

REQUIRES TWO-THIRDS MAJORITY VOTE

(§§ 17, 18)

(Reprinted with amendments adopted on April 28, 2017)

FIRST REPRINT

S.B. 302

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:

1 Existing law exempts a person who holds a valid registry identification card
2 from state prosecution for the purchase, possession, use, delivery and production of
3 marijuana. (NRS 453A.200) Existing law also exempts a person who holds a valid
4 medical marijuana establishment registration certificate or medical marijuana
5 establishment agent registration card from state prosecution for the sale, possession,
6 delivery and production of marijuana and provides for the registration and
7 regulation of such establishments. (NRS 453A.200, 453A.320-453A.370)
8 Pursuant to an initiative petition approved by the voters at the 2016 General
9 Election (Ballot Question No. 2; chapter 453D of NRS), the purchase, possession
10 and use of marijuana and marijuana paraphernalia for persons who are 21 years of
11 age or older have generally been made lawful in this State effective on January 1,
12 2017. (NRS 453D.100, 453D.110, 453D.130) The initiative petition also provides
13 for the licensing and regulation of facilities for the cultivation, testing, distribution,
14 manufacturing and retail sale of marijuana and marijuana products, in accordance
15 with regulations to be adopted by the Department of Taxation on or before
16 January 1, 2018. (NRS 453D.200, 453D.210)



* S B 3 0 2 R 1 *

17 **Section 1** of this bill exempts from state prosecution for certain crimes relating
18 to marijuana a medical marijuana dispensary which sells marijuana, concentrated
19 cannabis, edible marijuana products, marijuana-infused products and related
20 supplies and educational materials to a person who is 21 years of age or older
21 during the period of time between the effective date of this bill and the date upon
22 which the Department of Taxation issues the first license to a marijuana
23 establishment pursuant to the initiative petition for the retail sale of marijuana and
24 marijuana products. **Section 1** prohibits a medical marijuana dispensary from
25 selling to such a person an amount of marijuana or concentrated cannabis which
26 would exceed the amount decriminalized by the initiative petition. **Section 1**
27 requires a medical marijuana dispensary to comply with all local ordinances and
28 rules pertaining to zoning and land use for such sales. **Sections 2-7** of this bill
29 make conforming changes to provide for such sales by medical marijuana
30 dispensaries.

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

43 Existing law imposes excise taxes at the rate of 2 percent upon each wholesale
44 sale of marijuana by a cultivation facility, each wholesale sale of edible marijuana
45 products or marijuana-infused products by a facility for the production of edible
46 marijuana products or marijuana-infused products and each retail sale of marijuana,
47 edible marijuana products or marijuana-infused products by a medical marijuana
48 dispensary. (NRS 372A.290) Existing law distributes 75 percent of the proceeds of
49 these excise taxes to the State Distributive School Account in the State General
50 Fund and 25 percent to be expended to pay the costs of the Division of Public and
51 Behavioral Health of the Department of Health and Human Services in carrying out
52 the laws of this State relating to medical marijuana establishments. (NRS
53 372A.290) **Sections 17 and 18** of this bill eliminate these excise taxes on wholesale
54 sales by cultivation facilities and facilities for the production of edible marijuana
55 products and marijuana-infused products and increase the excise tax on retail sales
56 by medical marijuana dispensaries from 2 percent to 5 percent. **Sections 9-16 and**
57 **19-23** of this bill make conforming changes. Additionally, **section 17** imposes upon
58 each retail sale pursuant to **section 1** an excise tax at the rate of 15 percent of the
59 sales price to be deposited in the State Distributive School Account in the State
60 General Fund. **Section 18** also imposes upon each retail sale of marijuana or
61 marijuana products by a retail marijuana store an excise tax at the rate of 15 percent
62 of the sales price of the marijuana or product, two-thirds of which is to be deposited
63 in the State Distributive School Account in the State General Fund and one-third of
64 which is to be deposited in the Local Government Tax Distribution Account for
65 distribution to the local government in which the tax was paid.



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

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

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

19 WHEREAS, The Nevada Legislature finds and declares that it has
20 an obligation to exercise the legislative authority vested in it by the
21 Nevada Constitution to address this issue in a manner that
22 supplements, but does not supplant or conflict with, the initiative
23 petition approved by the voters; and

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

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



1 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
2 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
3

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

6 *1. The Legislature hereby finds and declares that:*

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

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

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

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

27 *(1) Possession, delivery or production of marijuana;*

28 *(2) Possession or delivery of paraphernalia;*

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

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

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

35 *(6) Any other criminal offense in which the possession,*
36 *delivery or production of marijuana or the possession or delivery*
37 *of paraphernalia is an element; and*

38 *(b) The Division shall not prohibit a medical marijuana*
39 *dispensary from allowing any person who is 21 years of age or*
40 *older, regardless of whether the person holds a valid registry*
41 *identification card, to enter the premises of the medical marijuana*
42 *dispensary for the purpose of purchasing marijuana, concentrated*
43 *cannabis, edible marijuana products, marijuana-infused products*
44 *and related supplies and educational materials pursuant to this*
45 *section.*



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

4 4. *A medical marijuana dispensary shall not sell marijuana,*
5 *concentrated cannabis, edible marijuana products, marijuana-*
6 *infused products or related supplies and educational materials*
7 *pursuant to this section unless the medical marijuana dispensary*
8 *has complied with all local ordinances and rules pertaining to*
9 *zoning and land use.*

10 5. *The Division shall:*

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

13 (b) *Prohibit a medical marijuana dispensary which fails to*
14 *comply with the provisions of this section or any regulation*
15 *adopted pursuant thereto from selling marijuana, concentrated*
16 *cannabis, edible marijuana products, marijuana-infused products*
17 *and related supplies and educational materials pursuant to this*
18 *section.*

19 6. *As used in this section, “concentrated cannabis” has the*
20 *meaning ascribed to it in NRS 453.042.*

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

22 453A.115 “Medical marijuana dispensary” means a business
23 that:

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

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

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

31 453A.340 The following acts constitute grounds for immediate
32 revocation of a medical marijuana establishment registration
33 certificate:

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

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



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

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

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

7 **Sec. 4.** NRS 453A.342 is hereby amended to read as follows:

8 453A.342 The following acts constitute grounds for the
9 immediate revocation of the medical marijuana establishment agent
10 registration card of a medical marijuana establishment agent:

11 1. Having committed or committing any excluded felony
12 offense.

13 2. ~~Dispensing,~~ *Except as otherwise provided in section 1 of*
14 *this act, dispensing,* delivering or otherwise transferring marijuana
15 to a person other than a medical marijuana establishment agent,
16 another medical marijuana establishment or a person who holds a
17 valid registry identification card, including, without limitation, a
18 designated primary caregiver.

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

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

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

25 453A.352 1. The operating documents of a medical
26 marijuana establishment must include procedures:

27 (a) For the oversight of the medical marijuana establishment;
28 and

29 (b) To ensure accurate recordkeeping, including, without
30 limitation, the provisions of NRS 453A.354 and 453A.356.

31 2. Except as otherwise provided in this subsection, a medical
32 marijuana establishment:

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

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

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

44 3. ~~A~~ *Except as otherwise provided in section 1 of this act, a*
45 medical marijuana establishment is prohibited from acquiring,



1 possessing, cultivating, manufacturing, delivering, transferring,
2 transporting, supplying or dispensing marijuana for any purpose
3 except to:

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

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

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

13 4. All cultivation or production of marijuana that a cultivation
14 facility carries out or causes to be carried out must take place in an
15 enclosed, locked facility at the physical address provided to the
16 Division during the registration process for the cultivation facility.
17 Such an enclosed, locked facility must be accessible only by
18 medical marijuana establishment agents who are lawfully associated
19 with the cultivation facility, except that limited access by persons
20 necessary to perform construction or repairs or provide other labor
21 is permissible if such persons are supervised by a medical marijuana
22 establishment agent.

23 5. A medical marijuana dispensary and a cultivation facility
24 may acquire usable marijuana or marijuana plants from a person
25 who holds a valid registry identification card, including, without
26 limitation, a designated primary caregiver. Except as otherwise
27 provided in this subsection, the patient or caregiver, as applicable,
28 must receive no compensation for the marijuana. A patient who
29 holds a valid registry identification card, and the designated primary
30 caregiver of such a patient, or the designated primary caregiver of a
31 person who holds a letter of approval may sell usable marijuana to a
32 medical marijuana dispensary one time and may sell marijuana
33 plants to a cultivation facility one time.

34 6. A medical marijuana establishment shall not allow any
35 person to consume marijuana on the property or premises of the
36 establishment.

37 7. *Except as otherwise provided in NRS 453A.354 or*
38 *453A.356, a medical marijuana establishment shall, within 48*
39 *hours after gathering such information, destroy any personal*
40 *identifying information of a customer, including, without*
41 *limitation, the name, address or date of birth of the customer,*
42 *which was gathered for marketing purposes.*

43 8. Medical marijuana establishments are subject to reasonable
44 inspection by the Division at any time, and a person who holds a
45 medical marijuana establishment registration certificate must make



1 himself or herself, or a designee thereof, available and present for
2 any inspection by the Division of the establishment.

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

4 453A.354 1. Each medical marijuana establishment, in
5 consultation with the Division, shall maintain an electronic
6 verification system.

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

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

14 (1) The number of the card;

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

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

17 (b) For each medical marijuana establishment agent who is
18 employed by or volunteers at the medical marijuana establishment,
19 the number of the person's medical marijuana establishment agent
20 registration card.

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

25 (d) Verification of the identity of a person *who holds a registry*
26 *identification card or a medical marijuana establishment*
27 *registration certificate* to whom marijuana, edible marijuana
28 products or marijuana-infused products are sold or otherwise
29 distributed.

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

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

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

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

41 453A.356 1. Each medical marijuana establishment, in
42 consultation with the Division, shall maintain an inventory control
43 system.



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

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

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

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

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

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

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

29 **Sec. 8.** (Deleted by amendment.)

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

32 **Sec. 10.** *“Retail marijuana store” has the meaning ascribed*
33 *to it in NRS 453D.030.*

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

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

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

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

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

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



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

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

4 (a) Cash discounts allowed and taken on sales.

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

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

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

16 372A.200 As used in NRS 372A.200 to 372A.380, inclusive,
17 *and sections 10 and 11 of this act*, unless the context otherwise
18 requires, the words and terms defined in NRS 372A.210 to
19 372A.250, inclusive, *and sections 10 and 11 of this act* have the
20 meanings ascribed to them in those sections.

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

22 372A.220 "Excise tax on ~~medical~~ marijuana" means any of
23 the excise taxes imposed by NRS 372A.290.

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

25 372A.250 "Taxpayer" means a:

26 1. Cultivation facility;
27 2. Facility for the production of edible marijuana products or
28 marijuana-infused products; ~~or~~

29 3. Medical marijuana dispensary ~~H~~; *or*

30 4. *Retail marijuana store.*

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

32 372A.260 The provisions of chapter 360 of NRS relating to the
33 payment, collection, administration and enforcement of taxes,
34 including, without limitation, any provisions relating to the
35 imposition of penalties and interest, shall be deemed to apply to the
36 payment, collection, administration and enforcement of the excise
37 tax on ~~medical~~ marijuana to the extent that those provisions do not
38 conflict with the provisions of NRS 372A.200 to 372A.380,
39 inclusive ~~H~~, *and sections 10 and 11 of this act.*

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

41 372A.280 1. To verify the accuracy of any return filed by a
42 taxpayer or, if no return is filed, to determine the amount required to
43 be paid, the Department, or any person authorized in writing by the
44 Department, may examine the books, papers and records of any
45 person who may be liable for the excise tax on ~~medical~~ marijuana.



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

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

11 372A.290 1. ~~{An excise tax is hereby imposed on each~~
12 ~~wholesale sale in this State of marijuana by a cultivation facility to~~
13 ~~another medical marijuana establishment at the rate of 2 percent of~~
14 ~~the sales price of the marijuana. The excise tax imposed pursuant to~~
15 ~~this subsection is the obligation of the cultivation facility.~~

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

26 ~~—3. An~~ *Except as otherwise provided in this subsection, an*
27 excise tax is hereby imposed on each retail sale in this State of
28 marijuana, *concentrated cannabis*, edible marijuana products or
29 marijuana-infused products by a medical marijuana dispensary at
30 the rate of ~~{2}~~ *5* percent of the sales price of the marijuana,
31 *concentrated cannabis*, edible marijuana products or marijuana-
32 infused products. The excise tax imposed pursuant to this
33 subsection:

34 (a) Is the obligation of the medical marijuana dispensary ~~H~~ *H* ;

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

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

40 ~~—4.1~~ *; and*

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



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

8 (a) *Is the obligation of the medical marijuana dispensary;*

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

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

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

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

20 (b) Twenty-five percent must be expended to pay the costs of
21 the Division of Public and Behavioral Health of the Department of
22 Health and Human Services in carrying out the provisions of NRS
23 453A.320 to 453A.370, inclusive.

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

28 5. As used in this section:

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

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

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

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

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

38 372A.290 1. Except as otherwise provided in this subsection,
39 an excise tax is hereby imposed on each retail sale in this State of
40 marijuana, concentrated cannabis, edible marijuana products or
41 marijuana-infused products by a medical marijuana dispensary at
42 the rate of 5 percent of the sales price of the marijuana, concentrated
43 cannabis, edible marijuana products or marijuana-infused products.
44 The excise tax imposed pursuant to this subsection:

45 (a) Is the obligation of the medical marijuana dispensary;



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

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

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

9 2. An excise tax is hereby imposed on each retail sale in this
10 State of marijuana ~~†, concentrated cannabis, edible~~ *or* marijuana
11 products ~~†or marijuana-infused products~~ *as defined in NRS*
12 *453D.030*, by a ~~†medical marijuana dispensary pursuant to section 1~~
13 ~~of this act~~ *retail marijuana store* at the rate of 15 percent of the
14 sales price of the marijuana ~~†, concentrated cannabis, edible~~ *or*
15 marijuana products. ~~†or marijuana-infused products.~~ The excise tax
16 imposed pursuant to this subsection:

17 (a) Is the obligation of the ~~†medical marijuana dispensary;~~
18 *retail marijuana store;*

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

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

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

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

29 (b) Twenty-five percent must be expended to pay the costs of
30 the Division of Public and Behavioral Health of the Department of
31 Health and Human Services in carrying out the provisions of NRS
32 453A.320 to 453A.370, inclusive.

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

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

38 (b) *Thirty-three and one-third percent must be deposited in the*
39 *Local Government Tax Distribution Account created by NRS*
40 *360.660 for distribution to local governments in an amount for*
41 *each local government based on the tax paid within each local*
42 *government.*

43 5. As used in this section:

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



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

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

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

7 ~~[(d) "Medical marijuana establishment" has the meaning~~
8 ~~ascribed to it in NRS 453A.116.]~~

9 (e) *"Retail marijuana store" has the meaning ascribed to it in*
10 *NRS 453D.030.*

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

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

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

24 372A.310 1. Except as otherwise provided in NRS 360.235
25 and 360.395:

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

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

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

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

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

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



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

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

5 372A.360 1. No injunction, writ of mandate or other legal or
6 equitable process may issue in any suit, action or proceeding in any
7 court against this State or against any officer of the State to prevent
8 or enjoin the collection of the excise tax on ~~medical~~ marijuana or
9 any amount of tax, penalty or interest required to be collected.

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

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

16 372A.370 1. A person shall not, with intent to defraud the
17 State or evade payment of the excise tax on ~~medical~~ marijuana or
18 any part of the tax:

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

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

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

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

28 **Sec. 24.** 1. Any regulations adopted by the Division of
29 Public and Behavioral Health of the Department of Health and
30 Human Services which apply to medical marijuana establishments
31 on the effective date of this act apply to sales made by medical
32 marijuana establishments pursuant to section 1 of this act. If any
33 provision of such regulations conflicts with any provision of section
34 1 of this act, the provision of section 1 of this act prevails to the
35 extent of the conflict.

36 2. Any regulations adopted by the Department of Taxation
37 which apply to the imposition of an excise tax on marijuana, edible
38 marijuana products or marijuana-infused products by a medical
39 marijuana establishment on the effective date of this act apply to
40 sales made by medical marijuana establishments pursuant to section
41 1 of this act. If any provision of such regulations conflicts with any
42 provision of section 1 or 17 of this act, the provision of section 1 or
43 17 of this act prevails to the extent of the conflict.

44 3. The Division of Public and Behavioral Health of the
45 Department of Health and Human Services and the Department of



1 Taxation may adopt regulations to carry out the provisions of this
2 section.

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

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

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

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

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

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

23 **Sec. 26.** 1. This section and sections 1 to 17, inclusive, and
24 19 to 25, inclusive, of this act become effective upon passage and
25 approval.

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

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

