seize marijuana, drug
12 paraphernalia or other related property from a person engaged or
13 assisting in the medical use of marijuana:

14 (a) The law enforcement agency shall ensure that the marijuana,
15 drug paraphernalia or other related property is not destroyed while
16 in the possession of the law enforcement agency.

17 (b) Any property interest of the person from whom the
18 marijuana, drug paraphernalia or other related property was seized
19 must not be forfeited pursuant to any provision of law providing for
20 the forfeiture of property, except as part of a sentence imposed after
21 conviction of a criminal offense.

22 (c) Upon a determination by the district attorney of the county in
23 which the marijuana, drug paraphernalia or other related property
24 was seized, or the district attorney's designee, that the person from
25 whom the marijuana, drug paraphernalia or other related property
26 was seized is engaging in or assisting in the medical use of
27 marijuana in accordance with the provisions of this chapter, the law
28 enforcement agency shall immediately return to that person any
29 usable marijuana, marijuana plants, drug paraphernalia or other
30 related property that was seized.

31 ➤ The provisions of this subsection do not require a law
32 enforcement agency to care for live marijuana plants.

33 3. For the purposes of paragraph (c) of subsection 2, the
34 determination of a district attorney or the district attorney's designee
35 that a person is engaging in or assisting in the medical use of
36 marijuana in accordance with the provisions of this chapter shall be
37 deemed to be evidenced by:

38 (a) A decision not to prosecute;

39 (b) The dismissal of charges; or

40 (c) Acquittal.

41 **Sec. 17.** NRS 453A.500 is hereby amended to read as follows:
42 453A.500 The Board of Medical Examiners or the State Board
43 of Osteopathic Medicine, as applicable, shall not take any
44 disciplinary action against an attending physician on the basis that
45 the attending physician:



1 1. Advised a person whom the attending physician has
2 diagnosed as having a chronic or debilitating medical condition, or a
3 person whom the attending physician knows has been so diagnosed
4 by another physician licensed to practice medicine pursuant to the
5 provisions of chapter 630 of NRS or licensed to practice osteopathic
6 medicine pursuant to the provisions of chapter 633 of NRS:

7 (a) About the possible risks and benefits of the medical use of
8 marijuana; or

9 (b) That the medical use of marijuana may mitigate the
10 symptoms or effects of the person's chronic or debilitating medical
11 condition,

12 ➔ if the advice is based on the attending physician's personal
13 assessment of the person's medical history and current medical
14 condition.

15 2. Provided ~~[the]~~ written documentation ~~[required pursuant to~~
16 ~~paragraph (a) of subsection 2 of NRS 453A.210 for the issuance of a~~
17 ~~registry identification card or pursuant to subparagraph (1) of~~
18 ~~paragraph (b) of subsection 1 of NRS 453A.230 for the renewal of a~~
19 ~~registry identification card.] to a qualified patient or a designated~~
20 ~~primary caregiver, if:~~

21 (a) Such documentation is based on the attending physician's
22 personal assessment of the ~~[person's]~~ *qualified patient's* medical
23 history and current medical condition; and

24 (b) The physician has advised the ~~[person]~~ *qualified patient*
25 about the possible risks and benefits of the medical use of
26 marijuana.

27 **Sec. 18.** NRS 453A.510 is hereby amended to read as follows:

28 453A.510 A professional licensing board shall not take any
29 disciplinary action against a person licensed by the board on the
30 basis that:

31 1. The person engages in or has engaged in the medical use of
32 marijuana in accordance with the provisions of this chapter; or

33 2. The person acts as or has acted as the designated primary
34 caregiver of a ~~[person who holds a registry identification card issued~~
35 ~~to him or her pursuant to paragraph (a) of subsection 1 of NRS~~
36 ~~453A.220.] qualified patient in accordance with the provisions of~~
37 ~~this chapter.~~

38 **Sec. 19.** This act becomes effective upon passage and
39 approval.



