

Application Process - Recommendation

1. Working Group Name:

Taxation/Revenue/Regulatory Structure Working Group

2. Individual Sponsor(s):

Amanda Conner, Attorney at Connor & Connor - Marijuana law

Neil Krutz, Assistant City Manager, City of Sparks

Jacqueline Holloway, Director of Business License Development, Clark County

John Ritter, Nevada Dispensary Association

Steve Gilbert, Program Manager, Medical Marijuana Program

3. Describe the Recommendation:

The Taxation/Revenue/Regulatory Structure Working Group recommends that, as described in IP1, the qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment and the impartial and numerically scored bidding process for "retail marijuana stores", be maintained, however, we recommend the local governments be given the responsibility to affirm candidates location(s) based on requirements within the respective jurisdiction. Conceptually, the recommended process would look as follows:

- The Department of Taxation (Department) would receive marijuana establishment applications, score and rank them in each jurisdiction based on an applicant's qualifications as required in IP1.*
- The Department will not require zoning approval to be submitted in the marijuana establishment application. If an applicant does have zoning and land use approval and chooses to include it their application, no extra points or merit will be awarded for it being included.*
- The Department passes each ranked marijuana establishment list on to the applicable local jurisdiction, based on the maximum number of retail establishments allowed under IP1. This list of applicants will be awarded a conditional license from the Department.*
- Each applicant that receives a conditional license from the Department must then get local jurisdiction approval for zoning and land use. If an applicant needs to pursue an alternative location because the original location was denied local approval, the alternative location must be similar in scope with respect to building size, operation, and systems. Licenses will remain conditional until all local requirements have been obtained and submitted to the Department to finalize the application. If all state and local requirements are met, the applicant will be awarded a provisional license allowing them to commence development of their establishment. Licenses will remain provisional until all required audits and inspections have been completed by the Department and the establishment is awarded a final license.*
- If the marijuana establishment is not able to receive local jurisdiction zoning and land use approval within 18 months from the date the Department issued the conditional license, the*

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applicant will surrender the license back to the department for reissuance through another application process. The Department may extend the 18 months due to extenuating circumstances at the discretion of the Department.

4. Which Guiding Principle(s) does this recommendation support?

Guiding Principle 1 - Promote the health, safety, and well-being of Nevada's communities. Following this application recommendation will ensure the best applicants are awarded a license.

Guiding Principle 2 - Be responsive to the needs and issues of consumers, non-consumers, local governments and the industry. This recommendation will help streamline the application process and potentially avoid costly lawsuits in the future.

Guiding Principle 3 - Propose efficient and effective regulation that is clear and reasonable and not unduly burdensome. This recommendation will improve upon the medical marijuana application process that was already successfully used. These minor improvements will make it clearer to the applicant, the Department and remove ambiguity.

5. What provision(s) of Question 2 does this recommendation apply to?

Question 2 states the Department of Taxation would be charged with adopting regulations necessary to carry out the provisions of this ballot measure. The regulations must address licensing procedures; licensee qualifications; security of marijuana establishments; testing, labeling, and packaging requirements; reasonable restrictions on advertising; and civil penalties for violating any regulation adopted by the Department.

IP1 Section 10 (5)(e) states:

Upon request of a county government, the Department may issue retail marijuana store licenses in that county in addition to the number otherwise allowed pursuant to this paragraph

The Department shall approve a license application if the locality in which the proposed marijuana establishment will be located does not affirm to the Department that the proposed marijuana establishment will be in violation of zoning or land use rules adopted by the locality.

6. What issue(s) does the recommendation resolve?

This recommendation would resolve the imbalance of the application score and ranking when it comes to the local jurisdiction approval for marijuana establishment locations. The Department will be tasked with scoring applicants based how well they meet the qualifications described in IP1 , and the local jurisdiction will be tasked with zoning and land use approval.

7. Was there dissent in the group regarding this recommendation? If yes, please provide a summary of the dissenting opinion regarding the recommendation.

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No dissent

8. What action(s) will be necessary to adopt the recommendation? Will statute, policy, regulations, etc. need to be addressed?

A statute change will not be required.

Regulation language will need to be added defining the application process and requirements.

9. Additional information (cost of implementation, priority according to the recommendations, etc.).

None

Retail Store Allocation - Recommendation

1. Working group name:

Taxation/Revenue/Regulatory Structure Working Group

2. Individual sponsor(s):

*John Ritter, Nevada Dispensary Association & Owner
Amanda Connor, Attorney Connor & Connor - Marijuana law*

3. Describe the recommendation:

The Taxation/Revenue/Regulatory Structure Working Group recommends that the retail marijuana store licenses allocated to the counties, as described in IP1, be distributed to the local jurisdiction(s) within those counties prorata based on the population in the jurisdiction(s).

4. Which guiding principle(s) does this recommendation support?

Guiding Principle 1 - Promote the health, safety, and well-being of Nevada's communities

Guiding Principle 2 - Be responsive to the needs and issues of consumers, non-consumers, local governments, and the industry.

Guiding Principle 4 - Propose efficient and effective regulation that is clear and reasonable and not unduly burdensome.

5. What provision(s) of Question 2 does this recommendation apply to?

Question 2 imposed a limitation on the number of retail stores located in the counties. The recommendation addresses how those retail store licenses should be distributed.

6. What issue(s) does the recommendation resolve?

This recommendation ensures even distribution of the retail marijuana licenses to ensure that the needs to the consumers, non-consumers, local government and industry are met by preventing over or under saturation of retail marijuana stores in particular areas.

7. Was there dissent in the group regarding this recommendation? If yes, please provide a summary of the dissenting opinion regarding the recommendation.

There was no dissent regarding this recommendation.

8. What action(s) will be necessary to adopt the recommendation? Will statute, policy, regulations, etc. need to be addressed?

There would need to be adoption of a regulation or statute to address this recommendation.

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9. Additional information (cost of implementation, priority according to the recommendations, etc.).

None

Rating Criteria on Applications - Recommendation

1. Working group name:

Taxation/Revenue/Regulatory Structure Working Group

2. Individual sponsor(s):

John Ritter, Nevada Dispensary Association & Owner

Amanda Connor, Attorney Connor & Connor - Marijuana law

3. Describe the recommendation:

The Taxation/Revenue/Regulatory Structure Working Group recommends that the impartial and numerically scored bidding process as described in IP1 for "retail marijuana stores" include the following criteria and weighting to be used for scoring applications. IP1 also requires the department to adopt regulations that include "qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment." Therefore we also recommend that the applicable criteria and weighting shown below that demonstrate those qualifications be included in the regulations.

The following criteria and weighting should be included:

- 1. Applicant has an existing temporary recreational marijuana establishment license that is operational (as defined in the temporary regulations) and in good standing (as defined in the temporary regulations). – Very heavily weighted*
- 2. Applicant has a medical marijuana establishment license that is operational (as defined in the temporary regulations) by December 31, 2017 and is in good standing (as defined in the temporary regulations) - Very Heavily weighted.*
- 3. Owners, officers and/or the management team have direct experience with a medical and/or recreational marijuana establishment for the specific type of marijuana establishment license the applicant is seeking and have demonstrated a track record of operating that establishment in a manner that complies with the requirements of the applicable State regulatory authority overseeing such establishment. Experience in a Nevada marijuana establishment is preferred. – Very Heavily weighted*
- 4. Applicant has demonstrated a track record of paying taxes to the Department of Taxation generated by the operation of a medical or recreational marijuana establishment. - Very heavily weighted*
- 5. Owners, Officers and/or Board members have a demonstrated track record of employing Nevadans and paying state and local taxes and fees in Nevada. - Heavily Weighted*
- 6. Owners, Officers and/or Board members have a demonstrated track record of giving back to the community through their civic and/or philanthropic involvement in Nevada. - Heavily Weighted*

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7. *Owners, Officers, and/or Board members have experience operating another kind of business(s) that has given them applicable experience to running a marijuana establishment in the State of Nevada. - Medium weighted.*
8. *Applicant has submitted a business plan for the operation of the marijuana establishment that demonstrates knowledge and experience with the license type that is being applied for and addresses how the establishment will be operated under the requirements established by regulation of the Department as required by NRS 453D.200 - Medium weighted.*

4. Which guiding principle(s) does this recommendation support?

Guiding Principle 1 - Promote the health, safety, and well-being of Nevada's communities

Guiding Principle 2 - Be responsive to the needs and issues of consumers, non-consumers, local governments, and the industry.

Guiding Principle 4 - Propose efficient and effective regulation that is clear and reasonable and not unduly burdensome.

5. What provision(s) of Question 2 does this recommendation apply to?

Question 2 states that there is to be an impartial and numerically scored bidding process for "retail marijuana stores" and that the Department has a duty to use "qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment". The recommendation addresses criteria and weighting to apply to each of those provisions.

6. What issue(s) does the recommendation resolve?

This recommendation resolves the issue of how to determine what criteria and weighting should be considered for issuance of a license.

7. Was there dissent in the group regarding this recommendation? If yes, please provide a summary of the dissenting opinion regarding the recommendation.

There was no dissent regarding this recommendation.

8. What action(s) will be necessary to adopt the recommendation? Will statute, policy, regulations, etc. need to be addressed?

There would need to be adoption of regulations to address this recommendation.

9. Additional information (cost of implementation, priority according to the recommendations, etc.).

None.

Monopolies - Limitations on the Number of Retail Establishments - Recommendation

1. Working group name:

Taxation/Revenue/Regulatory Structure Working Group

2. Individual sponsor(s):

John Ritter, Advisory Board Member for TGIG, LLC, The Grove

Dagney Stapleton, Nevada Association of Counties

Steve Gilbert, Program Manager DPBH Medical Marijuana Program

3. Describe the recommendation:

The Taxation/Revenue/Regulatory Structure Working Group recommends that the same limitations that were applied in the medical program for medical marijuana establishment registration certificates be used for the recreational marijuana licensing process. The recommendation applies this limitation specifically to retail marijuana stores not only in a county whose population is 100,000 or more but also in each local jurisdiction within that county.

The recommendation is to adopt regulations similar to NRS 453A.326: ... limitation on number of licenses issued to any one person; ...

2. To prevent monopolistic practices, the Department shall ensure, in a county whose population is 100,000 or more, that it does not issue, to any licensee, the greater of:

(a) One retail store license; or

(b) More than 10 percent of the retail store licenses allocable in the county along with the same limitation on the local governmental jurisdiction level.

4. As used in this section, "local governmental jurisdiction" means a city or unincorporated area within a county.

4. Which guiding principle(s) does this recommendation support?

Guiding Principle 1 - Promote the health, safety, and well-being of Nevada's communities

Guiding Principle 2 - Be responsive to the needs and issues of consumers, non-consumers, local governments, and the industry.

Guiding Principle 4 - Propose efficient and effective regulation that is clear and reasonable and not unduly burdensome.

5. What provision(s) of Question 2 does this recommendation apply to?

Monopolies - Limitations on the Number of Retail Establishments - Recommendation

Section 5 (a) of IP1 describes that the Department shall adopt all regulations necessary to carry out the provisions of the act including "Procedures for the issuance ... of a license to operate a marijuana establishment."

6. What issue(s) does the recommendation resolve?

To prevent monopolistic practices this recommendation ensures that no one "person" can own or control more than 10% of the retail marijuana store licenses in a county whose population is 100,000 or more and not more than 10% of the retail marijuana store licenses in each local jurisdiction within that county.

7. Was there dissent in the group regarding this recommendation? If yes, please provide a summary of the dissenting opinion regarding the recommendation.

No dissent.

8. What action(s) will be necessary to adopt the recommendation? Will statute, policy, regulations, etc. need to be addressed?

There would need to be adoption of a regulation to address this recommendation.

9. Additional information (cost of implementation, priority according to the recommendations, etc.).

None

Agent Card Requirements - Recommendation

1. Working group name:

Taxation/Revenue/Regulatory Structure Working Group

2. Individual sponsor(s):

*Jennifer Wilcox, Essence Cannabis Dispensary
M. McDade – Williams, Strategies 360*

3. Describe the recommendation:

The Taxation/Revenue/Regulatory Structure Working Group recommends that the revised agent card application process as pursuant to Assembly Bill No. 422 be applied to recreational licenses (revised provisions related AB 422 outlined below):

Existing law requires a medical marijuana establishment that wishes to retain as a volunteer or employ or contract with a person to provide labor to the medical marijuana establishment to submit an application to register the person as a medical marijuana establishment agent. (NRS 453A.332)

- ***Section 31** of the AB422 bill allows such a person to submit an application for registration as a medical marijuana establishment agent on his or her own behalf.*
- ***Section 31** also provides for the temporary registration of a person as a medical marijuana establishment agent upon submission of a complete application for registration or renewal of registration.*
- ***Section 31** allows an independent contractor or employee of an independent contractor who is registered as a medical marijuana establishment agent to provide labor to any medical marijuana establishment and any other person who is registered as a medical marijuana establishment agent to work or volunteer at any medical marijuana establishment for which the category of the person's medical marijuana establishment agent card is valid.*

The group recommends applying the proposed revisions above to the recreational marijuana agent card application process.

6. What issue(s) does the recommendation resolve?

This recommendation would ensure efficiency with recreational establishments as it relates to cards for agents and independent contractors:

- *Allows potential employees to apply directly to the State to obtain registered agent card and allows them to work while card is pending;*

Agent Card Requirements - Recommendation

- *Allows agents and independent contractors to obtain one card for each type of facility rather than multiple cards*
 - *Allows temporary registration of a person as an establishment agent*
7. Was there dissent in the group regarding this recommendation? If yes, please provide a summary of the dissenting opinion regarding the recommendation.

No dissent

8. What action(s) will be necessary to adopt the recommendation? Will statute, policy, regulations, etc. need to be addressed?

This recommendation should become part of the final recommendations for recreational marijuana licensing.

9. Additional information (cost of implementation, priority according to the recommendations, etc.).

This has been discussed at session (AB422), Assemblyman Araujo agreed to carry the revision of the agent card application process.

1. Working group name:

Taxation/Revenue/Regulatory Structure Working Group

2. Individual sponsor(s):

*John Ritter, Advisory Board Member for TGIG, LLC, The Grove
David Goldwater, Inyo Fine Cannabis Dispensary*

3. Describe the recommendation:

The Taxation/Revenue/Regulatory Structure Working Group recommends that the following changes relative to recreational marijuana establishment licensee ownership issues be made from the current medical marijuana establishment rules.

a) Require only Owners with 5% or more cumulatively (please see below for a definition of cumulatively), Officers and Board members of the company(s) holding the license(s) to be fingerprinted, be required to undergo a background check and resubmit a new application for license renewal.

[IN ORDER TO MAKE THE MEDICAL PROGRAM CONSISTENT NEED TO CHANGE NRS 453A.332 PARAGRAPH 5]

b) Require all Owners, regardless of ownership, to be fingerprinted, be required to undergo a background check and resubmit a new application only every five years whether for a renewal or not.

[IN ORDER TO MAKE THE MEDICAL PROGRAM CONSISTENT NEED TO CHANGE NRS 453A]

c) Only require Owners with 5% or more ownership cumulatively, Directors and Officers of the company(s) holding the license(s) and employees of the company to obtain agent registration cards.

[FOR MEDICAL: Officers and Board members must obtain agent cards under 453A.410 (2) (a). An Owner with less than 5% interest, that is not an Officer or Board member, does not need to obtain an agent card pursuant to NAC 453A.302.]

d) For the purposes of signing ownership transfers, applications and any other appropriate legal or regulatory documentation, the Department shall look to the governing documents of the company that holds the license to assess who has approval rights and signatory authority. If the documents require a vote to establish that authority then the Department shall have the right to request documentation evidencing that a vote has taken place.

[IN ORDER TO MAKE THE MEDICAL PROGRAM CONSISTENT NEED TO CHANGE NRS 453A]

"Cumulatively" shall mean the cumulative ownership any particular natural person holds in any Nevada company(s) that owns licensed recreational marijuana establishments.

4. Which guiding principle(s) does this recommendation support?

Guiding Principle 2 - Be responsive to the needs and issues of consumers, non-consumers, local governments, and the industry.

Guiding Principle 4 - Propose efficient and effective regulation that is clear and reasonable and not unduly burdensome.

5. What provision(s) of Question 2 does this recommendation apply to?

Section 2 (b) of IP1 states that "Business owners are subject to a review by the State of Nevada to confirm that the business owners ... are suitable to produce or sell marijuana;"

Section 5 paragraph 1 of IP1 states that "The regulations must not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impractical."

6. What issue(s) does the recommendation resolve?

To allow companies that own marijuana establishment licenses in which there are multiple Owners that own less than 5%, in some cases far less, to be able to operate practically and efficiently. To allow companies that own marijuana establishment licenses to function based on their governing documents as companies are allowed to do in other industries.

7. Was there dissent in the group regarding this recommendation? If yes, please provide a summary of the dissenting opinion regarding the recommendation.

No dissent.

8. What action(s) will be necessary to adopt the recommendation? Will statute, policy, regulations, etc. need to be addressed?

There would need to be adoption of a regulation to address this recommendation.

9. Additional information (cost of implementation, priority according to the recommendations, etc.).

None