

ASSEMBLY BILL NO. 430—COMMITTEE ON REVENUE

MARCH 27, 2023

Referred to Committee on Revenue

SUMMARY—Revises provisions relating to cannabis. (BDR 32-893)

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 taxation; revising the definition of “vapor product”; revising provisions governing the excise tax on cannabis; requiring the Department of Taxation to adopt certain regulations; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law imposes a tax upon the receipt, purchase or sale of other tobacco  
2 products by a customer in this State at a rate of 30 percent of the wholesale price of  
3 those products. (NRS 370.450) Under existing law, vapor products, including  
4 electronic cigarettes, cigars, cigarillos, pipes, hookahs, vape pens and similar  
5 products or devices and their components are taxed as other tobacco products.  
6 (NRS 370.0318, 370.450) **Sections 1 and 1.7** of this bill revise the definition of  
7 “vapor product” to exclude cannabis vaporizers which are products that: (1) are  
8 solely designed or intended to be used for vaporizing, ingesting, inhaling or  
9 otherwise introducing cannabis or cannabis products into the human body; and (2)  
10 include a clear and conspicuous label that includes certain information. **Section 1.3**  
11 makes a conforming change to indicate the proper placement of **section 1** in the  
12 Nevada Revised Statutes.

13 Existing law imposes an excise tax at the rate of 15 percent of the fair market  
14 value at wholesale upon each wholesale sale of cannabis by a medical cannabis  
15 cultivation facility or an adult-use cannabis cultivation facility to another cannabis  
16 establishment. (NRS 372A.290) Existing law imposes an excise tax at the rate of 10  
17 percent of the sales price of each retail sale of cannabis or cannabis products by an  
18 adult-use cannabis retail store or cannabis consumption lounge. (NRS 372A.290)  
19 **Section 7** of this bill revises the excise tax on the wholesale sale of cannabis to  
20 apply the tax only to the first wholesale sale and to provide that the tax is at the rate  
21 of 15 percent of: (1) the fair market value at wholesale for sales made to an affiliate  
22 of the medical cannabis cultivation facility or adult-use cannabis cultivation  
23 facility; or (2) the sales price, if the sale is made to a cannabis establishment that is



24 not an affiliate of the medical cannabis cultivation facility or adult-use cannabis  
25 cultivation facility.

26 **Section 4** of this bill revises the definition of “sales price” to exclude the  
27 amount of any excise tax on cannabis or cannabis products.

28 Existing law requires the Department of Taxation to adopt regulations to  
29 establish procedures to determine the fair market value at wholesale of cannabis.  
30 (NRS 678B.640) **Section 9** of this bill establishes certain additional requirements  
31 for the regulations adopted by the Department. **Section 9** requires the Cannabis  
32 Compliance Board to ensure that any computer software used for the seed-to-sale  
33 tracking of cannabis adopted by the Board includes a method to denote transfers of  
34 cannabis between affiliates.

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

1 **Section 1.** Chapter 370 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 **1. “Cannabis vaporizer” means a product that:**

4 **(a) Is solely designed or intended to be used for vaporizing,**  
5 **ingesting, inhaling or otherwise introducing cannabis, as defined**  
6 **in NRS 678A.085, or any cannabis product into the human body;**  
7 **and**

8 **(b) Includes a clear and conspicuous label which identifies the**  
9 **product as a cannabis vaporizer and states that the product is not**  
10 **for tobacco, nicotine, e-liquid or any synthetic nicotine substance.**

11 **2. The term does not include a product that may also be used**  
12 **for vaporizing, ingesting, inhaling or otherwise introducing**  
13 **nicotine into the human body.**

14 **Sec. 1.3.** NRS 370.007 is hereby amended to read as follows:

15 370.007 As used in NRS 370.007 to 370.430, inclusive, **and**  
16 **section 1 of this act**, and 370.505 to 370.530, inclusive, unless the  
17 context otherwise requires, the words and terms defined in NRS  
18 370.008 to 370.055, inclusive, **and section 1 of this act**, have the  
19 meanings ascribed to them in those sections.

20 **Sec. 1.7.** NRS 370.054 is hereby amended to read as follows:

21 370.054 “Vapor product”:

22 1. Means any noncombustible product containing nicotine or  
23 any other substance that employs a heating element, power source,  
24 electronic circuit or other electronic, chemical or mechanical means,  
25 regardless of the shape or size thereof, that can be used to produce  
26 vapor from nicotine or any other substance in a solution or other  
27 form, the use or inhalation of which simulates smoking.

28 2. Includes, without limitation:

29 (a) An electronic cigarette, cigar, cigarillo, pipe, hookah, or vape  
30 pen, or a similar product or device; and



1 (b) The components of such a product or device, whether or not  
2 sold separately, including, without limitation, vapor cartridges or  
3 other container of nicotine or any other substance in a solution or  
4 other form that is intended to be used with or in an electronic  
5 cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a similar  
6 product or device, atomizers, cartomizers, digital displays,  
7 clearomizers, tank systems, flavors, programmable software or other  
8 similar products or devices. As used in this paragraph, “component”  
9 means a product intended primarily or exclusively to be used with or  
10 in an electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen,  
11 or a similar product or device.

12 3. Does not include any product:

13 (a) Regulated by the United States Food and Drug  
14 Administration pursuant to subchapter V of the Federal Food, Drug,  
15 and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

16 (b) Subject to the excise tax on cannabis or cannabis products  
17 pursuant to NRS 372A.200 to 372A.380, inclusive.

18 (c) Purchased by a person who holds a current, valid medical  
19 cannabis establishment license pursuant to chapter 678B of NRS.

20 *(d) Which is a cannabis vaporizer.*

21 **Sec. 2.** (Deleted by amendment.)

22 **Sec. 3.** (Deleted by amendment.)

23 **Sec. 4.** NRS 372A.247 is hereby amended to read as follows:

24 372A.247 1. “Sales price” means the total amount for which  
25 tangible property is sold, valued in money, whether paid in money  
26 or otherwise, without any deduction on account of any of the  
27 following:

28 (a) The cost of the property sold.

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

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

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

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

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

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

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

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



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

5 *(d) The amount of any tax imposed pursuant to NRS 372A.200*  
6 *to 372A.380, inclusive.*

7 **Sec. 5.** (Deleted by amendment.)

8 **Sec. 6.** (Deleted by amendment.)

9 **Sec. 7.** NRS 372A.290 is hereby amended to read as follows:

10 372A.290 1. An excise tax is hereby imposed on ~~each~~ *the*  
11 *first* wholesale sale in this State of cannabis by a medical cannabis  
12 cultivation facility to another cannabis establishment at the rate of  
13 15 percent of ~~the~~ :

14 *(a) The fair market value at wholesale of the cannabis [], if the*  
15 *sale is made to an affiliate of the medical cannabis cultivation*  
16 *facility; or*

17 *(b) The sales price of the cannabis, if the sale is made to a*  
18 *cannabis establishment that is not an affiliate of the medical*  
19 *cannabis cultivation facility.*

20 ↪ The excise tax imposed pursuant to this subsection is the  
21 obligation of the medical cannabis cultivation facility.

22 2. An excise tax is hereby imposed on ~~each~~ *the first*  
23 wholesale sale in this State of cannabis by an adult-use cannabis  
24 cultivation facility to another cannabis establishment at the rate of  
25 15 percent of ~~the~~ :

26 *(a) The fair market value at wholesale of the cannabis [], if the*  
27 *sale is made to an affiliate of the adult-use cannabis cultivation*  
28 *facility; or*

29 *(b) The sales price of the cannabis, if the sale is made to a*  
30 *cannabis establishment that is not an affiliate of the adult-use*  
31 *cannabis cultivation facility.*

32 ↪ The excise tax imposed pursuant to this subsection is the  
33 obligation of the adult-use cannabis cultivation facility.

34 3. An excise tax is hereby imposed on each retail sale in this  
35 State of cannabis or cannabis products by an adult-use cannabis  
36 retail store or cannabis consumption lounge at the rate of 10 percent  
37 of the sales price of the cannabis or cannabis products. The excise  
38 tax imposed pursuant to this subsection:

39 (a) Is the obligation of the seller of the cannabis or cannabis  
40 product ~~is~~ *but may be recovered from the purchaser.*

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

44 4. The revenues collected from the excise tax imposed pursuant  
45 to subsection 1 must be distributed:



1 (a) To the Cannabis Compliance Board and to local  
2 governments in an amount determined to be necessary by the Board  
3 to pay the costs of the Board and local governments in carrying out  
4 the provisions of chapter 678C of NRS; and

5 (b) If any money remains after the revenues are distributed  
6 pursuant to paragraph (a), to the State Treasurer to be deposited to  
7 the credit of the State Education Fund.

8 5. The revenues collected from the excise tax imposed pursuant  
9 to subsection 2 must be distributed:

10 (a) To the Cannabis Compliance Board and to local  
11 governments in an amount determined to be necessary by the Board  
12 to pay the costs of the Board and local governments in carrying out  
13 the provisions of chapter 678D of NRS; and

14 (b) If any money remains after the revenues are distributed  
15 pursuant to paragraph (a), to the State Treasurer to be deposited to  
16 the credit of the State Education Fund.

17 6. For the purpose of subsections 4 and 5, a total amount of  
18 \$5,000,000 of the revenues collected from the excise tax imposed  
19 pursuant to subsection 1 and the excise tax imposed pursuant to  
20 subsection 2 in each fiscal year shall be deemed sufficient to pay the  
21 costs of all local governments to carry out the provisions of chapters  
22 678C and 678D of NRS. The Board shall, by regulation, determine  
23 the manner in which local governments may be reimbursed for the  
24 costs of carrying out the provisions of chapters 678C and 678D of  
25 NRS.

26 7. The revenues collected from the excise tax imposed pursuant  
27 to subsection 3 must be paid over as collected to the State Treasurer  
28 to be deposited to the credit of the State Education Fund.

29 8. As used in this section:

30 (a) "Adult-use cannabis cultivation facility" has the meaning  
31 ascribed to it in NRS 678A.025.

32 (b) *"Affiliate" means a person who, directly or indirectly*  
33 *through one or more intermediaries, controls, is controlled by or is*  
34 *under common control with, a specified person.*

35 (c) "Cannabis product" has the meaning ascribed to it in  
36 NRS 678A.120.

37 ~~(e)~~ (d) "Local government" has the meaning ascribed to it in  
38 NRS 360.640.

39 ~~(d)~~ (e) "Medical cannabis cultivation facility" has the meaning  
40 ascribed to it in NRS 678A.170.

41 ~~(e)~~ (f) "Medical cannabis establishment" has the meaning  
42 ascribed to it in NRS 678A.180.

43 ~~(f)~~ (g) "Wholesale sale" means ~~(a)~~ *the first* sale or transfer of  
44 cannabis by a cannabis cultivation facility to another cannabis  
45 establishment. The term does not include a transfer of cannabis by a



1 cannabis cultivation facility to another cannabis cultivation facility  
2 when both cannabis cultivation facilities share identical ownership.

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

4 **Sec. 9.** NRS 678B.640 is hereby amended to read as follows:

5 678B.640 **1.** The Department of Taxation shall adopt  
6 regulations to establish procedures to determine the fair market  
7 value at wholesale of cannabis. *The regulations shall:*

8 *(a) Provide that the fair market value of cannabis:*

9 *(1) Will be calculated and published by the Department on*  
10 *a quarterly basis not more than 30 days after the end of each*  
11 *calendar quarter; and*

12 *(2) Is the median sales price for wholesale sales between*  
13 *cannabis cultivation facilities and cannabis establishments that*  
14 *are not affiliates, per pound or each, during the period specified in*  
15 *subparagraph (1).*

16 *(b) Prescribe any information required by the Department to*  
17 *determine the fair market value at wholesale of cannabis.*

18 **2.** *The Board shall ensure that any computer software used*  
19 *for the seed-to-sale tracking of cannabis adopted by the Board*  
20 *includes a method to denote transfers of cannabis between*  
21 *affiliates.*

22 **3.** The Board shall furnish the Department with such  
23 information as the Department determines to be necessary to adopt  
24 the regulations required by this section.

25 **4.** *As used in this section, "affiliate" has the meaning*  
26 *ascribed to it in NRS 372A.290.*

27 **Sec. 10.** **1.** This section becomes effective upon passage and  
28 approval.

29 **2.** Sections 1 to 9, inclusive, of this act become effective:

30 *(a) Upon passage and approval for the purpose of adopting any*  
31 *regulations and performing any other preparatory administrative*  
32 *tasks that are necessary to carry out the provisions of this act; and*

33 *(b) On January 1, 2024, for all other purposes.*

