

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. The tax imposed
20 by this section shall not be part of the sales price to which the general sales and

1 use tax applies. The cannabis excise tax shall be separately itemized from the
2 general sales and use tax on the receipt provided to the purchaser.

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

5 (1) sales under any circumstances in which the State is without power to
6 impose the tax; and

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

10 § 7903. LIABILITY FOR TAXES

11 (a) Any tax collected in accordance with this chapter shall be deemed to be
12 held by the retailer or integrated licensee in trust for the State of Vermont.
13 Any tax collected under this chapter shall be accounted for separately so as
14 clearly to indicate the amount of tax collected and that the same are the
15 property of the State of Vermont.

16 (b) Every retailer or integrated licensee required to collect and remit tax
17 under this chapter to the Commissioner shall be personally and individually
18 liable for the amount of such tax together with such interest and penalty as has
19 accrued under the provisions of section 3202 of this title. If the retailer or
20 integrated licensee is a corporation or other entity, the personal liability shall
21 extend to any officer or agent of the corporation or entity who as an officer or

1 agent of the same has the authority to collect and remit tax to the
2 Commissioner of Taxes as required in this chapter.

3 (c) A retailer or integrated licensee shall have the same rights in collecting
4 tax from his or her purchaser or regarding nonpayment of tax by the purchaser
5 as if the tax or taxes were a part of the purchase price of cannabis or cannabis
6 products and payable at the same time; provided, however, if the retailer or
7 integrated licensee required to collect tax has failed to remit any portion of the
8 tax or taxes to the Commissioner of Taxes, the Commissioner of Taxes shall be
9 notified of any action or proceeding brought by the retailer or integrated
10 licensee to collect tax and shall have the right to intervene in such action or
11 proceeding.

12 (d) A retailer or integrated licensee required to collect tax may also refund
13 or credit to the purchaser any tax erroneously, illegally, or unconstitutionally
14 collected. No cause of action that may exist under State law shall accrue
15 against the retailer or integrated licensee for tax collected unless the purchaser
16 has provided written notice to a retailer or integrated licensee and the retailer
17 or integrated licensee has had 60 days to respond.

18 § 7904. RETURNS; RECORDS

19 (a) Any retailer or integrated licensee required to collect tax imposed by
20 this chapter shall, on or before the 25th day of every month, return to the
21 Department of Taxes, under oath of a person with legal authority to bind the

1 retailer or integrated licensee, a statement containing its name and place of
2 business, the total amount of sales subject to the cannabis excise tax made in
3 the preceding month, and any information required by the Department of
4 Taxes, along with the total tax due. Retailers and integrated licensees shall not
5 remit taxes collected to the Department of Taxes in cash absent the issuance of
6 a waiver by the Commissioner of Taxes and the Commissioner may require
7 that returns be submitted electronically.

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

12 § 7905. BUNDLED TRANSACTIONS

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

18 (b) If the sales price is attributable to products that are taxable and products
19 that are not taxable under this chapter, the portion of the price attributable to
20 the products that are nontaxable are subject to the tax imposed by this chapter
21 unless the retailer or integrated licensee can identify by reasonable and

1 verifiable standards the portion that is not subject to tax from its books and
2 records that are kept in the regular course of business, and any discounts
3 applied to the bundle must be attributed to the products that are nontaxable
4 under this chapter.

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

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

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

11 § 7906. LICENSE

12 (a) Any retailer or integrated licensee required to collect tax imposed by
13 this chapter must apply for and receive a cannabis retail tax license from the
14 Commissioner for each place of business within the State where he or she sells
15 cannabis or cannabis products prior to commencing business. The
16 Commissioner shall issue without charge a license, or licenses, empowering
17 the retailer or integrated licensee to collect the cannabis excise tax, provided
18 that a retailer or integrated licensee’s application is properly submitted and the
19 retailer or integrated licensee is otherwise in compliance with applicable laws,
20 rules, and provisions.

1 (b) Each cannabis retail tax license shall state the place of business to
2 which it is applicable and be prominently displayed in the place of business.
3 The licenses shall be nonassignable and nontransferable and shall be
4 surrendered to the Commissioner immediately upon the registrant ceasing to
5 do business in the place named. A cannabis retail tax license shall be separate
6 and in addition to any licenses required by sections 9271 (meals and rooms
7 tax) and 9707 (sales and use tax) of this title.

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

12 § 7907. ADMINISTRATION OF CANNABIS TAXES

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

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

19 § 7908. STATUTORY PURPOSES

20 The statutory purpose of the exemptions for cannabis and cannabis products
21 sold by any dispensary as authorized under 18 V.S.A. chapter 86 in

1 subdivision 7902(d)(2) of this title is to lower the cost of medical products in
2 order to support the health and welfare of Vermont residents.

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

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

10 * * * Sales Tax Exemption * * *

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

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

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

19 (53) Cannabis and cannabis products as defined under 7 V.S.A. § 831
20 sold by any dispensary as authorized under 18 V.S.A. chapter 86, provided that

1 the cannabis or cannabis product is sold only to registered qualifying patients
2 directly or through their registered caregivers.

3 * * * Tax Expenditure * * *

4 Sec. 17. 32 V.S.A. § 9706(mm) is added to read:

5 (mm) The statutory purpose of the exemption for cannabis and cannabis
6 products as defined under 7 V.S.A. § 831 in subdivision 9741(53) of this title
7 is to lower the cost of medical products sold by any dispensary as authorized
8 under 18 V.S.A. chapter 86 in order to support the health and welfare of
9 Vermont residents.

10 * * * Meals and Rooms Tax * * *

11 Sec. 17a. 32 V.S.A. § 9202(10) is amended to read:

12 (10) “Taxable meal” means:

13 * * *

14 (D) “Taxable meal” shall not include:

15 (i) Food or beverage, other than that taxable under
16 subdivision (10)(C) of this section, that is a grocery-type item furnished for
17 take-out: whole pies or cakes, loaves of bread; single-serving bakery items sold
18 in quantities of three or more; delicatessen and nonprepackaged candy sales by
19 weight or measure, except party platters; whole uncooked pizzas; pint or larger
20 closed containers of ice cream or frozen confection; eight ounce or larger

1 containers of salad dressings or sauces; maple syrup; quart or larger containers
2 of cider or milk.

3 * * *

4 (iii) Cannabis or cannabis products as defined under 7 V.S.A.
5 § 831.

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

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

11 * * * Income Tax Deduction * * *

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

13 § 5811. DEFINITIONS

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

16 * * *

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

19 (A) the taxable income of the taxpayer for that taxable year under the
20 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