

NEVADA TAX COMMISSION MEETING
MINUTES

Nevada Legislative Building
401 S. Carson Street, Room 2135
Carson City, Nevada

Legislative Counsel Bureau
Grant Sawyer State Office Building
555 E. Washington Ave., Room 4401
Las Vegas, Nevada

November 1, 2017
9:00 a.m.

Members Present:

James DeVold, Chairman
Ann Bersi, Commissioner (Via telephone)
Francine Lipman, Commissioner
John Marvel, Commissioner
Thom Sheets, Commissioner (Via telephone)
Craig Witt, Commissioner
Tony Wren, Commissioner (Via telephone)

Members Absent:

George Kelesis, Commissioner

Chairman DeVold called the meeting to order at 9:00 a.m.

I. Public Comment.

Mona Lisa Samuelson, Medical Marijuana Patient Advocate and Community Activist, stated she comes to these meetings to make sure you understand, until we address the needs of the medical marijuana patients in your community, we are not done, hopefully, with the regulation of marijuana in Nevada. I come to these meetings to be sure the patients' voice is always heard. We cannot afford lobbyists and the other people to represent medical patients. We have a recreational system, and I understand that is very important. I am here to make sure we keep the medical marijuana patients in the conversation. Thank you.

II. **COMPLIANCE DIVISION:**

A. **Consideration for Approval of Adoption of Emergency Regulations:**

- 1) Adoption of Emergency Administrative Regulation to provide continued operating requirements to licensed marijuana establishments, procedures for the issuance, suspension or revocation of licenses issued by the Department of Taxation, requiring monthly filing of returns and remittance of tax imposed on the sales of marijuana, requiring the maintenance of certain records, and providing for the inspection of such records relating to the

regulation and taxation of marijuana pursuant to NRS 453D until a permanent regulation is adopted.

Deonne Contine, Executive Director of the Department of Taxation, stated temporary regulations were adopted in May. Those regulations expire today by statute. We are in the process of adopting permanent regulations. In July we held eight regulation workshops for the permanent regulations, and those regulations are currently at LCB for review. We need these regulations and the temporary regulations so the industry can continue to be regulated and to continue to have rules to enforce if they don't comply.

Director Contine stated there are a couple of key differences in this regulation from the temporary regulation. In the temporary regulation, we had multi levels of applications for distributors, but based on the history of the litigation, the Supreme Court and licensing, for the 120 day period that this regulation will be valid we will only accept distribution applications from wholesale liquor distributors. This emergency regulation carries forward the additional five day period that was put in the temporary regulation to allow for one more application period, and we still plan to do that between now and when the permanent regulations are adopted. We added one additional matter to this emergency regulation with regard to seizing product. This emergency regulation is to extend for another 120 days. I have heard from LCB that we should be receiving the permanent regulation within the next week or so.

Chairman DeVold stated on Page 9 of the emergency regulation it discusses financial condition and liquid assets. It seems a little nebulous to me. It may possibly be corrected on Page 11. The Chairman asked if there enough direction for staff to analyze the capability of a distributor to handle expenses for one year.

Director Contine stated these regulations are from the temporary regulation and they are borrowed heavily from the medical. The process that anyone goes through to get into the marijuana business is consistent. We have been a little bit more flexible than we would normally be with regard to a distributor and the amount of money that they have. They are not a cultivator, so they don't have to build out a property or invest in lighting or have water concerns. Under the medical process, there was a strict number under that legislation. When the initiative was done, they didn't add a hard number. There may have been some concern after the medical program rolled out that having a hard number wasn't necessary and there could be more analysis. We are not necessarily having any trouble looking at resources or financial information that is provided for applicants in making that determination.

Chairman DeVold referred to Page 23, Section 22. Chairman DeVold asked if there is a renewal fee at the end of the one year period, or is this a one time fee.

Director Contine stated Section 22 is a little bit different from the temporary regulation as well. The one year expiration is in statute. In the initiative it does say that licenses are good for one year. We copied this language into the regulation. There is a renewal process and fee under the initiative.

Chairman DeVold mentioned the term "wet whole plant". He asked for a definition and what is trying to be accomplished.

Director Contine stated the intent of providing certain categories in the fair market value and on the tax return is to capture products that industry sells. We first started with what Colorado had listed on their tax return. We want to be able to capture the revenue.

Will Adler of the Sierra Cannabis Coalition, stated a “wet whole plant” is the current state of the plant. It is a freshly harvested plant. A “wet whole plant”, from Mr. Adler’s understanding, would be cut off at the root ball. Most plants are dried to have a fifteen percent moisture content which is the standard for bud and trim.

Commissioner Lipman asked if comments have been integrated from those on the front line and those who are attempting to regulate this. We want to be sure that this has been functioning well in the interim.

Director Contine stated there has not been any pushback or negative feedback. We are all in agreement that we need the regulation in place.

Commissioner Witt asked what the wholesale price is right now and how often has it changed since the regulation went into effect. Being a farmer, usually with alfalfa you want ten percent moisture content. It interests me to see the functionality of our regulations.

Director Contine stated there are various categories of products and they all have different wholesale prices. Yesterday was a deadline for the industry to provide us with data. We are in the process setting a second wholesale price. We will see adjustments to the wholesale prices.

PUBLIC COMMENT:

Mona Lisa Samuelson, Medical Marijuana Patient Advocate and Community Activist, thanked everyone involved in these regulations and workshops. I too was a part of those workshops. As far as a medical patient is concerned, it is very important that we have the sale of live, wet and whole plants. What we may consume for a recreational purpose is not the same. We consume fresh plant matter because the acids and the enzymes change during the curing period. Those acids and enzymes work very well with a cured product to elicit the entourage effect. I am here to let you know that this is a step in the right direction and we thank you for all of your hard work.

Riana Durrett serves as the Executive Director to the Nevada Dispensary Association. The Association is very grateful and commends the Department for the implementation of Nevada’s early start program. Many challenges were placed in the Department’s way. Just one challenge, for example, was to reconcile the mandates from Question 2 with an already existing medical marijuana program. The Department has done this successfully, along with all of the other successes they have achieved. The Department was kept very busy during a legislative session, and at the same time drafting regulations, and holding daily meetings with what was known as the Governor’s Task Force. This has only been successful because of their diligence, thoughtfulness, foresights and good faith desire for this program to work for the State of Nevada; and also their perspicacity.

Commissioner Lipman asked Ms. Durrett if the temporary regulations are working and if she is supportive of approving them.

Ms. Durrett stated yes.

Will Adler, Sierra Cannabis Coalition, stated these regulations are 95% the same as the past regulation. The changes are not anything that we would oppose. I fully support this regulation. The Department of Taxation has done a very good job considering everything that was on their plate. I ditto the Nevada Dispensary Association's comments as well. Thank you.

Eric Jimenez, on behalf of Nu-Leaf, stated we are hugely supportive of these regulations and a huge shout out to Director Contine for having the ability to work with us. We firmly believe that this will be a step in the right direction in ensuring that we have some of the best regulations in the country. Thank you.

Amanda Conner, of Conner & Conner PLLC, on behalf of the Nevada Cannabis Coalition, stated she would like to echo the comments of Riana Durrett and the Nevada Dispensary Association. We appreciate all of the hard work of the Department and we support these regulations.

Commissioner Wren asked if the wholesale values are posted on the website; or can they be emailed to the Commission.

Director Contine stated the wholesale prices are listed on the website and also on the tax return. The fair market value for flower is \$2,145 per pound, small popcorn bud is \$1,210 per pound, leaves, trim and shake are \$631 per pound, wet whole plants are \$235 per pound, an immature plant is \$10 each, seeds are \$6 each and pre-rolls are \$3.74 each. These prices are for the sale from a cultivator to either a producer or retail store. We have asked the industry to report their actual data to us. We will then do some statistical analysis to come up with the actual wholesale price, however, they can sell the product for whatever they want to sell it for. They use the wholesale price when calculating their tax liability. Anecdotally, I heard that they are currently selling it for a higher price than the current fair market value. We are now in the process of gathering data, looking at it again, and doing statistical analysis. We will then set the fair market value again going forward.

Jorge Pupo, Deputy Director – Marijuana Enforcement Division. As Director Contine stated, we have started receiving cultivation reports for sales for the period June through September. They had until yesterday, October 31, to turn in those reports to the Department. Staff is now filtering items out, analyzing data and asking questions. We will then start compiling the raw data with the Department's Economist. By December we will hopefully have the new number and it will be posted by January 1, 2018 for the next six months.

Commissioner Lipman asked if the schedule is to be re-evaluated every six months.

Mr. Pupo answered yes.

Commissioner Sheets moved to adopt the emergency administrative regulation to provide continued operating requirements to the licensed marijuana establishments and the other associated activities as mentioned in the description of the emergency regulation. Commissioner Witt seconds. All in favor. No opposed. Motion carries.

III. BRIEFING:

A. Briefing to/from the Commission and the Executive Director.

No items were discussed.

IV. Next Meeting Date: December 4, 2017

V. Public Comment.

There was no public comment.

VI. Meeting adjourned at 9:32 a.m.