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SENATE BILL 56

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

John M. Sapien

AN ACT

RELATING TO TAXATION; CREATING THE MEDICAL MARIJUANA TAX ACT;
IMPOSING AN EXCISE TAX ON MEDICAL MARIJUANA; IMPOSING
PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 6 of this act may be cited as the "Medical Marijuana
Tax Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Medical Marijuana Tax Act:

A. "department" means the taxation and revenue
department, the secretary of the department or any employee of
the department exercising authority lawfully delegated to that
employee by the secretary;

B. "distribute" means to distribute, dispense, sell

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1 or give;

2 C. "engaging in business" means carrying on or
3 causing to be carried on any activity with the purpose of
4 direct or indirect benefit and includes activity not intended
5 for financial profit;

6 D. "medical marijuana" means cannabis produced,
7 distributed or dispensed pursuant to the Lynn and Erin
8 Compassionate Use Act;

9 E. "person" means any individual, estate, trust,
10 receiver, cooperative association, club, corporation, company,
11 firm, partnership, joint venture, syndicate, limited liability
12 company, limited liability partnership or other association,
13 whether for-profit or nonprofit;

14 F. "producer" means a person engaging in business
15 in New Mexico that produces or distributes medical marijuana in
16 the ordinary course of business; and

17 G. "product value" means the proceeds from the
18 distribution by the producer of the medical marijuana.

19 Section 3. [NEW MATERIAL] IMPOSITION AND RATE OF TAX--
20 DENOMINATION AS MEDICAL MARIJUANA TAX--DATE PAYMENT OF TAX
21 DUE.--

22 A. For the production of medical marijuana in New
23 Mexico to be distributed in the ordinary course of business,
24 there is imposed an excise tax at the rate of twenty-five
25 percent of the product value of the medical marijuana.

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1 B. The tax imposed by Subsection A of this section
2 may be referred to as the "medical marijuana tax".

3 C. The medical marijuana tax shall be paid by the
4 producer to the department on or before the twenty-fifth day of
5 the month following the month in which the taxable event
6 occurs.

7 Section 4. [NEW MATERIAL] REGISTRATION NECESSARY TO
8 ENGAGE IN BUSINESS OF PRODUCING OR DISTRIBUTING MEDICAL
9 MARIJUANA IN NEW MEXICO.--Any person engaged in the business of
10 producing or distributing medical marijuana in New Mexico shall
11 register pursuant to and comply with the provisions of Section
12 7-1-12 NMSA 1978. Any person producing or distributing medical
13 marijuana in New Mexico shall furnish such information as may
14 be requested by the department concerning the person's places
15 of business where medical marijuana is produced or distributed.

16 Section 5. [NEW MATERIAL] RETENTION OF INVOICES AND
17 RECORDS--INSPECTION BY DEPARTMENT.--

18 A. Any person who distributes medical marijuana in
19 New Mexico shall maintain a file of copies of the invoices of
20 distribution for three years from the end of the year the
21 distribution was made. The invoices shall indicate the date of
22 distribution of the medical marijuana, the quantity of medical
23 marijuana distributed and the price received.

24 B. All invoices required to be kept under this
25 section may be inspected by the department along with any stock

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1 of medical marijuana in the possession of the producer.

2 Section 6. [NEW MATERIAL] PENALTIES.--Any person
3 distributing medical marijuana in New Mexico who is required to
4 register with the department and to retain invoices and who
5 willfully fails to register or retain invoices shall, upon
6 conviction thereof, be fined not less than one hundred dollars
7 (\$100) or more than one thousand dollars (\$1,000) for each
8 violation.

9 Section 7. Section 7-1-2 NMSA 1978 (being Laws 1965,
10 Chapter 248, Section 2, as amended) is amended to read:

11 "7-1-2. APPLICABILITY.--The Tax Administration Act
12 applies to and governs:

13 A. the administration and enforcement of the
14 following taxes or tax acts as they now exist or may hereafter
15 be amended:

- 16 (1) Income Tax Act;
- 17 (2) Withholding Tax Act;
- 18 (3) Venture Capital Investment Act;
- 19 (4) Gross Receipts and Compensating Tax Act
20 and any state gross receipts tax;
- 21 (5) Liquor Excise Tax Act;
- 22 (6) Local Liquor Excise Tax Act;
- 23 (7) any municipal local option gross receipts
24 tax;
- 25 (8) any county local option gross receipts

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1 tax;

2 (9) Special Fuels Supplier Tax Act;

3 (10) Gasoline Tax Act;

4 (11) petroleum products loading fee, which fee
5 shall be considered a tax for the purpose of the Tax

6 Administration Act;

7 (12) Alternative Fuel Tax Act;

8 (13) Cigarette Tax Act;

9 (14) Estate Tax Act;

10 (15) Railroad Car Company Tax Act;

11 (16) Investment Credit Act, rural job tax
12 credit, Laboratory Partnership with Small Business Tax Credit
13 Act, Technology Jobs Tax Credit Act, film production tax
14 credit, New Mexico filmmaker tax credit, Affordable Housing Tax
15 Credit Act, high-wage jobs tax credit and Research and
16 Development Small Business Tax Credit Act;

17 (17) Corporate Income and Franchise Tax Act;

18 (18) Uniform Division of Income for Tax
19 Purposes Act;

20 (19) Multistate Tax Compact;

21 (20) Tobacco Products Tax Act; ~~and~~

22 (21) the telecommunications relay service
23 surcharge imposed by Section 63-9F-11 NMSA 1978, which
24 surcharge shall be considered a tax for the purposes of the Tax
25 Administration Act; and

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1 (22) the Medical Marijuana Tax Act;

2 B. the administration and enforcement of the
3 following taxes, surtaxes, advanced payments or tax acts as
4 they now exist or may hereafter be amended:

5 (1) Resources Excise Tax Act;

6 (2) Severance Tax Act;

7 (3) any severance surtax;

8 (4) Oil and Gas Severance Tax Act;

9 (5) Oil and Gas Conservation Tax Act;

10 (6) Oil and Gas Emergency School Tax Act;

11 (7) Oil and Gas Ad Valorem Production Tax Act;

12 (8) Natural Gas Processors Tax Act;

13 (9) Oil and Gas Production Equipment Ad
14 Valorem Tax Act;

15 (10) Copper Production Ad Valorem Tax Act;

16 (11) any advance payment required to be made
17 by any act specified in this subsection, which advance payment
18 shall be considered a tax for the purposes of the Tax
19 Administration Act;

20 (12) Enhanced Oil Recovery Act;

21 (13) Natural Gas and Crude Oil Production
22 Incentive Act; and

23 (14) intergovernmental production tax credit
24 and intergovernmental production equipment tax credit;

25 C. the administration and enforcement of the

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1 following taxes, surcharges, fees or acts as they now exist or
2 may hereafter be amended:

3 (1) Weight Distance Tax Act;

4 (2) the workers' compensation fee authorized
5 by Section 52-5-19 NMSA 1978, which fee shall be considered a
6 tax for purposes of the Tax Administration Act;

7 (3) Uniform Unclaimed Property Act (1995);

8 (4) 911 emergency surcharge and the network
9 and database surcharge, which surcharges shall be considered
10 taxes for purposes of the Tax Administration Act;

11 (5) the solid waste assessment fee authorized
12 by the Solid Waste Act, which fee shall be considered a tax for
13 purposes of the Tax Administration Act;

14 (6) the water conservation fee imposed by
15 Section 74-1-13 NMSA 1978, which fee shall be considered a tax
16 for the purposes of the Tax Administration Act; and

17 (7) the gaming tax imposed pursuant to the
18 Gaming Control Act; and

19 D. the administration and enforcement of all other
20 laws, with respect to which the department is charged with
21 responsibilities pursuant to the Tax Administration Act, but
22 only to the extent that the other laws do not conflict with the
23 Tax Administration Act."

24 Section 8. APPLICABILITY.--The distribution pursuant to
25 Section 7 of this act applies to receipts from the medical

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1 marijuana tax that are attributable to sales on or after July
2 1, 2010.

3 Section 9. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2010.

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