

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 186

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO TAXATION; CREATING THE MEDICAL MARIJUANA TAX ACT;
IMPOSING AN EXCISE TAX ON MEDICAL MARIJUANA; DISTRIBUTING MONEY
TO THE COUNTY-SUPPORTED MEDICAID FUND; IMPOSING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 6 of this act may be cited as the "Medical Marijuana
Tax Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Medical Marijuana Tax Act:

A. "department" means the taxation and revenue
department, the secretary of the department or any employee of
the department exercising authority lawfully delegated to that
employee by the secretary;

B. "distribute" means to distribute, dispense, sell

underscored material = new
[bracketed material] = delete

1 or give;

2 C. "engaging in business" means carrying on or
3 causing to be carried on any activity with the purpose of
4 direct or indirect benefit and includes activity not intended
5 for financial profit;

6 D. "medical marijuana" means cannabis produced,
7 distributed or dispensed pursuant to the Lynn and Erin
8 Compassionate Use Act;

9 E. "person" means any individual, estate, trust,
10 receiver, cooperative association, club, corporation, company,
11 firm, partnership, joint venture, syndicate, limited liability
12 company, limited liability partnership or other association,
13 whether for-profit or nonprofit;

14 F. "producer" means a person engaging in business
15 in New Mexico that produces or distributes medical marijuana in
16 the ordinary course of business; and

17 G. "product value" means the proceeds from the
18 distribution by the producer of the medical marijuana.

19 Section 3. [NEW MATERIAL] IMPOSITION AND RATE OF TAX--
20 DENOMINATION AS MEDICAL MARIJUANA TAX--DATE PAYMENT OF TAX
21 DUE.--

22 A. For the production of medical marijuana in New
23 Mexico to be distributed in the ordinary course of business,
24 there is imposed an excise tax at the rate of twenty-five
25 percent of the product value of the medical marijuana.

.180416.2

underscored material = new
[bracketed material] = delete

1 B. The tax imposed by Subsection A of this section
2 may be referred to as the "medical marijuana tax".

3 C. The medical marijuana tax shall be paid by the
4 producer to the department on or before the twenty-fifth day of
5 the month following the month in which the taxable event
6 occurs.

7 Section 4. [NEW MATERIAL] REGISTRATION NECESSARY TO
8 ENGAGE IN BUSINESS OF PRODUCING OR DISTRIBUTING MEDICAL
9 MARIJUANA IN NEW MEXICO.--Any person engaged in the business of
10 producing or distributing medical marijuana in New Mexico shall
11 register pursuant to and comply with the provisions of Section
12 7-1-12 NMSA 1978. Any person producing or distributing medical
13 marijuana in New Mexico shall furnish such information as may
14 be requested by the department concerning the person's places
15 of business where medical marijuana is produced or distributed.

16 Section 5. [NEW MATERIAL] RETENTION OF INVOICES AND
17 RECORDS--INSPECTION BY DEPARTMENT.--

18 A. Any person who distributes medical marijuana in
19 New Mexico shall maintain a file of copies of the invoices of
20 distribution for three years from the end of the year the
21 distribution was made. The invoices shall indicate the date of
22 distribution of the medical marijuana, the quantity of medical
23 marijuana distributed and the price received.

24 B. All invoices required to be kept under this
25 section may be inspected by the department along with any stock

.180416.2

underscoring material = new
[bracketed material] = delete

1 of medical marijuana in the possession of the producer.

2 Section 6. [NEW MATERIAL] PENALTIES.--Any person
3 distributing medical marijuana in New Mexico who is required to
4 register with the department and to retain invoices and who
5 willfully fails to register or retain invoices shall, upon
6 conviction thereof, be fined not less than one hundred dollars
7 (\$100) or more than one thousand dollars (\$1,000) for each
8 violation.

9 Section 7. A new section of the Tax Administration Act is
10 enacted to read:

11 "[NEW MATERIAL] DISTRIBUTION--MEDICAL MARIJUANA TAX.--
12 A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
13 made to the county-supported medicaid fund in an amount equal
14 to the net receipts attributable to the medical marijuana tax."

15 Section 8. APPLICABILITY.--The distribution pursuant to
16 Section 7 of this act applies to receipts from the medical
17 marijuana tax that are attributable to sales on or after July
18 1, 2010.

19 Section 9. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2010.