



2022 South Dakota Legislature

Senate Bill 25

HOUSE TAXATION ENGROSSED

Introduced by: **Senators** Stalzer, Breitling, Duhamel, Rohl, Rusch, and Wheeler and **Representatives** Bartels, Bordeaux, Chaffee, Fitzgerald, Goodwin, Ernie Otten, Perry, Rehfeldt, Wiese, and Willadsen at the request of the Marijuana Interim Study Committee

1 **An Act to provide for the taxation of marijuana.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That a NEW SECTION be added to title 10:**

4 Terms used in sections 1 to 6, inclusive, of this Act mean:

5 (1) "Dispensary," a licensed entity that acquires, possesses, stores, delivers, transfers,
6 transports, sells, supplies, or dispenses marijuana, marijuana products, and
7 related supplies to a consumer;

8 (2) "Marijuana facility," an entity licensed to cultivate, test, manufacture, or dispense
9 marijuana or marijuana products;

10 (3) "Marijuana," as defined in § 22-42-1;

11 (4) "Marijuana concentrate," the resin extracted from any part of a marijuana plant
12 and every compound, manufacture, salt, derivative, mixture, or preparation from
13 such resin;

14 (5) "Marijuana product," any product infused with marijuana concentrate and intended
15 for use or consumption by humans.

16 **Section 2. That a NEW SECTION be added to title 10:**

17 There is imposed an excise tax at the rate of eight and one-half percent on the
18 gross receipts from the sale of marijuana, marijuana concentrate, and marijuana products
19 by a dispensary. The excise tax imposed under this chapter does not apply to gross
20 receipts from the sale of marijuana, marijuana concentrate, and marijuana products to a
21 cardholder as defined in § 34-20G-1(6).

22 **Section 3. That a NEW SECTION be added to title 10:**

1 The excise tax revenue collected pursuant to section 2 of this Act must be divided
2 proportionally amongst the counties based on where the revenue was generated. The
3 revenue must be distributed to the county by September first of each year. Each county
4 shall use the revenue for necessary expenses incurred by the county under the provisions
5 of chapters 7-12, 7-16, 7-16A, and 23A-40.

6 **Section 4. That a NEW SECTION be added to title 10:**

7 In lieu of any tax imposed under chapter 10-52A, there is imposed an excise tax
8 at the rate of five percent on the gross receipts from the sale of marijuana, marijuana
9 concentrate, and marijuana products by a dispensary.

10 **Section 5. That a NEW SECTION be added to title 10:**

11 The excise tax revenue collected pursuant to section 4 of this Act must be divided
12 proportionally amongst the municipalities based on where the revenue was generated. All
13 moneys received and collected on behalf of a municipality by the department, pursuant to
14 section 4 of this Act, shall be credited to a special municipal tax fund and after deducting
15 the amount of refunds made, the amounts necessary to defray the cost of collecting the
16 tax, and the administrative expenses incident thereto, shall be paid within thirty days after
17 collection to the municipality entitled thereto.

18 **Section 6. That a NEW SECTION be added to title 10:**

19 In lieu of any other tax imposed under chapters 10-45 or 10-46, there is imposed
20 an excise tax at the rate of one and one-half percent on the gross receipts from the sale
21 of marijuana, marijuana concentrate, and marijuana products by a dispensary.

22 **Section 7. That a NEW SECTION be added to title 10:**

23 There is hereby created within the state treasury the marijuana fund into which all
24 funds collected under section 6 shall be deposited. Expenditures from the fund must be
25 appropriated through the normal budget process.

26 **Section 8. That a NEW SECTION be added to title 10:**

27 The excise taxes imposed under sections 2, 4, and 6 of this Act shall be collected
28 and remitted pursuant to chapter 10-45 and administered pursuant to chapter 10-59.