

To: Nevada Department Of Taxation  
Re: Proposed Temporary Regulation LCB File NO. T002-17

Dear Ms. Deonne Contine, Ms. Anna Thornly and Ms. Shellie Hughes

First, I'd like to thank you and all members of the task forces for all the hard work you have done in completing this draft under a tight schedule.

I am a holder of a Nevada Wholesale Liquor License and I look at this from the perspective of the existing healthy Alcohol business model which promotes healthy competition and brand promotion primarily for the benefit of the consumer. The Alcohol model also prevents any entity from holding a monopoly in a sensitive market due to its 3-Tier system (Producer, Distributor, and Retailer) that has been working well for over several decades including here in the State of Nevada.

The proposed Temporary Regulation (LCB File No. T002-17) is mostly well written and is considerate of all aspects of the consumer and community's safety and health, however is it poised to create the biggest monopoly in the fledgling Marijuana market.

Here are the reasons I believe that the Licensing and Transportation sections of this Temporary Regulation Draft are flawed and unfair:

1. Question No. 2 measure that was passed by the voters of Nevada proposes creating a new License category of Marijuana Distributor in addition to the existing Cultivator, Test Facility and Dispensary or retailer licenses. However, this new Distributor License category is pointless if the cultivators and retailers can distribute and transport their own products as well.
2. According to NRS 453D.020(3), "The people of the State of Nevada proclaim that Marijuana should be regulated in a manner similar to Alcohol", however, the similarities between the Alcohol and Marijuana regulations stop at the age restriction and operating under the influence. This Proposed Temporary Regulation fails to define similarities between the two markets in the separation of Licenses.
3. The Department of Taxation has used the authority given to it in NRS 453D.210(3) to falsely determine that there isn't enough interest among the Existing Liquor distributors in the Distribution license. The Department based its decision on the response they gathered to a simple question that was asked in November 2016 to Liquor distributors if they would be interested; that was before even one line of the regulations was written. The correct and fair way to determine if there is enough interest to support the market should be by assessing their interest after the regulations and the financial and operational requirements have been determined. The Liquor distributors can then look at the requirements and make a sound business decision if they would be interested. After that, the Department should wait and see if the ones who obtained the Distribution license would be able to handle and serve the market by analyzing the market needs based on facts and not mere speculations. Has the Department even determined if there is enough interest from the existing Medical Marijuana Establishments (MMEs) in the distribution license? If so, then how was it determined?
4. According to the Business Dictionary, Distributor is defined as "An Entity that buys noncompeting products or product lines, warehouses them, and resells them to retailers...". But the Proposed Regulations (T002-17 section 20) limits the duties of Distributors to merely

Transporting Marijuana between Marijuana Establishments and prohibits them from purchasing and selling the products (section 20.3). That, reduces the role of the Distributor to that of a transportation or a delivery company.

5. The Proposed Regulations Unfairly sets significantly more requirements and conditions in the application process for a Distributor's License on applicants who don't hold a medical marijuana registration certificate (existing Liquor distributors) than those who do (existing MMEs), thus giving an advantage to MMEs. Sections 15.1.(k) through 15.1.(o) (that's more than 3 pages) imposes requirements on all applicants who don't hold a certificate but not on MME applicants even though both MMEs and Liquor distributors had went through similar scrutiny when they obtained their existing respective licenses.
6. The Proposed Regulations Unfairly provides for a refund of the license fee to the MME applicant if the license is not approved (Section 12.5) but there is no similar provision for other applicants of a distributor's license under section 15.
7. The Proposed Regulations, either intentionally or unintentionally, unfairly allows existing MMEs to obtain more than one type of Licenses (e.g., Cultivation and Distribution) but that privilege is denied to all other interested parties and entities. Section 12.1 limits applicants for a Marijuana Establishment temporary license to those currently have Medical Marijuana registration certificate.

Given the Proposed Regulation facts and interpretation that:

- (a) The MMEs are allowed to obtain more than one type of license and can therefore transport, distribute and sell their own products, so they would have no financial interest in utilizing the services of an outside Marijuana Distributor.
- (b) Non MME Distributors are not allowed to buy or sell the products and their role is limited to delivering the products from one MME facility to another MME facility. Their financial interest is therefore limited to charging a delivery fee and they would have to compete with MME who own a distribution license.
- (c) The high financial commitment required on the part of the Distributors to obtain the License, from the license fees of \$20,000 to several hundred thousand dollars for upgrading their facilities and trucks to meet the Department's requirements and their investment in hiring and training the right people, whilst they cannot profit proportionally from the business of just product transportation and delivery.

Those facts render the Distribution business in the Marijuana Market "Unreasonably impracticable" as defined in NRS 453D.030(19). According to NRS 453D.200(1), "The regulations must not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable."

I humbly and respectfully suggest the following changes to the Regulations:

1. No one entity should be allowed to hold more than one type of operational License in this market to prevent price fixing and market control and to allow for healthy competition.
2. Marijuana distributors should be allowed to buy from Cultivators, promote, market, transport and sell products to Retailers but not to consumers.
3. Set identical requirements and procedures for obtaining the Distributor License for all who can apply.

As a Liquor Wholesaler, I personally do not object to allowing other Non-Liquor dealers' license holders to apply for the new marijuana distributor license as the market needs dictate, but I do genuinely believe that current MMEs should not be allowed to hold more than one type of licenses. If the Department's well-intentioned concern is the ability of the legal marijuana market to start operating immediately before the issues with Liquor Distributors and the lengthy application process have been completed, they could allow MME to transport and distribute their product temporarily for the next 6 months or until the permanent regulation are in place (possibly with lower license fees). And that provision should be clearly added to the Temporary Regulation.

Thank you for your consideration.

Respectfully,

Hanna Sweis

April, 21 2017