

Amendment No. 946

Senate Amendment to Assembly Bill No. 430 First Reprint	(BDR 32-893)
<b>Proposed by:</b> Senate Committee on Revenue and Economic Development	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 430 R1 (§ 7).
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ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JDK/JFD



Date: 6/3/2023

A.B. No. 430—Revises provisions relating to cannabis. (BDR 32-893)





## 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:**

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

Existing law imposes an excise tax at the rate of 15 percent of the fair market value at wholesale upon each wholesale sale of cannabis by a medical cannabis cultivation facility or an adult-use cannabis cultivation facility to another cannabis establishment. (NRS 372A.290) Existing law imposes an excise tax at the rate of 10 percent of the sales price of each retail sale of cannabis or cannabis products by an adult-use cannabis retail store or cannabis consumption lounge. (NRS 372A.290) **Section 7** of this bill revises the excise tax on the wholesale sale of cannabis to apply the tax only to the first wholesale sale and to provide that the tax is at the rate of 15 percent of: (1) the fair market value at wholesale for sales made to an affiliate of the medical cannabis cultivation facility or adult-use cannabis cultivation facility; or (2) the sales price, if the sale is made to a cannabis establishment that is not an affiliate of the medical cannabis cultivation facility or adult-use cannabis cultivation facility.

~~[Section 4 of this bill revises the definition of “sales price” to exclude the amount of any excise tax on cannabis or cannabis products.]~~

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

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 thereto a new~~  
2 ~~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, ingesting,~~  
5 ~~inhaling or otherwise introducing cannabis, as defined in NRS 678A.085, or any~~  
6 ~~cannabis product into the human body; and~~

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

10       ~~2. The term does not include a product that may also be used for vaporizing,~~  
11 ~~ingesting, inhaling or otherwise introducing nicotine into the human body.]~~  
12 ~~(Deleted by amendment.)~~

13       **Sec. 1.3.** ~~[NRS 370.007 is hereby amended to read as follows:~~

14       ~~370.007 As used in NRS 370.007 to 370.430, inclusive, and section 1 of this~~  
15 ~~act, and 370.505 to 370.530, inclusive, unless the context otherwise requires, the~~  
16 ~~words and terms defined in NRS 370.008 to 370.055, inclusive, and section 1 of~~  
17 ~~this act, have the meanings ascribed to them in those sections.] (Deleted by~~  
18 ~~amendment.)~~

19       **Sec. 1.7.** ~~[NRS 370.054 is hereby amended to read as follows:~~

20       ~~370.054 "Vapor product":~~

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

26       ~~2. Includes, without limitation:~~

27       ~~(a) An electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a~~  
28 ~~similar product or device; and~~

29       ~~(b) The components of such a product or device, whether or not sold~~  
30 ~~separately, including, without limitation, vapor cartridges or other container of~~  
31 ~~nicotine or any other substance in a solution or other form that is intended to be~~  
32 ~~used with or in an electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or~~  
33 ~~a similar product or device, atomizers, cartomizers, digital displays, clearomizers,~~  
34 ~~tank systems, flavors, programmable software or other similar products or devices.~~  
35 ~~As used in this paragraph, "component" means a product intended primarily or~~  
36 ~~exclusively to be used with or in an electronic cigarette, cigar, cigarillo, pipe,~~  
37 ~~hookah, or vape pen, or a similar product or device.~~

38       ~~3. Does not include any product:~~

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

42       ~~(b) Subject to the excise tax on cannabis or cannabis products pursuant to NRS~~  
43 ~~372A.200 to 372A.380, inclusive.~~

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

46       ~~(d) Which is a cannabis vaporizer.] (Deleted by amendment.)~~

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

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

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

2        ~~372A.247 1. "Sales price" means the total amount for which tangible~~  
 3 ~~property is sold, valued in money, whether paid in money or otherwise, without any~~  
 4 ~~deduction on account of any of the following:~~

5        ~~(a) The cost of the property sold;~~

6        ~~(b) The cost of materials used, labor or service cost, interest charged, losses or~~  
 7 ~~any other expenses;~~

8        ~~(c) The cost of transportation of the property before its purchase;~~

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

10        ~~(a) Any services that are a part of the sale;~~

11        ~~(b) Any amount for which credit is given to the purchaser by the seller;~~

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

13        ~~(a) Cash discounts allowed and taken on sales;~~

14        ~~(b) The amount charged for property returned by customers when the entire~~  
 15 ~~amount charged therefor is refunded either in cash or credit, except that this~~  
 16 ~~exclusion does not apply in any instance when the customer, to obtain the refund, is~~  
 17 ~~required to purchase other property at a price greater than the amount charged for~~  
 18 ~~the property that is returned;~~

19        ~~(c) The amount of any tax, not including any manufacturers' or importers'~~  
 20 ~~excise tax, imposed by the United States upon or with respect to retail sales,~~  
 21 ~~whether imposed upon the retailer or the consumer;~~

22        ~~(d) The amount of any tax imposed pursuant to NRS 372A.200 to 372A.380,~~  
 23 ~~inclusive.] (Deleted by amendment.)~~

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

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

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

27        372A.290 1. An excise tax is hereby imposed on ~~each~~ *the first* wholesale  
 28 sale in this State of cannabis by a medical cannabis cultivation facility to another  
 29 cannabis establishment at the rate of 15 percent of ~~the~~ :

30        *(a) The fair market value at wholesale of the cannabis ~~it~~, if the sale is made*  
 31 *to an affiliate of the medical cannabis cultivation facility; or*

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

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

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

39        *(a) The fair market value at wholesale of the cannabis ~~it~~, if the sale is made*  
 40 *to an affiliate of the adult-use cannabis cultivation facility; or*

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

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

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

49        (a) Is the obligation of the seller of the cannabis or cannabis product ~~it~~ *but*  
 50 *may be recovered from the purchaser.*

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

1           4. The revenues collected from the excise tax imposed pursuant to subsection  
2 1 must be distributed:

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

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

9           5. The revenues collected from the excise tax imposed pursuant to subsection  
10 2 must be distributed:

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

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

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

24           7. The revenues collected from the excise tax imposed pursuant to subsection  
25 3 must be paid over as collected to the State Treasurer to be deposited to the credit  
26 of the State Education Fund.

27           8. As used in this section:

28           (a) “Adult-use cannabis cultivation facility” has the meaning ascribed to it in  
29 NRS 678A.025.

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

33           (c) “Cannabis product” has the meaning ascribed to it in NRS 678A.120.

34           ~~(d)~~ (d) “Local government” has the meaning ascribed to it in NRS 360.640.

35           ~~(e)~~ (e) “Medical cannabis cultivation facility” has the meaning ascribed to it  
36 in NRS 678A.170.

37           ~~(f)~~ (f) “Medical cannabis establishment” has the meaning ascribed to it in  
38 NRS 678A.180.

39           ~~(g)~~ (g) “Wholesale sale” means ~~the~~ **the first** sale or transfer of cannabis by a  
40 cannabis cultivation facility to another cannabis establishment. The term does not  
41 include a transfer of cannabis by a cannabis cultivation facility to another cannabis  
42 cultivation facility when both cannabis cultivation facilities share identical  
43 ownership.

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

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

46           678B.640 **1.** The Department of Taxation shall adopt regulations to  
47 establish procedures to determine the fair market value at wholesale of cannabis.  
48 **The regulations shall:**

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

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

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

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

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

9           3. The Board shall furnish the Department with such information as the  
10 Department determines to be necessary to adopt the regulations required by this  
11 section.

12           4. *As used in this section, “affiliate” has the meaning ascribed to it in NRS*  
13 *372A.290.*

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

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

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

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