

ASSEMBLY BILL NO. 463—ASSEMBLYMAN ARAUJO

MARCH 27, 2017

Referred to Committee on Taxation

SUMMARY—Revises provisions relating to the taxation of marijuana. (BDR 32-982)

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; revising provisions relating to the taxation of marijuana sold by cultivation facilities to other medical marijuana establishments; establishing a limit on a business license tax imposed by a local government on marijuana establishments and medical marijuana establishments; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law imposes an excise tax at the rate of 2 percent of the sales price  
2 upon: (1) each wholesale sale of marijuana by a cultivation facility; (2) each  
3 wholesale sale of edible marijuana products or marijuana-infused products by a  
4 facility for the production of edible marijuana products or marijuana-infused  
5 products; and (3) each retail sale of marijuana, edible marijuana products or  
6 marijuana-infused products by a medical marijuana dispensary. (NRS 372A.290)  
7 Existing law also imposes an excise tax at the rate of 15 percent upon each  
8 wholesale sale of marijuana by a marijuana cultivation facility. (NRS 453D.500)  
9 **Section 2** of this bill eliminates the excise tax on wholesale sales by a facility for  
10 the production of edible marijuana products or marijuana-infused products and on  
11 retail sales by a medical marijuana dispensary. **Section 2** also revises the excise tax  
12 on wholesale sales by a cultivation facility to a rate of 15 percent of the fair market  
13 value at wholesale of the marijuana, which is consistent with the excise tax  
14 imposed on a marijuana cultivation facility.  
15 Existing law generally authorizes counties and incorporated cities to fix,  
16 impose and collect a license tax on businesses located within their jurisdiction for  
17 revenue, regulation or both. (NRS 244.335, 268.095) **Sections 3-6** of this bill limit  
18 the license tax that may be imposed by a county or an incorporated city upon a  
19 marijuana establishment or medical marijuana establishment to a total amount  
20 which does not exceed 5 percent of the gross revenue of the marijuana  
21 establishment or medical marijuana establishment.



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

1       **Section 1.** NRS 372A.250 is hereby amended to read as  
2 follows:

3       372A.250 “Taxpayer” means a ~~f~~  
4 ~~—1. Cultivation~~ **cultivation** facility. ~~f~~;  
5 ~~—2. Facility for the production of edible marijuana products or~~  
6 ~~marijuana-infused products; or~~  
7 ~~—3. Medical marijuana dispensary.~~

8       **Sec. 2.** NRS 372A.290 is hereby amended to read as follows:  
9       372A.290 1. An excise tax is hereby imposed on each  
10 wholesale sale in this State of marijuana by a cultivation facility to  
11 another medical marijuana establishment at the rate of ~~{2}~~ **15**  
12 percent of the ~~{sales price}~~ **fair market value at wholesale** of the  
13 marijuana. The excise tax imposed pursuant to this subsection is the  
14 obligation of the cultivation facility.

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

25       ~~—3. An excise tax is hereby imposed on each retail sale in this~~  
26 ~~State of marijuana, edible marijuana products or marijuana-infused~~  
27 ~~products by a medical marijuana dispensary at the rate of 2 percent~~  
28 ~~of the sales price of the marijuana, edible marijuana products or~~  
29 ~~marijuana-infused products. The excise tax imposed pursuant to this~~  
30 ~~subsection:~~

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

37       ~~—4.~~ The revenues collected from the excise ~~{taxes}~~ **tax** imposed  
38 pursuant to ~~{subsections}~~ **subsection** 1 ~~{, 2 and 3}~~ must be  
39 distributed as follows:

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



1 (b) Twenty-five percent must be expended to pay the costs of  
2 the Division of Public and Behavioral Health of the Department of  
3 Health and Human Services in carrying out the provisions of NRS  
4 453A.320 to 453A.370, inclusive.

5 ~~§ 3.~~ As used in this section ~~§~~

6 ~~(a) "Edible marijuana products" has the meaning ascribed to it~~  
7 ~~in NRS 453A.101.~~

8 ~~(b) "Marijuana infused products" has the meaning ascribed to it~~  
9 ~~in NRS 453A.112.~~

10 ~~(c) "Medical~~ , **"medical** marijuana establishment" has the  
11 meaning ascribed to it in NRS 453A.116.

12 **Sec. 3.** Chapter 244 of NRS is hereby amended by adding  
13 thereto a new section to read as follows:

14 **1. Except as otherwise provided in subsection 2, a board of**  
15 **county commissioners may fix, impose and collect a license tax for**  
16 **revenue or for regulation, or for both revenue and regulation, on**  
17 **a marijuana establishment or medical marijuana establishment**  
18 **located in the county outside of the limits of incorporated cities**  
19 **and towns as a:**

20 **(a) Flat fee;**

21 **(b) Percentage of the gross revenue of the marijuana**  
22 **establishment or medical marijuana establishment; or**

23 **(c) Combination of a flat fee and a percentage of gross**  
24 **revenue of the marijuana establishment or medical marijuana**  
25 **establishment.**

26 **2. The total amount of a license tax imposed on a marijuana**  
27 **establishment or medical marijuana establishment pursuant to**  
28 **subsection 1, regardless of whether the license tax is imposed in**  
29 **the form described in paragraph (a), (b) or (c) of subsection 1,**  
30 **must not exceed 5 percent of the gross revenue of the marijuana**  
31 **establishment or medical marijuana establishment, as applicable.**

32 **3. As used in this section:**

33 **(a) "Marijuana establishment" has the meaning ascribed to it**  
34 **in NRS 453D.030.**

35 **(b) "Medical marijuana establishment" has the meaning**  
36 **ascribed to it in NRS 453A.116.**

37 **Sec. 4.** NRS 244.335 is hereby amended to read as follows:

38 244.335 1. Except as otherwise provided in subsections 2, 3  
39 and 4, and NRS 244.33501, a board of county commissioners may:

40 (a) Except as otherwise provided in NRS 244.331 to 244.3345,  
41 inclusive, 598D.150 and 640C.100, regulate all character of lawful  
42 trades, callings, industries, occupations, professions and business  
43 conducted in its county outside of the limits of incorporated cities  
44 and towns.



1 (b) Except as otherwise provided in NRS 244.3359 and 576.128,  
2 *and section 3 of this act*, fix, impose and collect a license tax for  
3 revenue or for regulation, or for both revenue and regulation, on  
4 such trades, callings, industries, occupations, professions and  
5 business.

6 2. The county license boards have the exclusive power in their  
7 respective counties to regulate entertainers employed by an  
8 entertainment by referral service and the business of conducting a  
9 dancing hall, escort service, entertainment by referral service or  
10 gambling game or device permitted by law, outside of an  
11 incorporated city. The county license boards may fix, impose and  
12 collect license taxes for revenue or for regulation, or for both  
13 revenue and regulation, on such employment and businesses.

14 3. A board of county commissioners shall not require that a  
15 person who is licensed as a contractor pursuant to chapter 624 of  
16 NRS obtain more than one license to engage in the business of  
17 contracting or pay more than one license tax related to engaging in  
18 the business of contracting, regardless of the number of  
19 classifications or subclassifications of licensing for which the person  
20 is licensed pursuant to chapter 624 of NRS.

21 4. The board of county commissioners or county license board  
22 shall not require a person to obtain a license or pay a license tax on  
23 the sole basis that the person is a professional. As used in this  
24 subsection, "professional" means a person who:

25 (a) Holds a license, certificate, registration, permit or similar  
26 type of authorization issued by a regulatory body as defined in NRS  
27 622.060 or who is regulated pursuant to the Nevada Supreme Court  
28 Rules; and

29 (b) Practices his or her profession for any type of compensation  
30 as an employee.

31 5. The county license board shall provide upon request an  
32 application for a state business registration pursuant to chapter 76 of  
33 NRS. No license to engage in any type of business may be granted  
34 unless the applicant for the license:

35 (a) Signs an affidavit affirming that the business has complied  
36 with the provisions of chapter 76 of NRS; or

37 (b) Provides to the county license board the business  
38 identification number of the applicant assigned by the Secretary of  
39 State pursuant to NRS 225.082 which the county may use to  
40 validate that the applicant is currently in good standing with the  
41 State and has complied with the provisions of chapter 76 of NRS.

42 6. No license to engage in business as a seller of tangible  
43 personal property may be granted unless the applicant for the  
44 license:

45 (a) Presents written evidence that:



1 (1) The Department of Taxation has issued or will issue a  
2 permit for this activity, and this evidence clearly identifies the  
3 business by name; or

4 (2) Another regulatory agency of the State has issued or will  
5 issue a license required for this activity; or

6 (b) Provides to the county license board the business  
7 identification number of the applicant assigned by the Secretary of  
8 State pursuant to NRS 225.082 which the county may use to  
9 validate that the applicant is currently in good standing with the  
10 State and has complied with the provisions of paragraph (a).

11 7. Any license tax levied for the purposes of NRS 244.3358 or  
12 244A.597 to 244A.655, inclusive, constitutes a lien upon the real  
13 and personal property of the business upon which the tax was levied  
14 until the tax is paid. The lien has the same priority as a lien for  
15 general taxes. The lien must be enforced:

16 (a) By recording in the office of the county recorder, within 6  
17 months after the date on which the tax became delinquent or was  
18 otherwise determined to be due and owing, a notice of the tax lien  
19 containing the following:

20 (1) The amount of tax due and the appropriate year;

21 (2) The name of the record owner of the property;

22 (3) A description of the property sufficient for identification;

23 and

24 (4) A verification by the oath of any member of the board of  
25 county commissioners or the county fair and recreation board; and

26 (b) By an action for foreclosure against the property in the same  
27 manner as an action for foreclosure of any other lien, commenced  
28 within 2 years after the date of recording of the notice of the tax  
29 lien, and accompanied by appropriate notice to other lienholders.

30 8. The board of county commissioners may delegate the  
31 authority to enforce liens from taxes levied for the purposes of NRS  
32 244A.597 to 244A.655, inclusive, to the county fair and recreation  
33 board. If the authority is so delegated, the board of county  
34 commissioners shall revoke or suspend the license of a business  
35 upon certification by the county fair and recreation board that the  
36 license tax has become delinquent, and shall not reinstate the license  
37 until the tax is paid. Except as otherwise provided in NRS 239.0115  
38 and 244.3357, all information concerning license taxes levied by an  
39 ordinance authorized by this section or other information concerning  
40 the business affairs or operation of any licensee obtained as a result  
41 of the payment of such license taxes or as the result of any audit or  
42 examination of the books by any authorized employee of a county  
43 fair and recreation board of the county for any license tax levied for  
44 the purpose of NRS 244A.597 to 244A.655, inclusive, is  
45 confidential and must not be disclosed by any member, officer or



1 employee of the county fair and recreation board or the county  
2 imposing the license tax unless the disclosure is authorized by the  
3 affirmative action of a majority of the members of the appropriate  
4 county fair and recreation board. Continuing disclosure may be so  
5 authorized under an agreement with the Department of Taxation or  
6 Secretary of State for the exchange of information concerning  
7 taxpayers.

8 **Sec. 5.** Chapter 268 of NRS is hereby amended by adding  
9 thereto a new section to read as follows:

10 *1. Except as otherwise provided in subsection 2, the*  
11 *governing body of an incorporated city, whether organized under*  
12 *general law or special charter, may fix, impose and collect for*  
13 *revenues or for regulation, or both, a license tax on a marijuana*  
14 *establishment or medical marijuana establishment located within*  
15 *its corporate limits as a:*

16 *(a) Flat fee;*

17 *(b) Percentage of the gross revenue of the marijuana*  
18 *establishment or medical marijuana establishment; or*

19 *(c) Combination of a flat fee and a percentage of gross*  
20 *revenue of the marijuana establishment or medical marijuana*  
21 *establishment.*

22 *2. The total amount of a license tax imposed on a marijuana*  
23 *establishment or medical marijuana establishment pursuant to*  
24 *subsection 1, regardless of whether the license tax is imposed in*  
25 *the form described in paragraph (a), (b) or (c) of subsection 1,*  
26 *must not exceed 5 percent of the gross revenue of the marijuana*  
27 *establishment or medical marijuana establishment, as applicable.*

28 *3. As used in this section:*

29 *(a) "Marijuana establishment" has the meaning ascribed to it*  
30 *in NRS 453D.030.*

31 *(b) "Medical marijuana establishment" has the meaning*  
32 *ascribed to it in NRS 453A.116.*

33 **Sec. 6.** NRS 268.095 is hereby amended to read as follows:

34 268.095 1. Except as otherwise provided in subsection 4 and  
35 NRS 268.0951, the city council or other governing body of each  
36 incorporated city in this State, whether organized under general law  
37 or special charter, may:

38 (a) Except as otherwise provided in subsection 2 and NRS  
39 268.0968 and 576.128, *and section 5 of this act*, fix, impose and  
40 collect for revenues or for regulation, or both, a license tax on all  
41 character of lawful trades, callings, industries, occupations,  
42 professions and businesses conducted within its corporate limits.

43 (b) Assign the proceeds of any one or more of such license taxes  
44 to the county within which the city is situated for the purpose or  
45 purposes of making the proceeds available to the county:



- 1 (1) As a pledge as additional security for the payment of any  
2 general obligation bonds issued pursuant to NRS 244A.597 to  
3 244A.655, inclusive;
- 4 (2) For redeeming any general obligation bonds issued  
5 pursuant to NRS 244A.597 to 244A.655, inclusive;
- 6 (3) For defraying the costs of collecting or otherwise  
7 administering any such license tax so assigned, of the county fair  
8 and recreation board and of officers, agents and employees hired  
9 thereby, and of incidentals incurred thereby;
- 10 (4) For operating and maintaining recreational facilities  
11 under the jurisdiction of the county fair and recreation board;
- 12 (5) For improving, extending and bettering recreational  
13 facilities authorized by NRS 244A.597 to 244A.655, inclusive; and
- 14 (6) For constructing, purchasing or otherwise acquiring such  
15 recreational facilities.
- 16 (c) Pledge the proceeds of any tax imposed on the revenues from  
17 the rental of transient lodging pursuant to this section for the  
18 payment of any general or special obligations issued by the city for  
19 a purpose authorized by the laws of this State.
- 20 (d) Use the proceeds of any tax imposed pursuant to this section  
21 on the revenues from the rental of transient lodging:
- 22 (1) To pay the principal, interest or any other indebtedness  
23 on any general or special obligations issued by the city pursuant to  
24 the laws of this State;
- 25 (2) For the expense of operating or maintaining, or both, any  
26 facilities of the city; and
- 27 (3) For any other purpose for which other money of the city  
28 may be used.
- 29 2. The city council or other governing body of an incorporated  
30 city shall not require that a person who is licensed as a contractor  
31 pursuant to chapter 624 of NRS obtain more than one license to  
32 engage in the business of contracting or pay more than one license  
33 tax related to engaging in the business of contracting, regardless of  
34 the number of classifications or subclassifications of licensing for  
35 which the person is licensed pursuant to chapter 624 of NRS.
- 36 3. The proceeds of any tax imposed pursuant to this section  
37 that are pledged for the repayment of general obligations may be  
38 treated as "pledged revenues" for the purposes of NRS 350.020.
- 39 4. The city council or other governing body of an incorporated  
40 city shall not require a person to obtain a license or pay a license tax  
41 on the sole basis that the person is a professional. As used in this  
42 subsection, "professional" means a person who:
- 43 (a) Holds a license, certificate, registration, permit or similar  
44 type of authorization issued by a regulatory body as defined in



1 NRS 622.060 or who is regulated pursuant to the Nevada Supreme  
2 Court Rules; and

3 (b) Practices his or her profession for any type of compensation  
4 as an employee.

5 5. The city licensing agency shall provide upon request an  
6 application for a state business registration pursuant to chapter 76 of  
7 NRS. No license to engage in any type of business may be granted  
8 unless the applicant for the license:

9 (a) Signs an affidavit affirming that the business has complied  
10 with the provisions of chapter 76 of NRS; or

11 (b) Provides to the city licensing agency the business  
12 identification number of the applicant assigned by the Secretary of  
13 State pursuant to NRS 225.082 which the city may use to validate  
14 that the applicant is currently in good standing with the State and  
15 has complied with the provisions of chapter 76 of NRS.

16 6. No license to engage in business as a seller of tangible  
17 personal property may be granted unless the applicant for the  
18 license:

19 (a) Presents written evidence that:

20 (1) The Department of Taxation has issued or will issue a  
21 permit for this activity, and this evidence clearly identifies the  
22 business by name; or

23 (2) Another regulatory agency of the State has issued or will  
24 issue a license required for this activity; or

25 (b) Provides to the city licensing agency the business  
26 identification number of the applicant assigned by the Secretary of  
27 State pursuant to NRS 225.082 which the city may use to validate  
28 that the applicant is currently in good standing with the State and  
29 has complied with the provisions of paragraph (a).

30 7. Any license tax levied under the provisions of this section  
31 constitutes a lien upon the real and personal property of the business  
32 upon which the tax was levied until the tax is paid. The lien has the  
33 same priority as a lien for general taxes. The lien must be enforced:

34 (a) By recording in the office of the county recorder, within 6  
35 months following the date on which the tax became delinquent or  
36 was otherwise determined to be due and owing, a notice of the tax  
37 lien containing the following:

38 (1) The amount of tax due and the appropriate year;

39 (2) The name of the record owner of the property;

40 (3) A description of the property sufficient for identification;

41 and

42 (4) A verification by the oath of any member of the board of  
43 county commissioners or the county fair and recreation board; and

44 (b) By an action for foreclosure against such property in the  
45 same manner as an action for foreclosure of any other lien,





1 commenced within 2 years after the date of recording of the notice  
2 of the tax lien, and accompanied by appropriate notice to other  
3 lienholders.

4 8. The city council or other governing body of each  
5 incorporated city may delegate the power and authority to enforce  
6 such liens to the county fair and recreation board. If the authority is  
7 so delegated, the governing body shall revoke or suspend the license  
8 of a business upon certification by the board that the license tax has  
9 become delinquent, and shall not reinstate the license until the tax is  
10 paid. Except as otherwise provided in NRS 239.0115 and 268.0966,  
11 all information concerning license taxes levied by an ordinance  
12 authorized by this section or other information concerning the  
13 business affairs or operation of any licensee obtained as a result of  
14 the payment of those license taxes or as the result of any audit or  
15 examination of the books of the city by any authorized employee of  
16 a county fair and recreation board for any license tax levied for the  
17 purpose of NRS 244A.597 to 244A.655, inclusive, is confidential  
18 and must not be disclosed by any member, official or employee of  
19 the county fair and recreation board or the city imposing the license  
20 tax unless the disclosure is authorized by the affirmative action of a  
21 majority of the members of the appropriate county fair and  
22 recreation board. Continuing disclosure may be so authorized under  
23 an agreement with the Department of Taxation or the Secretary of  
24 State for the exchange of information concerning taxpayers.

25 9. The powers conferred by this section are in addition and  
26 supplemental to, and not in substitution for, and the limitations  
27 imposed by this section do not affect the powers conferred by, any  
28 other law. No part of this section repeals or affects any other law or  
29 any part thereof, it being intended that this section provide a  
30 separate method of accomplishing its objectives, and not an  
31 exclusive one.

32 **Sec. 7.** NRS 372A.230 and 372A.240 are hereby repealed.

33 **Sec. 8.** This act becomes effective on July 1, 2017.

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### TEXT OF REPEALED SECTIONS

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**372A.230 “Facility for the production of edible marijuana products or marijuana-infused products” defined.** “Facility for the production of edible marijuana products or marijuana-infused products” has the meaning ascribed to it in NRS 453A.105.



\* A B 4 6 3 \*

**372A.240 “Medical marijuana dispensary” defined.**  
“Medical marijuana dispensary” has the meaning ascribed to it in  
NRS 453A.115.

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\* A B 4 6 3 \*