

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 TAX

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 the 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 were a part of the purchase price of cannabis or cannabis products  
6 and payable at the same time; provided, however, if the retailer or integrated  
7 licensee required to collect tax has failed to remit any portion of the tax to the  
8 Commissioner of Taxes, the Commissioner of Taxes shall be notified of any  
9 action or proceeding brought by the retailer or integrated licensee to collect tax  
10 and shall have the right to intervene in such action or proceeding.

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

17 § 7904. RETURNS; RECORDS

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

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

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

11 § 7905. BUNDLED TRANSACTIONS

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

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

1 records that are kept in the regular course of business, and any discounts  
2 applied to the bundle must be attributed to the products that are nontaxable  
3 under this chapter.

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

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

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

10 § 7906. LICENSE

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

20 (b) Each cannabis retail tax license shall state the place of business to  
21 which it is applicable and be prominently displayed in the place of business.

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

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

10 § 7907. ADMINISTRATION OF THE CANNABIS EXCISE TAX

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

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

18 § 7908. STATUTORY PURPOSE

19 The statutory purpose of the exemption for cannabis and cannabis products  
20 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; Statutory Purpose \* \* \*

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. 18b (Substance Misuse Prevention Fund) by striking out “,  
12 but not more than \$6 million per fiscal year” after “32 V.S.A. § 7901” in  
13 subdivision (b)(1) of 18 V.S.A. § 4810.

14 Fifth: In Sec. 22 (effective dates), in subsection (c), by striking out  
15 “(creation of excise and local option tax)” and inserting in lieu thereof  
16 “(creation of excise tax)”

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18

19

20 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

2

Representative \_\_\_\_\_

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FOR THE COMMITTEE