
ASSEMBLY BILL NO. 351—ASSEMBLYMEN HORNE,
FRIERSON; GRADY, MARTIN, PIERCE AND SWANK

MARCH 18, 2013

JOINT SPONSOR: SENATOR PARKS

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the medical use of marijuana. (BDR 40-733)

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

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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 controlled substances; providing that a person who engages in the lawful use of marijuana for medical purposes is exempt from state prosecution for driving, operating or being in actual physical control of a vehicle or vessel with a certain amount of marijuana or marijuana metabolite in his or her blood or urine; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides that the limited and regulated use of marijuana by a
2 person who suffers from certain chronic or debilitating medical conditions and who
3 obtains a registry identification card through a program governed by the Health
4 Division of the Department of Health and Human Services is exempt from
5 prosecution under the laws of this State. (Chapter 453A of NRS) Under existing
6 law, the exemption from state prosecution does not apply to: (1) driving, operating
7 or being in actual physical control of a vehicle or a vessel under power or sail while
8 under the influence of marijuana; or (2) driving, operating or being in actual
9 physical control of a vehicle or vessel under power or sail with a certain amount of
10 marijuana or marijuana metabolite in his or her blood or urine. (NRS 453A.300)
11 This bill provides that, to the extent that a person who holds a registry identification
12 card engages in the medical use of marijuana, he or she is exempt from prosecution
13 for a criminal offense involving driving, operating or being in actual physical
14 control of a vehicle or vessel under power or sail with a certain amount of
15 marijuana or marijuana metabolite in his or her blood or urine. Under this bill, such
16 a person would not be exempt from state prosecution if he or she drives, operates or



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17 is in actual physical control of a vehicle or a vessel under power or sail while under
18 the influence of marijuana.

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

1 **Section 1.** NRS 453A.200 is hereby amended to read as
2 follows:

3 453A.200 1. Except as otherwise provided in this section and
4 NRS 453A.300, a person who holds a valid registry identification
5 card issued to the person pursuant to NRS 453A.220 or 453A.250 is
6 exempt from state prosecution for:

7 (a) Possession, delivery or production of marijuana;
8 (b) Possession or delivery of drug paraphernalia;
9 (c) Aiding and abetting another in the possession, delivery or
10 production of marijuana;

11 (d) Aiding and abetting another in the possession or delivery of
12 drug paraphernalia;

13 (e) *A criminal offense involving driving, operating or being in
14 actual physical control of a vehicle or vessel under power or sail in
15 violation of paragraph (g) or (h) of subsection 3 of NRS 484C.110,
16 paragraph (g) or (h) of subsection 3 of NRS 484C.120 or
17 paragraph (g) or (h) of subsection 3 of NRS 488.410;*

18 (f) Any combination of the acts described in paragraphs (a) to
19 ~~(d)~~ (e), inclusive; and

20 ~~(f)~~ (g) Any other criminal offense in which the possession,
21 delivery or production of marijuana or the possession or delivery of
22 drug paraphernalia is an element.

23 2. In addition to the provisions of subsection 1, no person may
24 be subject to state prosecution for constructive possession,
25 conspiracy or any other criminal offense solely for being in the
26 presence or vicinity of the medical use of marijuana in accordance
27 with the provisions of this chapter.

28 3. The exemption from state prosecution set forth in subsection
29 1 applies only to the extent that a person who holds a registry
30 identification card issued to the person pursuant to paragraph (a) of
31 subsection 1 of NRS 453A.220 and the designated primary
32 caregiver, if any, of such a person:

33 (a) Engage in or assist in, as applicable, the medical use of
34 marijuana in accordance with the provisions of this chapter as
35 justified to mitigate the symptoms or effects of the person's chronic
36 or debilitating medical condition; and

37 (b) Do not, at any one time, collectively possess, deliver or
38 produce more than:

39 (1) One ounce of usable marijuana;



- 1 (2) Three mature marijuana plants; and
- 2 (3) Four immature marijuana plants.

3 4. If the persons described in subsection 3 possess, deliver or
4 produce marijuana in an amount which exceeds the amount
5 described in paragraph (b) of that subsection, those persons:

6 (a) Are not exempt from state prosecution for possession,
7 delivery or production of marijuana.

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

11 **Sec. 2.** NRS 453A.300 is hereby amended to read as follows:

12 453A.300 1. A person who holds a registry identification
13 card issued to him or her pursuant to NRS 453A.220 or 453A.250 is
14 not exempt from state prosecution for, nor may the person establish
15 an affirmative defense to charges arising from, any of the following
16 acts:

17 (a) Driving, operating or being in actual physical control of a
18 vehicle or a vessel under power or sail while under the influence of
19 marijuana.

20 (b) ~~Engaging~~ *Except as otherwise provided in paragraph (e)*
21 *of subsection 1 of NRS 453A.200, engaging* in any other conduct
22 prohibited by NRS 484C.110, 484C.120, 484C.130, 484C.430,
23 subsection 2 of NRS 488.400, NRS 488.410, 488.420, 488.425 or
24 493.130.

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

27 (d) Possessing marijuana in violation of NRS 453.336 or
28 possessing drug paraphernalia in violation of NRS 453.560 or
29 453.566, if the possession of the marijuana or drug paraphernalia is
30 discovered because the person engaged or assisted in the medical
31 use of marijuana in:

32 (1) Any public place or in any place open to the public or
33 exposed to public view; or

34 (2) Any local detention facility, county jail, state prison,
35 reformatory or other correctional facility, including, without
36 limitation, any facility for the detention of juvenile offenders.

37 (e) Delivering marijuana to another person who he or she knows
38 does not lawfully hold a registry identification card issued by the
39 Division or its designee pursuant to NRS 453A.220 or 453A.250.

40 (f) Delivering marijuana for consideration to any person,
41 regardless of whether the recipient lawfully holds a registry
42 identification card issued by the Division or its designee pursuant to
43 NRS 453A.220 or 453A.250.

44 2. Except as otherwise provided in NRS 453A.225 and in
45 addition to any other penalty provided by law, if the Division



1 determines that a person has willfully violated a provision of this
2 chapter or any regulation adopted by the Division to carry out the
3 provisions of this chapter, the Division may, at its own discretion,
4 prohibit the person from obtaining or using a registry identification
5 card for a period of up to 6 months.

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