

SENATE BILL NO. 487—COMMITTEE ON REVENUE
AND ECONOMIC DEVELOPMENT

MARCH 27, 2017

Referred to Committee on Revenue and
Economic Development

SUMMARY—Imposes an excise tax on sales of marijuana and related products by a retail marijuana store. (BDR 32-818)

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; imposing an excise tax on sales of marijuana and related products by a retail marijuana store; distributing the money raised by the excise tax to cities and counties; establishing limitations on the use of the proceeds of the excise tax by a city or county; requiring the creation of an advisory committee on mental health and substance abuse issues in each county; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes an excise tax 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 also imposes an excise tax at the rate of 15 percent upon each wholesale sale of marijuana by a marijuana cultivation facility. (NRS 453D.500) **Section 9** of this bill imposes upon retail sales of marijuana or marijuana products by a retail marijuana store an excise tax at the rate of 10 percent of the sales price of the marijuana or product. **Sections 1-8 and 10-14** of this bill make conforming changes.

Existing law distributes 75 percent of the proceeds of the excise taxes on medical marijuana establishments to the State Distributive School Account in the State General Fund and 25 percent 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.



* S B 4 8 7 *

17 (NRS 372A.290) Existing law also distributes the proceeds of the excise tax on
18 marijuana cultivation facilities to the Department of Taxation and each locality to
19 pay for the costs of carrying out the laws of this State relating to recreational
20 marijuana establishments, with any remainder to be deposited in the State
21 Distributive School Account in the State General Fund. (NRS 453D.510) **Section 9**
22 of this bill distributes 50 percent of the proceeds of the excise tax on retail
23 marijuana stores, without regard to the location of the stores, as follows: (1) 20
24 percent to the Increased Access to Mental Health and Substance Abuse Treatment
25 Account created by **section 19** of this bill; and (2) 30 percent to the State
26 Distributive School Account in the State General Fund. The distribution of the
27 remaining 50 percent of the proceeds is based upon the location of the business as
28 follows: (1) for a retail marijuana store located in the unincorporated area of a
29 county, 50 percent to the county; and (2) for a retail marijuana store located in an
30 incorporated city, 15 percent to the incorporated city and 35 percent to the county
31 in which the city is located. **Sections 16 and 18** of this bill establish the purposes
32 for which a city or county may use the money received from the excise tax on retail
33 marijuana stores. **Section 17** of this bill requires each county to create an advisory
34 committee on mental health and substance abuse issues which is required to make
35 recommendations regarding the use of the money. **Section 19** of this bill creates the
36 Increased Access to Mental Health and Substance Abuse Treatment Account in the
37 State General Fund and requires any claim against the Account to be approved by
38 the Administrator of the Division of Public and Behavioral Health of the
39 Department of Health and Human Services before payment.

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

1 **Section 1.** Chapter 372A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *“Retail marijuana store” has the meaning ascribed to*
4 *it in NRS 453D.030.*

5 **Sec. 3. 1.** *“Sales price” means the total amount for which*
6 *tangible property is sold, valued in money, whether paid in money*
7 *or otherwise, without any deduction on account of any of the*
8 *following:*

9 (a) *The cost of the property sold.*

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

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

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

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

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

19 **3.** *“Sales price” does not include any of the following:*

20 (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, 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. 4. NRS 372A.200 is hereby amended to read as follows:

372A.200 As used in NRS 372A.200 to 372A.380, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 372A.210 to 372A.250, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 5. 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.290.

Sec. 6. 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; ~~or~~
3. Medical marijuana dispensary ~~or~~ ; *or*

4. Retail marijuana store.

Sec. 7. 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 ~~or~~ , *and sections 2 and 3 of this act.*

Sec. 8. 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. 9. 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 *concentrated cannabis*, 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 *concentrated cannabis*, edible marijuana products or marijuana-infused products to the other medical marijuana establishment.

3. 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 2 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.

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

4. *An excise tax is hereby imposed on each retail sale in this State of marijuana or marijuana products as defined in NRS 453D.030 by a retail marijuana store at the rate of 10 percent of the sales price of the marijuana or marijuana products. The excise tax imposed pursuant to this subsection:*

(a) Is the obligation of the 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.

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



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

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

6 (b) Twenty-five percent must be expended to pay the costs of
7 the Division of Public and Behavioral Health of the Department of
8 Health and Human Services in carrying out the provisions of NRS
9 453A.320 to 453A.370, inclusive.

10 ~~15.1~~ **6.** *The revenues collected from the excise tax imposed*
11 *pursuant to subsection 4 must be distributed as follows:*

12 (a) *Twenty percent must be paid over as collected to the State*
13 *Treasurer to be deposited to the credit of the Increased Access to*
14 *Mental Health and Substance Abuse Treatment Account created*
15 *by section 19 of this act.*

16 (b) *Thirty percent must be paid over as collected to the State*
17 *Treasurer to be deposited to the credit of the State Distributive*
18 *School Account in the State General Fund.*

19 (c) *Fifty percent must be deposited in the Local Government*
20 *Tax Distribution Account created by NRS 360.660 for distribution*
21 *to local governments in an amount for each local government*
22 *based on the tax paid within each local government as follows:*

23 (1) *For any tax paid in the unincorporated area of a*
24 *county, the full amount deposited in the Local Government Tax*
25 *Distribution Account must be distributed to the county in which*
26 *the tax was paid for use as described in section 16 of this act.*

27 (2) *For any tax paid in an incorporated city:*

28 (I) *Thirty percent of the amount deposited in the Local*
29 *Government Tax Distribution Account must be distributed to the*
30 *incorporated city in which the tax was paid for use as described in*
31 *section 18 of this act; and*

32 (II) *Seventy percent of the amount deposited in the*
33 *Local Government Tax Distribution Account must be distributed*
34 *to the county in which the tax was paid for use as described in*
35 *section 16 of this act.*

36 **7.** As used in this section:

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

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

41 ~~(b)~~ (c) *“Local government” has the meaning ascribed to it in*
42 *NRS 360.640.*

43 (d) *“Marijuana-infused products” has the meaning ascribed to it*
44 *in NRS 453A.112.*



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

3 **Sec. 10.** NRS 372A.300 is hereby amended to read as follows:

4 372A.300 If the Department determines that the excise tax on
5 ~~medical~~ marijuana or any penalty or interest has been paid more
6 than once or has been erroneously or illegally collected or
7 computed, the Department shall set forth that fact in the records of
8 the Department and certify to the State Board of Examiners the
9 amount collected in excess of the amount legally due and the person
10 from whom it was collected or by whom it was paid. If approved by
11 the State Board of Examiners, the excess amount collected or paid
12 must, after being credited against any amount then due from the
13 person in accordance with NRS 360.236, be refunded to the person
14 or his or her successors in interest.

15 **Sec. 11.** NRS 372A.310 is hereby amended to read as follows:

16 372A.310 1. Except as otherwise provided in NRS 360.235
17 and 360.395:

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

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

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

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

30 **Sec. 12.** NRS 372A.320 is hereby amended to read as follows:

31 372A.320 1. Except as otherwise provided in subsection 2,
32 NRS 360.320 or any other specific statute, interest must be paid
33 upon any overpayment of the excise tax on ~~medical~~ marijuana at
34 the rate set forth in, and in accordance with the provisions of,
35 NRS 360.2937.

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

39 **Sec. 13.** NRS 372A.360 is hereby amended to read as follows:

40 372A.360 1. No injunction, writ of mandate or other legal or
41 equitable process may issue in any suit, action or proceeding in any
42 court against this State or against any officer of the State to prevent
43 or enjoin the collection of the excise tax on ~~medical~~ marijuana or
44 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. 14. 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. 15. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 16 and 17 of this act.

Sec. 16. 1. A board of county commissioners may expend money received pursuant to paragraph (c) of subsection 6 of NRS 372A.290 only for the following purposes:

(a) To increase access to or provide treatment relating to mental health;

(b) To increase access to or provide treatment relating to substance abuse;

(c) To establish or support one or more specialty courts;

(d) To establish or support programs that provide positive alternatives for youth; or

(e) For law enforcement purposes, including, without limitation, enforcement of laws prohibiting driving under the influence of alcohol or a prohibited substance or the underage use of alcohol or a prohibited substance and suppression of the use or sale of prohibited substances.

2. A board of county commissioners shall not expend or grant more than 30 percent of the money received by the county pursuant to paragraph (c) of subsection 6 of NRS 372A.290 in any year for law enforcement purposes as set forth in subsection 1.

3. Except as otherwise provided in subsection 2, a board of county commissioners may grant all or part of the money received by the county pursuant to paragraph (c) of subsection 6 of NRS 372A.290 to a nonprofit organization to be expended for one or more of the purposes identified in paragraphs (a) to (e), inclusive, of subsection 1.



1 **Sec. 17. 1. Each board of county commissioners shall**
2 *provide by ordinance for the creation of an advisory committee on*
3 *mental health and substance abuse issues.*

4 **2. Each board of county commissioners shall, when**
5 *determining the members of the advisory committee, ensure that*
6 *each member has the necessary knowledge or experience to*
7 *analyze the needs of the residents of the county regarding mental*
8 *health and substance abuse.*

9 **3. The advisory committee shall:**

10 **(a) Analyze the needs of the residents of the county regarding**
11 *mental health and substance abuse;*

12 **(b) Make recommendations regarding the expenditure of**
13 *money pursuant to section 16 of this act by the county and section*
14 *18 of this act for each incorporated city in the county; and*

15 **(c) Make recommendations for the coordination of programs**
16 *and expenditures by the county and each incorporated city in the*
17 *county on issues relating to substance abuse and mental health to*
18 *ensure the most efficient expenditure of money pursuant to*
19 *sections 16 and 18 of this act.*

20 **Sec. 18.** Chapter 268 of NRS is hereby amended by adding
21 *thereto a new section to read as follows:*

22 **1. The governing body of a city may expend money received**
23 *pursuant to paragraph (c) of subsection 6 of NRS 372A.290 only*
24 *for the following purposes:*

25 **(a) To establish or support programs that provide positive**
26 *alternatives for youth; or*

27 **(b) For law enforcement purposes, including, without**
28 *limitation, enforcement of laws prohibiting driving under the*
29 *influence of alcohol or a prohibited substance or the underage use*
30 *of alcohol or a prohibited substance and suppression of the use or*
31 *sale of prohibited substances.*

32 **2. The governing body of a city may grant all or part of the**
33 *money received by the city pursuant to paragraph (c) of subsection*
34 *6 of NRS 372A.290 to a nonprofit organization to be expended for*
35 *one or more purposes identified in paragraphs (a) and (b) of*
36 *subsection 1.*

37 **Sec. 19.** Chapter 458 of NRS is hereby amended by adding
38 *thereto a new section to read as follows:*

39 **1. The Increased Access to Mental Health and Substance**
40 *Abuse Treatment Account is hereby created in the State General*
41 *Fund.*

42 **2. Money in the Account must be used to increase access to**
43 *treatment for conditions relating to mental health or substance*
44 *abuse.*



- 1 *3. Any interest or income earned on the money in the*
- 2 *Account must be credited to the Account.*
- 3 *4. All claims against the Account must be approved by the*
- 4 *Administrator before they are paid.*
- 5 **Sec. 20.** This act becomes effective on July 1, 2017.

