

Amendment No. 140

Senate Amendment to Senate Bill No. 302	(BDR 40-545)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 302 (§§ 17, 18).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of *green bold underlining* is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) *orange double underlining* is deleted language in the original bill proposed to be retained in this amendment.

AAK/BJE



Date: 4/24/2017

S.B. No. 302—Provides an early start for recreational marijuana sales.
(BDR 40-545)



SENATE BILL NO. 302—SENATORS SEGERBLOM, FARLEY, SPEARMAN AND CANCELA

MARCH 17, 2017

JOINT SPONSORS: ASSEMBLYMEN YEAGER AND BROOKS

Referred to Committee on Judiciary

SUMMARY—Provides an early start for recreational marijuana sales.
(BDR 40-545)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to marijuana; authorizing the sale of marijuana by certain establishments for purposes other than medical use for a limited period of time; imposing taxes; revising existing taxes for sales of marijuana for medical purposes; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law exempts a person who holds a valid registry identification card from state prosecution for the purchase, possession, use, delivery and production of marijuana. (NRS 453A.200) Existing law also exempts a person who holds a valid medical marijuana establishment registration certificate or medical marijuana establishment agent registration card from state prosecution for the sale, possession, delivery and production of marijuana and provides for the registration and regulation of such establishments. (NRS 453A.200, 453A.320-453A.370)

Pursuant to an initiative petition approved by the voters at the 2016 General Election (Ballot Question No. 2; chapter 453D of NRS), the purchase, possession and use of marijuana and marijuana paraphernalia for persons who are 21 years of age or older have generally been made lawful in this State effective on January 1, 2017. (NRS 453D.100, 453D.110, 453D.130) The initiative petition also provides for the licensing and regulation of facilities for the cultivation, testing, distribution, manufacturing and retail sale of marijuana and marijuana products, in accordance with regulations to be adopted by the Department of Taxation on or before January 1, 2018. (NRS 453D.200, 453D.210)

Section 1 of this bill exempts from state prosecution for certain crimes relating to marijuana a medical marijuana dispensary which sells marijuana, concentrated cannabis, edible marijuana products, marijuana-infused products and related supplies and educational materials to a person who is 21 years of age or older during the period of time between the effective date of this bill and the date upon which the Department of Taxation issues the first license to a marijuana establishment pursuant to the initiative petition for the retail sale of marijuana and marijuana products. **Section 1** prohibits a medical marijuana dispensary from selling to such a person an amount of marijuana or concentrated cannabis which would exceed the amount decriminalized by the initiative petition. **Section 1 requires a medical marijuana dispensary to comply with all local ordinances and rules pertaining to zoning and land**

use for such sales. Sections 2-7 of this bill make conforming changes to provide for such sales by medical marijuana dispensaries.

Section 1 also requires the Division of Public and Behavioral Health of the Department of Health and Human Services to adopt regulations as it determines necessary or advisable to provide for such sales by medical marijuana dispensaries. **Section 24** of this bill deems existing regulations relating to medical marijuana establishments to apply to sales of marijuana authorized by **section 1**. ~~[Section 9 of this bill excludes a regulation adopted pursuant to section 1 or 24 from the requirements of the Nevada Administrative Procedure Act that would otherwise apply to such a regulation.]~~ **Section 24 also provides that a regulation of the Division or the Department of Taxation to carry out the provisions of this bill relating to such sales need not comply with the requirements of the Nevada Administrative Procedure Act, may be adopted and become effective immediately upon filing in the Office of the Secretary of State and must expire by limitation on or before the date on which the first license is issued by the Department of Taxation to a marijuana establishment.**

Existing law imposes excise taxes at the rate of 2 percent upon each wholesale sale of marijuana by a cultivation facility, each wholesale sale of edible marijuana products or marijuana-infused products by a facility for the production of edible marijuana products or marijuana-infused products and each retail sale of marijuana, edible marijuana products or marijuana-infused products by a medical marijuana dispensary. (NRS 372A.290) Existing law distributes 75 percent of the proceeds of these excise taxes to the State Distributive School Account in the State General Fund and 25 percent to be expended to pay the costs of the Division of Public and Behavioral Health of the Department of Health and Human Services in carrying out the laws of this State relating to medical marijuana establishments. (NRS 372A.290) **Sections 17 and 18** of this bill eliminate these excise taxes on wholesale sales by cultivation facilities and facilities for the production of edible marijuana products and marijuana-infused products and increase the excise tax on retail sales by medical marijuana dispensaries from 2 percent to 5 percent. **Sections 9-16 and 19-23** of this bill make conforming changes. Additionally, **section 17** imposes upon each retail sale pursuant to **section 1** an excise tax at the rate of 15 percent of the sales price to be deposited in the State Distributive School Account in the State General Fund. **Section 18** also imposes upon each retail sale of marijuana or marijuana products by a retail marijuana store an excise tax at the rate of 15 percent of the sales price of the marijuana or product, two-thirds of which is to be deposited in the State Distributive School Account in the State General Fund and one-third of which is to be deposited in the Local Government Tax Distribution Account for distribution to the local government in which the tax was paid.

WHEREAS, Ballot Question No. 2, an initiative petition approved by the voters at the 2016 General Election, generally decriminalized the purchase, possession and use of marijuana and marijuana paraphernalia in this State effective on January 1, 2017; and

WHEREAS, The initiative petition also provided for the licensing and regulation of facilities for the cultivation, testing, distribution, manufacturing and retail sale of marijuana and marijuana products, in accordance with regulations to be adopted by the Department of Taxation on or before January 1, 2018; and

WHEREAS, The potential delay of 1 year or more between the decriminalization of the possession and use of marijuana and marijuana paraphernalia and the licensing and commencement of operation of facilities for the retail sale of marijuana and marijuana products creates the potential for black market and other illegal sales of marijuana that would severely threaten public safety, creates difficulties for law enforcement and threatens the effectiveness of the overall system for the regulation of marijuana approved by the voters; and

WHEREAS, The Nevada Legislature finds and declares that it has an obligation to exercise the legislative authority vested in it by the Nevada Constitution to

address this issue in a manner that supplements, but does not supplant or conflict with, the initiative petition approved by the voters; and

WHEREAS, The State of Oregon, when confronted with a similar issue after a ballot measure decriminalized the possession and use of marijuana but did not provide for retail sales of marijuana until a later date, responded by authorizing its existing regulated and licensed medical marijuana dispensaries to engage in the retail sale of marijuana to persons who were 21 years of age or older during the period of time between decriminalization and the licensing of facilities for retail sale; and

WHEREAS, The Nevada Legislature finds and declares that a similar approach which authorizes existing medical marijuana dispensaries regulated by the Division of Public and Behavioral Health of the Department of Health and Human Services to temporarily sell to persons who are 21 years of age or older, in addition to holders of registry identification cards or letters of approval, would reduce the potential for harmful and dangerous black market sales of marijuana and safeguard the residents of this State during the period of time before the Department of Taxation begins to license and regulate facilities relating to marijuana pursuant to Ballot Question No. 2, the initiative petition approved by the voters at the 2016 General Election, yet not interfere with the system approved by the voters in that initiative petition; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 453A of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Legislature hereby finds and declares that:

(a) The provisions of this section exercise the legislative authority vested in the Legislature by the Nevada Constitution to implement provisions relating to the recreational sale of marijuana in a manner that supplements, but does not supplant or conflict with, the initiative petition approved by the voters on the subject; and

(b) The provisions of this section are necessary to address a period of time for which the initiative petition approved by the voters was silent in a manner that avoids the creation of a black market which threatens the health and safety of the residents of this State.

2. On and after the effective date of this act and until the date upon which the Department of Taxation issues the first license to a marijuana establishment pursuant to NRS 453D.210 and except as otherwise provided in subsection 4 ~~4~~ or 5:

(a) A medical marijuana dispensary which sells marijuana, concentrated cannabis, edible marijuana products, marijuana-infused products and related supplies and educational materials to a person who is 21 years of age or older is exempt from state prosecution for:

(1) Possession, delivery or production of marijuana;

(2) Possession or delivery of paraphernalia;

(3) Aiding and abetting another in the possession, delivery or production of marijuana;

(4) Aiding and abetting another in the possession or delivery of paraphernalia;

(5) Any combination of the acts described in subparagraphs (1) to (4), inclusive; and

1 (6) Any other criminal offense in which the possession, delivery or
2 production of marijuana or the possession or delivery of paraphernalia is an
3 element; and

4 (b) The Division shall not prohibit a medical marijuana dispensary from
5 allowing any person who is 21 years of age or older, regardless of whether the
6 person holds a valid registry identification card, to enter the premises of the
7 medical marijuana dispensary for the purpose of purchasing marijuana,
8 concentrated cannabis, edible marijuana products, marijuana-infused products
9 and related supplies and educational materials pursuant to this section.

10 3. A medical marijuana dispensary shall not sell more than one ounce of
11 marijuana or one-eighth of an ounce of concentrated cannabis to a person
12 pursuant to this section.

13 4. A medical marijuana dispensary shall not sell marijuana, concentrated
14 cannabis, edible marijuana products, marijuana-infused products or related
15 supplies and educational materials pursuant to this section unless the medical
16 marijuana dispensary has complied with all local ordinances and rules pertaining
17 to zoning and land use.

18 5. The Division shall:

19 (a) Adopt such regulations as it determines to be necessary or advisable to
20 carry out the provisions of this section; and

21 (b) Prohibit a medical marijuana dispensary which fails to comply with the
22 provisions of this section or any regulation adopted pursuant thereto from selling
23 marijuana, concentrated cannabis, edible marijuana products, marijuana-
24 infused products and related supplies and educational materials pursuant to this
25 section.

26 ~~15.1~~ 6. As used in this section, "concentrated cannabis" has the meaning
27 ascribed to it in NRS 453.042.

28 Sec. 2. NRS 453A.115 is hereby amended to read as follows:

29 453A.115 "Medical marijuana dispensary" means a business that:

30 1. Is registered with the Division pursuant to NRS 453A.322; and

31 2. Acquires, possesses, delivers, transfers, transports, supplies, sells or
32 dispenses marijuana or related supplies and educational materials to the holder of a
33 valid registry identification card ~~or~~ **or pursuant to section 1 of this act.**

34 Sec. 3. NRS 453A.340 is hereby amended to read as follows:

35 453A.340 The following acts constitute grounds for immediate revocation of
36 a medical marijuana establishment registration certificate:

37 1. ~~{Dispensing,}~~ **Except as otherwise provided in section 1 of this act,**
38 **dispensing,** delivering or otherwise transferring marijuana to a person other than a
39 medical marijuana establishment agent, another medical marijuana establishment or
40 a person who holds a valid registry identification card, including, without
41 limitation, a designated primary caregiver.

42 2. Acquiring usable marijuana or mature marijuana plants from any person
43 other than a medical marijuana establishment agent, another medical marijuana
44 establishment or a person who holds a valid registry identification card, including,
45 without limitation, a designated primary caregiver.

46 3. Violating a regulation of the Division, the violation of which is stated to be
47 grounds for immediate revocation of a medical marijuana establishment registration
48 certificate.

49 4. **Violating section 1 of this act or any regulation adopted pursuant thereto.**

50 5. Failure to pay a fee imposed pursuant to NRS 453A.330.

1 **Sec. 4.** NRS 453A.342 is hereby amended to read as follows:
2 453A.342 The following acts constitute grounds for the immediate revocation
3 of the medical marijuana establishment agent registration card of a medical
4 marijuana establishment agent:

5 1. Having committed or committing any excluded felony offense.
6 2. ~~Dispensing.~~ *Except as otherwise provided in section 1 of this act,*
7 *dispensing,* delivering or otherwise transferring marijuana to a person other than a
8 medical marijuana establishment agent, another medical marijuana establishment or
9 a person who holds a valid registry identification card, including, without
10 limitation, a designated primary caregiver.

11 3. Violating a regulation of the Division, the violation of which is stated to be
12 grounds for immediate revocation of a medical marijuana establishment agent
13 registration card.

14 4. *Violating section 1 of this act or any regulation adopted pursuant thereto.*

15 **Sec. 5.** NRS 453A.352 is hereby amended to read as follows:

16 453A.352 1. The operating documents of a medical marijuana establishment
17 must include procedures:

18 (a) For the oversight of the medical marijuana establishment; and
19 (b) To ensure accurate recordkeeping, including, without limitation, the
20 provisions of NRS 453A.354 and 453A.356.

21 2. Except as otherwise provided in this subsection, a medical marijuana
22 establishment:

23 (a) That is a medical marijuana dispensary must have a single entrance for
24 patrons, which must be secure, and shall implement strict security measures to deter
25 and prevent the theft of marijuana and unauthorized entrance into areas containing
26 marijuana.

27 (b) That is not a medical marijuana dispensary must have a single secure
28 entrance and shall implement strict security measures to deter and prevent the theft
29 of marijuana and unauthorized entrance into areas containing marijuana.

30 ➤ The provisions of this subsection do not supersede any state or local
31 requirements relating to minimum numbers of points of entry or exit, or any state or
32 local requirements relating to fire safety.

33 3. ~~It is~~ *Except as otherwise provided in section 1 of this act, a* medical
34 marijuana establishment is prohibited from acquiring, possessing, cultivating,
35 manufacturing, delivering, transferring, transporting, supplying or dispensing
36 marijuana for any purpose except to:

37 (a) Directly or indirectly assist patients who possess valid registry
38 identification cards; and

39 (b) Assist patients who possess valid registry identification cards or letters of
40 approval by way of those patients' designated primary caregivers.

41 ➤ For the purposes of this subsection, a person shall be deemed to be a patient who
42 possesses a valid registry identification card or letter of approval if he or she
43 qualifies for nonresident reciprocity pursuant to NRS 453A.364.

44 4. All cultivation or production of marijuana that a cultivation facility carries
45 out or causes to be carried out must take place in an enclosed, locked facility at the
46 physical address provided to the Division during the registration process for the
47 cultivation facility. Such an enclosed, locked facility must be accessible only by
48 medical marijuana establishment agents who are lawfully associated with the
49 cultivation facility, except that limited access by persons necessary to perform
50 construction or repairs or provide other labor is permissible if such persons are
51 supervised by a medical marijuana establishment agent.

52 5. A medical marijuana dispensary and a cultivation facility may acquire
53 usable marijuana or marijuana plants from a person who holds a valid registry

1 identification card, including, without limitation, a designated primary caregiver.
2 Except as otherwise provided in this subsection, the patient or caregiver, as
3 applicable, must receive no compensation for the marijuana. A patient who holds a
4 valid registry identification card, and the designated primary caregiver of such a
5 patient, or the designated primary caregiver of a person who holds a letter of
6 approval may sell usable marijuana to a medical marijuana dispensary one time and
7 may sell marijuana plants to a cultivation facility one time.

8 6. A medical marijuana establishment shall not allow any person to consume
9 marijuana on the property or premises of the establishment.

10 7. *Except as otherwise provided in NRS 453A.354 or 453A.356, a medical*
11 *marijuana establishment shall, within 48 hours after gathering such information,*
12 *destroy any personal identifying information of a customer, including, without*
13 *limitation, the name, address or date of birth of the customer, which was gathered*
14 *for marketing purposes.*

15 8. Medical marijuana establishments are subject to reasonable inspection by
16 the Division at any time, and a person who holds a medical marijuana establishment
17 registration certificate must make himself or herself, or a designee thereof,
18 available and present for any inspection by the Division of the establishment.

19 **Sec. 6.** NRS 453A.354 is hereby amended to read as follows:

20 453A.354 1. Each medical marijuana establishment, in consultation with the
21 Division, shall maintain an electronic verification system.

22 2. The electronic verification system required pursuant to subsection 1 must
23 be able to monitor and report information, including, without limitation:

24 (a) In the case of a medical marijuana dispensary, for each person who holds a
25 valid registry identification card and who purchased marijuana from the dispensary
26 in the immediately preceding 60-day period:

27 (1) The number of the card;

28 (2) The date on which the card was issued; and

29 (3) The date on which the card will expire.

30 (b) For each medical marijuana establishment agent who is employed by or
31 volunteers at the medical marijuana establishment, the number of the person's
32 medical marijuana establishment agent registration card.

33 (c) In the case of a medical marijuana dispensary, such information as may be
34 required by the Division by regulation regarding persons who are not residents of
35 this State and who have purchased marijuana from the dispensary.

36 (d) Verification of the identity of a person *who holds a registry identification*
37 *card or a medical marijuana establishment registration certificate* to whom
38 marijuana, edible marijuana products or marijuana-infused products are sold or
39 otherwise distributed.

40 (e) Such other information as the Division may require.

41 3. Nothing in this section prohibits more than one medical marijuana
42 establishment from co-owning an electronic verification system in cooperation with
43 other medical marijuana establishments, or sharing the information obtained
44 therefrom.

45 4. A medical marijuana establishment must exercise reasonable care to ensure
46 that the personal identifying information of persons who hold registry identification
47 cards which is contained in an electronic verification system is encrypted, protected
48 and not divulged for any purpose not specifically authorized by law.

49 **Sec. 7.** NRS 453A.356 is hereby amended to read as follows:

50 453A.356 1. Each medical marijuana establishment, in consultation with the
51 Division, shall maintain an inventory control system.

52 2. The inventory control system required pursuant to subsection 1 must be
53 able to monitor and report information, including, without limitation:

(a) Insofar as is practicable, the chain of custody and current whereabouts, in real time, of medical marijuana from the point that it is harvested at a cultivation facility until it is sold at a medical marijuana dispensary and, if applicable, if it is processed at a facility for the production of edible marijuana products or marijuana-infused products;

(b) The name of each person or other medical marijuana establishment, or both, to which the establishment sold marijuana;

(c) In the case of a medical marijuana dispensary, the date on which it sold marijuana to a person who holds a registry identification card *or who purchases marijuana pursuant to section 1 of this act* and, if any, the quantity of edible marijuana products or marijuana-infused products sold, measured both by weight and potency; and

(d) Such other information as the Division may require.

3. Nothing in this section prohibits more than one medical marijuana establishment from co-owning an inventory control system in cooperation with other medical marijuana establishments, or sharing the information obtained therefrom.

4. A medical marijuana establishment must exercise reasonable care to ensure that the personal identifying information of persons who hold registry identification cards *and of persons who purchase marijuana pursuant to section 1 of this act* which is contained in an inventory control system is encrypted, protected and not divulged for any purpose not specifically authorized by law.

Sec. 8. ~~INRS 233B.038 is hereby amended to read as follows:~~

~~233B.038 1. "Regulation" means:~~

~~(a) An agency rule, standard, directive or statement of general applicability which effectuates or interprets law or policy, or describes the organization, procedure or practice requirements of any agency;~~

~~(b) A proposed regulation;~~

~~(c) The amendment or repeal of a prior regulation; and~~

~~(d) The general application by an agency of a written policy, interpretation, process or procedure to determine whether a person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest.~~

~~2. The term does not include:~~

~~(a) A statement concerning only the internal management of an agency and not affecting private rights or procedures available to the public;~~

~~(b) A declaratory ruling;~~

~~(c) An intraagency memorandum;~~

~~(d) A manual of internal policies and procedures or audit procedures of an agency which is used solely to train or provide guidance to employees of the agency and which is not used as authority in a contested case to determine whether a person is in compliance with a federal or state statute or regulation;~~

~~(e) An agency decision or finding in a contested case;~~

~~(f) An advisory opinion issued by an agency that is not of general applicability;~~

~~(g) A published opinion of the Attorney General;~~

~~(h) An interpretation of an agency that has statutory authority to issue interpretations;~~

~~(i) Letters of approval, concurrence or disapproval issued in relation to a permit for a specific project or activity;~~

~~(j) A contract or agreement into which an agency has entered;~~

~~(k) The provisions of a federal law, regulation or guideline;~~

~~(l) An emergency action taken by an agency that is necessary to protect public health and safety;~~

~~(m) The application by an agency of a policy, interpretation, process or procedure to a person who has sufficient prior actual notice of the policy, interpretation, process or procedure to determine whether the person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest;~~

~~(n) A regulation concerning the use of public roads or facilities which is indicated to the public by means of signs, signals and other traffic control devices that conform with the manual and specifications for a uniform system of official traffic control devices adopted pursuant to NRS 484A.420;~~

~~(o) The classification of wildlife or the designation of seasons for hunting, fishing or trapping by regulation of the Board of Wildlife Commissioners pursuant to the provisions of title 45 of NRS; ~~for~~~~

~~(p) A technical bulletin prepared pursuant to NRS 260.122 ~~for~~ or~~

~~(q) A regulation adopted by the Division of Public and Behavioral Health of the Department of Health and Human Services or the Department of Taxation pursuant to section 1 or 24 of this act. **(Deleted by amendment.)**~~

Sec. 9. Chapter 372A of NRS is hereby amended by adding thereto the provisions set forth as sections 10 and 11 of this act.

Sec. 10. *"Retail marijuana store" has the meaning ascribed to it in NRS 453D.030.*

Sec. 11. 1. *"Sales price" means the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:*

(a) The cost of the property sold.

(b) The cost of materials used, labor or service cost, interest charged, losses or any other expenses.

(c) The cost of transportation of the property before its purchase.

2. *The total amount for which property is sold includes all of the following:*

(a) Any services that are a part of the sale.

(b) Any amount for which credit is given to the purchaser by the seller.

3. *"Sales price" does not include any of the following:*

(a) Cash discounts allowed and taken on sales.

(b) The amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or credit, except that this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The amount of any tax, not including any manufacturers' or importers' excise tax, imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

Sec. 12. NRS 372A.200 is hereby amended to read as follows:

372A.200 As used in NRS 372A.200 to 372A.380, inclusive, *and sections 10 and 11 of this act*, unless the context otherwise requires, the words and terms defined in NRS 372A.210 to 372A.250, inclusive, *and sections 10 and 11 of this act* have the meanings ascribed to them in those sections.

Sec. 13. NRS 372A.220 is hereby amended to read as follows:

372A.220 "Excise tax on ~~medical~~ marijuana" means any of the excise taxes imposed by NRS 372A.200.

Sec. 14. NRS 372A.250 is hereby amended to read as follows:

372A.250 "Taxpayer" means a:

1. Cultivation facility;

2. Facility for the production of edible marijuana products or marijuana-infused products; ~~for~~

3. Medical marijuana dispensary ~~HH~~ ; or

4. *Retail marijuana store.*

Sec. 15. NRS 372A.260 is hereby amended to read as follows:

372A.260 The provisions of chapter 360 of NRS relating to the payment, collection, administration and enforcement of taxes, including, without limitation, any provisions relating to the imposition of penalties and interest, shall be deemed to apply to the payment, collection, administration and enforcement of the excise tax on ~~medical~~ marijuana to the extent that those provisions do not conflict with the provisions of NRS 372A.200 to 372A.380, inclusive ~~HH~~ , and *sections 10 and 11 of this act.*

Sec. 16. NRS 372A.280 is hereby amended to read as follows:

372A.280 1. To verify the accuracy of any return filed by a taxpayer or, if no return is filed, to determine the amount required to be paid, the Department, or any person authorized in writing by the Department, may examine the books, papers and records of any person who may be liable for the excise tax on ~~medical~~ marijuana.

2. Any person who may be liable for the excise tax on ~~medical~~ marijuana and who keeps outside of this State any books, papers and records relating thereto shall pay to the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the State for each day or fraction thereof during which an employee of the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while he or she is absent from his or her regular place of employment to examine those documents.

Sec. 17. NRS 372A.290 is hereby amended to read as follows:

372A.290 1. ~~An excise tax is hereby imposed on each wholesale sale in this State of marijuana by a cultivation facility to another medical marijuana establishment at the rate of 2 percent of the sales price of the marijuana. The excise tax imposed pursuant to this subsection is the obligation of the cultivation facility.~~

~~2. An excise tax is hereby imposed on each wholesale sale in this State of edible marijuana products or marijuana-infused products by a facility for the production of edible marijuana products or marijuana-infused products to another medical marijuana establishment at the rate of 2 percent of the sales price of those products. The excise tax imposed pursuant to this subsection is the obligation of the facility for the production of edible marijuana products or marijuana-infused products which sells the edible marijuana products or marijuana-infused products to the other medical marijuana establishment.~~

~~3. An~~ *Except as otherwise provided in this subsection, an* excise tax is hereby imposed on each retail sale in this State of marijuana, *concentrated cannabis*, edible marijuana products or marijuana-infused products by a medical marijuana dispensary at the rate of ~~HH~~ 5 percent of the sales price of the marijuana, *concentrated cannabis*, edible marijuana products or marijuana-infused products. The excise tax imposed pursuant to this subsection:

(a) Is the obligation of the medical marijuana dispensary ~~HH~~ ;

(b) Is separate from and in addition to any general state and local sales and use taxes that apply to retail sales of tangible personal property ~~HH~~ ;

(c) Must be considered part of the total retail price to which general state and local sales and use taxes apply ~~HH~~ ;

~~4~~ ; and

(d) Does not apply to any sale of marijuana, concentrated cannabis, edible marijuana products or marijuana-infused products by a medical marijuana dispensary pursuant to section 1 of this act.

2. *An excise tax is hereby imposed on each retail sale in this State of marijuana, concentrated cannabis, edible marijuana products or marijuana-infused products by a medical marijuana dispensary pursuant to section 1 of this act at the rate of 15 percent of the sales price of the marijuana, concentrated cannabis, edible marijuana products or marijuana-infused products. The excise tax imposed pursuant to this subsection:*

- (a) *Is the obligation of the medical marijuana dispensary;*
- (b) *Is separate from and in addition to any general state and local sales and use taxes that apply to retail sales of tangible personal property; and*
- (c) *Must be considered part of the total retail price to which general state and local sales and use taxes apply.*

3. The revenues collected from the excise ~~taxes~~ tax imposed pursuant to ~~subsections~~ subsection 1 ~~1, 2 and 3~~ must be distributed as follows:

(a) Seventy-five percent must be paid over as collected to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.

(b) Twenty-five percent must be expended to pay the costs of the Division of Public and Behavioral Health of the Department of Health and Human Services in carrying out the provisions of NRS 453A.320 to 453A.370, inclusive.

4. *The revenues collected from the excise tax imposed pursuant to subsection 2 must be paid over as collected to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.*

5. As used in this section:

(a) *“Concentrated cannabis” has the meaning ascribed to it in NRS 453.042.*

(b) “Edible marijuana products” has the meaning ascribed to it in NRS 453A.101.

~~(b)~~ (c) “Marijuana-infused products” has the meaning ascribed to it in NRS 453A.112.

~~(e) (d) “Medical marijuana establishment” has the meaning ascribed to it in NRS 453A.116.~~

Sec. 18. NRS 372A.290 is hereby amended to read as follows:

372A.290 1. Except as otherwise provided in this subsection, an excise tax is hereby imposed on each retail sale in this State of marijuana, concentrated cannabis, edible marijuana products or marijuana-infused products by a medical marijuana dispensary at the rate of 5 percent of the sales price of the marijuana, concentrated cannabis, edible marijuana products or marijuana-infused products. The excise tax imposed pursuant to this subsection:

- (a) Is the obligation of the medical marijuana dispensary;
- (b) Is separate from and in addition to any general state and local sales and use taxes that apply to retail sales of tangible personal property; *and*
- (c) Must be considered part of the total retail price to which general state and local sales and use taxes apply. ~~1 and~~

~~(d) Does not apply to any sale of marijuana, concentrated cannabis, edible marijuana products or marijuana-infused products by a medical marijuana dispensary pursuant to section 1 of this act.~~

2. An excise tax is hereby imposed on each retail sale in this State of marijuana ~~1, concentrated cannabis, edible~~ or marijuana products ~~for marijuana-infused products~~ *as defined in NRS 453D.030*, by a ~~medical marijuana dispensary pursuant to section 1 of this act~~ *retail marijuana store* at the rate of 15 percent of the sales price of the marijuana ~~1, concentrated cannabis, edible~~ or marijuana products. ~~for marijuana-infused products.~~ The excise tax imposed pursuant to this subsection:

(a) Is the obligation of the ~~medical marijuana dispensary;~~ retail marijuana store;

(b) Is separate from and in addition to any general state and local sales and use taxes that apply to retail sales of tangible personal property; and

(c) Must be considered part of the total retail price to which general state and local sales and use taxes apply.

3. The revenues collected from the excise tax imposed pursuant to subsection 1 must be distributed as follows:

(a) Seventy-five percent must be paid over as collected to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.

(b) Twenty-five percent must be expended to pay the costs of the Division of Public and Behavioral Health of the Department of Health and Human Services in carrying out the provisions of NRS 453A.320 to 453A.370, inclusive.

4. The revenues collected from the excise tax imposed pursuant to subsection 2 must be *distributed as follows:*

(a) Sixty-six and two-thirds percent must be paid over as collected to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.

(b) Thirty-three and one-third percent must be deposited in the Local Government Tax Distribution Account created by NRS 360.660 for distribution to local governments in an amount for each local government based on the tax paid within each local government.

5. As used in this section:

(a) "Concentrated cannabis" has the meaning ascribed to it in NRS 453.042.

(b) "Edible marijuana products" has the meaning ascribed to it in NRS 453A.101.

(c) *"Local government" has the meaning ascribed to it in NRS 360.640.*

(d) "Marijuana-infused products" has the meaning ascribed to it in NRS 453A.112.

~~(d)~~ *(e) "Medical marijuana establishment" has the meaning ascribed to it in NRS 453A.116.*

~~(f)~~ *"Retail marijuana store" has the meaning ascribed to it in NRS 453D.030.*

Sec. 19. NRS 372A.300 is hereby amended to read as follows:

372A.300 If the Department determines that the excise tax on ~~medical~~ marijuana or any penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the Department shall set forth that fact in the records of the Department and certify to the State Board of Examiners the amount collected in excess of the amount legally due and the person from whom it was collected or by whom it was paid. If approved by the State Board of Examiners, the excess amount collected or paid must, after being credited against any amount then due from the person in accordance with NRS 360.236, be refunded to the person or his or her successors in interest.

Sec. 20. NRS 372A.310 is hereby amended to read as follows:

372A.310 1. Except as otherwise provided in NRS 360.235 and 360.395:

(a) No refund of the excise tax on ~~medical~~ marijuana may be allowed unless a claim for refund is filed with the Department within 3 years after the last day of the month following the month for which the overpayment was made.

(b) No credit may be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Department within that period.

2. Each claim must be in writing and must state the specific grounds upon which the claim is founded.

3. The failure to file a claim within the time prescribed in subsection 1 constitutes a waiver of any demand against the State on account of any overpayment.

Sec. 21. NRS 372A.320 is hereby amended to read as follows:

372A.320 1. Except as otherwise provided in subsection 2, NRS 360.320 or any other specific statute, interest must be paid upon any overpayment of the excise tax on ~~medical~~ marijuana at the rate set forth in, and in accordance with the provisions of, NRS 360.2937.

2. If the Department determines that any overpayment has been made intentionally or by reason of carelessness, the Department shall not allow any interest on the overpayment.

Sec. 22. NRS 372A.360 is hereby amended to read as follows:

372A.360 1. No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this State or against any officer of the State to prevent or enjoin the collection of the excise tax on ~~medical~~ marijuana or any amount of tax, penalty or interest required to be collected.

2. No suit or proceeding, including, without limitation, a proceeding for judicial review, may be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been filed within the time prescribed in NRS 372A.310.

Sec. 23. NRS 372A.370 is hereby amended to read as follows:

372A.370 1. A person shall not, with intent to defraud the State or evade payment of the excise tax on ~~medical~~ marijuana or any part of the tax:

(a) Make, cause to be made or permit to be made any false or fraudulent return or declaration or false statement in any return or declaration.

(b) Make, cause to be made or permit to be made any false entry in books, records or accounts.

(c) Keep, cause to be kept or permit to be kept more than one set of books, records or accounts.

2. Any person who violates the provisions of subsection 1 is guilty of a gross misdemeanor.

Sec. 24. 1. Any regulations adopted by the Division of Public and Behavioral Health of the Department of Health and Human Services ~~for the Department of Taxation~~ which apply to medical marijuana establishments on the effective date of this act ~~remain in force and shall be deemed to~~ apply to sales made by medical marijuana establishments pursuant to section 1 of this act. ~~Any provision of section 1 of this act which~~ If any provision of such regulations conflicts with any provision of [such regulations] section 1 of this act, the provision of section 1 of this act prevails to the extent of the conflict.

2. Any regulations adopted by the Department of Taxation which apply to the imposition of an excise tax on marijuana, edible marijuana products or marijuana-infused products by a medical marijuana establishment on the effective date of this act apply to sales made by medical marijuana establishments pursuant to section 1 of this act. If any provision of such regulations conflicts with any provision of section 1 or 17 of this act, the provision of section 1 or 17 of this act prevails to the extent of the conflict.

3. The Division of Public and Behavioral Health of the Department of Health and Human Services ~~for~~ and the Department of Taxation may adopt regulations to carry out the provisions of this section.

1 4. Notwithstanding any provision of chapter 233B of NRS to the
2 contrary, a regulation of the Division of Public and Behavioral Health of the
3 Department of Health and Human Services pursuant to section 1 of this act or
4 of the Division or the Department of Taxation pursuant to subsection 3:

5 (a) Need not comply with any provision of chapter 233B of NRS;

6 (b) May be adopted and become effective immediately upon its being filed
7 in the Office of the Secretary of State; and

8 (c) Must expire by limitation on or before the date on which the
9 Department of Taxation issues the first license to a marijuana establishment
10 pursuant to NRS 453D.210.

11 **Sec. 25.** 1. Immediately upon issuance of the first license to a marijuana
12 establishment pursuant to NRS 453D.210, the Executive Director of the
13 Department of Taxation shall provide written notice to the Governor.

14 2. Upon receipt of notice from the Department of Taxation of the issuance of
15 the first license to a marijuana establishment pursuant to NRS 453D.210, the
16 Governor shall issue a public proclamation to that effect.

17 **Sec. 26.** 1. This section and sections 1 to 17, inclusive, and 19 to 25,
18 inclusive, of this act become effective upon passage and approval.

19 2. Sections 1 to 8, inclusive, and 24 of this act expire by limitation on the date
20 on which the Department of Taxation issues the first license to a marijuana
21 establishment pursuant to NRS 453D.210.

22 3. Section 18 of this act becomes effective on the date on which the
23 Department of Taxation issues the first license to a marijuana establishment
24 pursuant to NRS 453D.210.