

Proposed Conceptual Amendment for Senate Bill No. 487

(Prepared by the Legal Division for Senator Ratti)

1. Replace the provisions of this bill which impose an excise tax on retail sales by a retail marijuana store and distribute those proceeds with provisions that revise the taxation of marijuana and distribution of tax proceeds as follows:

Sec. 1. NRS 372A.290 is hereby amended to read as follows:

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

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

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

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

~~4~~ ; and

Does not apply to any sale of marijuana, concentrated cannabis, edible marijuana products or marijuana-infused products by a medical marijuana dispensary pursuant to section 1 of this act.

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

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

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

(a) ~~Seventy-five percent must be paid over as collected to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.~~ To the Department and to local governments in an amount determined to be necessary by the Department to pay the costs of the Department and local governments to carry out the provisions of chapter 453A of NRS; and

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

~~4.~~ If any money remains after the revenues are distributed pursuant to paragraph (a), to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.

5. The revenues collected from the excise tax imposed pursuant to subsection 2:

(a) Must be deposited in the State Treasury and accounted for separately in the State General Fund;

(b) May only be used to carry out alcohol and drug abuse programs pursuant to NRS 458.094;

(c) Do not revert to the State General Fund at the end of any fiscal year.

↳ The Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services shall administer the account created by this subsection. Any interest or income earned on the money in the account must be credited to the account. Any claims against the account must be paid as other claims against the State are paid.

6. The revenues collected from the excise tax imposed pursuant to subsection ~~2~~ 3 must be paid over as collected to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.

~~5.~~ 7. As used in this section:

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

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

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

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

Sec. 2. NRS 372A.290 is hereby amended to read as follows:

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

2. Except as otherwise provided in this subsection, an excise tax is hereby imposed on each retail sale in this State of marijuana, concentrated cannabis, edible marijuana products or marijuana-infused products by a medical marijuana dispensary at the rate of 5 percent of the sales price of the marijuana, concentrated cannabis, edible marijuana products or marijuana-infused products. The excise tax imposed pursuant to this subsection:

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

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

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

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

3. An excise tax is hereby imposed on each retail sale in this State of marijuana ~~;~~ or ~~concentrated cannabis, edible~~ or marijuana products ~~for marijuana-infused products~~ as defined in NRS 453D.030, by a ~~medical marijuana dispensary pursuant to section X of this act~~ retail marijuana store at the rate of 15 percent of the sales price of the marijuana ~~;~~ or ~~concentrated cannabis, edible~~ or marijuana products. ~~for marijuana-infused products.~~ The excise tax imposed pursuant to this subsection:

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

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

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

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

(a) To the Department and to local governments in an amount determined to be necessary by the Department to pay the costs of the Department and local governments to carry out the provisions of chapter 453A of NRS; and

(b) If any money remains after the revenues are distributed pursuant to paragraph (a), to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.

5. The revenues collected from the excise tax imposed pursuant to subsection 2:

(a) Must be deposited in the State Treasury and accounted for separately in the State General Fund;

(b) May only be used to carry out alcohol and drug abuse programs pursuant to NRS 458.094;

(c) Do not revert to the State General Fund at the end of any fiscal year.

↳ The Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services shall administer the account created by this subsection. Any interest or income earned on the money in the account must be credited to the account. Any claims against the account must be paid as other claims against the State are paid.

6. The revenues collected from the excise tax imposed pursuant to subsection 3 must be *distributed as follows:*

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

(b) *Thirty-three and one-third percent must be deposited in the Local Government Tax Distribution Account created by NRS 360.660 for distribution to local governments in an amount for each local government based on the tax paid within each local government ~~+~~ as follows:*

(1) For any tax paid in the unincorporated area of a county, the full amount deposited in the Local Government Tax Distribution Account must be distributed to the county in which the tax was paid for use as described in section 4 of this act.

(2) For any tax paid in an incorporated city:

(I) Thirty percent of the amount deposited in the Local Government Tax Distribution Account must be distributed to the incorporated city in which the tax was paid for use as described in section 9 of this act; and

(II) Seventy percent of the amount deposited in the Local Government Tax Distribution Account must be distributed to the county in which the tax was paid for use as described in section 4 of this act.

7. As used in this section:

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

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

(c) *“Local government” has the meaning ascribed to it in NRS 360.640.*

(d) “Marijuana-infused products” has the meaning ascribed to it in NRS 453A.112.

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

(f) *“Retail marijuana store” has the meaning ascribed to it in NRS 453D.030.*

Sec. 3. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 4, 5 and 6 of this act.

Sec. 4. 1. A board of county commissioners may expend money received pursuant to paragraph (b) of subsection 6 of NRS 372A.290 only for the following purposes:

(a) To increase access to or provide treatment relating to mental health;

(b) To increase access to or provide treatment relating to substance abuse;

(c) To establish or support one or more specialty courts;

(d) To establish or support programs that provide positive alternatives for youth; or

(e) For law enforcement purposes, including, without limitation, enforcement of laws prohibiting driving under the influence of alcohol or a prohibited substance or the underage use of alcohol or a prohibited substance and suppression of the use or sale of prohibited substances.

2. A board of county commissioners shall not expend or grant more than 30 percent of the money received by the county pursuant to paragraph (b) of subsection 6 of NRS 372A.290 in any year for law enforcement purposes as set forth in subsection 1.

3. Except as otherwise provided in subsection 2, a board of county commissioners may grant all or part of the money received by the county pursuant to paragraph (b) of subsection 6 of NRS 372A.290 to a nonprofit organization to be expended for one or more of the purposes identified in paragraphs (a) to (e), inclusive, of subsection 1.

Sec. 5. 1. Each board of county commissioners shall provide by ordinance for the creation of an advisory committee on mental health and substance abuse issues.

2. Each board of county commissioners shall, when determining the members of the advisory committee, ensure that each member has the necessary knowledge or experience to analyze the needs of the residents of the county regarding mental health and substance abuse.

3. The advisory committee shall:

(a) Analyze the needs of the residents of the county regarding mental health and substance abuse;

(b) Make recommendations regarding the expenditure of money pursuant to section 4 of this act by the county and section 9 of this act for each incorporated city in the county; and

(c) Make recommendations for the coordination of programs and expenditures by the county and each incorporated city in the county on issues relating to substance abuse and mental health to ensure the most efficient expenditure of money pursuant to sections 4 and 9 of this act.

Sec. 6. 1. Except as otherwise provided in subsection 2, a board of county commissioners may fix, impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on a marijuana establishment or medical marijuana establishment located in the county outside of the limits of incorporated cities and towns as a:

(a) Flat fee;

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

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

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

3. As used in this section:

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

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

Sec. 7. NRS 244.335 is hereby amended to read as follows:

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

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

(b) Except as otherwise provided in NRS 244.3359 and 576.128, and section 6 of this act, fix, impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on such trades, callings, industries, occupations, professions and business.

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

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

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

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

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

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

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

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

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

(a) Presents written evidence that:

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

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

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

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

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

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

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

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

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

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

8. The board of county commissioners may delegate the authority to enforce liens from taxes levied for the purposes of NRS 244A.597 to 244A.655, inclusive, to the county fair and recreation board. If the authority is so delegated, the board of county commissioners shall revoke or suspend the license of a business upon certification by the county fair and recreation board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 244.3357, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of such license taxes or as the result of any audit or examination of the books by any authorized employee of a county fair and recreation board of the county for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, officer or employee of the county fair and recreation board or the county imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation or Secretary of State for the exchange of information concerning taxpayers.

Sec. 8. Chapter 268 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.

Sec. 9. 1. The governing body of a city may expend money received pursuant to paragraph (b) of subsection 6 of NRS 372A.290 only for the following purposes:

(a) To establish or support programs that provide positive alternatives for youth; or
(b) For law enforcement purposes, including, without limitation, enforcement of laws prohibiting driving under the influence of alcohol or a prohibited substance or the underage use of alcohol or a prohibited substance and suppression of the use or sale of prohibited substances.

2. The governing body of a city may grant all or part of the money received by the city pursuant to paragraph (b) of subsection 6 of NRS 372A.290 to a nonprofit organization to be expended for one or more purposes identified in paragraphs (a) and (b) of subsection 1.

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

(a) Flat fee;
(b) Percentage of the gross revenue of the marijuana establishment or medical marijuana establishment; or
(c) Combination of a flat fee and a percentage of gross revenue of the marijuana establishment or medical marijuana establishment.

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

3. As used in this section:

(a) "Marijuana establishment" has the meaning ascribed to it in NRS 453D.030.
(b) "Medical marijuana establishment" has the meaning ascribed to it in NRS 453A.116.

Sec. 11. NRS 268.095 is hereby amended to read as follows:

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

(a) Except as otherwise provided in subsection 2 and NRS 268.0968 and 576.128, and section 10 of this act, fix, impose and collect for revenues or for regulation, or both, a license tax on all character of lawful trades, callings, industries, occupations, professions and businesses conducted within its corporate limits.

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

(1) As a pledge as additional security for the payment of any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(2) For redeeming any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(3) For defraying the costs of collecting or otherwise administering any such license tax so assigned, of the county fair and recreation board and of officers, agents and employees hired thereby, and of incidentals incurred thereby;

(4) For operating and maintaining recreational facilities under the jurisdiction of the county fair and recreation board;

(5) For improving, extending and bettering recreational facilities authorized by NRS 244A.597 to 244A.655, inclusive; and

(6) For constructing, purchasing or otherwise acquiring such recreational facilities.

(c) Pledge the proceeds of any tax imposed on the revenues from the rental of transient lodging pursuant to this section for the payment of any general or special obligations issued by the city for a purpose authorized by the laws of this State.

(d) Use the proceeds of any tax imposed pursuant to this section on the revenues from the rental of transient lodging:

(1) To pay the principal, interest or any other indebtedness on any general or special obligations issued by the city pursuant to the laws of this State;

(2) For the expense of operating or maintaining, or both, any facilities of the city; and

(3) For any other purpose for which other money of the city may be used.

2. The city council or other governing body of an incorporated city shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

3. The proceeds of any tax imposed pursuant to this section that are pledged for the repayment of general obligations may be treated as "pledged revenues" for the purposes of NRS 350.020.

4. The city council or other governing body of an incorporated city shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. As used in this subsection, "professional" means a person who:

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

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

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

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

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

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

(a) Presents written evidence that:

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

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

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

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

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

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

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

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

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

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

8. The city council or other governing body of each incorporated city may delegate the power and authority to enforce such liens to the county fair and recreation board. If the authority is so delegated, the governing body shall revoke or suspend the license of a business upon

certification by the board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 268.0966, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of those license taxes or as the result of any audit or examination of the books of the city by any authorized employee of a county fair and recreation board for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, official or employee of the county fair and recreation board or the city imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation or the Secretary of State for the exchange of information concerning taxpayers.

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

2. Provide that sec. 1 of the above conceptual language becomes effective upon passage and approval, while secs. 2-10 of the above conceptual language become effective on the date on which the Department of Taxation issues the first license to a marijuana establishment pursuant to NRS 453D.210.