

HOUSE BILL NO. 1501

Introduced by

Representatives Headland, Boschee, Dockter, Mitskog, Steiner

Senator Meyer

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact chapter 57-36.2 and a new subsection to section
2 57-39.2-04 of the North Dakota Century Code, relating to imposition of a gross receipts tax and
3 an excise tax on ~~retail marijuana and retail marijuana~~ usable marijuana and adult-use cannabis
4 products; to provide a penalty; to provide a continuing appropriation; and to provide a
5 contingent effective date.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** Chapter 57-36.2 of the North Dakota Century Code is created and enacted as
8 follows:

9 **57-36.2-01. Definitions.**

- 10 ~~1. "Person" means any individual, firm, fiduciary, partnership, corporation, limited liability~~
11 ~~company, trust, or association however formed.~~
- 12 ~~2. "Retail marijuana" means marijuana as defined in section 19-24.3-01. Retail marijuana~~
13 ~~does not include marijuana produced, processed, sold, or dispensed under chapter~~
14 ~~19-24.1.~~
- 15 ~~3. "Retail marijuana manufacturer" or "manufacturer" means any person engaged in the~~
16 ~~business of producing, processing, or manufacturing retail marijuana or retail~~
17 ~~marijuana products for sale to retail marijuana stores.~~
- 18 ~~4. "Retail marijuana product" means an edible marijuana product as defined in section~~
19 ~~19-24.3-01. Retail marijuana product does not include medical marijuana products or~~
20 ~~usable marijuana produced, processed, sold, or dispensed under chapter 19-24.1.~~
- 21 ~~5. "Retail marijuana store" or "store" means any person other than a retail marijuana~~
22 ~~manufacturer who is engaged in the business of selling retail marijuana or retail~~
23 ~~marijuana products.~~
- 24 1. "Adult-use cannabis business" means a manufacturing facility or dispensary.

1 2. "Adult-use cannabis product" means adult-use cannabis, adult-use cannabinoid
2 concentrates, or adult-use cannabinoid products sold to an adult-use cannabis
3 consumer under chapter 19-24.2.

4 3. "Department" means the state department of health.

5 4. "Dispensary" means an entity registered by the department under chapter 19-24.2 as
6 an adult-use cannabis business authorized to sell adult-use cannabis products.

7 5. "Manufacturing facility" means an entity registered by the department under chapter
8 19-24.1 and 19-24.2 that is authorized to produce and process cannabis and to sell
9 usable marijuana and adult-use cannabis products to a dispensary.

10 6. "Person" means any individual, firm, fiduciary, partnership, corporation, limited liability
11 company, trust, or association however formed.

12 7. "Usable marijuana" has the meaning provided in section 19-24.1-01.

13 **57-36.2-02. Retail marijuana manufacturers and stores to be licensed****Adult-use**
14 **cannabis permit and bond requirement.**

15 1. Each person engaged in ~~the~~or conducting business ~~of selling retail marijuana or retail~~
16 ~~marijuana products~~as an adult-use cannabis business in this state shall ~~secure a~~
17 ~~license from the state department of health before engaging or continuing to engage in~~
18 ~~business. A separate application and license are required for each retail marijuana~~
19 ~~manufacturer at each outlet or place of business within the state, and a separate retail~~
20 ~~marijuana store license is required for each retail outlet when a person owns or~~
21 ~~controls more than one place of business dealing in retail marijuana or retail marijuana~~
22 ~~products.~~file with the tax commissioner an application for a permit. Every application
23 for a permit must be made on a form prescribed by the tax commissioner and must
24 identify the business name, the location of the applicant's place or places of business,
25 proof of registration with the department, and other information required by the tax
26 commissioner. The application must be signed by the owner if a natural person; in the
27 case of an association, partnership, or limited liability company, by a member or
28 partner; and in the case of a corporation, by an executive officer or other person
29 specifically authorized by the corporation to sign the application. A permit is not
30 assignable and must be displayed conspicuously at the place of business.

1 2. The tax commissioner shall require any person required to file and pay tax under this
2 chapter to file a bond with the tax commissioner, issued by a surety company
3 authorized to transact business in this state and approved by the insurance
4 commissioner as to solvency and responsibility in an amount as the tax commissioner
5 may fix, to secure the payment of any tax and penalties due or which may become
6 due from the person. In lieu of a bond, securities approved by the tax commissioner in
7 an amount as prescribed by the tax commissioner may be deposited with the tax
8 commissioner. The securities must be kept in the custody of the tax commissioner and
9 may be sold by the tax commissioner at public or private sale without notice to the
10 depositor if it becomes necessary to recover any tax, interest, or penalty due. All
11 moneys deposited as security with the tax commissioner under this subsection must
12 be paid by the tax commissioner to the state treasurer and must be credited by the
13 state treasurer into a special fund to be known as the ~~retail sales and use tax~~adult-use
14 cannabis business security trust fund. If any tax, interest, penalty, or costs imposed by
15 this chapter are not paid when due, the tax commissioner shall certify that information
16 to the director of the office of management and budget who shall transmit the money
17 to the tax commissioner. The tax commissioner shall apply the money deposited by
18 the person or so much as is necessary to satisfy the amount due. If the tax
19 commissioner determines it is no longer necessary to require the deposit to be
20 maintained by the person, the tax commissioner shall certify that information to the
21 director of the office of management and budget who shall pay the unused money to
22 the person entitled to receive the money.

23 ~~3. A person may not sell, offer for sale, or possess with the intent to sell, any retail~~
24 ~~marijuana or retail marijuana products without a license.~~

25 **57-36.2-03. Revocation of license -- Penalty****Suspension or revocation of registration**
26 **certificate and permit.**

27 The ~~state~~ department of health may ~~suspend or~~ revoke the ~~license~~registration certificate
28 ~~and the tax commissioner may suspend or revoke the permit of any retail marijuana~~
29 ~~manufacturer or retail marijuana store~~adult-use cannabis business for failure to comply with this
30 chapter or any of the rules or regulations prescribed by the tax commissioner or the ~~state~~
31 ~~department of health. When a license has been revoked, no license may be issued again to the~~

1 ~~licensee for a period of one year. A person may not sell any retail marijuana or retail marijuana~~
2 ~~products after the license has been revoked.~~

3 **57-36.2-04. Retail marijuana Dispensary gross receipts tax imposed.**

- 4 1. ~~There is imposed a tax of fifteen percent upon the gross receipts of retail marijuana~~
5 ~~stores from all sales at retail of retail marijuana and retail marijuana products within~~
6 ~~this state~~ adult-use cannabis products. The tax is measured by a dispensary's gross
7 receipts derived from the sale of adult-use cannabis products, exclusive of any
8 discount or other reduction.
- 9 2. ~~The tax on medical~~ Gross receipts of usable marijuana ~~stores is~~ and adult-use cannabis
10 products are not subject to the tax imposed under 57-39.2 or local option taxes. A local
11 jurisdiction
- 12 3. A political subdivision may not impose a local option tax on the sale of ~~retail~~ usable
13 marijuana ~~or retail marijuana~~ and adult-use cannabis products.

14 **57-36.2-05. Retail marijuana manufacturer excise tax Manufacturing facility gross**
15 **receipts tax imposed.**

16 There is imposed an excise tax of ~~fifteen~~ ten percent on the sale of ~~retail~~ usable marijuana
17 and ~~retail marijuana~~ adult-use cannabis products by a ~~retail marijuana manufacturer to a retail~~
18 ~~marijuana store~~ manufacturing facility to a dispensary. The tax is measured by a
19 manufacturer's manufacturing facility's gross receipts derived from the sale of ~~retail~~ usable
20 marijuana and ~~retail marijuana~~ adult-use cannabis products to a ~~store~~ dispensary located in this
21 state, exclusive of any discount or other reduction.

22 **57-36.2-06. Retail marijuana manufacturer and store Filing of returns requirement -**
23 **Penalty.**

- 24 1. On or before the last day of the month next succeeding each month, a ~~retail marijuana~~
25 ~~manufacturer and a retail marijuana store~~ manufacturing facility shall prepare a return
26 for the preceding month in the form and manner as may be prescribed by the tax
27 commissioner, showing the gross receipts from the sale of ~~retail~~ usable marijuana ~~or~~
28 ~~retail marijuana~~ and adult-use cannabis products to dispensaries, the amount of the tax
29 for the period covered by the return, and any other information as the tax
30 commissioner may require. The tax commissioner, upon request and a showing of
31 good cause, may grant an extension of time not to exceed thirty days for filing a return.

1 If the extension is granted, the time required to make a payment must be extended for
2 the same period of time, but the amount of interest imposed under section
3 57-36.2-2857-36.2-08 applies to the amount of the deferred payment from the date the
4 tax would have been due if the extension had not been granted to the date the tax is
5 paid.

6 2. On or before the last day of the month next succeeding each month, a dispensary
7 shall prepare a return for the preceding month in the form and manner as may be
8 prescribed by the tax commissioner, showing the gross receipts from the sale of
9 adult-use cannabis products, the amount of the tax for the period covered by the
10 return, and any other information as the tax commissioner may require. The tax
11 commissioner, upon request and a showing of good cause, may grant an extension of
12 time not to exceed thirty days for filing a return. If the extension is granted, the time
13 required to make a payment must be extended for the same period of time, but the
14 amount of interest imposed under section 57-36.2-08 applies to the amount of the
15 deferred payment from the date the tax would have been due if the extension had not
16 been granted to the date the tax is paid.

17 3. Returns must be filed electronically by the ~~manufacturer, store~~manufacturing facility,
18 dispensary, or a duly authorized agent and must contain a declaration that the returns
19 are made and signed under the penalty of perjury.

20 **57-36.2-07. Payment of tax - Penalty.**

21 1. The tax levied under this chapter is due and payable on or before the last day of the
22 next succeeding month. The ~~retail marijuana manufacturer and retail marijuana~~
23 ~~store~~manufacturing facility and dispensary shall pay the total tax due in the manner
24 prescribed by the tax commissioner. A ~~retail marijuana manufacturer and retail~~
25 ~~marijuana store~~manufacturing facility and dispensary are subject to the penalties and
26 interest imposed under section 57-39.2-18 for failure to file a return, for filing an
27 incorrect return, or for failure to pay the tax due. If there is a sale or discontinuance of
28 aan adult-use cannabis business licensed under this chapter, the tax is due
29 immediately before the sale or discontinuance of the business and if the tax is not paid
30 within fifteen days, the tax becomes delinquent and subject to the penalties and
31 interest provided in section 57-39.2-18. A ~~marijuana retail store or retail marijuana~~

1 manufacturer manufacturing facility or dispensary is not eligible to receive
2 compensation under section 57-39.2-12.1.

3 2. Every retailer adult-use cannabis business, at the time of filing the required return, shall
4 compute and pay to the tax commissioner the tax due.

5 3. Remittances of tax due under this chapter may not be deemed or considered payment
6 until the tax commissioner has collected or received the tax due.

7 **57-36.2-08. Administration.**

8 The provisions of chapter 57-39.2 pertaining to the administration of the retail sales tax,
9 including provisions for penalties and interest, credits, or adoption of rules, which are not in
10 conflict with this chapter, govern the administration of the gross receipts tax imposed in this
11 chapter. The provisions of chapter 57-39.2 pertaining to refunds of tax due do not apply to this
12 chapter.

13 **57-36.2-09. Tax, penalties, and other charges paid to tax commissioner - Disposition.**

14 All fees, taxes, penalties, and other charges imposed and collected under this chapter must
15 be paid to the tax commissioner in the form of a remittance payable to the tax commissioner,
16 who shall transfer the moneys to the state treasurer, for deposit in the general fund.

17 **57-36.2-10. Deposit of revenue - Report to state treasurer - Allocation - Continuing**
18 **appropriation.**

19 1. Except as provided in subsection 2, all moneys collected under this chapter must be
20 transmitted to the state treasurer at the end of each month and must be credited by
21 the state treasurer to the general fund. Moneys deposited with the tax commissioner
22 as security for the payment of tax, penalty, or costs due must be deposited and
23 accounted for as provided for in subsection 3 of section 57-39.2-12. The tax
24 commissioner also shall certify to the state treasurer the allocations to be made under
25 this section.

26 2. Three percent of the revenue received ~~under the marijuana retail gross receipts~~
27 ~~tax~~ from the tax collected from dispensaries under this chapter must be transferred by
28 the state treasurer to the city or county in which the ~~retail marijuana store~~ dispensary is
29 located and is provided as a standing and continuing appropriation to the state
30 treasurer for distribution on a monthly basis.

1 **SECTION 2.** A new subsection to section 57-39.2-04 of the North Dakota Century Code is
2 created and enacted as follows:

3 Gross receipts from the sale of ~~retail~~usable marijuana and ~~retail marijuana~~adult-use
4 cannabis products as defined in section 1 of this Act.

5 **SECTION 3. CONTINGENT EFFECTIVE DATE.** This Act is contingent on the passage of a
6 ~~bill by the sixty-seventh legislative assembly which authorizes the retail sale of marijuana and~~
7 ~~marijuana products~~House Bill No. 1420, and if the contingency occurs, this Act is effective for
8 taxable events occurring after June 30, 2021.