

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 657

BY SENATORS TRUMP AND WOELFEL

[Introduced February 16, 2022; referred
to the Committee on Finance]

1 A BILL to amend and reenact §16A-9-1 of the Code of West Virginia, 1931, as amended, relating
2 generally to medical cannabis; and authorizing the disclosure of tax information necessary
3 for administration of the medical cannabis program.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. TAX ON MEDICAL CANNABIS.

§16A-9-1. Tax on medical cannabis.

1 (a) *Tax imposed.* — For the privilege of engaging or continuing within this state in the
2 business of a dispensary of medical cannabis, as defined in §16A-2-1 of this code, there is hereby
3 levied upon and collected from every person exercising the privilege a privilege tax.

4 (b) *Rate and measure of tax.* — The rate of tax imposed by this section shall be 10 percent
5 of the gross receipts the dispensary receives or accrues during the reporting period, depending
6 upon its method of accounting for federal income tax purposes, from the sale of medical cannabis
7 to a patient or to a caregiver. The tax imposed by this section ~~shall~~ may not be added by the
8 dispensary as a separate charge or line item on any sales slip, invoice, receipt, other statement,
9 or memorandum of the price paid by a patient, or caregiver.

10 (c) *Definitions.* — For purposes of this article:

11 ~~(1)~~ “Gross receipts” means and includes the gross receipts, however denominated, derived
12 from the sale, distribution, or transfer of medical cannabis, without any deduction on account of
13 the cost of property sold; the cost of materials used to grow, process, or sell the medical cannabis;
14 labor costs, taxes, royalties paid in cash or in kind, or otherwise; interest or discount paid; or any
15 other expense, however denominated.

16 ~~(2)~~ “Person” includes any natural person, corporation, partnership, limited liability
17 company, or other business entity as those terms are defined in §11-1-1 *et seq.* of this code.

18 (d) *Payment of tax and reports.* — Every person subject to the tax imposed by this section
19 shall make quarterly payments under this section for each calendar quarter at the rate prescribed
20 in subsection (b) of this section on the gross receipts received or accrued for the calendar quarter,

21 depending upon the person's method of accounting for federal income tax purposes. The tax shall
22 be due and payable on the 20th day of January, April, July, and October for the preceding
23 calendar quarter. When the payment of tax is due, the person shall file a tax return in a form
24 prescribed by the Tax Commissioner. The Tax Commissioner may require such forms, schedules,
25 and returns and impose such filing and remittance requirements as may be necessary or
26 convenient for the efficient administration of taxes imposed by this section.

27 (e) *Electronic filing and payment.* — The taxes imposed by this section shall be paid to the
28 Tax Commissioner by electronic funds transfer, unless electronic payment is prohibited by state
29 or federal law. Tax returns required by this section shall be filed electronically with the Tax
30 Commissioner.

31 (f) *Liability for reporting and payment of tax.* — If any dispensary does not renew its permit,
32 gives up its permit, loses its permit to operate a dispensary, or otherwise ceases business then
33 any tax, additions to tax, penalties, and interest imposed by this article and by §11-10-1 *et seq.*
34 of this code shall become due and payable immediately and the dispensary shall make a final
35 return or returns and pay any tax which is due within 30 days after not renewing its permit, giving
36 up its permit, losing its permit to operate a dispensary, or otherwise ceasing business. The unpaid
37 amount of any tax is a lien upon the property of the dispensary and of its owners.

38 (g) *Deposits of proceeds.* — All money received from the tax imposed under this section,
39 including any interest and additions to tax paid under §11-10-1 *et seq.* of this code, less the
40 amount of any refunds, shall be deposited into the Medical Cannabis Program Fund.

41 (h) *Exemption.* — Sales of medical cannabis shall not be subject to the taxes imposed by
42 §11-15-1 *et seq.* and §11-15A-1 *et seq.* of this code if gross receipts from the sale thereof are
43 included in the measure of tax under this section and the tax has been paid as provided in this
44 section. Additionally, sales of medical cannabis ~~shall~~ may not be subject to a special district excise
45 tax imposed by a county or municipality pursuant to this code, or to a county or municipal sales
46 tax.

47 (i) *Information.* —

48 (1) Persons subject to the tax imposed by this section shall provide to the Tax
49 Commissioner any information the Tax Commissioner may require to administer, collect, and
50 enforce the tax imposed by this section.

51 (2) Notwithstanding any provision of §11-10-1 *et seq.* of this code or of this article to the
52 contrary, the Tax Commissioner, the bureau, and the Secretary of Health and Human Resources
53 may enter into written agreements pursuant to which the Tax Commissioner will disclose to
54 designated employees of the bureau and the Secretary of Health and Human Resources, whether
55 a particular grower, processor, or dispensary is in good standing with the Tax Commissioner, and
56 other return and return information consistent with and necessary for the administration of this
57 article. ~~the~~ The bureau and the secretary will disclose to designated employees of the Tax
58 Commissioner information a grower, processor, or dispensary provides to the bureau and the
59 secretary pursuant to this code. ~~Tax~~ Pursuant to §11-10-5d of this code, tax information disclosed
60 pursuant to a written agreement shall remain confidential in the hands of the receiver and shall
61 not be disclosable under §29B-1-1 *et seq.* of this code. To the extent feasible, this information
62 should be shared or exchanged electronically.

63 (j) *Rules.* — The Tax Commissioner may promulgate, in accordance with the provisions
64 of §29A-3-1 *et seq.* of this code, such procedural, interpretive, or legislative rules, including
65 emergency rules, as the Tax Commissioner may deem necessary or convenient for the efficient
66 administration of taxes imposed by §16A-9-1 of this code.

NOTE: The purpose of this bill is to allow the disclosure and sharing of necessary tax information related to medical cannabis permit holders between the Tax Commissioner, the Bureau for Public Health, and the Secretary of the Department of Health and Human Resources.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.