

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10476-MGf-142 (03/14)

Short Title: Legalize & Tax Medical Marijuana.

(Public)

Sponsors: Representative Alexander.

Referred to:

A BILL TO BE ENTITLED

AN ACT ALLOWING PATIENTS WITH TERMINAL OR CHRONIC ILLNESS TO
LAWFULLY USE MARIJUANA OR TETRAHYDROANNABINOLS; MODIFYING THE
TAXATION OF MARIJUANA; AND ESTABLISHING A SYSTEM FOR TAXATION OF
MEDICAL MARIJUANA.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-94.2. Exemption for use of marijuana or tetrahydrocannabinols by patients with terminal or chronic illness.

(a) Notwithstanding any other provision of this Chapter, an individual may possess or use marijuana or tetrahydrocannabinols, and is not subject to the penalties described in this Chapter, if the individual satisfies all of the following criteria:

- (1) The individual has been diagnosed with a terminal or chronic illness by a licensed physician.
- (2) The individual's use or possession of marijuana or tetrahydrocannabinols occurs pursuant to a written recommendation issued by a licensed physician who, in the course of treating the terminal or chronic illness, has determined that marijuana or tetrahydrocannabinols alleviates the illness or symptoms associated with the illness.
- (3) The individual has obtained from the North Carolina Department of Revenue a Medical Marijuana tax stamp as provided under G.S. 105-113.108.
- (4) Unless diagnosed with a chronic illness by a licensed physician, the individual is under hospice care.
- (5) The marijuana is for the individual's personal use."

SECTION 2. G.S. 105-113.106 reads as rewritten:

"§ 105-113.106. Definitions.

The following definitions apply in this Article:

(3) Dealer. – Any of the following:

- a. A person who actually or constructively possesses (i) more than 42.5 grams of ~~marijuana~~, marijuana that is not medical marijuana, (ii) three ounces of medical marijuana, (iii) seven or more grams of any other controlled substance that is sold by weight, or (iv) 10 or more dosage units of any other controlled substance that is not sold by weight.



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- b. A person who in violation of Chapter 18B of the General Statutes possesses illicit spirituous liquor for sale.
- c. A person who in violation of Chapter 18B of the General Statutes possesses mash.
- d. A person who in violation of Chapter 18B of the General Statutes possesses an illicit mixed beverage for sale.

...
 (6) Marijuana. – All parts of the plant of the genus Cannabis, whether growing or not; the seeds of this plant; the resin extracted from any part of this plant; and every compound, salt, derivative, mixture, or preparation of this plant, its seeds, or its resin.

...
 (6b) Medical marijuana. – Marijuana for distribution to individuals permitted to possess or use it pursuant to the provisions of G.S. 90-94.2.

...."

SECTION 3. G.S. 105-113.107(a) reads as rewritten:

"(a) Controlled Substances. – An excise tax is levied on controlled substances possessed, either actually or constructively, by dealers at the following rates:

(1) At the rate of forty cents (40¢) for each gram, or fraction thereof, of harvested marijuana stems and stalks that have been separated from and are not mixed with any other parts of the marijuana plant.

(1a) ~~At~~ Except as provided in subdivision (1c) of this subsection, at the rate of three dollars and fifty cents (\$3.50) for each gram, or fraction thereof, of marijuana, other than separated stems and stalks taxed under subdivision (1) of this section, subsection, or synthetic cannabinoids.

(1b) At the rate of eight dollars (\$8.00) for each ounce, or fraction thereof, of either marijuana, other than separated stems and stalks taxed under subdivision (1) of this subsection, that is used for or synthetic cannabinoids that is used in place of medical marijuana plus the following applicable rate:

a. Twenty-five cents (\$0.25) for each gram, or fraction thereof, if the tetrahydrocannabinol content is less than five percent (5%) or if the synthetic cannabinoid is of an equivalent strength.

b. Fifty cents (\$0.50) for each gram, or fraction thereof, if the tetrahydrocannabinol content is five percent (5%) or greater but less than ten percent (10%) or if the synthetic cannabinoid is of an equivalent strength.

c. Seventy-five cents (\$0.75) for each gram, or fraction thereof, if the tetrahydrocannabinol content is ten percent (10%) or greater but less than fifteen percent (15%) or if the synthetic cannabinoid is of an equivalent strength.

d. One dollar (\$1.00) for each gram, or fraction thereof, if the tetrahydrocannabinol content is fifteen percent (15%) or greater but less than twenty percent (20%) or if the synthetic cannabinoid is of an equivalent strength.

e. One dollar twenty-five cents (\$1.25) for each gram, or fraction thereof, if the tetrahydrocannabinol content is twenty percent (20%) or greater but less than twenty-five percent (25%) or if the synthetic cannabinoid is of an equivalent strength.

f. One dollar fifty cents (\$1.50) for each gram, or fraction thereof, if the tetrahydrocannabinol content is twenty-five percent (25%) or greater or if the synthetic cannabinoid is of an equivalent strength.

1 (1c) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of
2 cocaine.

3 ~~(1e)~~(1d) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of any
4 low-street-value drug that is sold by weight.

5 "

6 **SECTION 4.** G.S. 105-113.107A reads as rewritten:

7 "**§ 105-113.107A. Exemptions.**

8 (a) Authorized Possession. – ~~The Other than the taxation of medical marijuana as provided~~
9 in G.S. 105-113.107, the tax levied in this Article does not apply to a substance in the possession
10 of a dealer who is authorized by law to possess the substance. This exemption applies only during
11 the time the dealer's possession of the substance is authorized by law.

12 (b) Certain Marijuana Parts. – The tax levied in this Article does not apply to the following
13 marijuana:

14 (1) Harvested mature marijuana stalks when separated from and not mixed with
15 any other parts of the marijuana plant.

16 (2) Fiber or any other product of marijuana stalks described in subdivision (1) of
17 this subsection, except resin extracted from the stalks.

18 (3) Marijuana seeds that have been sterilized and are incapable of germination.

19 (4) Roots of the marijuana plant."

20 **SECTION 5.** G.S. 105-113.108 reads as rewritten:

21 "**§ 105-113.108. Reports; revenue stamps.**

22 (a) Revenue Stamps. – The Secretary shall issue stamps to affix to unauthorized
23 substances to indicate payment of the tax required by this Article. Dealers shall report the taxes
24 payable under this Article at the time and on the return prescribed by the Secretary.
25 Notwithstanding any other provision of law, dealers of controlled substances other than medical
26 marijuana are not required to give their name, address, social security number, or other identifying
27 information on the return, and the return is not required to be verified by oath or affirmation.
28 Dealers of medical marijuana shall provide their name, address, Social Security number, and
29 phone number, as well as the name, address, phone number, and illness of each person to whom
30 the dealer distributes medical marijuana. A dealer bears the burden of proof in establishing that
31 marijuana distributed was medical marijuana. Upon payment of the tax, the Secretary shall issue
32 stamps in an amount equal to the amount of the tax paid. Taxes may be paid and stamps may be
33 issued either by mail or in person.

34 (b) Reports. – Every local law enforcement agency and every State law enforcement
35 agency must report to the Department within 48 hours after seizing an unauthorized substance, or
36 making an arrest of an individual in possession of an unauthorized substance, listed in this
37 subsection upon which a stamp has not been affixed. The report must be in the form prescribed by
38 the Secretary and it must include the time and place of the arrest or seizure, the amount, location,
39 and kind of substance, the identification of an individual in possession of the substance and that
40 individual's social security number, and any other information prescribed by the Secretary. The
41 report must be made when the arrest or seizure involves any of the following unauthorized
42 substances upon which a stamp has not been affixed as required by this Article:

43 (1) More than 42.5 grams of marijuana.

44 (1a) More than three ounces of medical marijuana.

45 (2) Seven or more grams of any other controlled substance that is sold by weight.

46 (3) Ten or more dosage units of any other controlled substance that is not sold by
47 weight.

48 (4) Any illicit mixed beverage.

49 (5) Any illicit spirituous liquor.

50 (6) Mash."

51 **SECTION 6.** This act becomes effective July 1, 2016.