

QUESTION NO. 1 – Education First

Initiative to Amend the Nevada Constitution

FULL TEXT OF THE MEASURE\

EXPLANATION – Matter in *bolded italics* is new.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. Section 6 of Article 11 of the Constitution of the State of Nevada is hereby amended to read as follows:

1. In addition to other means provided for the support and maintenance of said university and common schools, the legislature shall provide for their support and maintenance by direct legislative appropriation from the general fund, upon the presentation of budgets in the manner required by law.

2. During a regular session of the Legislature, before any other appropriation is enacted to fund a portion of the state budget for the next ensuing biennium, the Legislature shall enact one or more appropriations to provide the money the Legislature deems to be sufficient, when combined with the local money reasonably available for this purpose, to fund the operation of the public schools in the State for kindergarten through grade 12 for the next ensuing biennium for the population reasonably estimated for that biennium.

3. During a special session of the Legislature that is held between the end of a regular session in which the Legislature has not enacted the appropriation or appropriations required by subsection 2 to fund education for the next ensuing biennium and the first day of that next ensuing biennium, before any other appropriation is enacted other than appropriations required to pay the cost of that special session, the Legislature shall enact one or more appropriations to provide the money the Legislature deems to be sufficient, when combined with the local money reasonably available for this purpose, to fund the operation of the public schools in the State for kindergarten through grade 12 for the next ensuing biennium for the population reasonably estimated for that biennium.

4. During a special session of the Legislature that is held in a biennium for which the Legislature has not enacted the appropriation or appropriations required by subsection 2 to fund education for the biennium in which the special session is being held, before any other appropriation is enacted other than appropriations required to pay the cost of that special session, the Legislature shall enact one or more appropriations to provide the money the Legislature deems to be sufficient, when combined with the local money reasonably available for this purpose, to fund the operation of the public schools in the State for kindergarten through grade 12 for the population reasonably estimated for the biennium in which the special session is held.

5. Any appropriation of money enacted in violation of subsection 2, 3 or 4 is void.

6. As used in this section, “biennium” means a period of two fiscal years beginning on July 1 of an odd-numbered year and ending on June 30 of the next ensuing odd-numbered year.

QUESTION NO. 2 – Eminent Domain

Initiative to Amend the Nevada Constitution
(Note: If approved will go onto the 2008 General Election)

FULL TEXT OF MEASURE

(Sections 1, 3, 8, 9, and 10 have been stricken from the text of the measure by the Nevada Supreme Court in Nevadans for the Protection of Property Rights, Inc. et al v. Heller et al., 122 Nev. Adv. Op. 79 (Sept. 8, 2006))

EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material that was stricken by Supreme Court.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 2. Article 1 of the Constitution of the State of Nevada is hereby amended by adding thereto a new section to be designated section 22, to read as follows:

Sec. 22. Notwithstanding any other provision of this Constitution to the contrary:

- ~~1. All property rights are hereby declared to be fundamental constitutional rights and each and every right provided herein shall be self-executing.~~
- 2. Public use shall not include the direct or indirect transfer of any interest in property taken in an eminent domain proceeding from one private party to another private party. In all eminent domain actions, the government shall have the burden to prove public use.*
- ~~3. Unpublished eminent domain judicial opinions or orders shall be null and void.~~
- 4. In all eminent domain actions, prior to the government's occupancy, a property owner shall be given copies of all appraisals by the government and shall be entitled, at the property owner's election, to a separate and distinct determination by a district court jury, as to whether the taking is actually for a public use.*
- 5. If a public use is determined, the taken or damaged property shall be valued at its highest and best use without considering any future dedication requirements imposed by the government. If private property is taken for any proprietary governmental purpose, then the property shall be valued at the use to which the government intends to put the property, if such use results in a higher value for the land taken.*
- 6. In all eminent domain actions, just compensation shall be defined as that sum of money, necessary to place the property owner back in the same position, monetarily, without any governmental offsets, as if the property had never been taken. Just compensation shall include, but is not limited to, compounded interest and all reasonable costs and expenses actually incurred.*
- 7. In all eminent domain actions where fair market value is applied, it shall be defined as the highest price the property would bring on the open market.*
- ~~8. Government actions which result in substantial economic loss to private property shall require the payment of just compensation. Examples of such substantial economic loss include, but are not limited to, the down zoning of private property, the elimination of any access to private property, and limiting the use of private air space.~~
- ~~9. No Nevada state court judge or justice who has not been elected to a current term of office shall have the authority to issue any ruling in an eminent domain proceeding.~~
- ~~10. In all eminent domain actions, a property owner shall have the right to preempt one judge at the district court level and one justice at each appellate court level. Upon prior notice to all parties, the clerk of that court shall randomly select a currently elected district court judge to replace the judge or justice who was removed by preemption.~~

11. *Property taken in eminent domain shall automatically revert back to the original property owner upon repayment of the original purchase price, if the property is not used within five years for the original purpose stated by the government. The five years shall begin running from the date of the entry of the final order of condemnation.*

12. *A property owner shall not be liable to the government for attorney fees or costs in any eminent domain action.*

13. *For all provisions contained in this section, government shall be defined as the State of Nevada, its political subdivisions, agencies, any public or private agent acting on their behalf, and any public or private entity that has the power of eminent domain.*

14. *Any provision contained in this section shall be deemed a separate and freestanding right and shall remain in full force and effect should any other provision contained in this section be stricken for any reason.*

QUESTION NO. 3

Question Number 3 was removed from the ballot by the Nevada Supreme Court in *Nevadans for Nevada et al. v. Beers et al.*, 122 Nev. Adv. Op. 80 (Sept. 8, 2006). Question Number 3 will therefore not appear on any ballots in the November 2006 General Election.

QUESTION NO. 4 – Smoke Free

Amendment to Title 15 of the Nevada Revised Statutes

FULL TEXT OF THE MEASURE

EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material that was stricken by Supreme Court.

Section 1. This statutory initiative shall be known as the Responsibly Protect Nevadans From Second-Hand Smoke Act.

Sec. 2. Chapter 202 of the Nevada Revised Statutes is amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, smoking tobacco in any form is prohibited in the following specific places:

- (a) Indoor dining areas within restaurants;
- (b) Child care facilities;
- (c) All elementary, secondary and high school property;
- (d) Hospitals and medical offices;
- (e) Any motion picture house, theatre, concert hall;
- (f) Video arcades;
- (g) Government buildings;
- (h) Grocery stores and bakeries;
- (i) Retail establishments;
- (j) Drug stores and convenience stores; and
- (k) Any museums, libraries, gallery or other place of public display or collection.

2. Smoking tobacco is *not* prohibited in:

- (a) Facilities with non-restricted gaming licenses;
- (b) Bars, taverns and sabons;
- (c) Strip clubs or brothels;

- (d) Retail tobacco stores;
- (e) Areas within restaurants where persons under the age of 21 years are not permitted;
- (f) Private residences, including hotel and motel rooms, and private residences that serve as office workplaces unless such private residence is used as a childcare facility; and
- (g) Any area within a business that is leased to or operated by a person who is licensed pursuant to NRS Chapter 463, including, but not limited to, areas within retail establishments, grocery stores, drug stores and convenience stores.

Smoking is prohibited in any specific place enumerated in Sections 2.1(b)-(k) that is located within one of the businesses enumerated in Sections 2.2(a)-(f). The list of establishments enumerated in Sections 2.2(a)-(g) is not exclusive or exhaustive.

3. In areas or establishments where smoking is not prohibited by this Act, nothing in state law shall be construed to prohibit the owners of said establishments from voluntarily creating nonsmoking sections or designating the entire establishment as smoke-free.

4. "No Smoking" signs or the international "No Smoking" symbol shall be clearly and conspicuously posted in every place where smoking is prohibited by this Act. Each place where smoking is prohibited shall post, at every entrance, a conspicuous sign clearly stating that smoking is prohibited.

5. No person or employer shall retaliate against an employee, applicant or customer for exercising any rights afforded by, or attempts to prosecute a violation of, this Act.

6. For the purpose of this Act, the following terms have the following definition:

(a) "Childcare facility" has the meaning ascribed to it by NRS 202.2491.

(b) "Video arcade" has the meaning ascribed to it by NRS 453.3345.

(c) "Government building" means any building or office space owned or occupied by: (1) any component of the University and Community College System of Nevada and used for any purpose related to the system, (2) the State of Nevada and used for any public purpose, or (3) any county, city, school district or other political subdivision of the State and used for any public purpose.

(d) "Grocery store" means a store that is principally devoted to the sale of food for human consumption off the premises.

(e) "School building" means all buildings on the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(f) "School property" means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(g) "Non-restricted gaming license" has the meaning ascribed to it by NRS 463.0177.

(h) "Bar, tavern or saloon" means a business other than a restaurant that holds a license to sell alcoholic beverages for consumption on premises.

(i) "Restaurant" means a food establishment in the business of selling food primarily for human consumption on the premises.

(j) "Retail establishment" means a store in the business of selling goods, wares or merchandise on-premises where the general public is invited to such premises.

(k) "Retail tobacco store" means a retail establishment utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

Sec. 3. To the extent that any provision of this Act conflicts with the provisions of NRS 202.2491, the provisions of this Act shall prevail. Any establishment that is not specifically enumerated in Section 2 of this Act is unaffected by this Act.

Sec. 4. Whenever a section of the Nevada Revised Statutes is referenced in the Act, such section of the Nevada Revised Statute shall at all times be read as it existed on January 1, 2004.

Sec. 5. All power over the regulation of smoking of tobacco shall be exclusively vested in the legislature of the State of Nevada.

Sec. 6. This Act shall be in full force and effect 10 days from and after its passage and approval.

QUESTION NO. 5 – Tobacco Coalition

Amendment to Title 15 of the Nevada Revised Statutes

FULL TEXT OF THE MEASURE

SUMMARY: Provides for enactment of Nevada Clean Indoor Air Act: Protecting children and families from secondhand smoke in most public places, excluding stand-alone bars and gaming areas of casinos.

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

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

Section 1. This Act shall be known, cited and referred to as the “Nevada Clean Indoor Air Act: Protecting children and families from secondhand smoke in most public places, excluding stand- alone bars and gaming areas of casinos.”

Sec. 2. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, smoking tobacco in any form is prohibited within indoor places of employment including, but not limited to, the following:

- (a) Child care facilities;
- (b) Movie theatres;
- (c) Video arcades;
- (d) Government buildings and public places;
- (e) Malls and retail establishments;
- (f) All areas of grocery stores; and
- (g) All indoor areas within restaurants.

2. Without exception, smoking tobacco in any form is prohibited within school buildings and on school property.

3. Smoking tobacco is *not* prohibited in:

(a) Areas within casinos where loitering by minors is already prohibited by state law pursuant to NRS 463.350;

- (b) Stand-alone bars, taverns and saloons;
- (c) Strip clubs or brothels;
- (d) Retail tobacco stores;

(e) Private residences, including private residences which may serve as an office workplace, except if used as a childcare, an adult day care or a health care facility.

4. In areas or establishments where smoking is not prohibited by this Act, nothing in state law shall be construed to prohibit the owners of said establishments from voluntarily creating nonsmoking sections or designating the entire establishment as smoke free.

5. Nothing in state law shall be construed to restrict local control or otherwise prohibit a county, city or town from adopting and enforcing local tobacco control measures that meet or exceed the minimum applicable standards set forth in this Act.

6. "No Smoking" signs or the international "No Smoking" symbol shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this Act. Each public place and place of employment where smoking is prohibited shall post, at every entrance, a conspicuous sign clearly stating that smoking is prohibited. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited.

7. Health authorities, police officers of cities or towns, sheriffs and their deputies shall, within their respective jurisdictions, enforce the provisions of this Act and shall issue citations for violations of this Act pursuant to NRS 202.2492 and NRS 202.24925.

8. No person or employer shall retaliate against an employee, applicant or customer for exercising any rights afforded by, or attempts to prosecute a violation of, this Act.

9. For the purposes of this Act, the following terms have the following definitions:

(a) "Childcare facilities" has the meaning ascribed to it in NRS 432A.024;

(b) "Video arcade" has the meaning ascribed to it in paragraph (d) of subsection 3 of NRS 453.3345;

(c) "Government building" means any building or office space owned or occupied by (1) any component of the University and Community College System of Nevada and used for any purpose related to the system, (2) the State of Nevada and used for any public purpose, or (3) any county, city, school district or other political subdivision of the State and used for any public purpose;

(d) "Public places" means any enclosed areas to which the public is invited or in which the public is permitted;

(e) "School building" means all buildings on the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103;

(f) "School property" means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103;

(g) "Casino" means an entity that contains a building or large room devoted to gambling games or wagering on a variety of events. A casino must possess a nonrestricted gaming license as described in NRS 463.0177 and typically uses the word 'casino' as part of its proper name;

(h) "Restaurant" means a business which gives or offers for sale food, with or without alcoholic beverages, to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere;

(i) "Place of employment" means any enclosed area under the control of a public or private employer which employees frequent during the course of employment including, but not limited to, work areas, restrooms, hallways, employee lounges, cafeterias, conference and meeting rooms, lobbies and reception areas;

(j) "Health Authority" has the meaning ascribed to it in NRS 202.2485;

(k) "Stand-alone bar, tavern or saloon" means an establishment devoted primarily to the sale of alcoholic beverages to be consumed on the premises, in which food service is incidental to its operation, and provided that smoke from such establishments does not infiltrate into areas where smoking is prohibited under the provisions of this Act. In addition, a stand-alone bar, tavern or saloon must be housed in either: (1) a physically independent building that does not share a common entryway or indoor area with a restaurant, public place or any other indoor workplaces where smoking is prohibited by this Act, or (2) a completely enclosed area of a larger structure, such as a strip mall or an airport, provided that indoor windows must remain shut at all times and doors must remain closed when not actively in use;

(l) "Completely enclosed area" means an area that is enclosed on all sides by any combination of solid walls, windows or doors that extend from the floor to the ceiling;

(m) “Incidental food service or sales” means the service of prepackaged food items including, but not limited to, peanuts, popcorn, chips, pretzels or any other incidental food items that are exempt from food licensing requirements pursuant to subsection 2 of NRS 446.870;

(n) “Retail tobacco store” means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

10. Any statute or regulation inconsistent with this Act is null and void.

11. The provisions of this Act are severable. If any provision of this Act or the application thereof is declared by a court of competent jurisdiction to be invalid or unconstitutional, such declaration shall not affect the validity of the Act as a whole or any provision thereof other than the part declared to be invalid or unconstitutional.

Sec. 3. This act shall be in full force and effect 10 days from and after its passage and approval.

QUESTION NO. 6 – Raise the Minimum Wage Amendment to the Nevada Constitution

FULL TEXT OF THE MEASURE

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

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. Title .

This Measure shall be known and may be cited as “**The Raise the Minimum Wage for Working Nevadans Act.**”

Section 2. Findings and Purpose

The people of the State of Nevada hereby make the following findings and declare their purpose in enacting this Act as follows:

1. No full-time worker should live in poverty in our state.
2. Raising the minimum wage is the best way to fight poverty. By raising the minimum wage from \$5.15 an hour to \$6.15 an hour, a full-time worker will earn an additional \$2,000 in wages. That’s enough to make a big difference in the lives of low-income workers to move many families out of poverty.
3. For low –wage workers, a disproportionate amount of their income goes toward cost of living expenses. Living expenses such as housing, healthcare, and food have far outpaced wage levels for Nevada’s working families.
4. In our state, 6 out of 10 minimum wage earners are women. Moreover 25 percent of all minimum wage earners are single mothers, many of whom work full-time.
5. At \$5.15 an hour, minimum wage workers in Nevada make less money than they would on welfare. When people choose work over welfare, they become productive members of society and the burden on Nevada taxpayers is reduced.
6. Raising the minimum wage from \$5.15 an hour to \$6.15 an hour affirms Nevadan’s beliefs that we value work, especially the difficult jobs performed by hotel maids, childcare workers, and nursing home employees. We need to make sure the workers who are the backbone of our economy receive fair paychecks that allow them and their families to live above the poverty line.

Section 3.

Article 15 of the Constitution of the State of Nevada is hereby amended by adding thereto a new section to read as follows:

Sec. 16. Payment of minimum compensation to employees.

- A. Each employer shall pay a wage to each employee of not less than the hourly rates set forth in this section. The rate shall be five dollars and fifteen cents (\$5.15) per hour worked, if the employer provides health benefits as described herein, or six dollars and fifteen cents (\$6.15) per hour if the employer does not provide such benefits. Offering health benefits within the meaning of this section shall consist of making health insurance available to the employee for the employee and the employee's dependents at a total cost to the employee for premiums of not more than 10 percent of the employee's gross taxable income from the employer. These rates of wages shall be adjusted by the amount of increases in the federal minimum wage over \$5.15 per hour, or, if greater, by the cumulative increase in the cost of living. The cost of living increase shall be measured by the percentage increase as of December 31 in any year over the level as of December 31, 2004 of the Consumer Price Index (All Urban Consumers, U.S. City Average) as published by the Bureau of Labor Statistics, U.S. Department of Labor or the successor index or federal agency. No CPI adjustment for any one-year period may be greater than 3%. The Governor or the State agency designated by the Governor shall publish a bulletin by April 1 of each year announcing the adjusted rates, which shall take effect the following July 1. Such bulletin will be made available to all employers and to any other person who has filed with the Governor or the designated agency a request to receive such notice but lack of notice shall not excuse noncompliance with this section. An employer shall provide written notification of the rate adjustments to each of its employees and make the necessary payroll adjustments by July 1 following the publication of the bulletin. Tips or gratuities received by employees shall not be credited as being any part of or offset against the wage rates required by this section.*
- B. The provisions of this section may not be waived by agreement between an individual employee and an employer. All of the provisions of this section, or any part hereof, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute, or be permitted, as a waiver of all or any part of the provisions of this section. An employer shall not discharge, reduce the compensation of or otherwise discriminate against any employee for using any civil remedies to enforce this section or otherwise asserting his or her rights under this section. An employee claiming violation of this section may bring an action against his or her employer in the courts of this State to enforce the provisions of this section and shall be entitled to all remedies available under the law or in equity appropriate to remedy any violation of this section, including but not limited to back pay, damages, reinstatement or injunctive relief. An employee who prevails in any action to enforce this section shall be awarded his or her reasonable attorney's fees and costs.*
- C. As used in this section, "employee" means any person who is employed by an employer as defined herein but does not include an employee who is under eighteen (18) years of age, employed by a nonprofit organization for after school or summer employment or as a trainee for a period not longer than ninety (90) days. "Employer" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ individuals or enter into contracts of employment.*

D. If any provision of this section is declared illegal, invalid or inoperative, in whole or in part, by the final decision of any court of competent jurisdiction, the remaining provisions and all portions not declared illegal, invalid or inoperative shall remain in full force or effect, and no such determination shall invalidate the remaining sections or portions of the sections of this section.

QUESTION NO. 7 – Marijuana Initiative

Amendment to Title 32, 40 and 43 of the Nevada Revised Statutes

FULL TEXT OF THE MEASURE

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

AN ACT relating to marijuana; providing that a person who is 21 years of age or older is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for the possession, use and transfer of one ounce or less of marijuana and the use and possession of marijuana paraphernalia under certain circumstances; providing that retailers and wholesalers who perform certain acts pertaining to marijuana and marijuana paraphernalia are exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution; providing a penalty for a person who is 18 years of age or older who knowingly furnishes marijuana to a person who is under 18 years of age and at least 3 years his junior; providing a penalty for a minor to falsely represent himself to be 21 years of age in order to obtain marijuana; providing for the regulation of the cultivation, sale, transfer, possession and use of marijuana and marijuana paraphernalia under certain circumstances; providing for the licensing of retailers and wholesalers of marijuana and establishing fees for such licensing; enacting provisions governing the taxation and sale of marijuana by retailers and wholesalers; increasing the penalty for the offense of operating a vehicle while under the influence of or while having a certain amount of alcohol or a controlled or prohibited substance in the body that results in substantial bodily harm or death; providing penalties; and providing other matters properly relating thereto.

WHEREAS, Approximately 700,000 people are arrested for marijuana offenses in the United States each year, which is more than the entire populations of Las Vegas and Reno combined; and

WHEREAS, Because decades of arresting millions of marijuana users has failed to prevent teenagers—or anyone else—from using marijuana, the State of Nevada should take a new approach by strictly regulating marijuana with the goal of reducing teenage access to marijuana; and

WHEREAS, Rather than spending millions of taxpayer dollars arresting marijuana users, the State of Nevada should instead generate millions of dollars by taxing and regulating marijuana, and earmark part of these revenues to prevent and treat the abuse of marijuana, tobacco, alcohol, and other drugs; and

WHEREAS, By allowing adults aged 21 and older to use marijuana legally in the privacy of the home, police will be able to spend more time preventing and investigating serious crimes like murder, rape, assault, robbery, burglary and driving under the influence of alcohol and other drugs; and

WHEREAS, Patients with cancer, AIDS, multiple sclerosis, and other serious illnesses should be able to obtain medical marijuana from legally regulated establishments instead of illegal drug dealers; and

WHEREAS, If certain portions of this initiative are found to be inoperable or unconstitutional, it is the intent of the people of the State of Nevada to implement as much of the initiative as possible; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. Title 40 of NRS is hereby amended by adding thereto a new chapter consisting of the provisions set forth as sections 2 to 12, inclusive, of this act.

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

Sec. 3. *“Marijuana” means a plant of the genus Cannabis or its product, but the term does not include hashish.*

Sec. 4. *“Marijuana paraphernalia” means objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana into the human body.*

Sec. 5. *“Retailer” means an establishment licensed pursuant to sections 15 to 28, inclusive, of this act to purchase marijuana from a wholesaler and to sell marijuana and marijuana paraphernalia to the customer.*

Sec. 6. *“State prosecution” means prosecution initiated or maintained by the State of Nevada or an agency or political subdivision of the State of Nevada.*

Sec. 7. *“Wholesaler” means an establishment licensed pursuant to sections 15 to 28, inclusive, of this act to cultivate, prepare, package and sell marijuana to a retailer or another wholesaler, but not to sell marijuana to the customer or general public.*

Sec. 8. *Except as otherwise provided in this chapter:*

1. A person who is 21 years of age or older and who acts in compliance with the provisions of this chapter is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for the following acts:

(a) Possession or use of one ounce or less of marijuana.

(b) Possession or use of marijuana paraphernalia.

(c) Transfer of one ounce or less of marijuana without remuneration to a person who is 21 years of age or older.

(d) Aiding and abetting another person who is 21 years of age or older in the possession or use of one ounce or less of marijuana.

(e) Aiding and abetting another person who is 21 years of age or older in the possession or use of marijuana paraphernalia.

(f) Any combination of the acts described in paragraphs (a) to (e), inclusive.

2. A retailer or any person who is 21 years of age or older and acting in his capacity as an owner, employee or agent of a retailer who acts in compliance with the provisions of this chapter is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for the following acts:

(a) Possession of marijuana.

(b) Possession of marijuana paraphernalia.

(c) Purchasing or selling marijuana or marijuana paraphernalia.

(d) Aiding and abetting any person who is 21 years of age or older in the possession or use of one ounce or less of marijuana.

(e) Aiding and abetting another person who is 21 years of age or older in the possession or use of marijuana paraphernalia.

(f) Any combination of the acts described in paragraphs (a) to (e), inclusive.

3. A wholesaler or any person who is 21 years of age or older and acting in his capacity as an owner, employee or agent of a wholesaler who acts in compliance with the provisions of this

chapter is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for the following acts:

- (a) Cultivating, packing, processing, transporting or manufacturing marijuana.*
- (b) Possession of marijuana.*
- (c) Selling marijuana to a retailer or a wholesaler.*
- (d) Purchasing marijuana from a wholesaler.*
- (e) Aiding and abetting any person who is 21 years of age or older in the possession or use of one ounce or less of marijuana.*
- (f) Any combination of the acts described in paragraphs (a) to (e), inclusive.*

4. Except as otherwise provided in subsection 5, in a prosecution for selling, giving or otherwise furnishing marijuana or marijuana paraphernalia to any person who is under 21 years of age, it is a complete defense if:

- (a) The person who sold, gave or otherwise furnished marijuana or marijuana paraphernalia to a person who is under 21 years of age was a retailer or was acting in his capacity as an owner, employee or agent of a retailer at the time the marijuana or marijuana paraphernalia was sold, given or otherwise furnished to the person; and*
- (b) Immediately before selling, giving or otherwise furnishing marijuana or marijuana paraphernalia to a person who is under 21 years of age, the person who sold, gave or otherwise furnished the marijuana or marijuana paraphernalia was shown a document which appeared to be issued by an agency of a federal, state or local government and which indicated that the person to whom the marijuana or marijuana paraphernalia was sold, given or otherwise furnished was 21 years of age or older at the time the marijuana or marijuana paraphernalia was sold, given or otherwise furnished to the person.*

5. The complete defense set forth in subsection 4 does not apply if:

- (a) The document which was shown to the person who sold, gave or otherwise furnished the marijuana or marijuana paraphernalia was counterfeit, forged or altered, or was issued to a person other than the person to whom the marijuana or marijuana paraphernalia was sold, given or otherwise furnished; and*
- (b) Under the circumstances, a reasonable person would have known or suspected that the document was counterfeit, forged or altered, or was issued to a person other than the person to whom the marijuana or marijuana paraphernalia was sold, given or otherwise furnished.*

Sec. 9. *The provisions of this chapter do not authorize, and no person is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for, nor may he establish an affirmative defense to charges arising from, any of the following acts:*

- 1. Driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of marijuana.*
- 2. Engaging in any other conduct prohibited by NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 493.130.*
- 3. Possessing a firearm in violation of paragraph (b) of subsection 1 of NRS 202.257.*
- 4. Possessing marijuana if the person is a prisoner. As used in this subsection, "prisoner" has the meaning ascribed to it in NRS 208.085.*
- 5. Possessing marijuana in violation of NRS 453.336 or possessing drug paraphernalia in violation of NRS 453.560 or 453.566, if the possession of the marijuana or drug paraphernalia is discovered because the person engaged or assisted in the use of marijuana in:*
 - (a) Any public place or in any place open to the public or exposed to public view; or*
 - (b) Any local detention facility, county jail, state prison, reformatory or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders.*
 - (c) Any public school or private school.*
- 6. Possessing, using, transferring, selling or cultivating marijuana or committing any other act involving marijuana in violation of the provisions of this chapter.*

Sec. 10. *The provisions of this chapter do not require employers to accommodate the use, possession or being under the influence of marijuana in a place of employment.*

Sec. 11. *Unless a greater penalty is provided pursuant to specific statute, a person who is 18 years of age or older and who knowingly sells, gives or otherwise furnishes marijuana to a person who is under 18 years of age and at least 3 years his junior is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 8 years, and may be further punished by a fine of not more than \$10,000.*

Sec. 12. *Any minor who falsely represents himself to be 21 years of age or older in order to obtain any marijuana or marijuana paraphernalia pursuant to this chapter is guilty of a misdemeanor.*

Sec. 13. NRS 453.005 is hereby amended to read as follows:

453.005 The provisions of this chapter do not apply to the extent that they are inconsistent with the provisions of chapter 453A of NRS [.] *or sections 2 to 12, inclusive, of this act.*

Sec. 14. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 15 to 28, inclusive, of this act.

Sec. 15. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 16, 17 and 18 of this act have the meanings ascribed to them in those sections.*

Sec. 16. *“Marijuana” has the meaning ascribed to it in section 3 of this act.*

Sec. 17. *“Retailer” has the meaning ascribed to it in section 5 of this act.*

Sec. 18. *“Wholesaler” has the meaning ascribed to it in section 7 of this act.*

Sec. 19. *Except as otherwise provided in section 21 of this act:*

1. An establishment may apply, in accordance with the provisions of this chapter and the regulations adopted pursuant thereto, for the issuance of a license authorizing the establishment to act as a retailer pursuant to the provisions of this chapter.

2. The Department shall issue a license authorizing an establishment to act as a retailer pursuant to the provisions of this chapter if the Department determines that the applicant satisfies the requirements set forth in this chapter and the regulations adopted pursuant thereto. The Department shall approve each qualified applicant within 90 days of its submission of its application.

3. The fee for the initial issuance of a license as a retailer is \$1,000. A license as a retailer must be renewed annually. The fee for renewal of a license as a retailer is \$1,000.

4. If the Department fails to issue a retailer license to a qualified applicant within 90 days of its submission of its application and the applicant is licensed as a retail dealer of tobacco pursuant to chapter 370, the licensed retail dealer of tobacco shall be deemed to be a retailer.

5. As used in this section, “qualified applicant” means any establishment that:

(a) Complies with any regulations adopted pursuant to section 28 of this act concerning application for and issuance of a license; and

(b) Satisfies the requirements set forth in this chapter and the regulations adopted pursuant thereto.

Sec. 20. *Except as otherwise provided in section 21 of this act:*

1. An establishment may apply, in accordance with the provisions of this chapter and the regulations adopted pursuant thereto, for the issuance of a license authorizing the establishment to act as a wholesaler pursuant to the provisions of this chapter.

2. The Department shall issue a license authorizing an establishment to act as a wholesaler pursuant to the provisions of this chapter if the Department determines that the applicant satisfies the requirements set forth in this chapter and the regulations adopted pursuant thereto. The Department shall approve each qualified applicant within 90 days of its submission of its application.

3. *The fee for the initial issuance of a license as a wholesaler is \$1,000. A license as a wholesaler must be renewed annually. The fee for renewal of a license as a wholesaler is \$1,000.*
4. *If the Department fails to issue a wholesaler license to a qualified applicant within 90 days of its submission of its application and the applicant is licensed as a wholesale dealer of tobacco pursuant to chapter 370, the licensed wholesale dealer of tobacco shall be deemed to be a wholesaler.*
5. *As used in this section, "qualified applicant" means any establishment that:*
 - (a) *Complies with any regulations adopted pursuant to section 28 of this act concerning application for and issuance of a license; and*
 - (b) *Satisfies the requirements set forth in this chapter and the regulations adopted pursuant thereto.*

Sec. 21. 1. *The Department may not issue a license as a retailer or wholesaler to an establishment:*

- (a) *That is located within 500 feet of the property line of a public school, private school or structure used primarily for religious services or worship;*
 - (b) *That is engaged in business as a gas station, convenience store, grocery store, night club, dance hall or licensed gaming establishment; or*
 - (c) *That sells intoxicating liquor for consumption on or off the premises.*
2. *As used in this section:*
- (a) *"Licensed gaming establishment" has the meaning ascribed to it in NRS 463.0169.*
 - (b) *"Private school" has the meaning ascribed to it in NRS 394.103.*
 - (c) *"Public school" has the meaning ascribed to it in NRS 385.007.*

Sec. 22. 1. *A retailer shall not:*

- (a) *Sell, give or otherwise furnish marijuana or marijuana paraphernalia to any person who is under 21 years of age.*
 - (b) *Allow any person who is under 21 years of age to be present on the premises of its establishment.*
 - (c) *Knowingly sell, give or otherwise furnish an amount of marijuana to a person that would cause that person to possess more than one ounce of marijuana.*
 - (d) *Purchase marijuana from any person other than a wholesaler.*
 - (e) *Purchase or sell, give or otherwise furnish marijuana in any manner other than as authorized pursuant to the provisions of this chapter and any regulations adopted pursuant thereto.*
 - (f) *Sell marijuana that has been adulterated or contaminated by any other substance including, without limitation, any controlled substance.*
2. *In addition to any other penalty provided pursuant to specific statute, a person who violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.*
3. *Except as otherwise provided in this subsection, in a prosecution for a violation of paragraph (b) of subsection 1, it is a complete defense that immediately before allowing the person who is under 21 years of age onto the premises, the person who allowed the person onto the premises was shown a document which appeared to be issued by an agency of a federal, state or local government and which indicated that the person who was allowed onto the premises of the retailer was 21 years of age or older at the time the person was allowed onto the premises of the retailer. The complete defense set forth in this subsection does not apply if:*
- (a) *The document which was shown to the person who allowed the person who is under 21 years of age onto the premises of the retailer was counterfeit, forged or altered, or was issued to a person other than the person who was allowed onto the premises of the retailer; and*
 - (b) *Under the circumstances, a reasonable person would have known or suspected that the document was counterfeit, forged or altered, or was issued to a person other than the person who was allowed onto the premises.*
4. *As used in this section, "marijuana paraphernalia" has the meaning ascribed to it in section 4 of this act.*

Sec. 23. 1. *A wholesaler shall not:*

- (a) *Allow any person who is under 21 years of age to be present on the premises of its establishment.*
- (b) *Sell, give or otherwise furnish marijuana to any person other than a retailer or wholesaler.*
- (c) *Purchase marijuana from any person other than a wholesaler.*

(d) Purchase or sell, give or otherwise furnish marijuana in any manner other than as authorized pursuant to the provisions of this chapter and any regulations adopted pursuant thereto.

(e) Sell marijuana that has been adulterated or contaminated by any other substance, including, without limitation, any controlled substance.

2. In addition to any other penalty provided pursuant to specific statute, a person who violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.

3. Except as otherwise provided in this subsection, in a prosecution for a violation of paragraph (a) of subsection 1, it is a complete defense that immediately before allowing the person who is under 21 years of age onto the premises, the person who allowed the person onto the premises was shown a document which appeared to be issued by an agency of a federal, state or local government and which indicated that the person who was allowed onto the premises of the wholesaler was 21 years of age or older at the time the person was allowed onto the premises of the wholesaler. The complete defense set forth in this subsection does not apply if:

(a) The document which was shown to the person who allowed the person who is under 21 years of age onto the premises of the wholesaler was counterfeit, forged or altered, or was issued to a person other than the person who was allowed onto the premises of the wholesaler; and

(b) Under the circumstances, a reasonable person would have known or suspected that the document was counterfeit, forged or altered, or was issued to a person other than the person who was allowed onto the premises.

Sec. 24. 1. *An excise tax is hereby levied upon wholesalers and must be collected respecting all marijuana sold to retailers at the rate of \$45 per ounce or proportionate part thereof.*

2. For the purpose of determining the tax for the retail sale of marijuana pursuant to this chapter, the tax for the sale of marijuana must be the same as the taxes for the retail sale of other products generally.

Sec. 25. *The Department shall apportion the money remitted to the Department from license fees and taxes collected pursuant to this chapter in the following manner:*

1. The Department shall retain sufficient money to defray the entire cost of administration of this chapter.

2. After retaining sufficient money to defray the entire cost of administration of this chapter pursuant to subsection 1, the Department shall remit the remaining money to the State General Fund, 50 percent of which must be distributed to the Health Division of the Department of Human Resources for use in voluntary programs for the prevention or treatment of the abuse of alcohol, tobacco or controlled substances.

Sec. 26. 1. *A person shall not advertise the sale of marijuana through television, radio, newspapers, magazines, billboards, the Internet or any other written or oral commercial media.*

2. As used in this section, "Internet" has the meaning ascribed to it in NRS 453.3625.

Sec. 27. *The provisions of this chapter do not authorize any person to transport marijuana into or outside the State of Nevada unless federal law permits such transport.*

Sec. 28. 1. *The Department is responsible for administering and carrying out the provisions of this chapter.*

2. The Department may adopt regulations that are necessary and convenient to administer and carry out the provisions of this chapter.

3. The Department shall adopt regulations that:

(a) Set forth the procedures for the application for and issuance of licenses to retailers and wholesalers, including, without limitation, the content and form for an application to be licensed as a retailer or wholesaler.

(b) Specify the procedures for the collection of taxes levied pursuant to this chapter.

(c) Specify the content, form and timing of reports which must be submitted to the Department by a retailer or wholesaler, including, without limitation, the requirement that information on sales, expenses, inventory and taxes collected must be reported to the Department.

(d) Establish the requirements concerning the records that must be created and maintained by a retailer or wholesaler.

(e) Specify the requirements for the packaging and labeling of marijuana.

(f) Require the posting or display of the license of a retailer or wholesaler.

- (g) Establish the procedures for inspecting and auditing the records or premises of a retailer or wholesaler.*
- (h) Set forth the procedures for hearings to contest the denial of an application for a license as a retailer or wholesaler.*
- (i) Set forth the procedures for hearings to contest the suspension or revocation of a license as a retailer or wholesaler for a violation of any provision of this chapter, the regulations adopted pursuant to this chapter or any provision of the Nevada Revised Statutes.*

Sec. 29. NRS 372A.060 is hereby amended to read as follows:

372A.060 1. This chapter does not apply to **[any]**:

- (a) Any person who is registered or exempt from registration pursuant to NRS 453.226 **[or any]**;*
- (b) Any retailer or wholesaler or any owner, employee or agent acting on behalf of a retailer or wholesaler; or*
- (c) Any other person who is lawfully in possession of a controlled substance.*

2. Compliance with this chapter does not immunize a person from criminal prosecution for the violation of any other provision of law.

3. As used in this section:

- (a) “Retailer” has the meaning ascribed to it in section 5 of this act.*
- (b) “Wholesaler” has the meaning ascribed to it in section 7 of this act.*

Sec. 30. NRS 484.3795 is hereby amended to read as follows:

484.3795 1. A person who:

- (a) Is under the influence of intoxicating liquor;
- (b) Has a concentration of alcohol of 0.08 or more in his blood or breath;
- (c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;
- (d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;
- (e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or
- (f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379, and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than **[20] 40** years and must be further punished by a fine of not less than \$2,000 nor more than **[\$5,000.] \$10,000**. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

Sec. 31. If any provision of this act, or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 32. 1. The Department of Taxation shall adopt regulations to implement this act and shall begin processing applications for retailers and wholesalers within 180 days of the effective date of this act.

2. If the Department fails to issue such regulations within 180 days of the effective date of this act, any establishment that is licensed as a retail dealer of tobacco pursuant to chapter 370 shall be deemed to be a retailer if the establishment that is licensed as a retail dealer of tobacco:

- (a) Notifies the Department in writing of its readiness to apply;
- (b) Pays the Department the \$1,000 license fee; and
- (c) Satisfies the requirements set forth in sections 15 to 28, inclusive, of this act.

3. If the Department fails to issue such regulations within 180 days of the effective date of this act, any establishment that is licensed as a wholesale dealer of tobacco pursuant to chapter 370 shall be deemed to be a licensed wholesaler if the establishment that is licensed as a wholesale dealer of tobacco:

- (a) Notifies the Department in writing of its readiness to apply;
- (b) Pays the Department the \$1,000 license fee; and
- (c) Satisfies the requirements set forth in sections 15 to 28, inclusive, of this act.

4. If the Department fails to adopt regulations to implement this act and begin processing applications for retailers and wholesalers within 180 days of the effective date of this act, a retailer, wholesaler or person who desires to purchase marijuana pursuant to this act may commence an action in a court of competent jurisdiction to compel the Department to perform the actions mandated pursuant to the provisions of this act.

5. As used in this section:

- (a) “Retailer” has the meaning ascribed to it in section 5 of this act.
 - (b) “Wholesaler” has the meaning ascribed to it in section 7 of this act.
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