

REQUIRES TWO-THIRDS MAJORITY VOTE

(§§ 10, 11)

(Reprinted with amendments adopted on April 19, 2021)

FIRST REPRINT

S.B. 281

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 Department of 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 prohibits a person from selling or offering to sell any commodity
2 or product containing hemp which is intended for human consumption unless the
3 commodity or product has been tested and labeled in accordance with requirements
4 set forth by the Department of Health and Human Services. Existing law requires
5 the Department to adopt regulations establishing such requirements. (NRS 439.532)
6 **Section 40** of this bill repeals those provisions that: (1) prohibit the sale or offering
7 for sale of a commodity or product that contains hemp that is intended for human
8 consumption unless the commodity or product meets certain requirements; and (2)
9 require the Department to adopt regulations establishing such requirements.
10 **Section 31** of this bill reenacts those provisions, but limits their applicability to
11 “consumable hemp products,” which are defined in **section 26** of this bill generally



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12 to mean a commodity or product that contains hemp, other than a component of
13 hemp that the United States Food and Drug Administration has determined to be
14 safe for human consumption, and: (1) has a THC concentration that does not
15 exceed the maximum THC concentration for hemp established by federal law; and
16 (2) is intended for human consumption. **Sections 25-37** of the bill provide for the
17 regulation of consumable hemp products by the Department.

18 **Section 34** of this bill authorizes the Department and a local board of health to
19 investigate apparent violations of the provisions of **sections 25-37** and authorizes
20 representatives of the Department and a local board of health to inspect any
21 premises at which a consumable hemp product is sold. **Section 35** of this bill
22 authorizes the Department to bring an action to enjoin violations of the provisions
23 of **sections 25-37**. **Section 36** of this bill makes it a misdemeanor to violate any
24 provision of **sections 25-37** and authorizes the Department to impose an
25 administrative fine of not more than \$2,500 for such a violation. **Section 38** of this
26 bill makes a conforming change to reflect the repeal of the previous authority of the
27 Department to regulate commodities and products that contain hemp and the
28 addition of **sections 25-37** governing the regulation of consumable hemp products
29 by the Department.

30 **Section 4** of this bill defines "consumable hemp product retailer" to mean a
31 person who makes any retail sales of consumable hemp products. **Section 11** of this
32 bill imposes an excise tax on each retail sale of consumable hemp products by a
33 consumable hemp product retailer at the rate of 3 percent of the sales price of the
34 consumable hemp products. Under **section 11**, the revenues collected from the
35 excise tax are required to be distributed: (1) to the Department of Health and
36 Human Services in an amount necessary to carry out the provisions of **sections 25-**
37 **37**; (2) to the State Department of Agriculture in an amount necessary to carry out
38 the provisions of existing law governing the regulation of growers and handlers of
39 hemp and producers of agricultural hemp seed; and (3) if any money remains, to the
40 State Education Fund. **Section 23** of this bill makes a conforming change to
41 account for the addition of such revenue in the State Education Fund.

42 **Sections 2-10 and 12-20** of this bill provide generally for the administration
43 and enforcement of the excise tax on consumable hemp products. **Section 8** of this
44 bill adopts by reference provisions of general applicability relating to the payment,
45 collection, administration and enforcement of taxes. **Sections 9 and 10** of this bill
46 require a consumable hemp product retailer to maintain certain records and provide
47 for the inspection of those records by the Department of Taxation. **Sections 12-14,**
48 **21 and 22** of this bill adopt provisions governing penalties for failures to pay,
49 claims for refunds and credits and the payment of interest on any overpayment of
50 the excise tax on consumable hemp products. **Section 15** of this bill sets forth the
51 procedure by which the denial of a claim for a refund or credit may be appealed to
52 the Nevada Tax Commission. **Section 16** of this bill denies standing to commence
53 or maintain a proceeding for judicial review to anyone other than the person who
54 made the disputed payment. If judgment is rendered for the claimant in such a
55 proceeding, **section 17** of this bill provides for the allowance and computation of
56 interest on the amount found to have been erroneously or illegally collected.
57 **Section 18** of this bill prohibits proceedings to prevent or enjoin the collection of
58 the tax and requires that a timely claim for a refund or credit be made as a
59 prerequisite to any proceeding for the recovery of a refund. **Section 19** of this bill
60 makes it a gross misdemeanor for any person to file a false or fraudulent return or
61 engage in other conduct with intent to defraud the State or evade payment of the
62 tax. **Section 20** of this bill provides that the remedies of the State relating to the
63 administration of the tax are cumulative.



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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
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 20, inclusive, of this act.

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

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

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

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

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

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

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

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

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

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

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

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

38 **2.** *Any person who violates the provisions of subsection 1 is*
39 *guilty of misdemeanor.*

40 **Sec. 10. 1.** *To verify the accuracy of any return filed by a*
41 *consumable hemp product retailer or, if no return is filed, to*
42 *determine the amount required to be paid, the Department, or any*



1 *person authorized in writing by the Department, may examine the*
2 *books, papers and records of any person who may be liable for the*
3 *excise tax on consumable hemp products.*

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

14 **Sec. 11.** *1. An excise tax is hereby imposed on each retail*
15 *sale in this State of consumable hemp products by a consumable*
16 *hemp product retailer at the rate of 3 percent of the sales price of*
17 *the consumable hemp products. The excise tax imposed pursuant*
18 *to this subsection:*

19 *(a) Is the obligation of the consumable hemp product retailer;*
20 *and*

21 *(b) Is separate from and in addition to any general and local*
22 *sales and use taxes that apply to retail sales of tangible personal*
23 *property.*

24 *2. The revenues collected from the excise tax imposed*
25 *pursuant to subsection 1 must be distributed to:*

26 *(a) The Department of Health and Human Services in an*
27 *amount determined to be necessary by the Department of Health*
28 *and Human Services to pay the costs of carrying out the*
29 *provisions of the chapter consisting of sections 25 to 37, inclusive,*
30 *of this act;*

31 *(b) The State Department of Agriculture in an amount*
32 *determined to be necessary by the State Department of Agriculture*
33 *to pay the costs of carrying out the provisions of chapter 557 of*
34 *NRS; and*

35 *(c) If any money remains after the revenues are distributed*
36 *pursuant to paragraphs (a) and (b), to the State Treasurer to be*
37 *deposited to the credit of the State Education Fund.*

38 **Sec. 12.** *If the Department determines that the excise tax on*
39 *consumable hemp products or any penalty or interest has been*
40 *paid more than once or has been erroneously or illegally collected*
41 *or computed, the Department shall set forth that fact in the*
42 *records of the Department and certify to the State Board of*
43 *Examiners the amount collected in excess of the amount legally*
44 *due and the person from whom it was collected or by whom it was*
45 *paid. If approved by the State Board of Examiners, the excess*



1 amount collected or paid must, after being credited against any
2 amount then due from the person in accordance with NRS
3 360.236, be refunded to the person or his or her successors in
4 interest.

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

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

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

14 2. Each claim must be in writing and must state the specific
15 grounds upon which the claim is founded.

16 3. The failure to file a claim within the time prescribed in
17 subsection 1 constitutes a waiver of any demand against the State
18 on account of any overpayment.

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

24 2. If the Department determines that any overpayment has
25 been made intentionally or by reason of carelessness, the
26 Department shall not allow any interest on the overpayment.

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

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

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

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



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

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

9 2. *In any such judgment, interest must be allowed at the rate*
10 *of 3 percent per annum upon any amount found to have been*
11 *erroneously or illegally collected from the date of payment of the*
12 *amount to the date of allowance of credit on account of the*
13 *judgment, or to a date preceding the date of the refund warrant by*
14 *not more than 30 days. The date must be determined by the*
15 *Department.*

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

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

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

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

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

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

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

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



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

360.2937 1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, and notwithstanding the provisions of NRS 360.2935, interest must be paid upon an overpayment of any tax provided for in chapter 362, 363A, 363B, 363C, 369, 370, 372, 372B, 374, 377, 377A, 377C or 377D of NRS **or the chapter consisting of sections 2 to 20, inclusive, of this act**, any of the taxes provided for in NRS 372A.290, any fee provided for in NRS 444A.090 or 482.313, or any assessment provided for in NRS 585.497, at the rate of 0.25 percent per month from the last day of the calendar month following the period for which the overpayment was made.

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

3. The interest must be paid:

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

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

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

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



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

2 387.1212 1. The State Education Fund is hereby created as a
3 special revenue fund to be administered by the Superintendent of
4 Public Instruction for the purpose of supporting the operation of the
5 public schools in this State. The interest and income earned on the
6 money in the Fund, after deducting any applicable charges, must be
7 credited to the Fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (n) The portion of the proceeds of the excise tax imposed
41 pursuant to subsection 1 of NRS 463.385 identified in paragraph (c)
42 of subsection 5 of NRS 463.385;

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



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

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

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

7 (s) *The portion of the proceeds of the tax imposed pursuant to*
8 *subsection 1 of section 11 of this act identified in paragraph (c) of*
9 *subsection 2 of section 11 of this act; and*

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

12 3. In addition to money from any other source provided by law,
13 support for the State Education Fund must be provided by direct
14 legislative appropriation from the State General Fund in an amount
15 determined by the Legislature to be sufficient to fund the operation
16 of the public schools in this State for kindergarten through grade 12
17 for the next ensuing biennium for the population reasonably
18 estimated for that biennium. Money in the State Education Fund
19 does not revert to the State General Fund at the end of a fiscal year,
20 and the balance in the State Education Fund must be carried forward
21 to the next fiscal year.

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

24 5. The Superintendent of Public Instruction may create one or
25 more accounts in the State Education Fund for the purpose of
26 administering any money received from the Federal Government for
27 the support of education and any State money required to be
28 administered separately to satisfy any requirement imposed by the
29 Federal Government. The money in any such account must not be
30 considered when calculating the statewide base per pupil funding
31 amount or appropriating money from the State Education Fund
32 pursuant to NRS 387.1214. The interest and income earned on the
33 money in any such account, after deducting any applicable charges,
34 must be credited to the account.

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

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

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



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

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

6 **Sec. 27.** *“Department” means the Department of Health and*
7 *Human Services.*

8 **Sec. 28.** *“Hemp” has the meaning ascribed to it in*
9 *NRS 557.160.*

10 **Sec. 29.** *“THC” has the meaning ascribed to it in*
11 *NRS 453.139.*

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

14 **Sec. 31.** *1. A person shall not sell or offer to sell a*
15 *consumable hemp product in this State unless the consumable*
16 *hemp product:*

17 *(a) Has been tested by a cannabis independent testing*
18 *laboratory and satisfies any standards established by regulation of*
19 *the Department pursuant to subsection 3; and*

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

22 *2. A person who produces or offers for sale a consumable*
23 *hemp product may submit the consumable hemp product to a*
24 *cannabis independent testing laboratory for testing pursuant to*
25 *this section and a cannabis independent testing laboratory may*
26 *perform such testing.*

27 *3. The Department shall adopt regulations requiring the*
28 *testing and labeling of any consumable hemp product. Such*
29 *regulations must:*

30 *(a) Set forth protocols and procedures for the testing of*
31 *consumable hemp products; and*

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

35 *4. As used in this section “cannabis independent testing*
36 *laboratory” has the meaning ascribed to it in NRS 678A.115.*

37 **Sec. 32.** (Deleted by amendment.)

38 **Sec. 33.** (Deleted by amendment.)

39 **Sec. 34.** *1. The Department or a local board of health may*
40 *investigate apparent violations of the provisions of this chapter or*
41 *the regulations adopted pursuant thereto.*

42 *2. Any duly authorized officer, employee or representative of*
43 *the Department or a local board of health may enter into and*
44 *inspect at any reasonable time any premises at which a*



1 consumable hemp product is sold for purposes of ascertaining
2 compliance with the provisions of this chapter.

3 3. A person shall not:

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

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

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

14 2. An injunction in an action brought by the Department
15 pursuant to subsection 1:

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

18 (b) Does not prohibit the criminal prosecution and punishment
19 of the person who commits the violation.

20 3. If a local board of health determines that a person has
21 violated or is about to violate any provision of this chapter, the
22 local board of health may report the violation to the Department,
23 which may proceed in the manner described in subsection 1.

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

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

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

35 557.270 1. A grower, handler or producer may submit hemp
36 or a commodity or product made using hemp, other than a
37 ~~[commodity or]~~ consumable hemp product ~~[described in subsection~~
38 ~~1 of NRS 439.532,]~~ , as defined in section 26 of this act, to a
39 cannabis independent testing laboratory for testing pursuant to this
40 section and a cannabis independent testing laboratory may perform
41 such testing.

42 2. A grower or producer shall, before harvesting, submit a
43 sample of each crop to the Department or a cannabis independent
44 testing laboratory approved by the Department to determine whether
45 the crop has a THC concentration that exceeds the maximum THC



1 concentration established by federal law for hemp. The Department
2 may adopt regulations relating to such testing which include,
3 without limitation:

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

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

10 3. A crop which is harvested before the testing required by
11 subsection 2 is completed shall be deemed to have failed the testing
12 and may be detained, seized or embargoed by the Department. The
13 Department shall not renew the registration of a grower or producer
14 who harvests a crop before the testing required by subsection 2 is
15 completed.

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

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

23 **Sec. 39.** (Deleted by amendment.)

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

25 **Sec. 41.** 1. This section becomes effective upon passage and
26 approval.

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

28 (a) On January 1, 2022 for the purpose of adopting any
29 regulations and performing any other preparatory administrative
30 tasks that are necessary to carry out the provisions of this act; and

31 (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.



