

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED 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 usable marijuana and adult-use cannabis products; to provide a penalty; to
4 provide 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. "Adult-use cannabis business" means a manufacturing facility or dispensary.
- 10 2. "Adult-use cannabis product" means adult-use cannabis, adult-use cannabinoid
11 concentrates, or adult-use cannabinoid products sold to an adult-use cannabis
12 consumer under chapter 19-24.2.
- 13 3. "Department" means the state department of health.
- 14 4. "Dispensary" means an entity registered by the department under chapter 19-24.2 as
15 an adult-use cannabis business authorized to sell adult-use cannabis products.
- 16 5. "Manufacturing facility" means an entity registered by the department under chapter
17 19-24.1 and 19-24.2 that is authorized to produce and process cannabis and to sell
18 usable marijuana and adult-use cannabis products to a dispensary.
- 19 6. "Person" means any individual, firm, fiduciary, partnership, corporation, limited liability
20 company, trust, or association however formed.
- 21 7. "Usable marijuana" has the meaning provided in section 19-24.1-01.

22 **57-36.2-02. Adult-use cannabis permit and bond requirement.**

- 23 1. Each person engaged in or conducting business as an adult-use cannabis business in
24 this state shall file with the tax commissioner an application for a permit. Every

1 application for a permit must be made on a form prescribed by the tax commissioner
2 and must identify the business name, the location of the applicant's place or places of
3 business, proof of registration with the department, and other information required by
4 the tax commissioner. The application must be signed by the owner if a natural
5 person; in the case of an association, partnership, or limited liability company, by a
6 member or partner; and in the case of a corporation, by an executive officer or other
7 person specifically authorized by the corporation to sign the application. A permit is not
8 assignable and must be displayed conspicuously at the place of business.

9 2. The tax commissioner shall require any person required to file and pay tax under this
10 chapter to file a bond with the tax commissioner, issued by a surety company
11 authorized to transact business in this state and approved by the insurance
12 commissioner as to solvency and responsibility in an amount as the tax commissioner
13 may fix, to secure the payment of any tax and penalties due or which may become
14 due from the person. In lieu of a bond, securities approved by the tax commissioner in
15 an amount as prescribed by the tax commissioner may be deposited with the tax
16 commissioner. The securities must be kept in the custody of the tax commissioner and
17 may be sold by the tax commissioner at public or private sale without notice to the
18 depositor if it becomes necessary to recover any tax, interest, or penalty due. All
19 moneys deposited as security with the tax commissioner under this subsection must
20 be paid by the tax commissioner to the state treasurer and must be credited by the
21 state treasurer into a special fund to be known as the adult-use cannabis business
22 security trust fund. If any tax, interest, penalty, or costs imposed by this chapter are
23 not paid when due, the tax commissioner shall certify that information to the director of
24 the office of management and budget who shall transmit the money to the tax
25 commissioner. The tax commissioner shall apply the money deposited by the person
26 or so much as is necessary to satisfy the amount due. If the tax commissioner
27 determines it is no longer necessary to require the deposit to be maintained by the
28 person, the tax commissioner shall certify that information to the director of the office
29 of management and budget who shall pay the unused money to the person entitled to
30 receive the money.

1 **57-36.2-03. Suspension or revocation of registration certificate and permit.**

2 The department may suspend or revoke the registration certificate and the tax
3 commissioner may suspend or revoke the permit of any adult-use cannabis business for failure
4 to comply with this chapter or any of the rules or regulations prescribed by the tax commissioner
5 or the department.

6 **57-36.2-04. Dispensary gross receipts tax imposed.**

- 7 1. There is imposed a tax of fifteen percent upon the gross receipts of adult-use cannabis
8 products. The tax is measured by a dispensary's gross receipts derived from the sale
9 of adult-use cannabis products, exclusive of any discount or other reduction.
- 10 2. Gross receipts of usable marijuana and adult-use cannabis products are not subject to
11 the tax imposed under 57-39.2 or local option taxes.
- 12 3. A political subdivision may not impose a local option tax on the sale of usable
13 marijuana and adult-use cannabis products.

14 **57-36.2-05. Manufacturing facility gross receipts tax imposed.**

15 There is imposed an excise tax of ten percent on the sale of usable marijuana and
16 adult-use cannabis products by a manufacturing facility to a dispensary. The tax is measured by
17 a manufacturing facility's gross receipts derived from the sale of usable marijuana and adult-use
18 cannabis products to a dispensary located in this state, exclusive of any discount or other
19 reduction.

20 **57-36.2-06. Filing of returns - Penalty.**

- 21 1. On or before the last day of the month next succeeding each month, a manufacturing
22 facility shall prepare a return for the preceding month in the form and manner as may
23 be prescribed by the tax commissioner, showing the gross receipts from the sale of
24 usable marijuana and adult-use cannabis products to dispensaries, the amount of the
25 tax for the period covered by the return, and any other information as the tax
26 commissioner may require. The tax commissioner, upon request and a showing of
27 good cause, may grant an extension of time not to exceed thirty days for filing a return.
28 If the extension is granted, the time required to make a payment must be extended for
29 the same period of time, but the amount of interest imposed under section 57-36.2-08
30 applies to the amount of the deferred payment from the date the tax would have been
31 due if the extension had not been granted to the date the tax is paid.

- 1 2. On or before the last day of the month next succeeding each month, a dispensary
2 shall prepare a return for the preceding month in the form and manner as may be
3 prescribed by the tax commissioner, showing the gross receipts from the sale of
4 adult-use cannabis products, the amount of the tax for the period covered by the
5 return, and any other information as the tax commissioner may require. The tax
6 commissioner, upon request and a showing of good cause, may grant an extension of
7 time not to exceed thirty days for filing a return. If the extension is granted, the time
8 required to make a payment must be extended for the same period of time, but the
9 amount of interest imposed under section 57-36.2-08 applies to the amount of the
10 deferred payment from the date the tax would have been due if the extension had not
11 been granted to the date the tax is paid.
- 12 3. Returns must be filed electronically by the manufacturing facility, dispensary, or a duly
13 authorized agent and must contain a declaration that the returns are made and signed
14 under the penalty of perjury.

15 **57-36.2-07. Payment of tax - Penalty.**

- 16 1. The tax levied under this chapter is due and payable on or before the last day of the
17 next succeeding month. The manufacturing facility and dispensary shall pay the total
18 tax due in the manner prescribed by the tax commissioner. A manufacturing facility
19 and dispensary are subject to the penalties and interest imposed under section
20 57-39.2-18 for failure to file a return, for filing an incorrect return, or for failure to pay
21 the tax due. If there is a sale or discontinuance of an adult-use cannabis business, the
22 tax is due immediately before the sale or discontinuance of the business and if the tax
23 is not paid within fifteen days, the tax becomes delinquent and subject to the penalties
24 and interest provided in section 57-39.2-18. A manufacturing facility or dispensary is
25 not eligible to receive compensation under section 57-39.2-12.1.
- 26 2. Every adult-use cannabis business, at the time of filing the required return, shall
27 compute and pay to the tax commissioner the tax due.
- 28 3. Remittances of tax due under this chapter may not be deemed or considered payment
29 until the tax commissioner has collected or received the tax due.

1 **57-36.2-08. Administration.**

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

7 **57-36.2-09. Tax, penalties, and other charges paid to tax commissioner - Disposition.**

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

11 **57-36.2-10. Deposit of revenue - Report to state treasurer - Allocation - Continuing**
12 **appropriation.**

13 1. Except as provided in subsection 2, all moneys collected under this chapter must be
14 transmitted to the state treasurer at the end of each month and must be credited by
15 the state treasurer to the general fund. Moneys deposited with the tax commissioner
16 as security for the payment of tax, penalty, or costs due must be deposited and
17 accounted for as provided for in subsection 3 of section 57-39.2-12. The tax
18 commissioner also shall certify to the state treasurer the allocations to be made under
19 this section.

20 2. ThreeTwenty percent of the revenue received from the tax collected from dispensaries
21 under this chapter must be transferred by the state treasurer to the city or county in
22 which the dispensary is located and is provided as a standing and continuing
23 appropriation to the state treasurer for distribution on a monthly basis.

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

26 Gross receipts from the sale of usable marijuana and adult-use cannabis products as
27 defined in section 1 of this Act.

28 **SECTION 3. CONTINGENT EFFECTIVE DATE.** This Act is contingent on the passage of
29 House Bill No. 1420, and if the contingency occurs, this Act is effective for taxable events
30 occurring after ~~June 30, 2021~~ June 30, 2022.