

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 products; to provide a penalty; to provide
4 a continuing appropriation; and to provide a contingent effective date.

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

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

8 **57-36.2-01. Definitions.**

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

23 **57-36.2-02. Retail marijuana manufacturers and stores to be licensed.**

- 1 1. Each person engaged in the business of selling retail marijuana or retail marijuana
2 products in this state shall secure a license from the state department of health before
3 engaging or continuing to engage in business. A separate application and license are
4 required for each retail marijuana manufacturer at each outlet or place of business
5 within the state, and a separate retail marijuana store license is required for each retail
6 outlet when a person owns or controls more than one place of business dealing in
7 retail marijuana or retail marijuana products.
- 8 2. The tax commissioner shall require any person required to file and pay tax under this
9 chapter to file a bond with the tax commissioner, issued by a surety company
10 authorized to transact business in this state and approved by the insurance
11 commissioner as to solvency and responsibility in an amount as the tax commissioner
12 may fix, to secure the payment of any tax and penalties due or which may become
13 due from the person. In lieu of a bond, securities approved by the tax commissioner in
14 an amount as prescribed by the tax commissioner may be deposited with the tax
15 commissioner. The securities must be kept in the custody of the tax commissioner and
16 may be sold by the tax commissioner at public or private sale without notice to the
17 depositor if it becomes necessary to recover any tax, interest, or penalty due. All
18 moneys deposited as security with the tax commissioner under this subsection must
19 be paid by the tax commissioner to the state treasurer and must be credited by the
20 state treasurer into a special fund to be known as the retail sales and use tax security
21 trust fund. If any tax, interest, penalty, or costs imposed by this chapter are not paid
22 when due, the tax commissioner shall certify that information to the director of the
23 office of management and budget who shall transmit the money to the tax
24 commissioner. The tax commissioner shall apply the money deposited by the person
25 or so much as is necessary to satisfy the amount due. If the tax commissioner
26 determines it is no longer necessary to require the deposit to be maintained by the
27 person, the tax commissioner shall certify that information to the director of the office
28 of management and budget who shall pay the unused money to the person entitled to
29 receive the money.
- 30 3. A person may not sell, offer for sale, or possess with the intent to sell, any retail
31 marijuana or retail marijuana products without a license.

1 **57-36.2-03. Revocation of license - Penalty.**

2 The state department of health may revoke the license of any retail marijuana manufacturer
3 or retail marijuana store for failure to comply with this chapter or any of the rules or regulations
4 prescribed by the tax commissioner or the state department of health. When a license has been
5 revoked, no license may be issued again to the licensee for a period of one year. A person may
6 not sell any retail marijuana or retail marijuana products after the license has been revoked.

7 **57-36.2-04. Retail marijuana gross receipts tax imposed.**

8 1. There is imposed a tax of fifteen percent upon the gross receipts of retail marijuana
9 stores from all sales at retail of retail marijuana and retail marijuana products within
10 this state.

11 2. The tax on medical marijuana stores is not subject to local option taxes. A local
12 jurisdiction may not impose a tax on the sale of retail marijuana or retail marijuana
13 products.

14 **57-36.2-05. Retail marijuana manufacturer excise tax.**

15 There is imposed an excise tax of fifteen percent on the sale of retail marijuana and retail
16 marijuana products by a retail marijuana manufacturer to a retail marijuana store. The tax is
17 measured by a manufacturer's gross receipts derived from the sale of retail marijuana and retail
18 marijuana products to a store located in this state, exclusive of any discount or other reduction.

19 **57-36.2-06. Retail marijuana manufacturer and store returns requirement - Penalty.**

20 1. On or before the last day of the month next succeeding each month, a retail marijuana
21 manufacturer and a retail marijuana store shall prepare a return for the preceding
22 month in the form and manner as may be prescribed by the tax commissioner,
23 showing the gross receipts from the sale of retail marijuana or retail marijuana
24 products, the amount of the tax for the period covered by the return, and any other
25 information as the tax commissioner may require. The tax commissioner, upon request
26 and a showing of good cause, may grant an extension of time not to exceed thirty
27 days for filing a return. If the extension is granted, the time required to make a
28 payment must be extended for the same period of time, but the amount of interest
29 imposed under section 57-36.2-28 applies to the amount of the deferred payment from
30 the date the tax would have been due if the extension had not been granted to the
31 date the tax is paid.

1 2. Returns must be filed electronically by the manufacturer, store, or a duly authorized
2 agent and must contain a declaration that the returns are made and signed under the
3 penalty of perjury.

4 **57-36.2-07. Payment of tax - Penalty.**

5 1. The tax levied under this chapter is due and payable on or before the last day of the
6 next succeeding month. The retail marijuana manufacturer and retail marijuana store
7 shall pay the total tax due in the manner prescribed by the tax commissioner. A retail
8 marijuana manufacturer and retail marijuana store are subject to the penalties and
9 interest imposed under section 57-39.2-18 for failure to file a return, for filing an
10 incorrect return, or for failure to pay the tax due. If there is a sale or discontinuance of
11 a business licensed under this chapter, the tax is due immediately before the sale or
12 discontinuance of the business and if the tax is not paid within fifteen days, the tax
13 becomes delinquent and subject to the penalties and interest provided in section
14 57-39.2-18. A marijuana retail store or retail marijuana manufacturer is not eligible to
15 receive compensation under section 57-39.2-12.1.

16 2. Every retailer, at the time of filing the required return, shall compute and pay to the tax
17 commissioner the tax due.

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

20 **57-36.2-08. Administration.**

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

26 **57-36.2-09. Tax, penalties, and other charges paid to tax commissioner - Disposition.**

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

1 **57-36.2-10. Deposit of revenue - Report to state treasurer - Allocation - Continuing**
2 **appropriation.**

- 3 1. Except as provided in subsection 2, all moneys collected under this chapter must be
4 transmitted to the state treasurer at the end of each month and must be credited by
5 the state treasurer to the general fund. Moneys deposited with the tax commissioner
6 as security for the payment of tax, penalty, or costs due must be deposited and
7 accounted for as provided for in subsection 3 of section 57-39.2-12. The tax
8 commissioner also shall certify to the state treasurer the allocations to be made under
9 this section.
- 10 2. Three percent of the revenue received under the marijuana retail gross receipts tax
11 must be transferred by the state treasurer to the city or county in which the retail
12 marijuana store is located and is provided as a standing and continuing appropriation
13 to the state treasurer for distribution on a monthly basis.

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

16 Gross receipts from the sale of retail marijuana and retail marijuana products as
17 defined in section 1 of this Act.

18 **SECTION 3. CONTINGENT EFFECTIVE DATE.** This Act is contingent on the passage of a
19 bill by the sixty-seventh legislative assembly which authorizes the retail sale of marijuana and
20 marijuana products, and if the contingency occurs, this Act is effective for taxable events
21 occurring after June 30, 2021.