

**History:** Laws 2019, ch. 53, § 8.

## **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and is not part of the law. Laws 2023, ch. 205, § 16 provided that references to the human services department shall be deemed to be references to the health care authority department.

**Repeals.** — Laws 2022, ch. 37, § 1, effective May 18, 2022, repealed Laws 2019, ch. 53, § 12 that would have repealed 7-41-8 NMSA 1978 effective January 1, 2023.

**Effective dates.** — Laws 2019, ch. 53, § 13 made Laws 2019, ch. 53 effective July 1, 2019.

**Temporary provisions.** — Laws 2019, ch. 53, § 11 provided that on or before sixty days from the effective date of this section, the secretary of human services shall seek a waiver, a state plan amendment or whatever federal authorization is necessary to implement the provisions of the Health Care Quality Surcharge Act.

## **ARTICLE 42**

### **Cannabis Tax**

#### **7-42-1. Short title.**

Sections 43 through 47 [7-42-1 to 7-42-5 NMSA 1978] of this act may be cited as the "Cannabis Tax Act".

**History:** Laws 2021 (1st S.S.), ch. 4, § 43.

## **ANNOTATIONS**

**Effective dates.** — Laws 2021 (1st S.S.), ch. 4 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 29, 2021, 90 days after adjournment of the legislature.

#### **7-42-2. Definitions.**

As used in the Cannabis Tax Act:

A. "cannabis":

(1) means all parts of the plant genus *Cannabis* containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part

of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and

(2) does not include:

(a) the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; or

(b) the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or another product;

B. "cannabis extract":

(1) means a product obtained by separating resins from cannabis by solvent extraction using solvents other than vegetable glycerin, such as butane, hexane, isopropyl alcohol, ethanol or carbon dioxide; and

(2) does not include the weight of any other ingredient combined with cannabis extract to prepare topical or oral administrations, food, drink or another product;

C. "cannabis product" means a product that is or that contains cannabis or cannabis extracts, including edible or topical products that may also contain other ingredients; and

D. "cannabis retailer" means a person whose license from the cannabis control division of the regulation and licensing department allows the person to sell cannabis products to a person who purchases, acquires, possesses or uses the cannabis product for a purpose other than resale.

**History:** Laws 2021 (1st S.S.), ch. 4, § 44.

## **ANNOTATIONS**

**Effective dates.** — Laws 2021 (1st S.S.), ch. 4 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 29, 2021, 90 days after adjournment of the legislature.

### **7-42-3. Cannabis excise tax.**

A. An excise tax is imposed on a cannabis retailer that sells cannabis products in this state. The tax imposed by this section may be referred to as the "cannabis excise tax".

B. The rate of the cannabis excise tax shall be at the following rates and shall be applied to the price paid for a cannabis product:

- (1) prior to July 1, 2025, twelve percent;
- (2) beginning July 1, 2025 and prior to July 1, 2026, thirteen percent;
- (3) beginning July 1, 2026 and prior to July 1, 2027, fourteen percent;
- (4) beginning July 1, 2027 and prior to July 1, 2028, fifteen percent;
- (5) beginning July 1, 2028 and prior to July 1, 2029, sixteen percent;
- (6) beginning July 1, 2029 and prior to July 1, 2030, seventeen percent; and
- (7) beginning July 1, 2030, eighteen percent.

C. The cannabis excise tax shall not apply to retail sales of medical cannabis products sold to a qualified patient or a primary caregiver who presents a registry identification card issued pursuant to the Lynn and Erin Compassionate Use Act [Chapter 26, Article 2B NMSA 1978] or a reciprocal participant who presents similar proof from another state, the District of Columbia or a territory or commonwealth of the United States at the time of the sale.

**History:** Laws 2021 (1st S.S.), ch. 4, § 45.

## **ANNOTATIONS**

**Effective dates.** — Laws 2021 (1st S.S.), ch. 4 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 29, 2021, 90 days after adjournment of the legislature.

### **7-42-4. Date payment due; reporting location instructions.**

A. The cannabis excise tax is to be paid on or before the twenty-fifth day of the month following the month in which the taxable sale occurs.

B. The reporting location for reporting the sale of cannabis products shall be at the following locations:

- (1) if the cannabis product is received by the purchaser at the New Mexico location of the cannabis retailer, the location of the cannabis retailer;
- (2) if the cannabis product is not received by the purchaser at a location of the cannabis retailer, the location indicated by instructions for delivery to the purchaser, or the purchaser's donee, when known to the cannabis retailer;

(3) if Paragraphs (1) and (2) of this subsection do not apply, the location indicated by an address for the purchaser available from the business records of the cannabis retailer that are maintained in the ordinary course of business; provided that use of the address does not constitute bad faith;

(4) if Paragraphs (1) through (3) of this subsection do not apply, the location for the purchaser obtained during consummation of the sale, including the address of a purchaser's payment instrument if no other address is available; provided that use of this address does not constitute bad faith; or

(5) if Paragraphs (1) through (4) of this subsection do not apply, including a circumstance in which the cannabis retailer is without sufficient information to apply those standards, the location from which the cannabis product is shipped or transmitted.

**History:** Laws 2021 (1st S.S.), ch. 4, § 46; 2023, ch. 85, § 23.

#### **ANNOTATIONS**

**The 2023 amendment,** effective July 1, 2023, provided for destination-based sourcing of cannabis excise tax to conform with the gross receipts tax; and added Subsection B.

### **7-42-5. Interpretation of the cannabis tax act; administration and enforcement of tax.**

The department shall administer and enforce the collection of the cannabis excise tax pursuant to the Tax Administration Act [Chapter 7, Article 1 NMSA 1978] .

**History:** Laws 2021 (1st S.S.), ch. 4, § 47.

#### **ANNOTATIONS**

**Effective dates.** — Laws 2021 (1st S.S.), ch. 4 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 29, 2021, 90 days after adjournment of the legislature.