

CHAPTER 297D

MARIJUANA AND CONTROLLED SUBSTANCE TAXATION

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297D.01 DEFINITIONS.

Subdivision 1. "Marijuana" means any marijuana, whether real or counterfeit, as defined in section 152.01, subdivision 9, that is held, possessed, transported, transferred, sold, or offered to be sold in violation of Minnesota laws.

Subd. 2. "Controlled substance" means any drug or substance, whether real or counterfeit, as defined in section 152.01, subdivision 4, that is held, possessed, transported, transferred, sold, or offered to be sold in violation of Minnesota laws. "Controlled substance" does not include marijuana.

Subd. 3. "Dealer" means a person who in violation of Minnesota law manufactures, produces, ships, transports, or imports into Minnesota or in any manner acquires or possesses more than 42-1/2 grams of marijuana, or seven or more grams of any controlled substance, or ten or more dosage units of any controlled substance which is not sold by weight.

Subd. 4. "Commissioner" means the commissioner of revenue.

History: 1986 c 470 s 4

297D.02 ADMINISTRATION.

The commissioner of revenue shall administer this chapter. Payments required by this chapter must be made to the commissioner on the form provided by the commissioner. The commissioner shall collect all taxes under this chapter.

History: 1986 c 470 s 5

297D.03 RULES.

The commissioner may adopt rules necessary to enforce this chapter. The commissioner shall adopt a uniform system of providing, affixing, and displaying official stamps, official labels, or other official indicia for marijuana and controlled substances on which a tax is imposed.

History: 1986 c 470 s 6

297D.04 TAX PAYMENT REQUIRED FOR POSSESSION.

No dealer may possess any marijuana or controlled substance upon which a tax is imposed by section 297D.08 unless the tax has been paid on the marijuana or other controlled substance as evidenced by a stamp or other official indicia.

History: 1986 c 470 s 7

297D.05 NO IMMUNITY.

Nothing in this chapter may in any manner provide immunity for a dealer from criminal prosecution pursuant to Minnesota law.

History: 1986 c 470 s 8

297D.06 PHARMACEUTICALS.

Nothing in this chapter requires persons registered under chapter 151 or otherwise lawfully in possession of marijuana or a controlled substance to pay the tax required under this chapter.

History: 1986 c 470 s 9

297D.07 MEASUREMENT.

For the purpose of calculating the tax under section 297D.08, an ounce of marijuana or other controlled substance is measured by the weight of the substance in the dealer's possession.

History: 1986 c 470 s 10

297D.08 TAX RATE.

A tax is imposed on marijuana and controlled substances as defined in section 297D.01 at the following rates:

- (1) on each gram of marijuana, or each portion of a gram, \$3.50; and
- (2) on each gram of controlled substance, or portion of a gram, \$200; or
- (3) on each 50 dosage units of a controlled substance that is not sold by weight, or portion thereof, \$2,000.

History: 1986 c 470 s 11

297D.09 FAILURE TO FILE, FILING FALSE OR FRAUDULENT RETURN; INTENT TO EVADE TAX; CRIMINAL PROVISIONS.

Subdivision 1. **Penalties.** Any dealer violating this chapter is subject to a penalty of 100 percent of the tax in addition to the tax imposed by section 297D.08. In addition to the tax penalty imposed, a dealer distributing or possessing marijuana or controlled substances without affixing the appropriate stamps, labels, or other indicia is guilty of a crime and, upon conviction, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Subd. 2. **Statute of limitations.** Notwithstanding section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed upon any criminal offense specified in this section, in the proper court within six years after the commission of this offense.

History: 1986 c 470 s 12

297D.10 STAMP PRICE.

Official stamps, labels, or other indicia to be affixed to all marijuana or controlled substances shall be purchased from the department. The purchaser shall pay 100 percent of face value for each stamp, label, or other indicia at the time of the purchase. The department shall make the stamps, labels, or other indicia in denominations in multiples of ten dollars.

History: 1986 c 470 s 13

297D.11 PAYMENT DUE.

Subdivision 1. **Stamps affixed.** When a dealer purchases, acquires, transports, or imports into this state marijuana or controlled substances on which a tax is imposed by section 297D.08, and if the indicia evidencing the payment of the tax have not already been affixed, the dealer shall have them permanently affixed on the marijuana or controlled substance immediately after receiving the substance. Each stamp or other official indicia may be used only once.

Subd. 2. **Payable on possession.** Taxes imposed upon marijuana or controlled substances by this chapter are due and payable immediately upon acquisition or possession in this state by a dealer.

History: 1986 c 470 s 14

297D.12 ALL ASSESSMENTS ARE JEOPARDY.

Subdivision 1. **Assessment procedure.** An assessment for a dealer not possessing stamps or other official indicia showing that the tax has been paid shall be considered a jeopardy assessment or collection, as provided in section 270.70. The commissioner shall assess a tax based on personal knowledge or information available to the commissioner; mail the taxpayer at the taxpayer's last known address or serve in person, a written notice of the amount of tax; demand its immediate payment; and, if payment is not immediately made, collect the tax by any method prescribed in chapter 270, except that the commissioner need not await the expiration of the times specified in chapter 270. Section 270.70, subdivision 4, paragraph (a), does not apply to this chapter.

Subd. 2. **Injunction prohibited.** No person may bring suit to enjoin the assessment or collection of any taxes, interest, or penalties imposed by this chapter.

Subd. 3. **Standard of proof.** The tax and penalties assessed by the commissioner are presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show their incorrectness or invalidity. Any statement filed by the commissioner with the court administrator, or any other certificate by the commissioner of the amount of tax and penalties determined or assessed is admissible in evidence and is prima facie evidence of the facts it contains.

History: 1986 c 470 s 15

297D.13 CONFIDENTIAL NATURE OF INFORMATION.

Neither the commissioner nor a public employee may reveal facts contained in a report or return required by this chapter, nor can any information contained in such a report or return be used against the dealer in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due under this chapter from the taxpayer making the return.

History: 1986 c 470 s 16

297D.14 INVESTIGATORY POWERS.

For the purpose of determining the correctness of any return, determining the amount of tax that should have been paid, determining whether or not the dealer should have made a return or paid taxes, or collecting any taxes under this chapter, the commissioner may examine, or cause to be examined, any books, papers, records, or memoranda, that may be relevant to making such determinations, whether the books, papers, records, or memoranda, are the property of or in the possession of the dealer or another person. The commissioner may require the attendance of any person having knowledge or information that may be relevant, compel the production of books, papers, records, or memoranda by persons required to attend, take testimony on matters material to the determination, and administer oaths or affirmations. Upon demand of the commissioner or any examiner or investigator, the court administrator of any court shall issue a subpoena for the attendance of a witness or the production of books, papers, records, and memoranda. The commissioner may also issue subpoenas. Disobedience of subpoenas issued under this chapter is punishable by the district court of the district in which the subpoena is issued, or, if the subpoena is issued by the commissioner, by the district court of the district in which the party served with the subpoena is located, in the same manner as contempt of district court.

History: 1986 c 470 s 17