

SUMMARY: An ordinance adding Lyon County Code Title 8, Chapter 3, Section 14, to prohibit possessing or consuming marijuana in vehicle on highway.

TITLE: AN ORDINANCE ADDING TITLE 8, CHAPTER 3, SECTION 14, TO PROHIBIT POSSESSING OR CONSUMING MARIJUANA IN VEHICLE ON HIGHWAY; SETTING FORTH THE AREAS WHERE MARIJUANA MAY BE KEPT IN VEHICLE; PROVIDING FOR PENALTY AND PROVIDING DEFINITIONS; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

Whereas, the voters of the State of Nevada approved Initiate Petition 2 at the November 2016 General Election thereby legalizing the possession and use of recreational marijuana in Nevada;

Whereas, the Nevada Legislature has codified the Regulation and Taxation of Marijuana Act in Chapter 453D of the Nevada Revised Statutes;

Whereas, impaired driving remains a public safety issue in Lyon County, Nevada;

Whereas, law enforcement must be able to enforce impaired driving laws in a reasonable manner and reasonable regulation of the possession and consumption of marijuana in motor vehicles on highways will assist law enforcement agencies in doing so;

Whereas, Lyon County Code and Nevada Revised Statutes make it illegal to consume or possess an open alcohol container in a vehicle under certain conditions, and a similar rule should apply to marijuana in vehicles on highways;

Whereas, the states of Colorado and Washington have enacted provisions making consuming or possessing marijuana in a vehicle illegal;

Whereas, the Board of County Commissioners is authorized to address matters of local concern; and,

Whereas, NRS 244.357 allows the County to enact and enforce local police ordinances related to traffic within the unincorporated area of Lyon County.

THE BOARD OF COUNTY COMMISSIONERS OF LYON COUNTY, NEVADA  
DOES HEREBY ORDAIN:

Section 1. Title 8, Chapter 3, Section 14, is hereby added to read as follows:

8.03.14: Unlawful to Possess or Consume marijuana in vehicle on highway—Penalty, exceptions; definitions.

It is unlawful:

(A) For the registered owner of a motor vehicle, or the driver if the registered owner is not then present, or passengers in the vehicle, to keep marijuana or used marijuana paraphernalia in a motor vehicle when the vehicle is upon a highway, unless it is:

(1) In the trunk of the vehicle,

(2) In some other area of the vehicle not normally occupied or directly accessible by the driver or passengers if the vehicle does not have a trunk or in a locked container not readily accessible;

(3) In a package, container, or receptacle that has not been opened or the seal broken or contents partially removed. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers;

(B) To consume marijuana in any manner including, but not limited to, smoking or ingesting in a motor vehicle when the vehicle is upon the public highway; or

(C) To place marijuana in a container specifically labeled by the manufacturer of the container as containing a nonmarijuana substance and to then violate Paragraph (A) of this subsection.

(D) There is a rebuttable presumption that it is a violation of this Section if the original container of marijuana is incorrectly labeled and there is a subsequent violation of Paragraph (A) of this subsection.

(E) As used in this section, "marijuana" or "marihuana" means all parts of the plant 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. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(F) As used in this section, “highway” means the entire width between the boundary lines of every way dedicated to a public authority when any part of the way is open to the use of the public for purposes of vehicular traffic, whether or not the public authority is maintaining the way.

(G) As used in this section, “locked container” means a secure container that is fully enclosed and locked by a padlock, key lock, combination lock or similar locking devices (excludes center consoles);

(G) Any violation of this Section is a misdemeanor, except for Section 3(B) which is punished as provided in NRS 453D.400(2).

SECTION 4. If any section, paragraph, sentence or phrase of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION 5. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Lyon County Code in conflict herewith are hereby repealed.

SECTION 6. This ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

PROPOSED THIS 4th day of May, 2017.

PROPOSED BY Commissioner Alt

PASSED on the 1<sup>st</sup> day of June, 2017.

AYES: Alt, Grey, Hastings, Hunewill, Mortensent

NAYS: 0

ABSENT: 0

ABSTENTIONS: 0

BOARD OF LYON COUNTY

COMMISSIONERS

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CHAIRMAN

Attest:

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County Clerk

THIS ORDINANCE shall be in full force and effect from and after the 16<sup>th</sup> day of June, 2017.