

THE EIGHTY-SECOND DAY

CARSON CITY (Friday), April 28, 2017

Senate called to order at 11:23 a.m.

President Hutchison presiding.

Roll called.

All present except Senators Cancela, Roberson and Segerblom, who were excused

Prayer by the Chaplain, Reverend Richard Snyder.

Creator, we give You thanks for all You are and all You bring to us for our visit within Your creation. You show us the way to live a generous and compassionate life. Give us Your strength to live together with respect and commitment as we grow in Your spirit, for You are God, now and forever.

AMEN.

Pledge of allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President and Secretary are authorized to make the necessary corrections and additions.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Education, to which were referred Assembly Bills Nos. 1, 85, 451, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MOISES DENIS, *Chair*

Mr. President:

Your Committee on Natural Resources, to which were referred Assembly Bills Nos. 33, 385, 490, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

YVANNA D. CANCELA, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Ford moved that Assembly Bills Nos. 35, 54, 162, 387 be taken from the General File and placed on the General File for the next legislative day, Monday, May 1, 2017.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 302.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 140.

SUMMARY—Provides an early start for recreational marijuana sales. (BDR 40-545)

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:

Existing law exempts a person who holds a valid registry identification card from state prosecution for the purchase, possession, use, delivery and production of marijuana. (NRS 453A.200) Existing law also exempts a person who holds a valid medical marijuana establishment registration certificate or medical marijuana establishment agent registration card from state prosecution for the sale, possession, delivery and production of marijuana and provides for the registration and regulation of such establishments. (NRS 453A.200, 453A.320-453A.370)

Pursuant to an initiative petition approved by the voters at the 2016 General Election (Ballot Question No. 2; chapter 453D of NRS), the purchase, possession and use of marijuana and marijuana paraphernalia for persons who are 21 years of age or older have generally been made lawful in this State effective on January 1, 2017. (NRS 453D.100, 453D.110, 453D.130) The initiative petition also provides for the licensing and regulation of facilities for the cultivation, testing, distribution, manufacturing and retail sale of marijuana and marijuana products, in accordance with regulations to be adopted by the Department of Taxation on or before January 1, 2018. (NRS 453D.200, 453D.210)

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

Section 1 also requires the Division of Public and Behavioral Health of the Department of Health and Human Services to adopt regulations as it determines necessary or advisable to provide for such sales by medical marijuana dispensaries. Section 24 of this bill deems existing regulations relating to medical marijuana establishments to apply to sales of marijuana authorized by section 1. ~~[Section 8 of this bill excludes a regulation adopted pursuant to section 1 or 24 from the requirements of the Nevada Administrative Procedure Act that would otherwise apply to such a regulation.]~~ Section 24 also provides that a regulation of the Division or the Department of Taxation to carry out the provisions of this bill relating to such

sales need not comply with the requirements of the Nevada Administrative Procedure Act, may be adopted and become effective immediately upon filing in the Office of the Secretary of State and must expire by limitation on or before the date on which the first license is issued by the Department of Taxation to a marijuana establishment.

Existing law imposes excise taxes at the rate of 2 percent upon each wholesale sale of marijuana by a cultivation facility, each wholesale sale of edible marijuana products or marijuana-infused products by a facility for the production of edible marijuana products or marijuana-infused products and each retail sale of marijuana, edible marijuana products or marijuana-infused products by a medical marijuana dispensary. (NRS 372A.290) Existing law distributes 75 percent of the proceeds of these excise taxes to the State Distributive School Account in the State General Fund and 25 percent to 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 laws of this State relating to medical marijuana establishments. (NRS 372A.290) Sections 17 and 18 of this bill eliminate these excise taxes on wholesale sales by cultivation facilities and facilities for the production of edible marijuana products and marijuana-infused products and increase the excise tax on retail sales by medical marijuana dispensaries from 2 percent to 5 percent. Sections 9-16 and 19-23 of this bill make conforming changes. Additionally, section 17 imposes upon each retail sale pursuant to section 1 an excise tax at the rate of 15 percent of the sales price to be deposited in the State Distributive School Account in the State General Fund. Section 18 also imposes upon each retail sale of marijuana or marijuana products by a retail marijuana store an excise tax at the rate of 15 percent of the sales price of the marijuana or product, two-thirds of which is to be deposited in the State Distributive School Account in the State General Fund and one-third of which is to be deposited in the Local Government Tax Distribution Account for distribution to the local government in which the tax was paid.

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

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

WHEREAS, The potential delay of 1 year or more between the decriminalization of the possession and use of marijuana and marijuana paraphernalia and the licensing and commencement of operation of facilities for the retail sale of marijuana and marijuana products creates the potential for black market and other illegal sales of marijuana that would severely threaten public safety, creates difficulties for law enforcement and threatens the

effectiveness of the overall system for the regulation of marijuana approved by the voters; and

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

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

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

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

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

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

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

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

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

(a) *A medical marijuana dispensary which sells marijuana, concentrated cannabis, edible marijuana products, marijuana-infused products and related*

supplies and educational materials to a person who is 21 years of age or older is exempt from state prosecution for:

- (1) Possession, delivery or production of marijuana;
- (2) Possession or delivery of paraphernalia;
- (3) Aiding and abetting another in the possession, delivery or production of marijuana;
- (4) Aiding and abetting another in the possession or delivery of paraphernalia;
- (5) Any combination of the acts described in subparagraphs (1) to (4), inclusive; and
- (6) Any other criminal offense in which the possession, delivery or production of marijuana or the possession or delivery of paraphernalia is an element; and

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

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

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

5. The Division shall:

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

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

~~5.7~~ 6. As used in this section, “concentrated cannabis” has the meaning ascribed to it in NRS 453.042.

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

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

1. Is registered with the Division pursuant to NRS 453A.322; and
2. Acquires, possesses, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid registry identification card ~~or~~ or pursuant to section 1 of this act.

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

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

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

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

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

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

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

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

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

1. *Having committed or committing any excluded felony offense.*

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

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

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

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

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

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

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

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

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

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

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

3. ~~[A]~~ *Except as otherwise provided in section 1 of this act, a medical marijuana establishment is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to:*

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

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

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

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

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

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

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

8. Medical marijuana establishments are subject to reasonable inspection by the Division at any time, and a person who holds a medical marijuana

establishment registration certificate must make himself or herself, or a designee thereof, available and present for any inspection by the Division of the establishment.

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

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

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

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

- (1) The number of the card;
- (2) The date on which the card was issued; and
- (3) The date on which the card will expire.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 8. ~~NRS 233B.038 is hereby amended to read as follows:~~

~~233B.038 1. "Regulation" means:~~

~~(a) An agency rule, standard, directive or statement of general applicability which effectuates or interprets law or policy, or describes the organization, procedure or practice requirements of any agency;~~

~~(b) A proposed regulation;~~

~~(c) The amendment or repeal of a prior regulation; and~~

~~(d) The general application by an agency of a written policy, interpretation, process or procedure to determine whether a person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest.~~

~~2. The term does not include:~~

~~(a) A statement concerning only the internal management of an agency and not affecting private rights or procedures available to the public;~~

~~(b) A declaratory ruling;~~

~~(c) An intraagency memorandum;~~

~~(d) A manual of internal policies and procedures or audit procedures of an agency which is used solely to train or provide guidance to employees of the agency and which is not used as authority in a contested case to determine whether a person is in compliance with a federal or state statute or regulation;~~

~~(e) An agency decision or finding in a contested case;~~

~~(f) An advisory opinion issued by an agency that is not of general applicability;~~

~~(g) A published opinion of the Attorney General;~~

~~(h) An interpretation of an agency that has statutory authority to issue interpretations;~~

- ~~— (i) Letters of approval, concurrence or disapproval issued in relation to a permit for a specific project or activity;~~
- ~~— (j) A contract or agreement into which an agency has entered;~~
- ~~— (k) The provisions of a federal law, regulation or guideline;~~
- ~~— (l) An emergency action taken by an agency that is necessary to protect public health and safety;~~
- ~~— (m) The application by an agency of a policy, interpretation, process or procedure to a person who has sufficient prior actual notice of the policy, interpretation, process or procedure to determine whether the person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest;~~
- ~~— (n) A regulation concerning the use of public roads or facilities which is indicated to the public by means of signs, signals and other traffic control devices that conform with the manual and specifications for a uniform system of official traffic control devices adopted pursuant to NRS 484A.420;~~
- ~~— (o) The classification of wildlife or the designation of seasons for hunting, fishing or trapping by regulation of the Board of Wildlife Commissioners pursuant to the provisions of title 45 of NRS; [or]~~
- ~~— (p) A technical bulletin prepared pursuant to NRS 360.133 [-]; or~~
- ~~— (q) A regulation adopted by the Division of Public and Behavioral Health of the Department of Health and Human Services or the Department of Taxation pursuant to section 1 or 24 of this act.] (Deleted by amendment.)~~

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

Sec. 10. *"Retail marijuana store" has the meaning ascribed to it in NRS 453D.030.*

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

- (a) The cost of the property sold.*
 - (b) The cost of materials used, labor or service cost, interest charged, losses or any other expenses.*
 - (c) The cost of transportation of the property before its purchase.*
2. *The total amount for which property is sold includes all of the following:*
- (a) Any services that are a part of the sale.*
 - (b) Any amount for which credit is given to the purchaser by the seller.*
3. *"Sales price" does not include any of the following:*
- (a) Cash discounts allowed and taken on sales.*
 - (b) The amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or credit, except that this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.*

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

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

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

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

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

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

372A.250 "Taxpayer" means a:

1. Cultivation facility;
2. Facility for the production of edible marijuana products or marijuana-infused products; ~~or~~
3. Medical marijuana dispensary ~~[]~~; *or*
4. *Retail marijuana store.*

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

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

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

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

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

Sec. 17. 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 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—~~ *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 ~~{-}~~ ;*
- (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 ~~{-}~~ ;*
- (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.

2. 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 1 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. 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.

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

~~{(c)}~~ ~~(d)~~ "Medical marijuana establishment" has the meaning ascribed to it in NRS 453A.116.

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

372A.290 1. 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.~~

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

(a) Is the obligation of the ~~[medical marijuana dispensary;]~~ retail marijuana store;

(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. The revenues collected from the excise tax imposed pursuant to subsection 1 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.

(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. The revenues collected from the excise tax imposed pursuant to subsection 2 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.*

5. 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. 19. NRS 372A.300 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 24. 1. Any regulations adopted by the Division of Public and Behavioral Health of the Department of Health and Human Services ~~for the Department of Taxation~~ which apply to medical marijuana establishments on the effective date of this act ~~remain in force and shall be deemed to~~ apply to sales made by medical marijuana establishments pursuant to section 1 of this act. ~~Any provision of section 1 of this act which~~ If any provision of such

regulations conflicts with any provision of ~~such regulations~~ section 1 of this act, the provision of section 1 of this act prevails to the extent of the conflict.

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

3. The Division of Public and Behavioral Health of the Department of Health and Human Services ~~for~~ and the Department of Taxation may adopt regulations to carry out the provisions of this section.

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

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

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

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

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

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

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

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

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

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

The amendment requires a medical marijuana dispensary to comply with all local ordinances and rules pertaining to zoning and land use. It also exempts regulations developed by the Department of Taxation for the purposes of this measure from compliance provisions of the Nevada Administrative Procedure Act, and it provides that such regulations may be adopted immediately upon filing with the Secretary of State. Such regulations expire by limitation on or before the date on which the Department issues the first license to a marijuana establishment.

Amendment adopted.

Senator Cannizzaro moved that Senate Bill No. 302 be taken from the General File and re-referred to the Committee on Revenue and Economic Development, upon return from reprint.

Motion carried.

Bill ordered reprinted, engrossed and to the Committee on Revenue and Economic Development.

Assembly Bill No. 476.

Bill read second time and ordered to third reading.

REMARKS FROM THE FLOOR

Senator Ford requested his remarks be entered in the Journal.

I would like to take this opportunity to wish my son, Alexander Ford, a happy 12th birthday. I will get a copy of this so he can see me wishing him happy birthday on the record. He is our youngest son, and we are very proud of him. Happy birthday, Alexander.

Senator Ford moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 11:38 a.m.

SENATE IN SESSION

At 12:07 p.m.

President Hutchison presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 28, 2017

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 11.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 11.

Senator Goicoechea moved the adoption of the resolution.

Remarks by Senators Goicoechea, Manendo, Gustavson, Denis, Gansert, Hardy and Settlemeyer.

SENATOR GOICOECHEA:

I would like to make the Body aware that John's wife, Roseann, had surgery a week ago and was not able to be here with us today. I am sure she is heartbroken over that, and I ask you to keep her and the family in your thoughts and prayers. I am assuming she is watching this on a computer, so good afternoon, Roseann, we love you.

There are still ten members in this Body who served with John in the Assembly and only four remaining in the Assembly who served with him. Most of us have come across to the Senate, and there are a number of his good friends serving here.

John was a fierce opponent of the overreach of land management agencies in the State, especially as related to the ranching industry. That is best seen by his activities in Jarbridge, Kelly Springs, and most recently Argenta. John was my mentor. He was not only my mentor though, he was a good friend of mine. We had many good times in this building. He came to this building in 1986 at the same time I started as a County Commissioner in Eureka. It was on his advice that I

ran for County Commissioner. He was always a type of father figure to me, and we had great times in this building. We had disagreements on bills in those sessions, and he would tell me, "Read the damn bill, Pete, that ain't what it says," so I would go back and read the bill.

The times we had in this building pale to the times we had traveling across the State and occasionally across the Nation. These trips would typically be on public lands issues. As we traveled through this State—the number of people he knew—the ranges and those beautiful valleys—most of the ranges he either owned a ranch at one time or ran livestock on. He was all over the State from Utah to California; John at one time had a tremendous empire.

I thank his family for what they shared with us in the 24 years he spent in this building. I talked to your dad almost daily even after he retired. Please, remember the family in your thoughts and prayers. Goodbye John.

SENATOR MANENDO:

Our sincere condolences and appreciation for sharing such a fine gentleman with the State of Nevada. To his wonderful wife, we are thinking of you. Today, I wear this hat in honor of Mr. Carpenter.

You may have heard about the Carpenter, Anderson, Buckley Law firm that was said to be the greatest law firm in the history of the State of Nevada. That really was not a law firm because two of the three named individuals were not lawyers. Being on that Judiciary Committee there were so many fascinating issues. Mr. Carpenter was a crack legislator. He was so thorough. I came in during the 1995 session when we had the historic 21 to 21 tie vote. Two sessions prior to that in the 1991 session, I was able to visit to watch and learn. Going into that tie I was afraid. No one knew what to expect, but Mr. Carpenter said things would be fine because we are all Nevadans. We were all Nevadans, and we were going to make it work because that was our responsibility.

We did not have computers at that time; we had chalkboards. I was here when we had chalkboards. We had huge bill books, and he would go through those. There was not a time when he did not find something the lawyers missed. He was a no-nonsense, common sense, good guy wanting to get along and work together with others. The legislature has changed since his time, and since he has left, I do not think it is for the better. He was a good guy to everybody. It did not matter if you were a Republican or Democrat, you could talk to him and ask him for advice, and it would not be political or partisan. He would just tell you. A large part of my constituency lives in manufactured home parks, and I found out he owned one and would discuss it with him. He was always surprised about how others treated the people living at their parks when I shared stories with him because that was not the way his family treated the people in their parks.

In regards to the Susie-Q, it would be nice to have it located somewhere in the Legislative Building if the family could locate it. I still have the hat I received 20 years ago as a crew member and display it in my office. I also fondly remember the Cowboy Hall of Fame and how he would induct people into it. For example, majority leader at the time, Barbara "Buckaroo" Buckley; David "Show-me-the-Money" Goldwater; Jeannie "Legal Beagle" Ohrenschall; Don "Giddy-up" Gibbons; Steve "Fence-mender" Watson, and I was honored as Mark "Rangerider" Manendo in 2003.

There was no finer man and no greater Legislator. He will be missed. For those who did not have a chance to meet and serve with him, I am sorry. It was a great and touching honor to have such a gentle giant in this building. We are all better people because Mr. Carpenter served the State of Nevada. He was my favorite legislator, and if he was not your favorite legislator, you did not know him.

SENATOR GUSTAVSON:

I, too, was honored to serve with Assemblyman Carpenter. I met him during my first session, 20 years ago in 1997. He was a great man, and it was a true honor to serve with him. He was reasonable, had common sense and was a true patriot. I sat on the Judiciary Committee with him for many sessions and if you wanted to discuss the Constitution of the United States, there was no one who knew it better. He and I had many good talks, and he taught me many things, including what to do as an Assemblyman. It was an honor to serve with him. He was a real statesman.

I, too, remember the Susie-Q and wondering each session when he would bring it down. Then one day you would walk onto the Floor, and there it would be, sitting on his desk. I have so many

great memories with Assembly Carpenter. He leaves a legacy in this Body, and his family is also a legacy he leaves behind. We honor his service and the man and will always remember him.

SENATOR DENIS:

I, too, had the privilege of serving with Mr. Carpenter. He was born in October of 1930, and my father was born in August of 1930. He and John got along great and talked about many things. I always felt John was a sort of father figure and appreciated the things he stood for; he truly was a statesman and a true Nevadan. He was as one of my mentors when I came in 2005. It seems like we served longer than that. He was the kind of person who seemed like after knowing him for five minutes, he was your best friend. You just knew who he was, and I appreciated that.

He was very proud that he read every bill, and he did not vote on anything unless he had read it. He read every bill, and he knew those bills. I appreciated that about him and am grateful to his family for sharing him with us and for the great service he gave us. I am grateful I had the opportunity to serve with John.

SENATOR GANSERT:

I also served with John Carpenter and would like to welcome and thank the family for being here today. He was a wonderful, generous man. I learned quite a bit from him. He read every bill and would always weigh in and have an opinion on things. He was not afraid to be on his own or to be independent. He was a great thinker and a great analyst. I always appreciated his warm smile and his giggle; he kind of giggled when he laughed, and I loved that. I also appreciated the relationship he had with his good friend from Senate District 19. They were two very good, lifelong friends, and I admired their relationship and the way they shared ideas and family. The way they drove together and ate together, it was wonderful; an example of someone who is not family but really is family. I would like to thank the family again for sharing John with us. I feel privileged to have served with him and to be a member of the Cowboy Hall of Fame.

SENATOR HARDY:

I would like to thank the family for sharing John Carpenter with us. How many birthdays did he miss, how many daughter's and son's outings did he miss, how many times was he here when he should have been there? You can count all of those sacrifices that we celebrate when he was here with us. He was truly a wonderful man, with a disarming smile and a wit and sincerity that could break through political discussions and political worries and woes. As I thought about this celebration we are doing today, it is a celebration for him and for you, of the legacy he has left for us in the Legislature here in Nevada and for your family. Happy trails to you, John, my hat is off to you.

SENATOR SETTELMAYER:

I had the pleasure of coming in at the same time as John Carpenter, John Marvel and Mr. Goicoechea. Sadly, at that time my dad passed away, but I had extended fathers within those individuals in the other House. They were quintessential Nevadans. The only disagreement I ever had with John Carpenter was he had a fondness for sheep, and I disagreed with that. I am a pure cattleman. That was about it. It was always interesting to hear his stories. I would ask him why he stayed at the Plaza Hotel. He would reply, "If you only knew how much I hated making a bed." He had the grace to be a statesman and get his point across. I remember sitting in committee and saying things that would go nowhere. I would then go to caucus and say the same thing, and it would still go nowhere. He would get up on the floor, state the same thing, maybe a slightly different way, "You know, I don't think you really want to do that with the bill because if you do that, then you do that..." and magically, the bill would be put on the desk, and it would go away. He had the grace and the ability to be the statesman I am still trying to figure out. That is what he did for Nevada. I appreciate everything he did, but the biggest thing in his life was very clear in talking to him, and that is standing right here; the family we see here today. Thank you for sharing him with us.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

Senator Gustavson moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 12:30 p.m.

SENATE IN SESSION

At 12:36 p.m.

President Hutchison presiding.

Quorum present.

REMARKS FROM THE FLOOR

Senator Hardy requested that the following letter be entered in the Journal for this legislative day.

I asked to speak to you today so that I could personally thank all of you for this honor you have bestowed upon John. My family and I are deeply grateful you are recognizing John for his years of service to Nevada.

Although I was not physically present here in Carson City, I was always with John mentally and emotionally. During his daily 7:00 a.m., noon and 7:00 p.m. phone calls, I'd hear the good and not so good stories.

John accepted the role of Assemblyman with gratitude, pride and a deep sense of responsibility. He always wanted to help the people of Nevada, especially those who were caught in the middle of government regulations. He wanted so badly to make a difference for them and for all of the people of Nevada.

As you all know, your position can be very stressful as you work to make the right decisions. No matter how you vote on a bill, you are damned if you do and damned if you don't John felt it was important to add humor to lighten the stress so you could all laugh at the end of the day. The Cowboy Hall of Fame and Suzy Q are two such memorable contributions that will be forever talked about. John would tell the stories of their inception to whomever would listen, and the story would always end with his unique laugh – hu hu.

He endured much pain with his bad heart, the everlasting leg ulcers and being diagnosed with 3 types of cancers. However, when he had the opportunity to talk politics with Pete Goicoechea and John Ellison, he swallowed a better medicine than any kind the doctors could prescribe.

John and I have 7 children, 19 grandchildren and 7 great grandchildren, so there was always something happening on the homefront that he would miss. You all make that hard decision to leave your homefront to be here for the people of Nevada. For that, I thank you and your families!

John had a deep respect for the Legislature and the sacrifices you all make. John and Pete, you both had a very special place in John's heart. You will never know how much you meant to him. Thank you to all of you for making John feel his work made a difference and that his cowboy boot left a footprint on Nevada.

Roseann Carpenter

UNFINISHED BUSINESS

There being no objections, the President and Secretary signed Assembly Bill No. 469.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Gansert, the privilege of the floor of the Senate Chamber for this day was extended to Cody Hamm.

On request of Senator Goicoechea, the privilege of the floor of the Senate Chamber for this day was extended to Candace Carpenter, Darryl Carpenter, Doug Carpenter, Elizabeth Carpenter, John B. Carpenter, Kristen Carpenter,

Louis Carpenter, Rochelle Carpenter, Roseann Carpenter Rylee Carpenter, Scott Carpenter, Susan Carpenter, Tyler Carpenter, Doug Deforest, Kristina Deforest, Cidney Hinds, John T. John, Kelsey Larsen, Linda Meo, Eve Nybe, Tina Reminger and Charlie Wellemeier.

On request of Senator Hammond, the privilege of the floor of the Senate Chamber for this day was extended to Carter Wilkerson.

Senator Ford moved that the Senate adjourn in memory of former Assemblyman John Carpenter until Monday, May 1, 2017 at 11:00 a.m.

Motion carried.

Senate adjourned at 12:38 p.m.

Approved:

MARK A. HUTCHISON
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate