

**MARIJUANA COMPACT**  
**Between**  
**THE ELY SHOSHONE TRIBE OF NEVADA**  
**And**  
**THE STATE OF NEVADA**

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**I. Introduction**

This compact is entered into pursuant to Senate Bill 375, Chapter 305, Laws of 2017 (the “Compacting Legislation”). This document will be cited as the Marijuana Compact Between the Ely Shoshone Tribe of Nevada (“the Ely Shoshone Tribe”) and the State of Nevada, and hereinafter referred to as the “Compact.”

**II. Parties**

The Parties to this Compact are the Ely Shoshone Tribe (the “Tribe”), and the State of Nevada (the “State”) (collectively, the “Parties”).

The Tribe is located on the Southwest and Southeast sides of the City of Ely, which is in the State. The Tribe is a federally-recognized Indian tribe possessed of the full sovereign powers of a government.

The State is a state within the United States of America, possessed of the full powers of a state government. The Nevada Department of Taxation (“Department”) is an executive department of Nevada State government operating under the authority of the Governor, with statutory authority with respect to marijuana under Nevada Revised Statutes (“NRS”) Chapters 453A and 453D. The Compacting Legislation allows the Governor to enter into an agreement with any federally recognized Indian tribe located within the geographical boundaries of the State regarding marijuana.

**III. Purpose**

Historically, the cultivation, possession, delivery, distribution, and sale of marijuana have been illegal across the United States and in Indian Country. In 2016, Nevada voters passed Question 2, which sets forth a tightly regulated, state licensed system allowing for the cultivation, processing, and retail sale of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products for recreational purposes within the State.

While the federal Controlled Substances Act continues to designate marijuana as a Schedule 1 substance, on August 29, 2013, the United States Department of Justice issued a memorandum to all United States Attorneys (the “Cole Memorandum”) setting forth guidance regarding marijuana enforcement. In that memo, James M. Cole, Deputy Attorney General, established eight enforcement priorities of particular importance to the federal government: (1) preventing the distribution of marijuana to minors; (2) preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; (3) preventing the diversion of marijuana from states where it is legal under state law in

some form to other states; (4) preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; (5) preventing violence and the use of firearms in the cultivation and distribution of marijuana; (6) preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; (7) preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and (8) preventing marijuana possession or use on federal property. The Cole Memorandum further states that the focus of federal law enforcement resources and efforts will be on those whose conduct interferes with the stated priorities and that state and local governments should provide sufficiently robust regulatory and enforcement systems to protect against these harms.

On October 28, 2014, the United States Department of Justice issued another memorandum to all United States Attorneys (the “Wilkinson Memorandum”) providing a policy statement regarding marijuana issues in Indian Country. In that memo, Monty Wilkinson, Director, Executive Office for United States Attorneys, acknowledged that “[t]he eight priorities in the Cole Memorandum will guide United States Attorneys’ marijuana enforcement efforts in Indian Country, including in the event that sovereign Indian Nations seek to legalize the cultivation or use of marijuana in Indian Country.” The Wilkinson Memorandum effectively treats tribal governments the same as state governments in the decision to legalize marijuana.

Through Nevada law and the Department’s implementing rules, the State has decriminalized the cultivation, possession, delivery, distribution, sale, and use of marijuana in Nevada and has attempted to set forth a civil regulatory system that accomplishes the federal priorities set forth above and keeps marijuana cultivation, processing, and sale in Nevada regulated and safe for the public.

After serious deliberation, the Tribe, as a sovereign nation, has also determined that present day circumstances make a complete ban of marijuana within Indian Country ineffective and unrealistic and has decriminalized its sale and possession in certain circumstances. At the same time, consistent with the federal priorities, the need still exists for strict regulation and control over the cultivation, possession, delivery, distribution, sale, and use of marijuana in Indian Country.

The State and the Tribe recognize the need for cooperation and collaboration with regard to marijuana in Indian Country. The State has authorized the entry of this Compact by the Compacting Legislation, enacted by the 79<sup>th</sup> (2017) Session of the Nevada Legislature on May 23, 2017, signed by the Governor on June 2, 2017, effective June 2, 2017. Through this Compacting Legislation, the State authorized the Governor to enter agreements with American Indian tribes concerning the regulation of marijuana.

The Parties share a strong interest in ensuring that marijuana production, processing, and sales in Indian Country are well-regulated to protect public safety and community interests. The Parties acknowledge that pursuant to federal law, 21 U.S.C. § 812, marijuana is a Schedule I controlled substance and that this Compact does not protect

the sales or regulation of marijuana in Indian Country from federal law; however, the Parties have entered into this Compact in order to strengthen their ability to meet these mutual interests and to provide a framework for cooperation to ensure a robust tribal and state regulatory and enforcement system sufficient to meet the federal priorities identified in the Cole and Wilkinson Memoranda.

The Parties acknowledge that the laws of the tribal government relating to the possession, delivery, production, cultivation, processing, testing and use of marijuana, edible marijuana products, marijuana-infused products and marijuana products are at least as restrictive as the provisions of chapters 453A and 453D of the NRS and any regulations adopted pursuant thereto and the tribal government is enforcing or will enforce those laws.

The Parties agree that it is in the best interests of the Tribe and the State that they enter into this Compact to enhance public health and safety, ensure a lawful and well-regulated marijuana market, encourage economic development in Indian Country, and provide fiscal benefits to both the Tribe and the State.

#### **IV. Definitions**

A. “Auditor” means a certified public accountant licensed and in good standing in the state of Nevada.

B. “Compact,” as previously defined in Part I, means this Marijuana Compact between the Ely Shoshone Tribe of Nevada and the State of Nevada, as may be amended.

C. “Essential Government Services” means services provided by the Tribe including, but not limited to, administration, public facilities, fire, police, health, education, elder care, social services, sewer, water, environmental and land use, transportation, utility services, community development, and economic development.

D. “ESTC” means the Ely Shoshone Tribal Code.

E. “Indian Country” means the lands of the Ely Shoshone Tribe, including the Tribe’s Ely Reservation and all lands held in trust, fee, or restricted fee status by the United States for the Tribe or its Tribal Members.

F. “Marijuana,” “edible marijuana products,” “marijuana concentrates,” “marijuana-infused products,” and “useable marijuana” as used in this Compact shall have the same meanings as in NRS Chapters 453, 453A, and 453D or any amendments thereto. Together, these terms shall be referred to as “Marijuana Product” or “Marijuana Products.”

G. “Marijuana product manufacturing facility” means any marijuana processor in Indian Country licensed or otherwise allowed by the Tribe pursuant to Chapter 453A and 453D of the ESTC to process marijuana into useable marijuana, marijuana concentrates, and marijuana-infused products, package and label useable

marijuana and marijuana-infused products for sale to retailers, and sell Marijuana Products at wholesale to retailers.

H. “Marijuana cultivation facility” means any marijuana cultivator in Indian Country licensed or otherwise allowed by the Tribe pursuant to Chapter 453A and 453D of the ESTC to cultivate and sell marijuana at wholesale to marijuana product manufacturing facilities and other marijuana cultivation facilities.

I. “Parties,” as previously defined in Part II, means the State and the Tribe.

J. “Retail marijuana store” means any marijuana retailer in Indian Country licensed or otherwise allowed by the Tribe pursuant to Chapter 453A or 453D of the ESTC to sell Marijuana Products in a retail outlet.

K. “State,” as previously defined in Part II, means the State of Nevada.

L. “State Licensee” means any marijuana product manufacturing facility, marijuana cultivation facility, marijuana distributor, marijuana testing facility or retail marijuana store licensed by the State.

M. “State Tax” means any marijuana excise tax or sales and use tax imposed by the State on sales of Marijuana Products.

N. “Tribal Enterprise” means a business or agency owned in whole or in part by the Tribe and authorized to sell Marijuana Products under the ESTC.

O. “Tribal Tax” means a tax imposed by the Tribe on marijuana activities.

P. “Tribe,” as previously defined in Part II, means the Ely Shoshone Tribe.

## V. Terms

A. Applicability. This Compact applies to the cultivation, processing, and sale of Marijuana Products in Indian Country where the Tribe or Tribal Enterprise (i) delivers, causes delivery to be made to, or receives delivery of Marijuana Products from a State Licensee or (ii) physically transfers possession of Marijuana Products from the seller to the buyer within Indian Country. Except as otherwise provided herein, the cultivation, processing, sale, and possession of Marijuana Products in Indian Country pursuant to the Chapter 453A and 453D of the ESTC and in accordance with this Compact are not subject to the terms of NRS 453A, NRS 453D, NAC 453A or any other regulations promulgated under those NRS Chapters and any such activities will not be a criminal or civil offense under Nevada state law.

B. Retail Sales. The Tribe and/or its Tribal Enterprises may sell Marijuana Products in Indian Country pursuant to the ESTC and this Compact.

1. The Tribe shall notify the Department at least 30 days prior to the opening of any Retail location owned by the Tribe or Tribal Enterprise. Such notification shall include:

- a. The identity of the Tribal entity which is operating the retail location;
- b. Location of the premises; and
- c. Certification that the premises is located in Indian Country.

2. Retail sales of Marijuana Products by the Tribe and any Tribal Enterprise must be conducted in accordance with ESTC Chapter 453A and 453D and the internal policies and controls of the Tribe or Tribal Enterprise. ESTC Chapter 453A as it exists on the date of this Compact is attached as Exhibit A. Current copies of ESTC Chapter 453A and 453D and marijuana internal policies and controls of the Tribe and any Tribal Enterprise will be made available for review by the State upon request. The Tribe agrees to notify the State of any changes to the ESTC that may affect Marijuana Products within ten (10) working days of the date of adoption by the Tribe.

3. All Marijuana Products purchased by a Retail Marijuana Store from a State Licensee will be verified upon delivery in Indian Country, and confirmation of receipt will be made by executing the delivery invoice. The Retail Marijuana Store will input or cause the input of all delivered purchases into the State's tracking system within twenty-four (24) hours of any such delivery.

4. All Marijuana Products purchased by the Tribe or a Tribal Enterprise from the tribal government, tribal enterprise, or member of another federally-recognized Indian Tribe with a reservation located within Nevada, or sold by the Tribe or a Tribal Enterprise to the tribal government, tribal enterprise, or member of another federally recognized Indian Tribe with a reservation located within Nevada, will be recorded in either the Tribe's or the State's tracking system within twenty-four (24) hours of any such receipt or delivery. The Tribe and any Tribal Enterprise will make such records available for review by the State upon request.

C. Cultivating and Processing of Marijuana Products. The Tribe may allow the cultivating and processing of Marijuana Products in Indian Country pursuant to the following terms:

1. The Tribe shall notify the Department at least 90 days prior to the start of operations of any Marijuana Product Manufacturing Facility or Marijuana Cultivation Facility by the Tribe or a Tribal Enterprise. Such notifications shall include:

- a. The identity of the Tribal entity which is operating the Marijuana Product Manufacturing Facility or Marijuana Cultivation Facility;
- b. Location of the premises; and
- c. Certification that the premises is located in Indian Country.

2. Cultivating and processing of Marijuana Products by the Tribe and any Tribal Enterprise must be conducted in accordance with ESTC Chapter 453A and 453D and the internal policies and controls of the Tribe or Tribal Enterprise. ESTC Chapter 453A and 453D as it exists on the date of this Compact is attached as Exhibit A. Current copies of ESTC Chapter 453A and 453D and any internal marijuana policies and controls of the Tribe and any Tribal Enterprise will be made available for review by the State upon request. The Tribe agrees to notify the State of any changes to the ESTC that may affect Marijuana Products within ten (10) days of the date of adoption by the Tribe.

3. The State may require that Marijuana Products sold by Marijuana Product Manufacturing Facilities and Marijuana Cultivation Facilities to State Licensees be packaged, tested and labeled in compliance with State marijuana laws. With respect to “edibles” this may include State preapproval of the product packaging and labeling before sale to State Licensees; PROVIDED, that such preapproval shall not be unreasonably withheld and shall be timely provided. All transactions between the Tribe and State Licensees will be executed through the State traceability system following the same rules as State Licensees.

D. State Licensees.

1. The Tribe and Tribal Enterprises may purchase Marijuana Products from or sell Marijuana Products to State Licensees or any other entity operating under a valid agreement authorized by the Compacting Legislation, including any amendments thereto, with or otherwise authorized by the State. All transactions between the Tribe and State Licensees must be executed through the State traceability system, and Marijuana Products purchased from or sold to State Licensees must be tested to equivalent or higher standards as those required by Nevada’s marijuana laws.

2. The State will not cite, fine, or otherwise take any other adverse licensing or other action against any State Licensee for the mere fact that it bought or sold Marijuana Products from or to the Tribe or a Tribal Enterprise in accordance with the terms of this Compact and ESTC.

3. To the extent necessary, the State will work with the Tribe, Tribal Enterprise, and with any State Licensees or otherwise authorized marijuana product manufacturing facilities, marijuana cultivation facilities, and retail marijuana stores to assure such entities that the Tribe and Tribal Enterprises are legally authorized to purchase and sell Marijuana Products pursuant to the terms of this Compact.

E. Taxes.

1. State Tax. The State acknowledges that no State Tax or fee, assessment, or other charge imposed by the State or local governments may be assessed against or collected from the Tribe, Tribal Enterprises, State Licensees, or retail customers in Indian Country related to any commercial activity related to the production, processing, sale, and possession of Marijuana Products governed by this Compact. To the extent any other State Tax, fee, assessment, or other charge imposed by the State or local government, or Tribal Tax is assessed against or collected from any State Licensee related to a sale to or purchase from the Tribe or Tribal Enterprises, of any marijuana product, it shall be refunded or otherwise paid by the State to the Tribe within thirty (30) days of receipt by the State. Any refund amounts so received by the Tribe will be used for Essential Government Services. No refund will be granted on State Tax collected from a retail customer by State Licensees on the sale of marijuana or marijuana product if that marijuana or marijuana product was originally purchased by the State Licensee from the Tribe or Tribal Enterprises.

2. Tribal Tax. The Tribe shall impose and maintain a Tribal Tax that is equal to at least 100 percent of the State Tax on all sales of Marijuana Products in Indian Country, unless (1) the sale is to the Tribe, Tribal Enterprise, or an enrolled member of the Tribe; (2) the transaction is otherwise exempt from State marijuana taxation under state or federal law; or, (3) the transaction involves medical marijuana products used in the course of medical treatments by a clinic, hospital, or similar facility owned and operated by the Tribe within Indian Country. The Tribe may choose to levy a Tribal Tax on any transaction that may otherwise be exempt.

- a. While not required under State law, the Tribe agrees to use the proceeds of the Tribal Tax for Essential Government Services or Community Social Programs.
- b. At the State's request, the Tribe will obtain, at its own expense, an Auditor to test the Tribe's compliance with this section E. of the Compact. The Auditor will review a sample of records to verify the requirements of this section and will provide the State with a report detailing the results of the testing procedures, to include identification of any instances of noncompliance with the terms of this section.

F. Safety and Enforcement. The Tribe shall be responsible for and address safety and enforcement issues in accordance with ESTC, this Compact, and internal policies and controls of the Tribe or Tribal Enterprise.

1. Premises Checks.

a. By the Tribe. The Ely Shoshone Police Department or other authorized agency may conduct its own premises checks in Indian Country to

observe compliance with the ESTC and this Compact and to provide support and education to Tribal Enterprises and staff. To the extent it is informed of the results of such premises checks, the Ely Shoshone Tribal Council will share the results of the premises checks with the State.

b. By the State. The State, through its staff, may also request premises checks to be done by the Ely Shoshone Police Department. The State may be, and are authorized to be, present to observe any such check to observe compliance with this compact and with the ESTC. The State can observe any part of the program during these checks. The State will contact the Ely Shoshone Police Department to provide twenty-four (24) hours' written notice of such premises check. The Ely Shoshone Police Department and/or authorized Tribal authorities must participate in all requested premises checks. The State is not required to be present at all requested premises checks that the State requests the Ely Shoshone Police to conduct. The State and Tribe will share the results of such premises checks with Ely Shoshone Tribal Council. The State will not request such checks to cause more than one every 30 days unless there is a documented complaint or reason to suggest there is a non-compliance issue. If there is a fear of a non-compliance issue, the State may request a premises check at any time with a twenty-four (24) hours' written notice provided to the Ely Shoshone Police Department from the State.

c. Cooperation. Both Parties will cooperate in good faith to undertake all State-requested premises checks jointly. The Ely Shoshone Police Department and/or authorized Tribal authorities will make reasonable efforts to arrange and conduct all State-requested premises checks within twenty-four (24) hours of being provided written notice of such request by the State. All such written notices shall be sent to the Chief of Police and the Chairman of the Tribe. Should either Party have any concerns arising out of a premises check or the results thereof, the Parties will meet in good faith to discuss any suggested changes to protocols of the premises checks themselves or of marijuana product sales by the Tribe or Tribal Enterprise that were checked.

## 2. Compliance Checks/Minors.

a. By the Tribe. The Tribe may conduct its own compliance checks in Indian Country using minors ages 18, 19, or 20 through the Ely Shoshone Police Department or other authorized agency in accordance with Tribal regulations and policies. To the extent it is informed of the results of such checks, Ely Shoshone Tribal Council will provide the results of the checks to the State. No criminal action may be taken against any minor who purchases marijuana as part of such a compliance check.

b. By the State. State staff may also conduct compliance checks. Prior to conducting any such compliance check, the State will contact the Ely Shoshone Police Department or other authorized agency to provide twenty-four (24) hours' written notice of such compliance check. The Ely Shoshone Police Department and/or authorized Tribal authorities must participate in all compliance checks. The State



and Tribe will share the results of such compliance checks with Ely Shoshone Tribal Council.

c. Cooperation. Both Parties will cooperate in good faith to undertake all State-requested compliance checks jointly. The Ely Shoshone Police Department or other authorized agency will make reasonable efforts to arrange and conduct all State-requested compliance checks within 24 hours of being provided written notice of such request by the State. All such written notices shall be sent to the Chief of Police and the Chairman of the Tribe. Should either Party have any concerns arising out of a compliance check or the results thereof, the Parties will meet in good faith to discuss any suggested changes to protocols of the compliance checks themselves or of marijuana sales by the Tribe or Tribal Enterprise that were checked.

G. Dispute Resolution.

1. Neither Party, nor officers acting on either Party's behalf, may petition for judicial relief to enforce this Compact unless (a) the dispute resolution process described in subsections 2(a) through 2(d) below has been followed in good faith to completion without successful resolution or (b) the other Party fails to enter into the dispute resolution process. Should litigation arise under this Compact, the Parties agree as follows:

- (i). The litigation may only take place in the United States District Court for the District of Nevada and any court having appellate jurisdiction thereover;
- (ii). Venue for said litigation shall be the Northern District of the United States District Court of Nevada located in Reno, Nevada, and the Parties hereto are deemed to have waived the right to claim *forum non conveniens* should litigation be filed there; and
- (iii). The Parties waive their sovereign immunity from suit, only in said United States District Court of Nevada and any court having appellate jurisdiction thereover, and only for declaratory and injunctive relief, brought by the Parties hereto, and no other. No waiver of sovereign immunity extends to monetary relief of any kind or nature whatsoever, including, but not limited to any award of attorneys' fees and costs, which, the Parties also agree, must be borne by each Party, respectively.

2. Should a dispute arise between the Parties regarding compliance with this Compact by either Party, or by their officers, employees or agents, the Parties will attempt to resolve the dispute through the following dispute resolution process:

a. Notice. Either Party may invoke the dispute resolution process by notifying the other, in writing, of its intent to do so. The notice must set out the issues in dispute and the notifying Party's position on each issue.

a. Meet and Confer. The first stage of the process will include a face-to-face meeting between representatives of the two Parties to attempt to resolve the dispute by negotiation. The meeting must be convened within thirty (30) days after the receiving Party's receipt of the written notice described in subsection (a). The representatives of each Party will come to the meeting with the authority to settle the dispute. If the dispute is resolved, the resolution will be memorialized in a writing signed by the Parties.

b. Mediation. The second stage of the process will be that if the Parties are unable to resolve the dispute within sixty (60) days after the receiving Party's receipt of the written notice sent under subsection (a) above, the Parties will engage the services of a mutually agreed upon qualified mediator to assist them in attempting to negotiate the dispute. Costs for the mediator will be borne equally by the Parties. The Parties will pursue the mediation process in good faith until the dispute is resolved or until the mediator determines that the Parties are not able to resolve the dispute. If the Parties cannot agree on a format for the mediation process, the format will be that directed by the mediator. If the dispute is resolved, the resolution will be memorialized by the mediator in a writing signed by the Parties, which will bind the Parties.

d. Arbitration.

(1) If a Party terminates the process before completion, or if the mediator determines that the dispute cannot be resolved in the mediation process, or if the dispute is not resolved within one hundred twenty (120) days after the date the mediator is selected, either Party may initiate binding arbitration proceedings under the rules of the American Arbitration Association ("AAA"), but the AAA need not administer the arbitration. If the arbitrator determines that a Party is in violation of a material provision of this Compact, and such violation is not or cannot be cured within thirty (30) days after the arbitrator's decision, then the other Party may terminate this Compact with sixty (60) days' prior written notice.

- (2) The arbitrator shall have no authority to award monetary damages or issue injunctive or other equitable relief.
- (3) Each Party will bear its own legal costs incurred under this Section. All costs of the arbitrator will be shared equally.

3. If, at any time after the effective date of this Compact, the State enters into an agreement, compact, or consent decree with any other federally recognized Indian tribe or governmental agency thereof, of or relating to the regulation of marijuana in Indian Country which includes a “most favored nation” provision, then, upon the Tribe’s written request, this Compact will be amended to include such provision. A “most favored nation” provision is defined as language by which the State agrees to accord a tribe or tribal government agency the same favorable terms that are offered in later agreements with any other tribe or tribal government agency. This will not be construed to require that the State offer the Tribe the option to receive the same terms offered to every tribe or tribal government agency, in the absence of a most favored nation provision in the Compact.

4. In any action filed by a third party challenging either the Tribe’s or the State’s authority to enter into or enforce this Compact, the Parties each agree to support the Compact and defend each of their authority to enter into and implement this Compact; provided, however, that this provision does not waive, and must not be construed as a waiver of, the sovereign immunity of the Tribe or any of its subdivisions or enterprises.

H. Termination. This Compact may be terminated with sixty (60) days’ prior written notice if the Department determines that the tribal government laws relating to the possession, delivery, cultivation, production, processing, testing and use of marijuana products are not as restrictive as the provisions of chapters 453A and 453D of NRS and any regulations adopted pursuant thereto or that the tribal government is not enforcing those laws, provided:

1. The State has given the Tribe written notice detailing the claimed default, and granting the Tribe a 45 day period of time to cure the default. In the event that the State determines that the default has been cured or the Tribe has cured the default or is making satisfactory progress toward the cure of the default during the 45 day period, the notice of default shall be withdrawn;
2. In the event that the State determines that the Tribe has not cured the default, that satisfactory progress in the cure of the default is not being made by the Tribe, or that it is impossible for the Tribe to cure the default within 45 days of the notice of default, then, the State shall give written notice to the Tribe of the State’s determination, whereupon, the Tribe may

invoke the alternative dispute resolution procedures of subsection G., above, by giving notice within ten days to the State that the alternative dispute process has been invoked by the Tribe. The outcome of the alternative dispute resolution process will determine whether the Compact may be terminated by the State, should the alternative dispute process be invoked.

3. Should the Tribe fail or refuse to invoke the alternative dispute process, then, the State's determination to terminate stands.

I. Sovereign Immunity. The State agrees that, except for the limited purpose of resolving disputes in accordance with subsection (G) above, the signing of this Compact by the Tribe does not imply a waiver of sovereign immunity by the Tribe or any of its subdivisions or enterprises and is not intended as a waiver of sovereign immunity and that any action by the State in regard to marijuana regulation by the Tribe shall be in accord with this Compact. Except as expressly provided otherwise, herein, the Tribe retains its sovereignty and immunity from suit.

J. No Limitation. The Parties agree that the signing of this Compact and the resultant benefits and obligations shall not be construed as limiting any otherwise lawful activity of the Tribe or its subdivisions or enterprises nor subject the Tribe or its subdivisions or enterprises to any State jurisdiction not agreed to in this Compact.

## **VI. Communication and Notice**

A. Designated Contacts. The Parties agree to maintain regular and open communication regarding the administration and implementation of this Compact. The Parties agree that the following individuals will be designated primary contacts regarding administration of this Compact:

For the State:

Office of the Governor  
General Counsel  
101 N. Carson Street  
Carson City, NV 89701  
(775) 684-5670

Department of Taxation  
Executive Director  
1550 College Parkway, Suite 115  
Carson City, NV 89706  
(775) 684-2000

For the Tribe:

Trent Griffith  
Ely Shoshone Marijuana Program Manager  
16 Shoshone Circle  
Ely, NV 89301  
(775) 293-7289

Cassandra Dittus  
Ely Shoshone Tribal Marijuana Program  
Coordinator  
1030 E. 4th Street  
Reno, NV 89512  
(970) 689-8962

Norberto Cisneros  
Marijuana Program Special Counsel  
11920 Southern Highlands Parkway, Suite 100  
Las Vegas, NV 89141  
O: (702) 366-0794  
C: (702) 686-7748

The Parties agree that if either party believes that the goals and objectives of this Compact are not being met, that they will meet promptly to discuss any issues and concerns.

B. **Notice.** Any notice that may be or is required to be sent under this Compact shall be sent as follows:

If to the State:

Office of the Governor  
General Counsel  
101 N. Carson Street  
Carson City, NV 89701  
(775) 684-5670

With a copy to:

Department of Taxation  
Executive Director  
1550 College Parkway, Suite 115  
Carson City, NV 89706  
(775) 684-2000

If to the Tribe:

Sandra Barela  
Ely Shoshone Tribal Administrator  
16 Shoshone Circle  
Ely, NV 89301  
(775) 289-3013

With a copy to:

Cassandra Dittus  
Ely Shoshone Tribal Marijuana Program  
Coordinator  
1030 E. 4th Street  
Reno, NV 89512  
(970) 689-8962

Norberto Cisneros  
Marijuana Program Special Counsel  
11920 Southern Highlands Parkway, Suite 100  
Las Vegas, NV 89141  
O: (702) 366-0394  
C: (702) 686-7748

## VII. Effect, Duration, and Amendment

A. Term. This Compact shall remain in effect for a term of ten (10) years, unless the Parties mutually agree in writing that the Compact should be vacated or terminated and superseded by a new compact between the Parties within that time frame. The Compact shall be automatically renewed for successive periods of ten (10) years, unless a party provides written notice to the other, no later than one hundred twenty (120) days before the expiration of the then current ten (10) year period that it wishes to modify the terms of the Compact.

B. Amendment. No amendment or alteration of this Compact shall arise by implication or course of conduct. This Compact may be altered only by a subsequent written document, approved by the Parties, expressly stating the Parties' intention to amend this Compact.

C. Severability. If any provision of this Compact or its application to any person or circumstance is held invalid, the remainder of the Compact is not affected.

D. Change in Classification. If the classification of marijuana as a Schedule I drug is altered in any way or federal marijuana enforcement policy (as described in III, above) changes, the Parties agree to meet and discuss the need to modify this Compact. If such modifications cannot be agreed upon, then either Party may terminate this Compact with 60 days' written notice.

This Compact is hereby made this 18<sup>th</sup> day of July, 2017.

STATE OF NEVADA

ELY SHOSHONE TRIBE

  
\_\_\_\_\_  
Brian Sandoval, Governor

  
\_\_\_\_\_  
Victor McQueen Jr., Chairman

## CHAPTER 453A - MEDICAL USE OF MARIJUANA

### GENERAL PROVISIONS

<u>SECTION 453A.010</u>	<b>Definitions.</b>
<u>SECTION 453A.020</u>	“Administer” defined.
<u>SECTION 453A.030</u>	“Attending physician” defined.
<u>SECTION 453A.040</u>	“Cachexia” defined.
<u>SECTION 453A.050</u>	“Chronic or debilitating medical condition” defined.
<u>SECTION 453A.053</u>	“Crime of violence” defined.
<u>SECTION 453A.056</u>	“Cultivation facility” defined.
<u>SECTION 453A.058</u>	“Board” defined.
<u>SECTION 453A.060</u>	“Deliver” and “delivery” defined.
<u>SECTION 453A.080</u>	“Designated primary caregiver” defined.
<u>SECTION 453A.090</u>	“Division” defined.
<u>SECTION 453A.100</u>	“Drug paraphernalia” defined. [Replaced in revision by
<u>SECTION 453A.101</u>	“Edible marijuana products” defined.
<u>SECTION 453A.102</u>	“Electronic verification system” defined.
<u>SECTION 453A.103</u>	“Enclosed, locked facility” defined.
<u>SECTION 453A.104</u>	“Excluded felony offense” “Category A Offense” defined.
<u>SECTION 453A.105</u>	“Facility for the production of edible marijuana products or marijuana- infused products” defined.
<u>SECTION 453A.107</u>	“Independent testing laboratory” defined.
<u>SECTION 453A.108</u>	“Inventory control system” defined.
<u>SECTION 453A.110</u>	“Marijuana” defined.
<u>SECTION 453A.112</u>	“Marijuana-infused products” defined.
<u>SECTION 453A.115</u>	“Medical marijuana dispensary” defined.
<u>SECTION 453A.116</u>	“Medical marijuana establishment” defined.
<u>SECTION 453A.117</u>	“Medical marijuana establishment agent” defined.
<u>SECTION 453A.118</u>	“Medical marijuana establishment agent registration card” defined.
<u>SECTION 453A.119</u>	“Medical marijuana establishment registration certificate” defined.
<u>SECTION 453A.120</u>	“Medical use of marijuana” defined.
<u>SECTION 453A.125</u>	“Paraphernalia” defined.
<u>SECTION 453A.130</u>	“Production” defined.
<u>SECTION 453A.140</u>	“Registry identification card” defined.
<u>SECTION 453A.143</u>	“Remote medical care” defined
<u>SECTION 453A.145</u>	“Telemedicine care” defined
<u>SECTION 453A.150</u>	“State prosecution” defined.
<u>SECTION 453A.155</u>	“THC” defined.
<u>SECTION 453A.160</u>	“Usable marijuana” defined.
<u>SECTION 453A.170</u>	“Written documentation” defined.

## LIMITED EXEMPTION FROM STATE PROSECUTION; REGISTRY IDENTIFICATION CARDS

**SECTION 453A.200** Holder of valid registry identification card or medical marijuana establishment registration certificate exempt from Tribal, Federal, or State prosecution for certain acts involving marijuana and paraphernalia; no crime for mere presence in vicinity of medical use of marijuana; limitation on exemption from Tribal, Federal, or State prosecution; affirmative defense; holder of card prohibited from cultivating, growing, or producing marijuana on Tribal lands.

**SECTION 453A.210** Registry identification cards: Program for issuance; application; required accompanying information; distribution of copies of application; verification of information contained in application; permissible grounds for denial of application; judicial review of decision to deny application; reapplication; applicant and caregiver deemed to hold card pending approval or denial of application.

**SECTION 453A.220** Registry identification cards: Issuance to applicant; issuance to primary caregiver if primary caregiver has been designated at time of application; required contents; duration; renewal.

**SECTION 453A.225** Registry identification cards: Revocation; duties; judicial review; reapplication prohibited for 12 months.

**SECTION 453A.230** Registry identification card: Holder to notify Division of certain changes in information; required annual update of documentation from attending physician; designation of primary caregiver after initial issuance of card; deemed expiration of card.

**SECTION 453A.240** Registry identification cards: Card to be returned to Division following diagnosis of absence of chronic or debilitating medical condition.

**SECTION 453A.250** Registry identification cards: General requirements concerning designation of primary caregiver; user of medical marijuana not to have more than one designated primary caregiver; timing of issuance of card to caregiver if caregiver designated after initial issuance of card to patient.

### PROHIBITED ACTS; AFFIRMATIVE DEFENSES

**SECTION 453A.300** Acts for which registry identification cardholder is not exempt from Tribal, Federal, or State prosecution and may not raise affirmative defense; additional penalty.

**SECTION 453A.310** Affirmative defenses.

## PRODUCTION AND DISTRIBUTION OF MEDICAL MARIJUANA

### REGISTRATION OF MEDICAL MARIJUANA ESTABLISHMENTS AND MEDICAL MARIJUANA ESTABLISHMENT AGENTS

**SECTION 453A.320** Purpose of registration; no vested right acquired by holder of registration certificate or registration card.

**SECTION 453A.322** Registration of establishments: Requirements; expiration and renewal.



- SECTION 453a.324** Registration of establishments: Limitation on total number of certificates that can be issued.
- SECTION 453A.326** Registration of establishments: Certificates deemed provisional pending compliance with requirements and issuance of business license.
- SECTION 453A.328** Registration of establishments: Considerations in determining whether to issue registration certificate.
- SECTION 453A.332** Agents required to register with Division; requirements for registration; establishment required to notify Division if agent ceases to be employed by or volunteer at establishment; expiration and renewal of registration.
- SECTION 453A.334** Registration cards and registration certificates nontransferable.
- SECTION 453A.336** Payment of child support: Statement by applicant for registration card or registration certificate; grounds for denial; duties of Division. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]
- SECTION 453A.338** Suspension of registration card or registration certificate for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of registration card or registration certificate. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]
- SECTION 453A.340** Grounds for immediate revocation of registration certificate.
- SECTION 453A.342** Grounds for immediate revocation of registration card.
- SECTION 453A.344** Fees.

#### REQUIREMENTS CONCERNING OPERATION OF MEDICAL MARIJUANA ESTABLISHMENTS

- SECTION 453A.350** Location, land use, appearance and signage.
- SECTION 453A.352** Operating documents; security measures; actions of establishment with respect to marijuana required to be for certain purpose; requirements for cultivation; dispensary and cultivation facility authorized to acquire marijuana from patient; allowing consumption on premises prohibited; inspection.
- SECTION 453A.354** Electronic verification system.
- SECTION 453A.356** Inventory control system.
- SECTION 453A.358** Duties of medical marijuana dispensaries relating to sale of medical marijuana and related products and relating to notice of legal limits on possession of medical marijuana.
- SECTION 453A.360** Requirements concerning edible marijuana products and marijuana-infused products.
- SECTION 453A.362** Requirements concerning storage and removal of medical marijuana.

#### MISCELLANEOUS PROVISIONS

- SECTION 453A.364** Recognition of nonresident cards. [Effective April 1, 2016.]

Ely Shoshone Tribal Code – Medical Marijuana – Amended by Resolution 2016-EST-29 & by Resolution 2016-EST-46

Adopted 1/12/2016 – Ordinance No. 2016-EST-01 – Resolution 2016-EST-11

**SECTION 453A.366** Designation of medical marijuana dispensary.  
**SECTION 453A.368** Testing laboratories.  
**SECTION 453A.370** Regulations.

#### SEARCH AND SEIZURE

**SECTION 453A.400** Possession of registry identification card, registration certificate or registration card not permissible grounds for search or inspection; care and return of seized property; determination that person is engaged in, facilitating or assisting in medical use of marijuana in accordance with provisions of chapter.  
**SECTION 453A.410** Forfeiture of assets seized.

#### ACTIONS OF PROFESSIONAL LICENSING BOARDS

**SECTION 453A.500** Board of Medical Examiners and State Board of Osteopathic Medicine prohibited from taking disciplinary action against attending physician on basis of physician's participation in certain activities in accordance with chapter.  
**SECTION 453A.510** Professional licensing board prohibited from taking disciplinary action against licensee on basis of licensee's participation in certain activities in accordance with chapter.

#### RESEARCH; APPROVAL OF FEDERAL GOVERNMENT

**SECTION 453A.600** Program for evaluation and research of medical use of marijuana: Establishment by the Division; federal approval; participants and subjects; annual report to The Board.  
**SECTION 453A.610** Program for evaluation and research of medical use of marijuana: Duties of the Division, or its appointed designee, or its contracted designee, concerning confidentiality; certain items of information not subject to subpoena, discovery or inspection.  
**SECTION 453A.620** Program for evaluation and research of medical use of marijuana: Authority of The Division and the Board concerning gifts, grants, donations and contributions; deposit of money in Tribal Finance Department.  
**SECTION 453A.630** Program for evaluation and research of medical use of marijuana: Deposits, use and disposition of money: Division, or contracted private company to administer account.

#### MISCELLANEOUS PROVISIONS

- SECTION 453A.700** Duties of Division concerning confidentiality; certain items of information not subject to subpoena, discovery or inspection.
- SECTION 453A.710** Addition of diseases and conditions to list of qualifying chronic or debilitating medical conditions: Petition; regulations.
- SECTION 453A.720** Authority of the Administrator of the Division concerning gifts, grants, donations and contributions; deposit of money in the Ely Shoshone Finance Department.
- SECTION 453A.730** Deposit, use and disposition of money; administration of account.
- SECTION 453A.740** Regulations; fees.
- SECTION 453A.800** Costs associated with medical use of marijuana not required to be paid or reimbursed; medical use of marijuana not required to be allowed in workplace; medical needs of employee who engages in medical use of marijuana to be accommodated by employer in certain circumstances.
- SECTION 453A.810** Tribe not responsible for deleterious outcomes.

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## GENERAL PROVISIONS

**SECTION 453A.010 Definitions.** As used in this chapter, unless the context otherwise requires, the words and terms defined in [SECTION 453A.020](#) to [453A.170](#), inclusive, have the meanings ascribed to them in those sections.

**SECTION 453A.020 “Administer” defined.** “Administer” has the meaning ascribed to it in [SECTION 453.021](#).

**SECTION 453A.030 “Attending physician” defined.** “Attending physician” means a physician who:

1. Is licensed to practice:
  - (a) Medicine pursuant to the provisions of [chapter 630](#) of NRS; or
  - (b) Osteopathic medicine pursuant to the provisions of [chapter 633](#) of NRS; and
2. Has responsibility for the care and treatment of a person diagnosed with a chronic or debilitating medical condition.

**SECTION 453A.040 “Cachexia” defined.** “Cachexia” means general physical wasting and malnutrition associated with chronic disease.

**SECTION 453A.050 “Chronic or debilitating medical condition” defined.** “Chronic or debilitating medical condition” means:

1. Acquired immune deficiency syndrome;
2. Cancer;
3. Glaucoma;
4. A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:
  - (a) Cachexia;
  - (b) Persistent muscle spasms, including, without limitation, spasms caused by multiple sclerosis;
  - (c) Seizures, including, without limitation, seizures caused by epilepsy;
  - (d) Severe nausea; or

- (e) Severe pain; or
  - (f) PTSD
  - (g) Symptoms associated with end of life or long term hospice care: both physical, mental, or emotional.
5. Any other medical condition or treatment for a medical condition that is:
- (a) Classified as a chronic or debilitating medical condition by regulation of the **Board** or
  - (b) Approved as a chronic or debilitating medical condition pursuant to a petition submitted in accordance with [SECTION 453A.710](#).

**SECTION 453A.053 “Crime of violence” defined.** “Crime of violence” means any **Category A Offense**:

- 1. Involving the use or threatened use of force or violence against the person or property of another; or
- 2. For which there is a substantial risk that force or violence may be used against the person or property of another in the commission of the **Category A Offense**.

**SECTION 453A.056 “Cultivation facility” defined.** “Cultivation facility” means a business that:

- 1. Is registered with the **Division** pursuant to [SECTION 453A.322](#); and
- 2. Acquires, possesses, cultivates, delivers, transfers, transports, supplies or sells marijuana and related supplies to:
  - (a) Medical marijuana dispensaries;
  - (b) Facilities for the production of edible marijuana products or marijuana-infused products; or
  - (c) Other cultivation facilities.

**SECTION 453A.058 “Board defined”** “Board means the Board of the Division as designed by the Ely Shoshone Tribal Council

**SECTION 453A.060 “Deliver” and “delivery” defined.** “Deliver” or “delivery” has the meaning ascribed to it in [SECTION 453.051](#).

**SECTION 453A.080 “Designated primary caregiver” defined.**

- 1. “Designated primary caregiver” means a person who:
  - (a) Is 18” years of age or older;
  - (b) Has significant responsibility for managing the well-being of a person diagnosed with a chronic or debilitating medical condition; and
  - (c) Is designated as such in the manner required pursuant to [SECTION 453A.250](#).
- 2. The term does not include the attending physician of a person diagnosed with a chronic or debilitating medical condition.

**SECTION 453A.090 Division defined.** Division” means the newly formed division responsible for the oversight and enforcement of the rules that govern the marijuana programs as adopted by the Ely Shoshone Tribe.

**SECTION 453A.100 “Drug paraphernalia” defined.** [Replaced in revision by [SECTION 453A.125](#).]

**SECTION 453A.101 “Edible marijuana products” defined.** “Edible marijuana products” means products that:

1. Contain marijuana or an extract thereof;
2. Are intended for human consumption by oral ingestion; and
3. Are presented in the form of foodstuffs, extracts, oils, tinctures and other similar products.

**SECTION 453A.102 “Electronic verification system” defined.** “Electronic verification system” means an electronic database that:

1. Keeps track of data in real time; and
2. Is accessible by the Division and by registered medical marijuana establishments.

**SECTION 453A.103 “Enclosed, locked facility” defined.** “Enclosed, locked facility” means a closet, display case, room, greenhouse or other enclosed area that meets the requirements of [SECTION 453A.362](#) and is equipped with locks or other security devices which allow access only by a medical marijuana establishment agent and the holder of a valid registry identification card.

**SECTION 453A.104 “Excluded felony offense” “Category A Offense” defined.**

1. “Excluded felony offense” “Category A Offense” means:
  - (a) A crime of violence; or
  - (b) A violation of a Tribal, state or federal law pertaining to controlled substances, if the law was punishable as a felony in the jurisdiction where the person was convicted.
2. The term does not include:
  - (a) A criminal offense for which the sentence, including any term of probation, incarceration or supervised release, was completed more than 10 years before; or
  - (b) An offense involving conduct that would be immune from arrest, prosecution or penalty pursuant to [SECTION 453A.320](#) to [453A.370](#), inclusive, except that the conduct occurred before April 1, 2014, or was prosecuted by an authority other than the State of Nevada.

**SECTION 453A.105 “Facility for the production of edible marijuana products or marijuana-infused products” defined.** “Facility for the production of edible marijuana products or marijuana-infused products” means a business that:

1. Is registered with the **Division** pursuant to [SECTION 453A.322](#); and
2. Acquires, possesses, manufactures, delivers, transfers, transports, supplies or sells edible marijuana products or marijuana-infused products to medical marijuana dispensaries.

**SECTION 453A.107 “Independent testing laboratory” defined.** “Independent testing laboratory” means a facility described in [SECTION 453A.368](#).

**SECTION 453A.108 “Inventory control system” defined.** “Inventory control system” means a process, device or other contrivance that may be used to monitor the chain of custody of marijuana used for medical purposes from the point of cultivation to the end consumer.

**SECTION 453A.110 “Marijuana” defined.** “Marijuana” has the meaning ascribed to it in [SECTION 453.096](#).

**SECTION 453A.112 “Marijuana-infused products” defined.**

1. “Marijuana-infused products” means products that:
  - (a) Are infused with marijuana or an extract thereof; and
  - (b) Are intended for use or consumption by humans through means other than inhalation or oral ingestion.
2. The term includes, without limitation, topical products, ointments, oils and tinctures.

**SECTION 453A.115 “Medical marijuana dispensary” defined.** “Medical marijuana dispensary” means a business that:

1. Is registered with the Division pursuant to [SECTION 453A.322](#); and
2. Acquires, possesses, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid registry identification card.

**SECTION 453A.116 “Medical marijuana establishment” defined.** “Medical marijuana establishment” means:

1. An independent testing laboratory;
2. A cultivation facility;
3. A facility for the production of edible marijuana products or marijuana-infused products;
4. A medical marijuana dispensary; or
5. A business that has registered with the Board and paid the requisite fees to act as more than one of the types of businesses listed in subsections 2, 3 and 4.

**SECTION 453A.117 “Medical marijuana establishment agent” defined.** “Medical marijuana establishment agent” means an owner, officer, board member, employee or volunteer of a medical marijuana establishment.

**SECTION 453A.118 “Medical marijuana establishment agent registration card” defined.** “Medical marijuana establishment agent registration card” means a registration card that is issued by the Division pursuant to [SECTION 453A.332](#) to authorize a person to volunteer or work at a medical marijuana establishment.

**SECTION 453A.119 “Medical marijuana establishment registration certificate” defined.** “Medical marijuana establishment registration certificate” means a registration certificate that is issued by the Division pursuant to [SECTION 453A.322](#) to authorize the operation of a medical marijuana establishment.

**SECTION 453A.120 “Medical use of marijuana” defined.** “Medical use of marijuana” means:

1. The possession, delivery, production or use of marijuana;
  2. The possession, delivery or use of paraphernalia used to administer marijuana; or
  3. Any combination of the acts described in subsections 1 and 2,
- as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her chronic or debilitating medical condition.

**SECTION 453A.125 “Paraphernalia” defined.** “Paraphernalia” means accessories, devices and other equipment that is necessary or useful for a person to engage in the medical use of marijuana.

**SECTION 453A.130 “Production” defined.** “Production” has the meaning ascribed to it in SECTION 453.131.

**SECTION 453A.140 “Registry identification card” defined.** “Registry identification card” means a document issued by the **Division** or its designee that identifies:

1. A person who is exempt from Tribal, Federal, or State prosecution for engaging in the medical use of marijuana; or
2. The designated primary caregiver, if any, of a person described in subsection 1.

**SECTION 453A.143 “Remote medical care” defined.** “Remote medical care” means that an attending physician licensed to practice medicine pursuant to the provisions of chapters 630650 of the NRS, “ATTENDING PHYSICIAN” may employ nontraditional means of reaching patients in need of medical care. “Remote medical care” is limited to conducting house calls, or telemedicine care, defined in SECTION 453A.145

**SECTION 453A.145 “Telemedicine care” defined.** “Telemedicine care” means that a physician or nurse practitioner, licensed to practice medicine under chapters 630650 of NRS, may employ electronic methods such as, but not limited to: Interactive video, store and forward, smartphone interfaces, and voice calling, along with associated devices, to reach patients in need of medical care, in lieu of face to face encounters.

**SECTION 453A.150 “Tribal, Federal, or State prosecution” defined.** “Tribal, Federal, or State prosecution” means prosecution initiated or maintained by the **Ely Shoshone Tribe** State of Nevada or an agency or political subdivision of the **Ely Shoshone Tribe** State of Nevada.

**SECTION 453A.155 “THC” defined.** “THC” means delta-9-tetrahydrocannabinol, which is the primary active ingredient in marijuana.

**SECTION 453A.160 “Usable marijuana” defined.**

1. “Usable marijuana” means:
  - (a) The dried leaves and flowers of a plant of the genus *Cannabis*, and any mixture or preparation thereof, that are appropriate for the medical use of marijuana; and
  - (b) The seeds of a plant of the genus *Cannabis*.
2. The term does not include the stalks and roots of the plant.

**SECTION 453A.170 “Written documentation” defined.** “Written documentation” means:

1. A statement signed by the attending physician of a person diagnosed with a chronic or debilitating medical condition; or
2. Copies of the relevant medical records of a person diagnosed with a chronic or debilitating medical condition.



## LIMITED EXEMPTION FROM TRIBAL, FEDERAL, OR STATE PROSECUTION; REGISTRY IDENTIFICATION CARDS

**SECTION 453A.200** Holder of valid registry identification card or medical marijuana establishment registration certificate exempt from Tribal, Federal, or State prosecution for certain acts involving marijuana and paraphernalia; no crime for mere presence in vicinity of medical use of marijuana; limitation on exemption from Tribal, Federal, or State prosecution; affirmative defense; holder of card prohibited from cultivating, growing, or producing marijuana on Tribal lands.

1. Except as otherwise provided in this section and [SECTION 453A.300](#), a person who holds a valid registry identification card issued to the person pursuant to [SECTION 453A.220](#) or [453A.250](#) is exempt from Tribal, State, or Federal prosecution for:

- (a) Possession, delivery or production of marijuana;
- (b) Possession or delivery of paraphernalia;
- (c) Aiding and abetting another in the possession, delivery or production of marijuana;
- (d) Aiding and abetting another in the possession or delivery of paraphernalia;
- (e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and
- (f) Any other criminal offense in which the possession, delivery or production of marijuana or the possession or delivery of paraphernalia is an element.

2. In addition to the provisions of subsections 1 and 5, no person may be subject to Tribal, Federal, or State prosecution for constructive possession, conspiracy or any other criminal offense solely for being in the presence or vicinity of the medical use of marijuana in accordance with the provisions of this chapter.

3. The exemption from Tribal, Federal, or State prosecution set forth in subsection 1 applies only to the extent that a person who holds a registry identification card issued to the person pursuant to paragraph (a) of subsection 1 of [SECTION 453A.220](#) and the designated primary caregiver, if any, of such a person:

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

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

(1) Two and one-half ounces of usable marijuana "in any one 14-day period"

(3) A maximum allowable quantity of edible marijuana products and marijuana-infused products as established by regulation of the Board.

□ The persons described in this subsection must ensure that the usable marijuana and marijuana plants described in this subsection are safeguarded in an enclosed, secure location.

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

(a) Are not exempt from Tribal, Federal, or State prosecution for possession, delivery or production of marijuana.

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

5. A person who holds a valid medical marijuana establishment registration certificate issued to the person pursuant to [SECTION 453A.322](#) or a valid medical marijuana establishment agent registration card issued to the person pursuant to [SECTION 453A.332](#), and who confines his or her activities to those authorized by [SECTION 453A.320](#) to [453A.370](#), inclusive, and the regulations adopted by the Board pursuant thereto, is exempt from Tribal, Federal, or State prosecution for:

(a) Possession, delivery or production of marijuana;

(b) Possession or delivery of paraphernalia;



- (c) Aiding and abetting another in the possession, delivery or production of marijuana;
- (d) Aiding and abetting another in the possession or delivery of paraphernalia;
- (e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and
- (f) Any other criminal offense in which the possession, delivery or production of marijuana or the possession or delivery of paraphernalia is an element.

(a) All the medical marijuana dispensaries in the county of residence of the person who holds the registry identification card or his or her designated primary caregiver, if any, close or are unable to supply the quantity or strain of marijuana necessary for the medical use of the person to treat his or her specific medical condition;

(b) Because of illness or lack of transportation, the person who holds the registry identification card and his or her designated primary caregiver, if any, are unable reasonably to travel to a medical marijuana dispensary; or

(c) No medical marijuana dispensary was operating within 25 miles of the residence of the person who holds the registry identification card at the time the person first applied for his or her registry identification card.

6. Notwithstanding any other provision of law and except as otherwise provided in this subsection, a person who holds a registry identification card or his or her designated primary caregiver, if any, such persons are NOT authorized to cultivate, grow or produce marijuana on Tribal land, including homes that are assisted by Federal or State funding.

7. As used in this section, “marijuana” includes, without limitation, edible marijuana products and marijuana-infused products.

**SECTION 453A.210 Registry identification cards: Program for issuance; application; required accompanying information; distribution of copies of application; verification of information contained in application; permissible grounds for denial of application; judicial review of decision to deny application; reapplication; applicant and caregiver deemed to hold card pending approval or denial of application.**

1. The Division shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of this section.

2. Except as otherwise provided in subsections 3 and 5 and [SECTION 453A.225](#), the Division or its designee shall issue a registry identification card to a person who is a Native American Tribal Member and who submits an application on a form prescribed by the Division accompanied by the following:

- (a) Valid, written documentation from the person’s attending physician stating that:
  - (1) The person has been diagnosed with a chronic or debilitating medical condition;
  - (2) The medical use of marijuana may mitigate the symptoms or effects of that condition; and
  - (3) The attending physician has explained the possible risks and benefits of the medical use of marijuana;
- (b) The name, address, telephone number, social security number and date of birth of the person;
- (c) Proof satisfactory to the Division that the person is a Native American Tribal Member.
- (d) The name, address and telephone number of the person’s attending physician;
- (e) If the person elects to designate a primary caregiver at the time of application:
  - (1) The name, address, telephone number and social security number of the designated primary caregiver; and

(f) If the person elects to designate a medical marijuana dispensary at the time of application, the name of the medical marijuana dispensary.

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

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

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

(1) The attending physician of the person under "18" years of age has explained to that person and to the custodial parent or legal guardian with responsibility for health care decisions for the person under 21 :18: years of age the possible risks and benefits of the medical use of marijuana;

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

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

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

4. The form prescribed by the Division to be used by a person applying for a registry identification card pursuant to this section. Upon receipt of an application that is completed and submitted pursuant to this section, the Board shall:

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

(b) Retain the form of the application for the records of the Division;

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

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

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

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

(b) The applicant failed to comply with regulations adopted by the Board, including, without limitation, the regulations adopted by the Administrator pursuant to [SECTION 453A.740](#);

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

(d) The Division determines that the attending physician of the applicant is not licensed to practice medicine or osteopathic medicine in any State or is not in good standing, as reported by the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable;

(e) The Division has prohibited the applicant from obtaining or using a registry identification card pursuant to subsection 2 of [SECTION 453A.300](#);

(f) The Division determines that the applicant, or the applicant's designated primary caregiver, if applicable, has had a registry identification card revoked pursuant to [SECTION 453A.225](#); or

(g) In the case of a person under 21 years of age, the custodial parent or legal guardian with responsibility for health care decisions for the person has not signed the written statement required pursuant to paragraph (b) of subsection 3.

6. The decision of the Division to deny an application for a registry identification card is a final decision for the purposes of judicial review. Only the person whose application has been denied or, in the case of a person under 21 years of age whose application has been denied, the person's parent or legal guardian, has standing to contest the determination of the Division. A judicial review authorized pursuant to this subsection must be limited to a determination of whether the denial was arbitrary, capricious or otherwise characterized by an abuse of discretion and must be conducted in accordance with the procedures set forth in [chapter 233B](#) of NRS for reviewing a final decision of an agency.

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

8. Except as otherwise provided in this subsection, if a person has applied for a registry identification card pursuant to this section and the Division has not yet approved or denied the application, the person, and the person's designated primary caregiver, if any, shall be deemed to hold a registry identification card upon the presentation to a law enforcement officer of the copy of the application provided to him or her pursuant to subsection 4.

9. As used in this section, "resident" has the meaning ascribed to it in [SECTION 483.141](#).

**SECTION 453A.220 Registry identification cards: Issuance to applicant; issuance to primary caregiver if primary caregiver has been designated at time of application; required contents; duration; renewal.**

1. If the Division approves an application pursuant to subsection 5 of [SECTION 453A.210](#), the Division or its designee shall, as soon as practicable after the Division approves the application:

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

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

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

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

(c) The name, address, and date of birth of the primary caregiver, if any;

(d) The name of the applicant's designated medical marijuana dispensary, if any;

(e) Any other information prescribed by regulation of the Board.

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

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

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

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

(d) The name of the designated primary caregiver's designated medical marijuana dispensary, if any;

(e) Whether the designated primary caregiver is authorized to cultivate, grow or produce marijuana pursuant to subsection 6 of [SECTION 453A.200](#); and

(f) Any other information prescribed by regulation of the Board.

4. Except as otherwise provided in [SECTION 453A.225](#), subsection 3 of [SECTION 453A.230](#) and subsection 2 of [SECTION 453A.300](#), a registry identification card issued pursuant to this section is valid for a period of 1 year and may be renewed in accordance with regulations adopted by the Board.

**SECTION 453A.225 Registry identification cards: Revocation; duties; judicial review; reapplication prohibited for 12 months.**

1. If, at any time after the Board or its designee has issued a registry identification card to a person pursuant to paragraph (a) of subsection 1 of [SECTION 453A.220](#), the Board determines, on the basis of official documents or records or other credible evidence, that the person:

(a) Provided falsified information on his or her application to the Division or its designee, as described in paragraph (c) of subsection 5 of SECTION 453A.210; the Division shall immediately revoke the registry identification card issued to that person and shall immediately revoke the registry identification card issued to that person's designated primary caregiver, if any.

(b) Has been convicted of knowingly or intentionally selling a controlled substance, as described in paragraph (e) of subsection 5 of SECTION 453A.210, the Division/Board shall immediately revoke the registry identification card issued to that person and shall immediately revoke the registry identification card issued to that person's designated primary caregiver, if any.

2. If, at any time after the Board or its designee has issued a registry identification card to a person pursuant to paragraph (b) of subsection 1 of SECTION 453A.220 or pursuant to SECTION 453A.250, the Board determines, on the basis of official documents or records or other credible evidence, that the person has been convicted of knowingly or intentionally selling a controlled substance, as described in paragraph (e) of subsection 5 of SECTION 453A.210, the Board shall immediately revoke the registry identification card issued to that person.

3. The decision of the Division to revoke a registry identification card pursuant to this section is a final decision for the purposes of judicial review.

4. The decision of the Board to revoke a registry identification card pursuant to this section is a final decision for the purposes of judicial review.

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

**SECTION 453A.230 Registry identification card: Holder to notify Board of certain changes in information; required annual update of documentation from attending physician; designation of primary caregiver after initial issuance of card; deemed expiration of card.**

1. A person to whom the Board or its designee has issued a registry identification card pursuant to paragraph (a) of subsection 1 of SECTION 453A.220 shall, in accordance with regulations adopted by the Board:

(a) Notify the Board of any change in the person's name, address, telephone number, designated medical marijuana dispensary, attending physician or designated primary caregiver, if any; and

(b) Submit annually to the Board:

(1) Updated written documentation from the person's attending physician in which the attending physician sets forth that:

(I) The person continues to suffer from a chronic or debilitating medical condition;

(II) The medical use of marijuana may mitigate the symptoms or effects of that condition;

and

(III) The attending physician has explained to the person the possible risks and benefits of the medical use of marijuana; and

(2) If the person elects to designate a primary caregiver for the subsequent year and the primary caregiver so designated was not the person's designated primary caregiver during the previous year:

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



2. If a person fails to comply with the provisions of subsection 1 the registry identification card issued to the person shall be deemed expired. If the registry identification card of a person to whom the Division or its designee issued the card pursuant to paragraph (a) of subsection 1 of [SECTION 453A.220](#) is deemed expired pursuant to this subsection, a registry identification card issued to the person's designated primary caregiver, if any, shall also be deemed expired.

**SECTION 453A.240 Registry identification cards: Card to be returned to Board following diagnosis of absence of chronic or debilitating medical condition.** If a person to whom the Division or its designee has issued a registry identification card pursuant to paragraph (a) of subsection 1 of [SECTION 453A.220](#) is diagnosed by the person's attending physician as no longer having a chronic or debilitating medical condition, the person and his or her designated primary caregiver, if any, shall return their registry identification cards to the Division within 7 days after notification of the diagnosis.

**SECTION 453A.250 Registry identification cards: General requirements concerning designation of primary caregiver; user of medical marijuana not to have more than one designated primary caregiver; timing of issuance of card to caregiver if caregiver designated after initial issuance of card to patient.**

1. If a person who applies to the Division for a registry identification card or to whom the Division or its designee has issued a registry identification card pursuant to paragraph (a) of subsection 1 of [SECTION 453A.220](#) desires to designate a primary caregiver, the person must:

(a) To designate a primary caregiver at the time of application, submit to the Division the information required pursuant to paragraph (e) of subsection 2 of [SECTION 453A.210](#); or

(b) To designate a primary caregiver after the Division or its designee has issued a registry identification card to the person, submit to the Division the information required pursuant to subparagraph (2) of paragraph (b) of subsection 1 of [SECTION 453A.230](#).

2. A person may have only one designated primary caregiver at any one time.

3. If a person designates a primary caregiver after the time that the person initially applies for a registry identification card, the Board or its designee shall, except as otherwise provided in subsection 5 of [SECTION 453A.210](#), issue a registry identification card to the designated primary caregiver as soon as practicable after receiving the information submitted pursuant to paragraph (b) of subsection 1.

## PROHIBITED ACTS; AFFIRMATIVE DEFENSES

**SECTION 453A.300 Acts for which registry identification cardholder is not exempt from Tribal, Federal, or State prosecution and may not raise affirmative defense; additional penalty.**

1. A person who holds a registry identification card issued to him or her pursuant to [SECTION 453A.220](#) or [453A.250](#) is not exempt from Tribal, Federal, or State prosecution for, nor may the person establish an affirmative defense to charges arising from, any of the following acts:

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

(b) Engaging in any other conduct prohibited by [SECTION 484C.110](#), [484C.120](#), [484C.130](#), [484C.430](#).

(c) Possessing a firearm in violation of paragraph (b) of subsection 1 of [SECTION 202.257](#).

(d) Possessing marijuana in violation of [SECTION 453.336](#) or possessing paraphernalia in violation of [SECTION 453.560](#) or [453.566](#), if the possession of the marijuana or paraphernalia is discovered because the person engaged or assisted in the medical use of marijuana in:

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

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

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

(f) Delivering marijuana for consideration to any person, regardless of whether the recipient lawfully holds a registry identification card issued by the Division or its designee pursuant to [SECTION 453A.220](#) or [453A.250](#).

2. Except as otherwise provided in [SECTION 453A.225](#) and in addition to any other penalty provided by law, if the Division determines that a person has willfully violated a provision of this chapter or any regulation adopted by the Division to carry out the provisions of this chapter, the Board "Division" may, at its own discretion, prohibit the person from obtaining or using a registry identification card for a period of up to 6 months.

### **SECTION 453A.310 Affirmative defenses.**

1. Except as otherwise provided in this section and [SECTION 453A.300](#), it is an affirmative defense to a criminal charge of possession, delivery or production of marijuana, or any other criminal offense in which possession, delivery or production of marijuana is an element, that the person charged with the offense:

(a) Is a person who:

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

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

(3) Possesses, delivers or produces marijuana only in the amount described in paragraph (b) of subsection 3 of [SECTION 453A.200](#) or in excess of that amount if the person proves by a preponderance of the evidence that the greater amount is medically necessary as determined by the person's attending physician to mitigate the symptoms or effects of the person's chronic or debilitating medical condition; or

(b) Is a person who:

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

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

2. A person need not hold a registry identification card issued to the person by the Division or its designee pursuant to [SECTION 453A.220](#) or [453A.250](#) to assert an affirmative defense described in this section.

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

(a) Asserting a defense of medical necessity; or

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

4. A defendant who intends to offer an affirmative defense described in this section shall, not less than 5 days before trial or at such other time as the court directs, file and serve upon the prosecuting

attorney a written notice of the defendant's intent to claim the affirmative defense. The written notice must:

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

(b) Set forth the factual basis for the affirmative defense. A defendant who fails to provide notice of his or her intent to claim an affirmative defense as required pursuant to this subsection may not assert the affirmative defense at trial unless the court, for good cause shown, orders otherwise.

## **PRODUCTION AND DISTRIBUTION OF MEDICAL MARIJUANA**

### **Registration of Medical Marijuana Establishments and Medical Marijuana Establishment Agents**

**SECTION 453A.320 Purpose of registration; no vested right acquired by holder of registration certificate or registration card.** The purpose for registering medical marijuana establishments and medical marijuana establishment agents is to protect the public health and safety and the general welfare of the people of this Tribal, Federal, or State. Any medical marijuana establishment registration certificate issued pursuant to [SECTION 453A.322](#) and any medical marijuana establishment agent registration card issued pursuant to [SECTION 453A.332](#) is a revocable privilege and the holder of such a certificate or card, as applicable, does not acquire thereby any vested right.

### **SECTION 453A.322 Registration of establishments: Requirements; expiration and renewal.**

1. Each medical marijuana establishment must register with the Division
2. A person who wishes to operate a medical marijuana establishment must submit to the Division an application on a form prescribed by the Board. **"Division"**
3. Except as otherwise provided in SECTION 453A.324, 453A.326, 453A.328 and 453A.340, not later than 90 days after receiving an application to operate a medical marijuana establishment, the Board **"Division"** shall register the medical marijuana establishment and issue a medical marijuana establishment registration certificate and a random 20-digit alphanumeric identification number if:

(a) The person who wishes to operate the proposed medical marijuana establishment has submitted to the Division all of the following:

- (1) The application fee, as set forth in SECTION 453A.344;
- (2) An application, which must include:
  - (I) The legal name of the proposed medical marijuana establishment;
  - (II) The physical address where the proposed medical marijuana establishment will be located and the physical address of any co-owned additional or otherwise associated medical marijuana establishments, the locations of which may not be within 1,000 feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12 and that existed on the date on which the application for the proposed medical marijuana establishment was submitted to the Board, or within 300 feet of a community facility that existed on the date on which the application for the proposed medical marijuana establishment was submitted to the Division
- II) The physical address where the proposed medical marijuana establishment will be located and the physical address of any co-owned additional or otherwise associated medical marijuana establishments, the locations of a dispensary may not be within 1,000 feet of a public school that provides formal education traditionally associated with preschool or kindergarten through grade 12 and is part of the local school district, and that existed on the date on which the application for the proposed medical marijuana establishment was submitted to the Division, and;

- (a) The 1000 feet is measured from the wall of the unit housing the dispensary to the wall of the public school.

(IV) Evidence that the applicant owns the property on which the proposed medical marijuana establishment will be located or has the written permission of the property owner to operate the proposed medical marijuana establishment on that property;

(V) For the applicant and each person who is proposed to be an owner, officer or board member of the proposed medical marijuana establishment, a complete set of the person's fingerprints and written permission of the person authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(VI) The name, address and date of birth of each person who is proposed to be an owner, officer or board member of the proposed medical marijuana establishment; and

(VII) The name, address and date of birth of each person who is proposed to be employed by or otherwise provide labor at the proposed medical marijuana establishment as a medical marijuana establishment agent;

(3) Operating procedures consistent with rules of the Board for oversight of the proposed medical marijuana establishment, including, without limitation:

(I) Procedures to ensure the use of adequate security measures; and

(II) The use of an electronic verification system and an inventory control system, pursuant to SECTION 453A.354 and 453A.356;

(4) If the proposed medical marijuana establishment will sell or deliver edible marijuana products or marijuana-infused products, proposed operating procedures for handling such products which must be preapproved by the Division;

(5) If the city, town or county in which the proposed medical marijuana establishment will be located has enacted zoning restrictions, proof of licensure with the applicable local governmental authority or a letter from the applicable local governmental authority certifying that the proposed medical marijuana establishment is in compliance with those restrictions and satisfies all applicable building requirements; and

(6) Such other information as the Board may require by regulation;

(b) None of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment have been convicted of an excluded felony/**Category A Offense**;

(c) None of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment have:

(1) Served as an owner, officer or board member for a medical marijuana establishment that has had its medical marijuana establishment registration certificate revoked; or

(2) Previously had a medical marijuana establishment agent registration card revoked; and

(d) None of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment are under 21 years of age.

4. For each person who submits an application pursuant to this section, and each person who is proposed to be an owner, officer or board member of a proposed medical marijuana establishment, the Division shall submit the fingerprints of the person to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the criminal history of that person.

5. Except as otherwise provided in subsection 6, if an application for registration as a medical marijuana establishment satisfies the requirements of this section and the establishment is not disqualified from being registered as a medical marijuana establishment pursuant to this section or other applicable law, the Division shall issue to the establishment a medical marijuana establishment registration certificate. A medical marijuana establishment registration certificate expires 1 year after the date of issuance and may be renewed upon:

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- (a) Resubmission of the information set forth in this section; and
- (b) Payment of the renewal fee set forth in SECTION 453A.344.

6. In determining whether to issue a medical marijuana establishment registration certificate pursuant to this section, the Board shall consider the criteria of merit set forth in SECTION 453A.328.

7. As used in this section, “community facility” means:

- (a) A facility that provides day care to children.
- (b) A public park.
- (c) A playground.
- (d) A public swimming pool.
- (e) A center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents.
- (f) A church, synagogue or other building, structure or place used for religious worship or other religious purpose.

**SECTION 453A.324 Registration of establishments: Limitation on total number of certificates that can be issued.**

1. Except as otherwise provided in this section and SECTION 453A.326, the Division shall issue one medical marijuana establishment registration certificate for a medical marijuana dispensary.
2. Notwithstanding the provisions of subsection 1, the Division shall not issue medical marijuana establishment registration certificates for medical marijuana dispensaries in such a quantity as to cause the existence of more than one medical marijuana dispensary.
3. With respect to medical marijuana establishments that are not medical marijuana dispensaries, the Division shall issue the appropriate number of such establishments as are necessary to serve and supply the medical marijuana dispensary to which the Division has granted a medical marijuana dispensary establishment registration certificate.

**SECTION 453A.326 Registration of establishments: Certificates deemed provisional pending compliance with requirements and issuance of business license: All licenses and registration certificates are provisional until finalized and a business license has been issued.**

**SECTION 453A.328 Registration of establishments: Considerations in determining whether to issue registration certificate In determining whether to issue a medical marijuana establishment registration certificate pursuant to SECTION 453A.322, the Division shall, in addition to the factors set forth in that section, consider the following criteria of merit:**

1. Whether the proposed location of the proposed medical marijuana establishment would be convenient to serve the needs of persons who are authorized to engage in the medical use of marijuana;
2. The likely impact of the proposed medical marijuana establishment on the community in which it is proposed to be located;
3. The adequacy of the size of the proposed medical marijuana establishment to serve the needs of persons who are authorized to engage in the medical use of marijuana;
4. Whether the applicant has an integrated plan for the care, quality and safekeeping of medical marijuana from seed to sale;

5. The amount of taxes paid to, or other beneficial financial contributions made to, the Ely Shoshone Tribe or its political subdivisions by the applicant or the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment; and
6. Whether the applicant has an integrated plan to avoid diversion to surrounding communities.
7. Any other criteria of merit that the Division determines to be relevant.

**SECTION 453A.332 Agents required to register with Division; requirements for registration; establishment required to notify Board if agent ceases to be employed by or volunteer at establishment; expiration and renewal of registration.**

1. Except as otherwise provided in this section, a person shall not volunteer or work at a medical marijuana establishment as a medical marijuana establishment agent unless the person is registered with the Division pursuant to this section.

2. A medical marijuana establishment that wishes to retain as a volunteer or employ a medical marijuana establishment agent shall submit to the Division an application on a form prescribed by the Board. The application must be accompanied by:

- (a) The name, address and date of birth of the prospective medical marijuana establishment agent;
- (b) A statement signed by the prospective medical marijuana establishment agent pledging not to dispense or otherwise divert marijuana to any person who is not authorized to possess marijuana in accordance with the provisions of this chapter;
- (c) A statement signed by the prospective medical marijuana establishment agent asserting that he or she has not previously had a medical marijuana establishment agent registration card revoked;
- (d) A complete set of the fingerprints and written permission of the prospective medical marijuana establishment agent authorizing the Board to forward the fingerprints.

- (e) The application fee, as set forth in SECTION 453A.344; and
- (f) Such other information as the Board may require by regulation.

3. A medical marijuana establishment shall notify the Division within 10 days after a medical marijuana establishment agent ceases to be employed by or volunteer at the medical marijuana establishment.

4. A person who:

(a) Has been convicted of a felony offense/**Category A Offense**, of which the sentence, including any term of probation, incarceration or supervised release, was completed less than 5 years before.

(b) Is less than 21 years of age, shall not serve as a medical marijuana establishment agent.

(c) Has been convicted of distribution of a controlled substance shall not serve as a medical marijuana establishment agent.

5. The Board shall submit the fingerprints, and permission, of an applicant for registration as a medical marijuana establishment agent to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the criminal history.

6. The provisions of this section do not require a person who is an owner, officer or board member of a medical marijuana establishment to resubmit information already furnished to the Division at the time the establishment was registered with the Board.

7. If an applicant for registration as a medical marijuana establishment agent satisfies the requirements of this section and is not disqualified from serving as such an agent pursuant to this section or any other applicable law, the Division shall issue to the person a medical marijuana establishment agent registration card. If the Division does not act upon an application for a medical marijuana establishment agent registration card, the Division shall issue to the person a medical marijuana establishment agent registration card. If the Division does not act upon an application for a medical marijuana establishment agent registration card, the Division shall issue to the person a medical marijuana establishment agent registration card. If the Division does not act upon an application for a medical marijuana establishment agent registration card, the Division shall issue to the person a medical marijuana establishment agent registration card.

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establishment agent registration card within 30 days after the date on which the application is received, the application shall be deemed conditionally approved until such time as the Division acts upon the application. A medical marijuana establishment agent registration card expires 1 year after the date of issuance and may be renewed upon:

- (a) Resubmission of the information set forth in this section; and
- (b) Payment of the renewal fee set forth in [SECTION 453A.344](#).

**SECTION 453A.334 Registration cards and registration certificates nontransferable.** The following are nontransferable:

1. A medical marijuana establishment agent registration card.
2. A medical marijuana establishment registration certificate.

**SECTION 453A.336 Payment of child support: Statement by applicant for registration card or registration certificate; grounds for denial; duties of Division.** [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate shall:

(a) Include the social security number of the applicant in the application submitted to the Division.

(b) Submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to [NRS 425.520](#). The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the medical marijuana establishment agent registration card or medical marijuana establishment registration certificate; or

(b) A separate form prescribed by the Division

3. A medical marijuana establishment agent registration card or medical marijuana establishment registration certificate may not be issued or renewed by the Division if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney, Tribal Prosecutor, or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney, Tribal Prosecutor, or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

**SECTION 453A.338 Suspension of registration card or registration certificate for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of registration card or registration certificate.** [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the Ely Shoshone Tribal Code – Medical Marijuana – Amended by Resolution 2016-EST-29 & by Resolution 2016-EST-46

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professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. If the Division receives a copy of a court order issued pursuant to [NRS 425.540](#) that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate, the Division shall deem the card or certificate issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives a letter issued to the holder of the card or certificate by the district attorney or other public agency pursuant to [NRS 425.550](#) stating that the holder of the card or certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to [NRS 425.560](#).

2. The Division shall reinstate a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate that has been suspended by a district court, or Tribal Court pursuant to [NRS 425.540](#) if the Division receives a letter issued by the district attorney or other public agency pursuant to [NRS 425.550](#) to the person whose card or certificate was suspended stating that the person whose card or certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to [NRS 425.560](#).

**SECTION 453A.340 Grounds for immediate revocation of registration certificate.** The following acts constitute grounds for immediate revocation of a medical marijuana establishment registration certificate:

1. Dispensing, delivering or otherwise transferring marijuana to a person other than a medical marijuana establishment agent, another medical marijuana establishment, a patient who holds a valid registry identification card or the designated primary caregiver of such a patient.

2. Acquiring usable marijuana or mature marijuana plants from any person other than a medical marijuana establishment agent, another medical marijuana establishment, a patient who holds a valid registry identification card or the designated primary caregiver of such a patient.

3. Violating a regulation of the Board, the violation of which is stated to be grounds for immediate revocation of a medical marijuana establishment registration certificate.

**SECTION 453A.342 Grounds for immediate revocation of registration card.** The following acts constitute grounds for the immediate revocation of the medical marijuana establishment agent registration card of a medical marijuana establishment agent:

1. Having committed or committing any excluded felony offense/**Category A Offense**.

2. Dispensing, delivering or otherwise transferring marijuana to a person other than a medical marijuana establishment agent, another medical marijuana establishment, a patient who holds a valid registry identification card or the designated primary caregiver of such a patient.

3. Violating a regulation of the Board, the violation of which is stated to be grounds for immediate revocation of a medical marijuana establishment agent registration card.

**SECTION 453A.344 Fees.**

1. Except as otherwise provided in subsection 2, the Division shall collect not more than the following maximum fees:

For the initial issuance of a medical marijuana establishment registration certificate for a	
medical	marijuana
dispensary.....	
\$1,000.00	

- For the renewal of a medical marijuana establishment registration certificate for a medical marijuana dispensary..... \$500.00
- For the initial issuance of a medical marijuana establishment registration certificate for a cultivation facility \$300.00
- For the renewal of a medical marijuana establishment registration certificate for a cultivation facility \$300.00
- For the initial issuance of a medical marijuana establishment registration certificate for a facility for the production of edible marijuana products or marijuana-infused products..... \$300.00
- For the renewal of a medical marijuana establishment registration certificate for a facility for the production of edible marijuana products or marijuana-infused products..... \$300.00
- For the initial issuance of a medical marijuana establishment agent registration card \$75.00
- For the renewal of a medical marijuana establishment agent registration card \$75.00
- For the initial issuance of a medical marijuana establishment registration certificate for an independent testing laboratory..... \$500.00
- For the renewal of a medical marijuana establishment registration certificate for an independent testing laboratory..... \$300.00

2. In addition to the fees described in subsection 1, each applicant for a medical marijuana establishment registration certificate must pay to the Division:

- (a) A one-time, nonrefundable application fee of \$100.00; and
- (b) The actual costs incurred by the Division in processing the application, including, without limitation, conducting background checks.

3. Any revenue generated from the fees imposed pursuant to this section:

- (a) Must be expended first to pay the costs of the Division in carrying out the provisions of [SECTION 453A.320](#) to [453A.370](#), inclusive; and
- (b) If any excess revenue remains after paying the costs described in paragraph (a), such excess revenue must be paid over to the Tribal Finance Department.

**Requirements Concerning Operation of Medical Marijuana Establishments**

**SECTION 453A.350 Location, land use, appearance and signage.** Each medical marijuana establishment must:

- 1. Be located in a commercial or industrial zone or overlay; or have received a variance from the Division.
  - (a) Cultivation Facility can be also located in an agriculture or rural zone.
    - 1. Must have adequate security and resource plan.
    - 2. Comply with all local ordinances and rules pertaining to zoning, land use and signage;
    - 3. Have an appearance, both as to the interior and exterior, that is professional, orderly, dignified

4. Have discreet and professional signage

**SECTION 453A.352 Operating documents; security measures; actions of establishment with respect to marijuana required to be for certain purpose; requirements for cultivation; dispensary and cultivation facility authorized to acquire marijuana from patient; allowing consumption on premises prohibited; inspection.**

1. The operating documents of a medical marijuana establishment must include procedures:

(a) For the oversight of the medical marijuana establishment; and

(b) To ensure accurate recordkeeping, including, without limitation, the provisions of [SECTION 453A.354](#) and [453A.356](#).

2. Except as otherwise provided in this subsection, a medical marijuana establishment:

(a) That is a medical marijuana dispensary must have a single entrance for patrons, which must be secure, and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

(b) That is not a medical marijuana dispensary must have a single secure entrance and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

□ The provisions of this subsection do not supersede any state or local requirements relating to minimum numbers of points of entry or exit, or any state or local requirements relating to fire safety.

3. A medical marijuana establishment is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to:

(a) Directly or indirectly assist patients who possess valid registry identification cards; and

(b) Assist patients who possess valid registry identification cards by way of those patients' designated primary caregivers.

□ For the purposes of this subsection, a person shall be deemed to be a patient who possesses a valid registry identification card if he or she qualifies for nonresident reciprocity pursuant to [SECTION 453A.364](#).

4. All cultivation or production of marijuana that a cultivation facility carries out or causes to be carried out must take place in an enclosed, locked facility at the physical address provided to the Division during the registration process for the cultivation facility. Such an enclosed, locked facility must be accessible only by medical marijuana establishment agents who are lawfully associated with the cultivation facility, except that limited access by persons necessary to perform construction or repairs or provide other labor is permissible if such persons are supervised by a medical marijuana establishment agent.

5. A medical marijuana dispensary and a cultivation facility may acquire usable marijuana, seeds, cuttings, or marijuana plants from a Tribal Member, a patient who holds a valid registry identification card, or the designated primary caregiver of such a patient, or through tribal law enforcement actions on tribal land, except as otherwise provided in this subsection, the patient or caregiver, as applicable, must receive no compensation for the usable marijuana, seeds, cuttings, or marijuana plants. A patient who holds a valid registry identification card, and the designated primary caregiver of such a patient, may sell usable marijuana, to a medical marijuana dispensary one time and may sell marijuana plants, seeds, or cuttings to a cultivation facility one time. The cultivation facility will establish a means for tribal members to donate their plants, seeds or cuttings as Notwithstanding any other provision of law and except as otherwise provided in this subsection, a person who holds a registry identification card or his or her designated primary caregiver if any, or a tribal member, such persons are NOT authorized to cultivate, grow or produce marijuana on Tribal lands.

6. A medical marijuana establishment shall not allow any person to consume marijuana on the property or premises of the establishment.



7. Medical marijuana establishments are subject to reasonable inspection by the Division at any time, and a person who holds a medical marijuana establishment registration certificate must make himself or herself, or a designee thereof, available and present for any inspection by the Division of the establishment.

**SECTION 453A.354 Electronic verification system.**

1. Each medical marijuana establishment, in consultation with the Division, shall maintain an electronic verification system.

2. The electronic verification system required pursuant to subsection 1 must be able to monitor and report information, including, without limitation:

(a) In the case of a medical marijuana dispensary, for each person who holds a valid registry identification card and who purchased marijuana from the dispensary in the immediately preceding 14 day period:

- (1) The number of the card;
- (2) The date on which the card was issued; and
- (3) The date on which the card will expire.

(b) For each medical marijuana establishment agent who is employed by or volunteers at the medical marijuana establishment, the number of the person's medical marijuana establishment agent registration card.

(c) In the case of a medical marijuana dispensary, such information as may be required by the Division by regulation regarding persons who are not residents of this Tribe or State and who have purchased marijuana from the dispensary.

(d) Verification of the identity of a person to whom marijuana, edible marijuana products or marijuana-infused products are sold or otherwise distributed.

(e) Such other information as the Division may require.

3. Nothing in this section prohibits more than one medical marijuana establishment from co-owning an electronic verification system in cooperation with other medical marijuana establishments, or sharing the information obtained therefrom.

4. A medical marijuana establishment must exercise reasonable care to ensure that the personal identifying information of persons who hold registry identification cards which is contained in an electronic verification system is protected and not divulged for any purpose not specifically authorized by law.

**SECTION 453A.356 Inventory control system.**

1. Each medical marijuana establishment, in consultation with the Division, shall maintain an inventory control system.

2. The inventory control system required pursuant to subsection 1 must be able to monitor and report information, including, without limitation:

(a) Insofar as is practicable, the chain of custody and current whereabouts, in real time, of medical marijuana from the point that it is harvested at a cultivation facility until it is sold at a medical marijuana dispensary and, if applicable, if it is processed at a facility for the production of edible marijuana products or marijuana-infused products;

(b) The name of each person or other medical marijuana establishment, or both, to which the establishment sold marijuana;

(c) In the case of a medical marijuana dispensary, the date on which it sold marijuana to a person who holds a registry identification card and, if any, the quantity of edible marijuana products or marijuana-infused products sold, measured both by weight and potency; and

(d) Such other information as the Division may require.

3. Nothing in this section prohibits more than one medical marijuana establishment from co-owning an inventory control system in cooperation with other medical marijuana establishments, or sharing the information obtained therefrom.

4. A medical marijuana establishment must exercise reasonable care to ensure that the personal identifying information of persons who hold registry identification cards which is contained in an inventory control system is, protected and not divulged for any purpose not specifically authorized by law.

**SECTION 453A.358 Duties of medical marijuana dispensaries relating to sale of medical marijuana and related products and relating to notice of legal limits on possession of medical marijuana.** Each medical marijuana dispensary shall ensure all of the following:

1. The weight of all marijuana, edible marijuana products and marijuana-infused products that the dispensary sells are clearly and accurately stated on the product sold.

2. That the dispensary does not sell to a person, in any one 14-day period, an amount of marijuana for medical purposes that exceeds the limits set forth in [SECTION 453A.200](#).

3. That, posted clearly and conspicuously within the dispensary, are the legal limits on the possession of marijuana for medical purposes, as set forth in [SECTION 453A.200](#).

4. That, posted clearly and conspicuously within the dispensary, is a sign stating unambiguously State of Nevada's legal limits on the possession of marijuana for medical purposes, as set forth in the [SECTION 453A.200](#)

**SECTION 453A.360 Requirements concerning edible marijuana products and marijuana-infused products.** Each medical marijuana dispensary and facility for the production of edible marijuana products or marijuana-infused products shall, in consultation with the Division, cooperate to ensure that all edible marijuana products and marijuana-infused products offered for sale:

1. Are labeled clearly and unambiguously as medical marijuana.
2. Are not presented in packaging that is appealing to children.
3. Are regulated and sold on the basis of the concentration of THC in the products and not by weight.

**SECTION 453A.362 Requirements concerning storage and removal of medical marijuana.**

1. At each medical marijuana establishment, medical marijuana must be stored only in an enclosed, locked facility.

2. Except as otherwise provided in subsection 3, at each medical marijuana dispensary, medical marijuana must be stored in a secure, locked device, display case, cabinet or room within the enclosed, locked facility. The secure, locked device, display case, cabinet or room must be protected by a lock or locking mechanism that meets at least the security rating established by Underwriters Laboratories for key locks.

3. At a medical marijuana dispensary, medical marijuana may be removed from the secure setting described in subsection 2:

- (a) Only for the purpose of dispensing the marijuana;
- (b) Only immediately before the marijuana is dispensed; and
- (c) Only by a medical marijuana establishment agent who is employed by or volunteers at the dispensary.

### **Miscellaneous Provisions**

**SECTION 453A.364 Recognition of nonresident cards.**



1. The Tribal Nation of the Ely Shoshone of the State of Nevada and the medical marijuana dispensaries in this Tribal land which hold valid medical marijuana establishment registration certificates will recognize a nonresident card only under the following circumstances:

(a) The state or jurisdiction from which the holder or bearer obtained the nonresident card grants an exemption from criminal prosecution for the medical use of marijuana;

(b) The state or jurisdiction from which the holder or bearer obtained the nonresident card requires, as a prerequisite to the issuance of such a card, that a physician advise the person that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition;

(c) The nonresident card has an expiration date and has not yet expired;

(d) The holder or bearer of the nonresident card signs an affidavit in a form prescribed by the Division which sets forth that the holder or bearer is entitled to engage in the medical use of marijuana in the state, or jurisdiction of the holder or bearer's residence. And authorizes release of this information to the Division, and Tribal law enforcement

(e) The state or jurisdiction where the nonresident card was obtained maintains a database which preserves such information as may be necessary to verify the authenticity or validity of the nonresident card;

(f) The Division determines that the database described in paragraph (d) is capable of providing to The Division of this Tribe, or Tribal law enforcement, information that is sufficiently accurate, current and specific as to allow those dispensaries to verify that a person who holds or bears a nonresident card is entitled lawfully to do so; and

(g) The holder or bearer of the nonresident card agrees to abide by, and does abide by, the legal limits on the possession of marijuana for medical purposes in this State, and on tribal lands of the Ely Shoshone Tribe, as set forth in SECTION 453A.200.

2. For the purposes of the reciprocity described in this section:

(a) The amount of medical marijuana that the holder or bearer of a nonresident card is entitled to possess in his or her state or jurisdiction of residence is not relevant; and

(b) Under no circumstances, while in this tribal lands, may the holder or bearer of a nonresident card possess marijuana for medical purposes in excess of the limits set forth in SECTION 453A.200

3. As used in this section, "nonresident card" means a card or other identification that:

(a) Is issued by a state or jurisdiction other than Ely Shoshone Tribe ; and

(b) Is the functional equivalent of a registry identification card, as determined by the Division

#### **SECTION 453A.366 Designation of medical marijuana dispensary.**

1. A patient who holds a valid registry identification card and his or her designated primary caregiver, if any, may select one medical marijuana dispensary to serve as his or her designated medical marijuana dispensary at any one time.

2. A patient who designates a medical marijuana dispensary as described in subsection 1:

(a) Shall communicate the designation to the Division within the time specified by the Board.

#### **SECTION 453A.368 Testing laboratories.**

1. The Board shall establish standards for and certify one or more private and independent testing laboratories to test marijuana, edible marijuana products and marijuana-infused products that are to be sold in this State.

2. Such an independent testing laboratory must be able to determine accurately, with respect to marijuana, edible marijuana products and marijuana-infused products that are sold or will be sold at medical marijuana dispensaries in the Ely Shoshone Tribe:

- (a) The concentration therein of THC and cannabidiol.
- (b) Whether the tested material is organic or inorganic
- (c) The presence and identification of molds and fungus.
- (d) The presence and concentration of fertilizers and other nutrients.

3. To obtain certification by the Division on behalf of an independent testing laboratory, an applicant must:

- (a) Apply successfully as required pursuant to [SECTION 453A.322](#).
- (b) Pay the fees required pursuant to [SECTION 453A.344](#).

**SECTION 453A.370 Regulations.** The Division shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of [SECTION 453A.320](#) to [453A.370](#), inclusive. Such regulations are in addition to any requirements set forth in statute and must, without limitation:

1. Prescribe the form and any additional required content of registration and renewal applications submitted pursuant to [SECTION 453A.322](#) and [453A.332](#).

2. Set forth rules pertaining to the safe and healthful operation of medical marijuana establishments, including, without limitation:

(a) The manner of protecting against diversion and theft without imposing an undue burden on medical marijuana establishments or compromising the confidentiality of the holders of registry identification cards.

(b) Minimum requirements for the oversight of medical marijuana establishments.

(c) Minimum requirements for the keeping of records by medical marijuana establishments.

(d) Provisions for the security of medical marijuana establishments, including, without limitation, requirements for the protection by a fully operational security alarm system of each medical marijuana establishment.

(e) Procedures pursuant to which medical marijuana dispensaries must use the services of an independent testing laboratory to ensure that any marijuana, edible marijuana products and marijuana-infused products sold by the dispensaries to end users are tested for content, quality and potency in accordance with standards established by the Division.

3. Establish circumstances and procedures pursuant to which the maximum fees set forth in [SECTION 453A.344](#) may be reduced over time:

(a) To ensure that the fees imposed pursuant to [SECTION 453A.344](#) are, insofar as may be practicable, revenue neutral; and

(b) To reflect gifts and grants received by the Division pursuant to [SECTION 453A.720](#).

4. Set forth the amount of usable marijuana that a medical marijuana dispensary may dispense to a person who holds a valid registry identification card, or the designated primary caregiver of such a person, in any one 14-day period. Such an amount must not exceed the limits set forth in [SECTION 453A.200](#).

5. As far as possible while maintaining accountability, protect the identity and personal identifying information of each person who receives, facilitates or delivers services in accordance with this chapter.

6. Establish different categories of medical marijuana establishment agent registration cards, including, without limitation, criteria for training and certification, for each of the different types of medical marijuana establishments at which such an agent may be employed or volunteer.

7. Provide for the maintenance of a log by the Division of each person who is authorized to cultivate, grow or produce marijuana pursuant to subsection 6 of [SECTION 453A.200](#). The Division shall ensure that the contents of the log are available for verification by law enforcement personnel.

8. The Board shall ensure that the contents of the log are available for verification by law enforcement personnel during normal business hours.

9. Address such other matters as may assist in implementing the program of dispensation contemplated by [SECTION 453A.320](#) to [453A.370](#), inclusive.

## SEARCH AND SEIZURE

**SECTION 453A.400 Possession of registry identification card, registration certificate or registration card not permissible grounds for search or inspection; care and return of seized property; determination that person is engaged in, facilitating or assisting in medical use of marijuana in accordance with provisions of chapter.**

1. The fact that a person possesses a registry identification card issued to the person by the Board or its designee pursuant to [SECTION 453A.220](#) or [453A.250](#), a medical marijuana establishment registration certificate issued to the person by the Division or its designee pursuant to [SECTION 453A.322](#) or a medical marijuana establishment agent registration card issued to the person by the Division or its designee pursuant to [SECTION 453A.332](#) does not, alone:

- (a) Constitute probable cause to search the person or the person's property; or
- (b) Subject the person or the person's property to inspection by any governmental agency.

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

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

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

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

(d) Upon a determination by the district attorney, or Tribal Prosecutor, of the County or Tribal Court, in which the marijuana, paraphernalia or other related property was seized, or the district attorney's designee, that the person from whom the marijuana, paraphernalia or other related property was seized was not engaging in or assisting in the medical use of marijuana in accordance with the provisions of this chapter. Any property interest of the person from whom the marijuana, paraphernalia or other related property, except as part of a sentence imposed after conviction of a criminal offense. This usable marijuana, plants, seeds, or cuttings may be disposed of by donation from law enforcement to a licensed dispensary or cultivation facility.

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

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

- (a) A decision not to prosecute;
- (b) The dismissal of charges; or
- (c) Acquittal.

**SECTION 453A.410 Forfeiture of assets seized.**

1. If a law enforcement agency legally and justly seizes evidence from a medical marijuana establishment on a basis that, in consideration of due process and viewed in the manner most favorable to the establishment, would lead a reasonable person to believe that a crime has been committed, the relevant provisions of [SECTION 179.1156](#) to [179.121](#), inclusive, apply insofar as they do not conflict with the provisions of this chapter.

2. As used in this section, "law enforcement agency" has the meaning ascribed to it in [SECTION 239C.065](#).

**ACTIONS OF PROFESSIONAL LICENSING BOARDS**

**SECTION 453A.500 Board of Medical Examiners and State Board of Osteopathic Medicine prohibited from taking disciplinary action against attending physician on basis of physician's participation in certain activities in accordance with chapter.** The Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, shall not take any disciplinary action against an attending physician on the basis that the attending physician:

1. Advised a person whom the attending physician has diagnosed as having a chronic or debilitating medical condition, or a person whom the attending physician knows has been so diagnosed by another physician licensed to practice medicine pursuant to the provisions of [NRS 630](#) of SECTION or licensed to practice osteopathic medicine pursuant to the provisions of [NRS 633](#) of SECTION:

- (a) About the possible risks and benefits of the medical use of marijuana; or
- (b) That the medical use of marijuana may mitigate the symptoms or effects of the person's chronic or debilitating medical condition,

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

2. Provided the written documentation required pursuant to paragraph (a) of subsection 2 of [SECTION 453A.210](#) for the issuance of a registry identification card or pursuant to subparagraph (1) of paragraph (b) of subsection 1 of [SECTION 453A.230](#) for the renewal of a registry identification card, if:

- (a) Such documentation is based on the attending physician's personal assessment of the person's medical history and current medical condition; and
- (b) The physician has advised the person about the possible risks and benefits of the medical use of marijuana.

**SECTION 453A.510 Professional licensing board prohibited from taking disciplinary action against licensee on basis of licensee's participation in certain activities in accordance with chapter.** A professional licensing board shall not take any disciplinary action against a person licensed by the board on the basis that:

1. The person engages in or has engaged in the medical use of marijuana in accordance with the provisions of this chapter; or
2. The person acts as or has acted as the designated primary caregiver of a person who holds a registry identification card issued to him or her pursuant to paragraph (a) of subsection 1 of SECTION 453A.220.

## **RESEARCH; APPROVAL OF FEDERAL GOVERNMENT**

**SECTION 453A.600** Program for evaluation and research of medical use of marijuana: Establishment by The Division; federal approval; participants and subjects; annual report to The Board.

1. The Division shall establish a program, and may contract with a private company, for the evaluation and research of the medical use of marijuana in the care and treatment of persons or animals, who have been diagnosed with a chronic or debilitating medical condition, or other condition that marijuana may be used for care and treatment.

2. Before the Division establishes a program pursuant to subsection 1, The Division, or its appointed designee, or its contracted designee, shall aggressively seek and must receive approval and funding of the program by the Federal Government pursuant to 21 U.S.C. § 823 or other applicable provisions of federal law, to allow the creation of a federally approved research program for the use and distribution of marijuana for medical purposes.

3. A research program established pursuant to this section must include residents who volunteer to act as participants and subjects, as determined by The Division or its appointed designee, or contracted designee.

4. A resident who wishes to serve as a participant and subject in a research program established pursuant to this section may notify The Division, or its appointed designee, or its contracted designee, and may apply to participate by submitting an application on a form prescribed by The Division.

5. The Division shall, on an annual basis, report to The Board with respect to:

- (a) The progress made in obtaining federal approval for the research program; and
- (b) If the research program receives federal approval, the status of, activities of and information received from the research program.
  - (b) The progress made in obtaining federal funding for the research program.

**SECTION 453A.610** Program for evaluation and research of medical use of marijuana: Duties of The Division, or its appointed designee, or its contracted designee, concerning confidentiality; certain items of information not subject to subpoena, discovery or inspection.

1. Except as otherwise provided in this section and NRS 239.0115, the Division shall maintain the confidentiality of and shall not disclose:

(a) The contents of any applications, records or other written materials that the Division creates or receives pursuant to the research program described in SECTION 453A.600; or

(b) The name or any other identifying information of a person who has applied to or who participates in the research program described in SECTION 453A.600.

Except as otherwise provided in NRS 239.0115, the items of information described in this subsection are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

2. Notwithstanding the provisions of subsection 1, the Division may release the name and other identifying information of a person who has applied to or who participates in the research program described in SECTION 453A.600 to:

(a) Authorized employees of the Ely Shoshone Tribe, or its contracted designee, as necessary to perform official duties related to the research program; and

(b) Authorized employees of state and local law enforcement agencies, only as necessary to verify that a person is a lawful participant in the research program.

**SECTION 453A.620** Program for evaluation and research of medical use of marijuana: Authority of The Division and The Board concerning gifts, grants, donations and contributions; deposit of money in Tribal Finance Department

1. The Division, its appointed designee, or its contracted designee, may apply for or accept any gifts, grants, donations or contributions from any source to carry out the provisions of SECTION 453A.600.

2. Any money received pursuant to subsection 1 must be deposited with the Tribal Finance Department pursuant to SECTION 453A.630.

(Added to SECTION by 2001.3065)

**SECTION 453A.630** Program for evaluation and research of medical use of marijuana: Deposit, use and disposition of money; Department of Tribal Finance to administer account.

1. Any money the Department of Tribal Finance receives pursuant to SECTION 453A.620 or that is appropriated to carry out the provisions of SECTION 453A.600:

(a) Must be deposited in and accounted for separately in the General Fund;

(b) May only be used to carry out the provisions of SECTION 453A.600, including the dissemination of information concerning the provisions of that section and such other information as is determined appropriate by the Division; and

(c) Does not revert to the Tribal General Fund at the end of any fiscal year.

2. The Tribal Finance Department shall administer the account. Any interest or income earned on the money in the account must be credited to the account. Any claims against the account must be paid as other claims against the Tribe are paid.

## MISCELLANEOUS PROVISIONS

**SECTION 453A.700** Duties of Division concerning confidentiality; certain items of information not subject to subpoena, discovery or inspection.

1. Except as otherwise provided in this section, NRS 239.0115 and subsection 4 of SECTION 453A.210, the Division and any designee of the Division shall maintain the confidentiality of and shall not disclose:

(a) The contents of any applications, records or other written documentation that the Division or its designee creates or receives pursuant to the provisions of this chapter; or

(b) The name or any other identifying information of:

(1) An attending physician; or

(2) A person who has applied for or to whom the Division or its designee has issued a registry identification card.

Ely Shoshone Tribal Code – Medical Marijuana – Amended by Resolution 2016-EST-29 & by Resolution 2016-EST-46

Adopted 1/12/2016 – Ordinance No. 2016-EST-01 – Resolution 2016-EST-11



□ Except as otherwise provided in [SECTION 239.0115](#), the items of information described in this subsection are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

2. Notwithstanding the provisions of subsection 1, the Division or its designee may release the name and other identifying information of a person to whom the Division or its designee has issued a registry identification card to:

(a) Authorized employees of the Division or its designee as necessary to perform official duties of the Division and

(b) Authorized employees of state and local law enforcement agencies, only as necessary to verify that a person is the lawful holder of a registry identification card issued to him or her pursuant to [SECTION 453A.220](#) or [453A.250](#).

**SECTION 453A.710 Addition of diseases and conditions to list of qualifying chronic or debilitating medical conditions: Petition; regulations.**

1. A person may submit to the Board a petition requesting that a particular disease or condition be included among the diseases and conditions that qualify as chronic or debilitating medical conditions pursuant to [SECTION 453A.050](#).

2. The Division shall adopt regulations setting forth the manner in which the Board will accept and evaluate petitions submitted pursuant to this section. The regulations must provide, without limitation, that:

(a) The Board will approve or deny a petition within 180 days after the Board receives the petition; and

(b) The decision of the Board to deny a petition is a final decision for the purposes of judicial review.

**SECTION 453A.720 Authority of the Administrator of the Division concerning gifts, grants, donations and contributions; deposit of money in State Treasury/Tribal Finance Department;**

1. The Division may apply for or accept any gifts, grants, donations or contributions from any source to carry out the provisions of this chapter.

2. Any money the division receives pursuant to subsection 1 must be deposited with the Tribal Finance Department pursuant to [SECTION 453A.730](#).

**SECTION 453A.730 Deposit, use and disposition of money; administration of account.**

1. Any money the Division receives pursuant to [SECTION 453A.720](#) or that is appropriated to carry out the provisions of this chapter:

(a) Must be deposited in the Treasury/Tribal Finance Department;

(b) May only be used to carry out:

(1) The provisions of this chapter, including the dissemination of information concerning the provisions of this chapter and such other information as determined appropriate by the Administrator; and

(2) Alcohol and drug abuse programs pursuant to [SECTION 458.094](#); and

(c) Does not revert to the Tribal General Fund at the end of any fiscal year.

2. The Tribal Finance Department shall administer the account. Any interest or income earned on the money in the account must be credited to the account. Any claims against the account must be paid as other claims against the Tribe are paid.

**SECTION 453A.800** Costs associated with medical use of marijuana not required to be paid or reimbursed; medical use of marijuana not required to be allowed in workplace; medical needs of employee who engages in medical use of marijuana to be accommodated by employer in certain circumstances. The provisions of this chapter do not:

1. Require an insurer, organization for managed care or any person or entity who provides coverage for a medical or health care service to pay for or reimburse a person for costs associated with the medical use of marijuana.

2. Require any employer to allow the actual instant medical use of marijuana in the workplace.

3. Require an employer to modify the job or working conditions of a person who engages in the medical use of marijuana that are based upon the reasonable business purposes of the employer but the employer must attempt to make reasonable accommodations for the medical needs of an employee who engages in the medical use of marijuana if the employee holds a valid registry identification card, provided that such reasonable accommodation would not:

(a) Pose a threat of harm or danger to persons or property or impose an undue hardship on the employer; or

(b) Prohibit the employee from fulfilling any and all of his or her job responsibilities.

**SECTION 453A.810** Tribe not responsible for deleterious outcomes. The Tribe must not be held responsible for any deleterious outcomes from the medical use of marijuana by any person.



## CHAPTER 453D - REGULATION AND TAXATION OF RETAIL MARIJUANA

<u>SECTION 453D.172</u>	Short title.
<u>SECTION 453D.175</u>	Findings and declarations.
<u>SECTION 453D.177</u>	Definitions.
<u>SECTION 453D.179</u>	Effect of chapter.
<u>SECTION 453D.180</u>	Exemption from state or local prosecution for certain acts involving marijuana and marijuana paraphernalia.
<u>SECTION 453D.182</u>	Additional exemption from state or local prosecution for certain acts involving marijuana and marijuana products.
<u>SECTION 453D.184</u>	No crime for certain acts involving marijuana paraphernalia.
<u>SECTION 453D.186</u>	Enforcement of contracts. .
<u>SECTION 453D.187</u>	Duties of Division relating to regulation and licensing of marijuana establishments; information about consumers.
<u>SECTION 453D.188</u>	Acceptance of applications for licensing; priority in licensing; conditions for approval of application; limitations on issuance of licenses to retail marijuana stores; competing applications.
<u>SECTION 453D.189</u>	Expiration and renewal of licenses.
<u>SECTION 453D.190</u>	Fees.
<u>SECTION 453D.191</u>	Requirements for operation of marijuana establishment; inspection of establishment.
<u>SECTION 453D.193</u>	Violations and penalties.
<u>SECTION 453D.197</u>	Imposition of tax on wholesale sales of marijuana by marijuana cultivation facility.
<u>SECTION 453D.198</u>	Use of proceeds of tax, fees and penalties.
<u>SECTION 453D.199</u>	Severability.

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**SECTION 453D.172 Short title.** This chapter may be cited as the Regulation and Taxation of Retail Marijuana Act. (Added to EST medical marijuana code to regulate retail sales on June 13th 2017.)

**SECTION 453D.175 Findings and declarations.**

1. In the interest of public health and public safety, and in order to better focus tribal, state and local law enforcement resources on crimes involving violence and personal property, the People of the Ely Shoshone Tribe find and declare that the use of marijuana should be legal for persons 21 years of age or older, and its cultivation and sale should be regulated similar to other legal businesses.

2. The People of the Ely Shoshone Tribe find and declare that the cultivation and sale of marijuana should be taken from the domain of criminals and be regulated under a controlled system, where businesses will be taxed and the revenue will be dedicated to public education and the enforcement of the regulations of this chapter.

3. The People of the Ely Shoshone Tribe proclaim that marijuana should be regulated in a manner similar to alcohol so that:

- (a) Marijuana may only be purchased from a business that is licensed by the Ely Shoshone Tribe;
- (b) Business owners are subject to a review by the Ely Shoshone Tribe to confirm that the business owners and the business location are suitable to produce or sell marijuana;
- (c) Cultivating, manufacturing, testing, transporting and selling marijuana will be strictly controlled through Tribal licensing and regulation;
- (d) Selling or giving marijuana to persons under 21 years of age shall remain illegal;
- (e) Individuals will have to be 21 years of age or older to purchase marijuana;
- (f) Driving under the influence of marijuana will remain illegal; and
- (g) Marijuana sold in the tribal lands will be tested and labeled.

**SECTION 453D.177 Definitions.** As used in this chapter, unless the context otherwise requires:

1. "Community facility" means a facility licensed to provide day care to children, a public park, a public playground, a public swimming pool, a center or facility the primary purpose of which is to provide recreational opportunities or services to children or adolescents, or a church, synagogue, or other building, structure, or place used for religious worship or other religious purpose.
2. "Concentrated marijuana" means the separated resin, whether crude or purified, obtained from marijuana.
3. "Consumer" means a person who is 21 years of age or older who purchases marijuana or marijuana products for use by persons 21 years of age or older, but not for resale to others.
4. "Division" means the Marijuana Enforcement Division.
5. "Dual licensee" means a person or group of persons who possess a current, valid registration certificate to operate a medical marijuana establishment pursuant to [chapter 453A](#) of EST law and order code and a license to operate a retail marijuana establishment under this chapter.
6. "Excluded felony offense" "Category A Offense" means:
  - (a) A crime of Distribution of a controlled substance;
  2. The term does not include:
    - (b) An offense involving conduct that would be immune from arrest, prosecution or penalty pursuant to [SECTION 25.320](#) to [25.370](#), inclusive, except that the conduct occurred before April 1, 2011.
7. "Locality" means a city or town, or, in reference to a location outside the boundaries of a city or town, a county.
8. "Marijuana" means all parts of any plant of the genus *Cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Marijuana" does not include:
  - (a) The mature stems of the plant, fiber produced from the stems, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stems (except the resin extracted therefrom), fiber, oil, or cake, the sterilized seed of the plant which is incapable of germination; or
  - (b) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.
9. "Marijuana cultivation facility" means an entity licensed to cultivate, process, and package marijuana, to have marijuana tested by a marijuana testing facility, and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.
10. "Marijuana distributor" means an entity licensed to transport marijuana from a marijuana establishment to another marijuana establishment.
11. "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a marijuana distributor, or a retail marijuana store.
12. "Marijuana product manufacturing facility" means an entity licensed to purchase marijuana, manufacture, process, and package marijuana and marijuana products, and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.
13. "Marijuana products" means products comprised of marijuana or concentrated marijuana and other ingredients that are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.
14. "Marijuana paraphernalia" means any equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.
15. "Marijuana testing facility" means an entity licensed to test marijuana and marijuana products, including for potency and contaminants.
16. "Process" means to harvest, dry, cure, trim, and separate parts of the marijuana plant by manual or mechanical means, such as sieving or ice water separation, but not by chemical extraction or chemical synthesis.
17. "Public place" means an area to which the public is invited or in which the public is permitted regardless of age. "Public place" does not include a retail marijuana store.
18. "Retail marijuana store" means an entity licensed to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities and retail marijuana stores, and to sell marijuana and marijuana products to consumers.
19. "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

**SECTION 453D.179 Effect of chapter.**

1. The provisions of this chapter do not permit any person to engage in and do not prevent the imposition of any civil, criminal, or other penalty for:

(a) Driving, operating, or being in actual physical control of a vehicle, aircraft, or vessel under power or sail while under the influence of marijuana or while impaired by marijuana;

(b) Knowingly delivering, giving, selling, administering, or offering to sell, administer, give, or deliver marijuana to a person under 21 years of age, unless:

(1) The recipient is permitted to possess marijuana pursuant to chapter 453A of EST Law and Order Code; or

(2) The person demanded and was shown bona fide documentary evidence of the majority and identity of the recipient issued by a Tribal, federal, state, county, or municipal government, or subdivision or agency thereof;

(c) Possession or use of marijuana or marijuana paraphernalia on the grounds of, or within, any correctional facility or correctional institution.

(d) Possession or use of marijuana on the grounds of, or within, a public school providing instruction in preschool, kindergarten, or any grades 1 through 12; or

2. The provisions of this chapter do not prohibit:

(a) A public or private employer from maintaining, enacting, and enforcing a workplace policy prohibiting or restricting actions or conduct otherwise permitted under this chapter;

(b) A tribal, state or local government agency that occupies, owns, or controls a building from prohibiting or otherwise restricting the consumption, cultivation, processing, manufacture, sale, delivery, or transfer of marijuana in that building;

(c) A person who occupies, owns, or controls a privately owned property from prohibiting or otherwise restricting the smoking, cultivation, processing, manufacture, sale, delivery, or transfer of marijuana on that property; or

(d) A locality from adopting and enforcing local marijuana control measures pertaining to zoning and land use for marijuana establishments.

3. Nothing in the provisions of this chapter shall be construed as in any manner affecting the provisions of chapter 453A of EST Law and Order Code relating to the medical use of marijuana.

**SECTION 453D.180 Exemption from tribal, federal, state or local prosecution for certain acts involving marijuana and marijuana paraphernalia.** Notwithstanding any other provision of Tribal law, except as otherwise provided in this chapter, it is lawful, in these Tribal lands, and must not be used as the basis for prosecution or penalty by this Tribal, Federal, State or a political subdivision of this Tribal, Federal, State, and must not, in these tribal lands, be a basis for seizure or forfeiture of assets for persons 21 years of age or older to:

1. Possess, use, consume, purchase, obtain, process, or transport marijuana paraphernalia, one ounce or less of marijuana, other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana;

2. Give or otherwise deliver one ounce or less of marijuana, other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana without remuneration to a person provided that the transaction is not advertised or promoted to the public; or

3. Assist another person who is 21 years of age or older in any of the acts described in this section.

**SECTION 453D.182 Additional exemption from tribal, federal, or state for certain acts involving marijuana and marijuana products.** Notwithstanding any other provision of Tribal law, except as otherwise provided in this chapter or the regulations adopted pursuant to SECTION 453D.187, it is lawful and must not, in these Tribal lands, be used as the basis for prosecution or penalty by this Tribe, or a political subdivision of this Tribe, and must not, in these Tribal lands, be a basis for seizure or forfeiture of assets for persons 21 years of age or older to:

1. Possess marijuana and marijuana products, purchase marijuana from a marijuana cultivation facility, purchase marijuana and marijuana products from a marijuana product manufacturing facility, return marijuana or marijuana products to a facility from which they were purchased, transport marijuana and marijuana products to or from a marijuana testing facility, use the services of a marijuana distributor to transport marijuana or marijuana products to or from marijuana establishments, or sell marijuana and marijuana products to consumers, if the person conducting the activities described in this subsection has a current, valid license to operate a retail marijuana store or is acting in the person's capacity as an agent of a retail marijuana store.

2. Cultivate, harvest, process, package, or possess marijuana, sell marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store, transport marijuana to or from a marijuana cultivation facility, a marijuana product manufacturing facility, or a marijuana testing facility, use the services of a marijuana distributor to transport marijuana to or from marijuana establishments, or purchase marijuana from a

marijuana cultivation facility, if the person conducting the activities described in this subsection has a current, valid license to operate a marijuana cultivation facility or is acting in his or her capacity as an agent of a marijuana cultivation facility.

3. Package, process, manufacture, or possess marijuana and marijuana products, transport marijuana and marijuana products to or from a marijuana testing facility, a marijuana cultivation facility, or a marijuana product manufacturing facility, use the services of a marijuana distributor to transport marijuana or marijuana products to or from marijuana establishments, sell marijuana and marijuana products to a retail marijuana store or a marijuana product manufacturing facility, purchase marijuana from a marijuana cultivation facility, or purchase marijuana and marijuana products from a marijuana product manufacturing facility, if the person conducting the activities described in this subsection has a current, valid license to operate a marijuana product manufacturing facility or is acting in his or her capacity as an agent of a marijuana product manufacturing facility.

4. Possess marijuana and marijuana products and transfer and transport marijuana and marijuana products between marijuana establishments, if the person transporting the marijuana and marijuana products has a current, valid license to operate as a marijuana distributor or is acting in his or her capacity as an agent of a marijuana distributor.

5. Possess, process, repackage, transport, or test marijuana and marijuana products if the person has a current, valid license to operate a marijuana testing facility or is acting in his or her capacity as an agent of a marijuana testing facility.

6. Lease or otherwise allow property owned, occupied, or controlled by any person, corporation, or other entity to be used for any of the activities conducted lawfully in accordance with this section.

**SECTION 453D.184 No crime for certain acts involving marijuana paraphernalia.** Notwithstanding any other provision of Tribal law and the law of any political subdivision of the Tribe, it is not unlawful and shall not be an offense or be a basis for seizure or forfeiture of assets for persons 21 years of age or older to manufacture, possess, use, transport, or purchase marijuana paraphernalia, or to distribute or sell marijuana paraphernalia to a person who is 21 years of age or older.

**SECTION 453D.186 Enforcement of contracts.** It is the policy of the People of the Ely Shoshone Tribe that contracts related to the operation of marijuana establishments under this chapter should be enforceable, and no contract entered into by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Division, or by those who allow property to be used by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Division, shall be deemed unenforceable on the basis that the actions or conduct permitted pursuant to the license are prohibited by federal law.

**SECTION 453D.187 Duties of Division relating to regulation and licensing of marijuana establishments; information about consumers.**

1. The Division shall adopt all regulations necessary or convenient to carry out the provisions of this chapter. The regulations must not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. The regulations shall include:

(a) Procedures for the issuance, renewal, suspension, and revocation of a license to operate a marijuana establishment;

(b) Qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment;

(c) Requirements for the security of marijuana establishments;

(d) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under 21 years of age;

(e) Requirements for the packaging of marijuana and marijuana products, including requirements for child-resistant packaging;

(f) Requirements for the testing and labeling of marijuana and marijuana products sold by marijuana establishments including a numerical indication of potency based on the ratio of THC to the weight of a product intended for oral consumption;

(g) Requirements for record keeping by marijuana establishments;

(h) Reasonable restrictions on signage, marketing, display, and advertising;

(i) Procedures for the collection of taxes, fees, and penalties imposed by this chapter;

(j) Procedures and requirements to enable the transfer of a license for a marijuana establishment to another qualified person and to enable a licensee to move the location of its establishment to another suitable location;

(k) Procedures and requirements to enable a dual licensee to operate medical marijuana establishments and marijuana establishments at the same location;

(l) Procedures to establish the fair market value at wholesale of marijuana; and

(m) Penalties for the failure to comply with any regulation adopted pursuant to this section or for any violation of the provisions of SECTION 453D.193.

2. The Division shall approve or deny applications for licenses pursuant to [SECTION 453D.188](#).
3. The Division may by motion or on complaint, after investigation, notice of the specific violation, and an opportunity for a hearing, pursuant to the provisions of [chapter 233B](#) of SECTION, suspend, revoke, or fine a licensee for the violation of this chapter or for a violation of a regulation adopted by the Division pursuant to this section.
4. The Division may immediately suspend the license of any marijuana establishment if the marijuana establishment knowingly sells, delivers, or otherwise transfers marijuana in violation of this chapter or knowingly purchases marijuana from any person not licensed pursuant to this chapter or to [chapter 453A](#) of SECTION. The Division must provide an opportunity for a hearing pursuant to the provisions of [SECTION 233B.121](#) within a reasonable time from a suspension pursuant to this subsection.
5. To ensure that individual privacy is protected:
  - (a) The Division shall not require a consumer to provide a retail marijuana store with identifying information other than government-issued identification to determine the consumer's age; and
  - (b) A retail marijuana store must not be required to acquire and record personal information about consumers other than information typically acquired in a financial transaction conducted at a retail liquor store.
6. The Division shall conduct a background check of each prospective owner, officer, and board member of a marijuana establishment license applicant.
7. The Division shall inspect marijuana establishments as necessary to enforce this chapter or the regulations adopted pursuant to this section.

**SECTION 453D.188 Acceptance of applications for licensing; priority in licensing; conditions for approval of application; limitations on issuance of licenses to retail marijuana stores; competing applications.**

1. The Division shall begin receiving applications for marijuana establishments.
2. The Division begins to receive applications for marijuana establishments, the Division shall only accept applications for licenses for retail marijuana stores, marijuana product manufacturing facilities, and marijuana cultivation facilities pursuant to this chapter from persons holding a medical marijuana establishment registration certificate pursuant to [chapter 453A](#).
3. For 18 months after the Division begins to receive applications for marijuana establishments, the Division shall issue licenses for marijuana distributors pursuant to this chapter only to persons holding a wholesale dealer license, unless the Board determines that an insufficient number of marijuana distributors will result from this limitation.
4. Upon receipt of a complete marijuana establishment license application, the Division shall, within 90 days:
  - (a) Issue the appropriate license if the license application is approved; or
  - (b) Send a notice of rejection setting forth the reasons why the Division did not approve the license application.
5. The Division shall approve a license application if:
  - (a) The prospective marijuana establishment has submitted an application in compliance with regulations adopted by the Division and the application fee required pursuant to [SECTION 453D.190](#);
  - (b) The physical address where the proposed marijuana establishment will operate is owned by the applicant or the applicant has the written permission of the property owner to operate the proposed marijuana establishment on that property;
  - (c) The property is not located within:
    - (1) One thousand feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12 and that existed on the date on which the application for the proposed marijuana establishment was submitted to the Division; or
    - (2) Three hundred feet of a community facility that existed on the date on which the application for the proposed marijuana establishment was submitted to the Division;
  - (d) The proposed marijuana establishment is a proposed retail marijuana store and there are not more than:
    - (1) One license issued per township, or census population area;
    - (3) Upon request of a county government, the Division may issue retail marijuana store licenses in that county in addition to the number otherwise allowed pursuant to this paragraph;
  - (e) The locality in which the proposed marijuana establishment will be located does not affirm to the Division that the proposed marijuana establishment will be in violation of zoning or land use rules adopted by the locality; and
  - (f) The persons who are proposed to be owners, officers, or board members of the proposed marijuana establishment:
    - (1) Have not been convicted of an excluded felony offense; and
    - (2) Have not served as an owner, officer, or board member for a medical marijuana establishment or a marijuana establishment that has had its registration certificate or license revoked.
6. When competing applications are submitted for a proposed retail marijuana store within a single county, the Division shall use an impartial and numerically scored competitive bidding process to determine which application or applications among those competing will be approved.

**SECTION 453D.189 Expiration and renewal of licenses.**

1. All licenses expire one year after the date of issue.
2. The Division shall issue a renewal license within 10 days of receipt of the prescribed renewal application and renewal fee from a marijuana establishment if its license is not under suspension or has not been revoked.

**SECTION 453D.190 Fees.**

1. The Division shall require each applicant for a marijuana establishment license to pay a one-time application fee of \$500.
2. The Division may require payment of an annual licensing fee not to exceed:

For the initial issuance of a license for a retail marijuana store.....	\$200
For a renewal license for a retail marijuana store.....	\$600
For the initial issuance of a license for a marijuana cultivation facility	\$300
For a renewal license for a marijuana cultivation facility.....	\$100
For the initial issuance of a license for a marijuana product manufacturing facility	\$100
For a renewal license for a marijuana product manufacturing facility..	\$300
For the initial issuance of a license for a marijuana distributor.....	\$100
For a renewal license for a marijuana distributor.....	\$500
For the initial issuance of a license for a marijuana testing facility.....	\$100
For a renewal license for a marijuana testing facility.....	\$50

**SECTION 453D.191 Requirements for operation of marijuana establishment; inspection of establishment. .** In addition to requirements established by rule pursuant to SECTION 453D.187:

1. Marijuana establishments shall:
  - (a) Secure every entrance to the establishment so that access to areas containing marijuana is restricted to persons authorized to possess marijuana;
  - (b) Secure the inventory and equipment of the marijuana establishment during and after operating hours to deter and prevent theft of marijuana;
  - (c) Determine the criminal history of any person before the person works or volunteers at the operational marijuana establishment and prevent any person who has been convicted of an excluded felony offense or who is not 21 years of age or older from working or volunteering for the operational marijuana establishment.
2. All cultivation, processing, and manufacture of marijuana must take place at a physical address approved by the Division and within an area that is enclosed and locked in a manner that restricts access only to persons authorized to access the area. The area may be uncovered only if it is enclosed with security fencing that is designed to prevent unauthorized entry and that is at least 8 feet high.
3. All cultivation, processing, and manufacture of marijuana must not be visible from a public place by normal unaided vision.
4. All cultivation, processing, and manufacture of marijuana must take place on property in the marijuana establishment's lawful possession or with the consent of the person in lawful physical possession of the property.
5. A marijuana establishment is subject to reasonable inspection by the Division, and a person who holds a marijuana establishment license must make himself or herself, or an agent thereof, available and present for any inspection required by the Division. The Division shall make reasonable accommodations so that ordinary business is not interrupted and safety and security procedures are not compromised by the inspection.

**SECTION 453D.193 Violations and penalties.**

1. Restrictions on personal cultivation.
  - (a) No personal cultivation allowed
2. A person who smokes or otherwise consumes marijuana in a public place, in a retail marijuana store, or in a moving vehicle is guilty of a class B offense, punished by a fine of not more than \$100.
3. A person under 21 years of age who falsely represents himself or herself to be 21 years of age or older to obtain marijuana is guilty of a category B offense.
4. A person under 21 years of age who knowingly enters, loiters, or remains on the premises of a marijuana establishment shall be punished by a fine of not more than \$100 unless the person is authorized to possess marijuana pursuant to chapter 453A of SECTION and the marijuana establishment is a dual licensee.
5. A person who manufactures marijuana by chemical extraction or chemical synthesis, unless done pursuant to a marijuana product manufacturing license issued by the Division or authorized by chapter 453A of SECTION, is guilty of a category A offense.



6. A person who knowingly gives marijuana to any person under 21 years of age, or who knowingly leaves or deposits any marijuana in any place with the intent that it will be procured by any person under 21 years of age is guilty of a category B offense.

7. A person who knowingly gives marijuana to any person under 18 years of age, or who knowingly leaves or deposits any marijuana in any place with the intent that it will be procured by any person under 18 years of age is guilty of a category B offense.

8. Notwithstanding the provisions of this chapter, after January 1, 2017, the Board may amend provisions of this act to provide for the conditions in which a locality may permit consumption of marijuana in a retail marijuana store.

**SECTION 453D.197 Imposition of tax on wholesale sales of marijuana by marijuana cultivation facility.** An excise tax is hereby imposed and must be collected by the Tribe respecting wholesale sales of marijuana in these Tribal lands by a marijuana cultivation facility at a rate of 15 percent of the fair market value at wholesale of the marijuana. The tax imposed pursuant to this section:

1. Is the obligation of the marijuana cultivation facility; and
2. Is separate from and in addition to any general sales and use taxes that apply to retail sales of tangible personal property.

**SECTION 453D.198 Use of proceeds of tax, fees and penalties.** Any tax revenues, fees, or penalties collected pursuant to this chapter first must be expended to pay the costs of the Division and Tribe in carrying out this chapter and the regulations adopted pursuant thereto. The Division shall remit any remaining money to the Tribal Treasurer to be deposited to be placed into the General Fund.

**SECTION 453D.199 Severability.** If any provision of this chapter, or the application thereof to any person, thing or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this chapter as a whole or any provision or application of this chapter which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this chapter are declared to be severable.