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Town of Secaucus, NJ / Part II: General Legislation

Chapter 62A

Cannabis

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[HISTORY: Adopted by the Mayor and Council of the Town of Secaucus as indicated in article histories. Amendments noted where applicable.]

Article I

Medical Cannabis Transfer Tax

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**§ 62A-7 When effective. Article I Medical Cannabis Transfer Tax [Adopted 7-27-2021 by Ord. No. 2021-22]**

**§ 62A-1 Title. This article shall be known and may be cited as the "Medical Cannabis Transfer Tax."**

**§ 62A-2 Definitions. To effectuate the purposes of this article, these terms shall have the following meanings:** CANNABIS All parts of the plant genus Cannabis, whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, preparation of the plant or its seeds, except those containing resin extracted from the plant, but shall not include 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 such mature stalks, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. "Cannabis" shall not mean hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the New Jersey Hemp Farming Act, N.J.S.A. 4:28-6 et seq. DESIGNATED CAREGIVER A resident of the state who:

**A. Is at least 18 years old;**

**B. Has agreed to assist with a registered qualifying patient's medical use of cannabis, is not currently serving as designated caregiver for more than one other qualifying patient, and is not the qualifying patient's health care practitioner;**

**C. Subject to the provisions of N.J.S.A. 24:6I-4c(2), has never been convicted of possession or sale of a controlled dangerous substance, unless such conviction occurred after the effective date of N.J.S.A. 24:6I-1 et seq. and was for a violation of federal law related to possession or sale of cannabis that is authorized under N.J.S.A. 24:6I-1 et seq. or N.J.S.A. 18A:40-12.22 et seq.;**

**D. Has registered with the Cannabis Regulatory Commission ("Commission") pursuant to Section 4 of N.J.S.A. 24:6I-4, and, except in the case of a designated caregiver who is an immediate family member of the patient, has satisfied the criminal history record background check requirement of N.J.S.A. 24:6I-4; and**

**E. Has been identified as designated caregiver by the patient when registering or renewing a registration with the Commission or in other written notification to the Commission. DISPENSE**  
The furnishing of medical cannabis to a registered qualifying patient, designated caregiver, or institutional caregiver by a medical cannabis dispensary or clinical registrant pursuant to written instructions issued by a health care practitioner pursuant to the requirements of N.J.S.A 24:6I-1 et seq. The term shall include the act of furnishing medical cannabis to a medical cannabis handler for delivery to a registered qualifying patient, designated caregiver, or institutional caregiver, consistent with the requirements of N.J.S.A. 24:6I-20. INSTITUTIONAL CAREGIVER  
A resident of the state who:

**A. Is at least 18 years old;**

**B. Is an employee of a health care facility;**

**C. Is authorized, within the scope of the individual's professional duties, to possess and administer controlled dangerous substances in connection with the care and treatment of patients and residents pursuant to applicable state and federal laws;**

**D. Is authorized by the health care facility employing the person to assist registered qualifying patients who are patients or residents of the facility with the medical use of cannabis, including, but not limited to, obtaining medical cannabis for registered qualifying patients and assisting registered qualifying patients with the administration of medical cannabis;**

**E. Subject to the provisions of N.J.S.A. 24:6I-4c(2), has never been convicted of possession or sale of a controlled dangerous substance, unless such conviction occurred after the effective date of N.J.S.A. 24:6I-1 et seq. and was for a violation of federal law related to possession or sale of cannabis that is authorized under N.J.S.A. 24:6I-1 et seq. or N.J.S.A. 18A:40-12.22 et seq.; and**

**F. Has registered with the Commission pursuant to N.J.S.A. 24:6I-4. MEDICAL USE OF CANNABIS** The acquisition, possession, transport, or use of cannabis or paraphernalia by a registered qualifying patient as authorized by N.J.S.A. 24:6I-1 et seq. and N.J.S.A. 18A:40-12.22 et seq. **QUALIFYING PATIENT or PATIENT** A resident of the state who has been authorized for the medical use of cannabis by a health care practitioner. **REGISTRATION WITH THE COMMISSION** A person has met the qualification requirements for, and has been registered by the Commission as, a registered qualifying patient, designated caregiver, or institutional caregiver. The Commission shall establish appropriate means for health care practitioners, health care facilities, medical cannabis dispensaries, law enforcement, schools, facilities providing behavioral health services or services for persons with developmental disabilities, and other appropriate entities to verify an individual's status as a registrant with the Commission.

**§ 62A-3 Tax imposed.**

**A. As authorized by N.J.S.A. 24:6I-10(i), there is hereby imposed a 2% transfer tax on any** medical cannabis dispensed by the dispensary located within Secaucus, including medical cannabis that is furnished by the dispensary to a medical cannabis handler for delivery to a purchaser or to a registered qualifying patient or the patient's caregiver.

**B. All taxes imposed by this section shall be collected on behalf of the Town of Secaucus by the** person dispensing cannabis to the patient, the patient's designated caregiver, or cannabis handler.

**C. The Division of Finance and/or its designee is hereby designated as collector of the medical** cannabis transfer tax. The methods for reporting taxes due shall be on forms and in accordance with procedures prescribed by the Town Administrator from time to time.

**D. Every person required to collect any taxes imposed by this article shall be personally liable** for the tax imposed, collected or required to be collected. Any such person shall have the same right with respect to collecting the tax from his customer; provided, however, that the Town Administrator of the Town of Secaucus shall be joined as a party in any action brought to collect the tax.

**E. No person required to collect any tax hereunder shall advertise or hold out to any person or to** the public in general in any manner, directly or indirectly, that the tax is not considered as an element in the fee payable by the customer, that he will pay the tax, that the tax will not be separately charged and stated to the customer or that the tax will be refunded to the customer.

**F. If for any reason the tax imposed by this article is not paid when due, interest at a rate of 12% per annum on the amount of the tax due and an additional penalty of 0.5% of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected or a minimum of \$50, whichever is greater. Where action is brought for the recovery of any tax hereunder, the person liable shall, in addition, be liable for the cost of collection and the interest and penalties imposed.**

**G. The medical cannabis transfer tax shall be in addition to any other fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the medical cannabis dispensary.**

**§ 62A-4 Payment of tax; records to be kept.**

**A. Taxes due under this article shall be paid quarterly. Returns for each quarter are due on or before the 15th of the month following the end of the quarter, that is, April 15, July 15, October 15, and January 15.**

**B. A quarterly cannabis tax return is required to be filed by every person responsible for the collection of the medical cannabis transfer tax whether or not any tax is due for that quarter. Payment of the tax due shall be made with the filed return.**

**C. Every person responsible for the collection of the medical cannabis transfer tax shall maintain books and/or records to substantiate the quarterly tax returns, even if no tax is due.**

**D. Pursuant to state law, any person who fails or refuses to file any return required under this article, any person who refuses to permit an officer or agent designated by the Town of Secaucus to examine their books, records and papers and any person who knowingly files an incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the tax due under this article to avoid the payment of the whole or any part thereof is a disorderly person.**

**E. The failure of any person to receive or procure the forms required for filing returns required under this article shall not excuse them from filing a return.**

**§ 62A-5 Repealer. All ordinances or parts of ordinances inconsistent or in conflict with this article are hereby repealed as to said inconsistencies or conflicts.**

**§ 62A-6 Severability.**

**A. If any provision or portion of a provision of this article is held to be unconstitutional, preempted by federal or state law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the article and chapter shall not be invalidated.**

**B. If any section, paragraph, subdivision, clause or provision of this article shall be adjudged invalid, such adjudication shall apply only to that section, subdivision, clause or provision so adjudged, and the remainder of the article shall be deemed valid and effective.**

**§ 62A-7 When effective. This article shall take effect immediately upon passage and publication in accordance with law.**