

SENATE BILL NO. 508—COMMITTEE ON REVENUE
AND ECONOMIC DEVELOPMENT

(ON BEHALF OF THE OFFICE OF FINANCE
IN THE OFFICE OF THE GOVERNOR)

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 32-976)

FISCAL NOTE: Effect on Local Government: No.
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 such an excise tax;
providing a penalty; and providing other matters properly
relating thereto.

Legislative Counsel's Digest:

1 Existing law imposes an excise tax at the rate of 2 percent upon each wholesale
2 sale of marijuana by a cultivation facility, each wholesale sale of edible marijuana
3 products or marijuana-infused products by a facility for the production of edible
4 marijuana products or marijuana-infused products and each retail sale of marijuana,
5 edible marijuana products or marijuana-infused products by a medical marijuana
6 dispensary. (NRS 372A.290) Existing law also imposes an excise tax at the rate of
7 15 percent upon each wholesale sale of marijuana by a marijuana cultivation
8 facility. (NRS 453D.500) **Section 9** of this bill imposes upon each retail sale of
9 marijuana or marijuana products by a retail marijuana store an excise tax at the rate
10 of 10 percent of the sales price of the marijuana or product. **Sections 1-8 and 10-14**
11 of this bill make conforming changes.

12 Existing law distributes 75 percent of the proceeds of the excise taxes on
13 medical marijuana establishments to the State Distributive School Account in the
14 State General Fund and 25 percent to be expended to pay the costs of the Division
15 of Public and Behavioral Health of the Department of Health and Human Services
16 in carrying out the laws of this State relating to medical marijuana establishments.
17 (NRS 372A.290) Existing law also distributes the proceeds of the excise tax on



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marijuana cultivation facilities to the Department of Taxation and each locality to pay for the costs of carrying out the laws of this State relating to recreational marijuana establishments, with any remainder to be deposited in the State Distributive School Account in the State General Fund. (NRS 453D.510) **Section 9** of this bill distributes the proceeds of the excise tax imposed by this bill on retail marijuana stores to the State Distributive School Account in the State General Fund.

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

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

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

Sec. 3. *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. 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



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1 372A.250, inclusive, *and sections 2 and 3 of this act* have the
2 meanings ascribed to them in those sections.

3 **Sec. 5.** NRS 372A.220 is hereby amended to read as follows:

4 372A.220 “Excise tax on ~~medical~~ marijuana” means any of
5 the excise taxes imposed by NRS 372A.290.

6 **Sec. 6.** NRS 372A.250 is hereby amended to read as follows:

7 372A.250 “Taxpayer” means a:

8 1. Cultivation facility;

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

11 3. Medical marijuana dispensary ~~+~~; *or*

12 *4. Retail marijuana store.*

13 **Sec. 7.** NRS 372A.260 is hereby amended to read as follows:

14 372A.260 The provisions of chapter 360 of NRS relating to the
15 payment, collection, administration and enforcement of taxes,
16 including, without limitation, any provisions relating to the
17 imposition of penalties and interest, shall be deemed to apply to the
18 payment, collection, administration and enforcement of the excise
19 tax on ~~medical~~ marijuana to the extent that those provisions do not
20 conflict with the provisions of NRS 372A.200 to 372A.380,
21 inclusive ~~+~~, *and sections 2 and 3 of this act.*

22 **Sec. 8.** NRS 372A.280 is hereby amended to read as follows:

23 372A.280 1. To verify the accuracy of any return filed by a
24 taxpayer or, if no return is filed, to determine the amount required to
25 be paid, the Department, or any person authorized in writing by the
26 Department, may examine the books, papers and records of any
27 person who may be liable for the excise tax on ~~medical~~ marijuana.

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

37 **Sec. 9.** NRS 372A.290 is hereby amended to read as follows:

38 372A.290 1. An excise tax is hereby imposed on each
39 wholesale sale in this State of marijuana by a cultivation facility to
40 another medical marijuana establishment at the rate of 2 percent of
41 the sales price of the marijuana. The excise tax imposed pursuant to
42 this subsection is the obligation of the cultivation facility.

43 2. An excise tax is hereby imposed on each wholesale sale in
44 this State of *concentrated cannabis*, edible marijuana products or
45 marijuana-infused products by a facility for the production of edible



1 marijuana products or marijuana-infused products to another
2 medical marijuana establishment at the rate of 2 percent of the sales
3 price of those products. The excise tax imposed pursuant to this
4 subsection is the obligation of the facility for the production of
5 edible marijuana products or marijuana-infused products which sells
6 the *concentrated cannabis*, edible marijuana products or marijuana-
7 infused products to the other medical marijuana establishment.

8 3. An excise tax is hereby imposed on each retail sale in this
9 State of marijuana, *concentrated cannabis*, edible marijuana
10 products or marijuana-infused products by a medical marijuana
11 dispensary at the rate of 2 percent of the sales price of the
12 marijuana, *concentrated cannabis*, edible marijuana products or
13 marijuana-infused products. The excise tax imposed pursuant to this
14 subsection:

15 (a) Is the obligation of the medical marijuana dispensary.

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

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

21 4. *An excise tax is hereby imposed on each retail sale in this*
22 *State of marijuana or marijuana products as defined in NRS*
23 *453D.030 by a retail marijuana store at the rate of 10 percent of*
24 *the sales price of the marijuana or marijuana products. The excise*
25 *tax imposed pursuant to this subsection:*

26 (a) *Is the obligation of the retail marijuana store.*

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

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

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

35 (b) Twenty-five percent must be expended to pay the costs of
36 the Division of Public and Behavioral Health of the Department of
37 Health and Human Services in carrying out the provisions of NRS
38 453A.320 to 453A.370, inclusive.

39 ~~5.1~~ 6. *The revenues collected from the excise tax imposed*
40 *pursuant to subsection 4 must be paid over as collected to the State*
41 *Treasurer to be deposited to the credit of the State Distributive*
42 *School Account in the State General Fund.*

43 7. As used in this section:

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



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

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

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

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

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

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

20 372A.310 1. Except as otherwise provided in NRS 360.235
21 and 360.395:

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

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

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

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

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

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

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

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

44 372A.360 1. No injunction, writ of mandate or other legal or
45 equitable process may issue in any suit, action or proceeding in any



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1 court against this State or against any officer of the State to prevent
2 or enjoin the collection of the excise tax on ~~medical~~ marijuana or
3 any amount of tax, penalty or interest required to be collected.

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

9 **Sec. 14.** NRS 372A.370 is hereby amended to read as follows:

10 372A.370 1. A person shall not, with intent to defraud the
11 State or evade payment of the excise tax on ~~medical~~ marijuana or
12 any part of the tax:

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

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

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

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

22 **Sec. 15.** This act becomes effective on July 1, 2017.

