

Nevada Department of Taxation  
 555 E. Washington Ave, Suite 1300  
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To Whom It May Concern,

We are writing to express concern regarding the temporary regulations proposed by the Department of Taxation, LCB File No, T002-17. This proposal would allow for the issuance of temporary recreational licenses for sales of recreational cannabis to begin July 1<sup>st</sup> of this year, and may be acted on during the upcoming meeting scheduled for May 8<sup>th</sup>, 2017.

Nevada stands to be one of the largest recreational cannabis markets in North America. Should the Department enact early regulations to allow sales of recreational cannabis to begin on July 1<sup>st</sup> of 2017, the Silver State will be the first newly regulated recreational market to go live under the new Presidential Administration. Nevada should make every effort to ensure a safe, regulated market with adequate supply to meet market demand.

The Nevada Department of Taxation is proposing an application deadline of May 31<sup>st</sup>, 2017 for the temporary regulations. Applicants for temporary recreational licenses are only eligible to apply if they are in “good standing”. More specifically, provisional license holders are not eligible unless they become operational and pay taxes prior to the application deadline. This would mean the Department is proposing to launch recreational sales in one of the most popular tourist destinations in North America, with a fraction of the licenses potentially necessary to ensure a successful launch of the program during the first 6-9 months until the permanent regulations become enacted and new retail licenses are issued.

Looking at our close neighbor, Colorado’s marketplace took a big hit when illegal operations began flooding the market, taking advantage of the high product demand and lack of legal supply. Per a February 2015 Marijuana Enforcement Division (MED) report released by the Colorado Department of Revenue, on January 1, 2014 (when retail sales began), Colorado had issued a total of 345 recreational cannabis retail licenses related to manufacturing and dispensing. From January 1, 2014 through the end of December 2014, to meet market demand of recreational cannabis, Colorado continued issuing new retail licenses monthly, ending the year with an additional 472 retail licensees.

Licensed Facilities	Colorado 2014		Nevada 2017
	Month 1	Month 12	DPBH as of 4/15/2017
Retail Establishments	136	322	57
Cultivation Establishments	178	387	77
Production Establishments	31	98	45

It’s important to note that sales in Colorado during 2014 were higher than any reputable cannabis analytical company had projected by nearly 50%. Per the 2015 MED report, the state’s cannabis industry conducted sales of nearly 3 million recreational edibles, 2 million medical edibles, 109,000 pounds of medical flower, and 38,000 pounds of recreational flower. The chart below shows a breakdown of the first 6-9 months of Colorado’s industry in 2014, when recreational sales began:

Units Sold	Totals	
	Months 1-6	Months 7-9
Medical Flower (lbs)	50,968	31,303
Recreational Flower (lbs)	12,401	12,866
Medical Edibles (each)	904,506	518,448
Recreational Edibles (each)	1,009,521	925,540

During the first 9 months of the recreational program in Colorado, monthly sales reports showed an increase in product sales each consecutive month from the launch of the program, with demand for product continuing to grow.

Per conversations with individuals in Nevada's Department of Taxation, neither the department nor the state has conducted an examination of potential market demand for recreational cannabis, nor researched the ability of current cultivation and production operations' manufacturing throughput during the first 6-9 months of recreational sales. The department's decision to limit the initial number of recreational licenses, preventing additional provisional license holders close to completing construction of their facilities from applying, could cause irreversible damage to Nevada's recreational cannabis program.

Extension of or removal of the May 31<sup>st</sup> deadline will allow current and provisional license holders to continue development on their established schedules. We can expect better choice for patients and consumers, more licensing fee collections, and greater tax revenues. And, the State and the market will benefit from having enough operators to meet demand as Adult-Use regulations come online, ensuring success in Nevada's newest revenue stream.

The Department of Taxation has released the results of the small business impact questionnaire in its April 7<sup>th</sup> notice of hearing for the adoption of the temporary regulations. While the beneficial effects were reported to outweigh the adverse effects, the report contained no supporting evidence of how the state will achieve these benefits without negative consequences due to limiting of issuance of recreational licenses. We would like to respectfully offer counterarguments to some of the findings from the survey:

***“The Department received four comments via the small business impact questionnaire that the proposed temporary regulation would have beneficial effect:***

***1. Having the adult use sales available by July 1, 2017, will deter purchase from illegal operators.”***

Without an evaluation of throughput capable from those existing licensed operators, and not allowing additional applications after May 31<sup>st</sup>, there is no substantiated evidence that market demand will be met, and potential for the illicit suppliers to thrive should demand be higher than what the limited licensees will be able to produce.

***2. “The temporary regulations will allow for consumers to purchase safe and tested product from licensed companies.”***

Should market demand be higher than what the limited licensees can produce, there is no guarantee that tourists will have adequate supply of safe, legal cannabis, and could pursue purchasing from the black market where product has not been tested and is notoriously unsafe.

***3. “The temporary regulation will have a positive effect on tourism.”***

If the Department continues with the decision to limit the number of licensees during the first 6-9 months, the chance of market demand not being met could have a negative impact on future tourism to the Silver State, with tourists opting to venture to an alternate recreational state where supply is abundant.

***4. “The temporary regulation will allow for a seamless process for existing licensed Medical Marijuana Establishments to apply.”***

Excluding those provisional establishments that have heavily invested in Nevada and are close to becoming operational just shortly after the May 31<sup>st</sup> application deadline.

Considering the previous discussion, we would like to respectfully request the following:

1. Extend initial “good standing” measurement for “early” adult-use licensure to 31<sup>st</sup> July, 2017, or remove the deadline altogether
2. Allow subsequent rolling monthly good standing measurements that are on par with all others
3. Include applications for distribution licenses in 1. and 2.

***1. A medical marijuana establishment that has received a medical marijuana establishment registration certificate and is operating and in good standing, as defined in subsection 4 of this section, under its medical marijuana establishment registration certificate may apply for a marijuana establishment temporary license no later than ~~May 31, 2017.~~ July 31, 2017.***

***5. As used in this section, a medical marijuana establishment is “operating” if it filed a return and paid the tax imposed by NRS 372A.290 prior to ~~May 31, 2017.~~ July 31st, 2017.***

We hope that the Department will strongly consider the above-mentioned concerns, and will work towards amending the proposed regulations to ensure ALL medical marijuana establishments are eligible to apply for a temporary recreational license beyond May 31<sup>st</sup> as they move out of their provisional status. Nevada has the potential of being the flagship of the cannabis industry, it is strongly advised that the Department does not risk damaging that reputation by risking adverse effects during the first 9 months of recreational sales by limiting product supply.

Sincerely,

Matt McClure

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*And on behalf of all others negatively affected*