

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Ways and Means to which was referred Senate Bill No.
3 54 entitled “An act relating to the regulation of cannabis” respectfully reports
4 that it has considered the same and recommends that the House propose to the
5 Senate that the report of the Committee on Government Operations be
6 amended as follows:

7 First: In Sec. 5 (Cannabis Control Board report), in subdivision (a)(3), by
8 striking out “32 V.S.A. § 7901” and inserting in lieu thereof “32 V.S.A.
9 § 7902”

10 Second: In Sec. 6c, contingent Cannabis Regulation Fund deficit offset, by
11 striking out “32 V.S.A. § 7901” and inserting in lieu thereof “32 V.S.A.
12 § 7902”

13 Third: By striking out Secs. 14–18 and their reader assistance headings in
14 their entireties and inserting in lieu thereof new Secs. 14–18 and reader
15 assistance headings to read as follows:

16 * * * Creation of **Excise Tax** * * *

17 Sec. 14. 32 V.S.A. chapter 207 is added to read:

18 CHAPTER 207. CANNABIS TAXES

19 § 7901. DEFINITIONS

20 As used in this chapter:

21 (1) “Cannabis” has the same meaning as in 7 V.S.A. § 831.

1 (2) “Cannabis cultivator” has the same meaning as in 7 V.S.A. § 861.

2 (3) “Cannabis product” has the same meaning as in 7 V.S.A. § 831.

3 (4) “Cannabis product manufacturer” has the same meaning as in
4 7 V.S.A. § 861.

5 (5) “Cannabis retailer” has the same meaning as in 7 V.S.A. § 861.

6 (6) “Cannabis wholesaler” has the same meaning as in 7 V.S.A. § 861.

7 (7) “Integrated licensee” has the same meaning as in 7 V.S.A. § 861.

8 (8) “Retail sale” or “sold at retail” means any sale for any purpose other
9 than for resale by a cannabis retailer or integrated licensee.

10 (9) “Sales price” has the same meaning as in section 9701 of this title.

11 § 7902. CANNABIS EXCISE TAX

12 (a) There is imposed a cannabis excise tax equal to 14 percent of the sales
13 price of each retail sale in this State of cannabis and cannabis products,
14 including food or beverages.

15 (b) The tax imposed by this section shall be paid by the purchaser to the
16 retailer or integrated licensee. Each retailer or integrated licensee shall collect
17 from the purchaser the full amount of the tax payable on each taxable sale.

18 (c) The tax imposed by this section is separate from and in addition to the
19 general sales and use tax imposed by chapter 233 of this title and any local
20 option sales tax permitted to be collected pursuant to 24 V.S.A. § 138. The tax
21 imposed by this section shall not be part of the sales price to which the general

1 sales and use tax and any local option sales tax permitted to be collected
2 pursuant to 24 V.S.A. § 138 apply. The cannabis excise tax shall be separately
3 itemized from the general sales and use tax and any local option sales tax
4 permitted to be collected pursuant to 24 V.S.A. § 138 on the receipt provided
5 to the purchaser.

6 (d) The following sales shall be exempt from the tax imposed under this
7 section:

8 (1) sales under any circumstances in which the State is without power to
9 impose the tax;

10 (2) sales made by any dispensary as authorized under 18 V.S.A.
11 chapter 86, provided that the cannabis or cannabis product is sold only to
12 registered qualifying patients directly or through their registered caregivers;
13 and

14 (3) sales from a cannabis cultivator, cannabis product manufacturer,
15 cannabis wholesaler, or integrated licensee to a cannabis product manufacturer,
16 cannabis retailer, cannabis wholesaler, or integrated licensee.

17 § 7903. LIABILITY FOR TAXES

18 (a) Any tax collected in accordance with this chapter shall be deemed to be
19 held by the retailer or integrated licensee in trust for the State of Vermont.

20 Any tax collected under this chapter shall be accounted for separately so as

1 clearly to indicate the amount of tax collected and that the same are the
2 property of the State of Vermont.

3 (b) Every retailer or integrated licensee required to collect and remit tax
4 under this chapter to the Commissioner shall be personally and individually
5 liable for the amount of such tax together with such interest and penalty as has
6 accrued under the provisions of section 3202 of this title. If the retailer or
7 integrated licensee is a corporation or other entity, the personal liability shall
8 extend to any officer or agent of the corporation or entity who as an officer or
9 agent of the same has the authority to collect and remit tax to the
10 Commissioner of Taxes as required in this chapter.

11 (c) A retailer or integrated licensee shall have the same rights in collecting
12 tax from his or her purchaser or regarding nonpayment of tax by the purchaser
13 as if the tax or taxes were a part of the purchase price of cannabis or cannabis
14 products and payable at the same time; provided, however, if the retailer or
15 integrated licensee required to collect tax has failed to remit any portion of the
16 tax or taxes to the Commissioner of Taxes, the Commissioner of Taxes shall be
17 notified of any action or proceeding brought by the retailer or integrated
18 licensee to collect tax and shall have the right to intervene in such action or
19 proceeding.

20 (d) A retailer or integrated licensee required to collect tax may also refund
21 or credit to the purchaser any tax erroneously, illegally, or unconstitutionally

1 collected. No cause of action that may exist under State law shall accrue
2 against the retailer or integrated licensee for tax collected unless the purchaser
3 has provided written notice to a retailer or integrated licensee and the retailer
4 or integrated licensee has had 60 days to respond.

5 § 7904. RETURNS; RECORDS

6 (a) Any retailer or integrated licensee required to collect tax imposed by
7 this chapter shall, on or before the 25th day of every month, return to the
8 Department of Taxes, under oath of a person with legal authority to bind the
9 retailer or integrated licensee, a statement containing its name and place of
10 business, the total amount of sales subject to the cannabis excise tax made in
11 the preceding month, and any information required by the Department of
12 Taxes, along with the total tax due. Retailers and integrated licensees shall not
13 remit taxes collected to the Department of Taxes in cash absent the issuance of
14 a waiver by the Commissioner of Taxes and the Commissioner may require
15 that returns be submitted electronically.

16 (b) Every retailer and integrated licensee shall maintain, for not less than
17 three years, accurate records showing all transactions subject to tax liability
18 under this chapter. The records are subject to inspection by the Department of
19 Taxes at all reasonable times during normal business hours.

1 § 7905. BUNDLED TRANSACTIONS

2 (a) Except as provided in subsection (b) of this section, a retail sale of a
3 bundled transaction that includes cannabis or a cannabis product is subject to
4 the cannabis excise tax imposed by this chapter on the entire sales price of the
5 bundled transaction. If there is a conflict with the bundling transaction
6 provisions applicable to another tax type, this section shall apply.

7 (b) If the sales price is attributable to products that are taxable and products
8 that are not taxable under this chapter, the portion of the price attributable to
9 the products that are nontaxable are subject to the tax imposed by this chapter
10 unless the retailer or integrated licensee can identify by reasonable and
11 verifiable standards the portion that is not subject to tax from its books and
12 records that are kept in the regular course of business, and any discounts
13 applied to the bundle must be attributed to the products that are nontaxable
14 under this chapter.

15 (c) As used in this section, “bundled transaction” means:

16 (1) the retail sale of two or more products where the products are
17 otherwise distinct and identifiable, are sold for one nonitemized price, and at
18 least one of the products is or contains cannabis; or

19 (2) cannabis or a cannabis product that is provided free of charge with
20 the required purchase of another product.

1 § 7906. LICENSE

2 (a) Any retailer or integrated licensee required to collect tax imposed by
3 this chapter must apply for and receive a cannabis retail tax license from the
4 Commissioner for each place of business within the State where he or she sells
5 cannabis or cannabis products prior to commencing business. The
6 Commissioner shall issue without charge a license, or licenses, empowering
7 the retailer or integrated licensee to collect the cannabis excise tax, provided
8 that a retailer or integrated licensee’s application is properly submitted and the
9 retailer or integrated licensee is otherwise in compliance with applicable laws,
10 rules, and provisions.

11 (b) Each cannabis retail tax license shall state the place of business to
12 which it is applicable and be prominently displayed in the place of business.
13 The licenses shall be nonassignable and nontransferable and shall be
14 surrendered to the Commissioner immediately upon the registrant ceasing to
15 do business in the place named. A cannabis retail tax license shall be separate
16 and in addition to any licenses required by sections 9271 (meals and rooms
17 tax) and 9707 (sales and use tax) of this title.

18 (c) The Cannabis Control Board may require the Commissioner of Taxes to
19 suspend or revoke the tax licenses issued under this section for any retailer or
20 integrated licensee that fails to comply with 7 V.S.A. chapter 33 or any rules
21 adopted by the Board.

1 § 7907. ADMINISTRATION OF CANNABIS TAXES

2 (a) The Commissioner of Taxes shall administer and enforce this chapter
3 and the tax. The Commissioner may adopt rules pursuant to 3 V.S.A.
4 chapter 25 to carry out such administration and enforcement.

5 (b) To the extent not inconsistent with this chapter, the provisions for the
6 assessment, collection, enforcement, and appeals of the sales and use tax in
7 chapter 233 of this title shall apply to the tax imposed by this chapter.

8 § 7908. STATUTORY PURPOSES

9 (a) The statutory purpose of the exemptions for cannabis and cannabis
10 products sold by any dispensary as authorized under 18 V.S.A. chapter 86 in
11 subdivision 7902(d)(2) of this title is to lower the cost of medical products in
12 order to support the health and welfare of Vermont residents.

13 (b) The statutory purpose of the exemption for nonretail sales in
14 subdivision 7902(d)(3) of this title is to avoid taxation when purchased
15 cannabis or cannabis product is intended to be incorporated into a new
16 cannabis product.

17 § 7909. APPLICABLE TAXES

18 The cannabis excise tax, general sales and use tax imposed by chapter 233
19 of this title, and any local option sales tax permitted to be collected pursuant to
20 24 V.S.A. § 138 are the only taxes that apply to a retail sale of cannabis or
21 cannabis product in this State.

1 Sec. 14a. 32 V.S.A. § 3102(d)(3) is amended to read:

2 (3) to any person who inquires, provided that the information is limited
3 to whether a person is registered to collect Vermont income withholding, sales
4 and use, ~~or meals and rooms,~~ or cannabis excise tax; whether a person is in
5 good standing with respect to the payment of these taxes; whether a person is
6 authorized to buy or sell property free of tax; or whether a person holds a valid
7 license under chapter 205 or 239 of this title or 10 V.S.A. § 1942;

8 * * * Sales Tax Exemption * * *

9 Sec. 15. 32 V.S.A. § 9701(31) is amended to read:

10 (31) “Food and food ingredients” means substances, whether in liquid,
11 concentrated, solid, frozen, dried, or dehydrated form, that are sold for
12 ingestion or chewing by humans and are consumed for their taste or nutritional
13 value. “Food and food ingredients” does not include alcoholic beverages,
14 tobacco, cannabis and cannabis products as defined under 7 V.S.A. § 831, or
15 soft drinks.

16 Sec. 16. 32 V.S.A. § 9741(53) is added to read:

17 (53) Cannabis and cannabis products as defined under 7 V.S.A. § 831

18 sold by:

19 (A) any dispensary as authorized under 18 V.S.A. chapter 86,

20 provided that the cannabis or cannabis product is sold only to registered

21 qualifying patients directly or through their registered caregivers; or

1 closed containers of ice cream or frozen confection; eight ounce or larger
2 containers of salad dressings or sauces; maple syrup; quart or larger containers
3 of cider or milk.

4 * * *

5 (iii) Cannabis or cannabis products as defined under 7 V.S.A.

6 § 831.

7 Sec. 17b. 32 V.S.A. § 9201(n) is added to read:

8 (n) The statutory purpose for the exemption for cannabis and cannabis
9 products as defined under 7 V.S.A. § 831 in subdivision 9202(10)(D)(iii) of
10 this title is to avoid having both the meals and rooms tax and the cannabis
11 excise and general sales and use taxes apply to edible cannabis products.

12 * * * Income Tax Deduction * * *

13 Sec. 18. 32 V.S.A. § 5811 is amended to read:

14 § 5811. DEFINITIONS

15 The following definitions shall apply throughout this chapter unless the
16 context requires otherwise:

17 * * *

18 (18) “Vermont net income” means, for any taxable year and for any
19 corporate taxpayer:

20 (A) the taxable income of the taxpayer for that taxable year under the
21 laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal

1 Revenue Code, and excluding income which under the laws of the United
2 States is exempt from taxation by the states:

3 * * *

4 (ii) decreased by:

5 (I) the “gross-up of dividends” required by the federal Internal
6 Revenue Code to be taken into taxable income in connection with the
7 taxpayer’s election of the foreign tax credit; ~~and~~

8 (II) the amount of income ~~which~~ **that** results from the required
9 reduction in salaries and wages expense for corporations claiming the Targeted
10 Job or WIN credits; and

11 (III) any federal deduction **or credit** that the taxpayer would
12 have been allowed for the cultivation, testing, processing, or sale of cannabis
13 or cannabis products as authorized under 7 V.S.A. chapter 33 or 18 V.S.A.
14 chapter 86, but for 26 U.S.C. § 280E.

15 * * *

16 (21) “Taxable income” means, in the case of an individual, federal
17 adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

18 * * *

19 **(B) Decreased by the following items of income (to the extent such**
20 **income is included in federal adjusted gross income):**

21 * * *

- 1 (iii) recapture of State and local income tax deductions not taken
2 against Vermont income tax; ~~and~~
3 (iv) the portion of federally taxable benefits received under the
4 federal Social Security Act that is required to be excluded under section 5830e
5 of this chapter; and
6 (v) the amount of any federal deduction or credit that the taxpayer
7 would have been allowed for the cultivation, testing, processing, or sale of
8 cannabis or cannabis products as authorized under 7 V.S.A. chapter 33 or
9 18 V.S.A. chapter 86, but for 26 U.S.C. § 280E; and

10 * * *

11 Fourth: In Sec. 22 (effective dates), in subsection (c), by striking out
12 “(creation of excise and local option tax)” and inserting in lieu thereof
13 “(creation of excise tax)”

14

15

16

17 (Committee vote: _____)

18

19

Representative _____

20

FOR THE COMMITTEE