

SENATE, No. 65

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator ROBERT W. SINGER

District 30 (Monmouth and Ocean)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Provides medical cannabis is not subject to State sales tax.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning medical cannabis and amending P.L.2009,
2 c.307 and P.L.1980, c.105.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 10 of P.L.2009, c.307 (C.24:6I-10) is amended to
8 read as follows:

9 10. a. A health care practitioner shall provide written instructions
10 for a registered qualifying patient or the patient's designated
11 caregiver, or an institutional caregiver acting on behalf of the
12 patient, to present to a medical cannabis dispensary or a clinical
13 registrant concerning the total amount of usable cannabis that a
14 patient may be dispensed, in weight, in a 30-day period, which
15 amount shall not exceed the maximum amount that may be
16 authorized for the patient pursuant to subsection f. of this section.

17 b. A health care practitioner may issue multiple written
18 instructions at one time authorizing the patient to receive a total of
19 up to a one-year supply, provided that the following conditions are
20 met:

21 (1) Each separate set of instructions shall be issued for a
22 legitimate medical purpose by the health care practitioner, as
23 provided in P.L.2009, c.307 (C.24:6I-1 et al.);

24 (2) Each separate set of instructions shall indicate the earliest
25 date on which a dispensary or clinical registrant may dispense the
26 cannabis, except for the first dispensation if it is to be filled
27 immediately; and

28 (3) The health care practitioner has determined that providing
29 the patient with multiple instructions in this manner does not create
30 an undue risk of diversion or abuse.

31 c. A registered qualifying patient or the patient's designated
32 caregiver, or an institutional caregiver acting on behalf of a
33 qualifying patient, shall present verification of the patient's or
34 caregiver's registration with the commission, as applicable, and
35 these written instructions to any medical cannabis dispensary or
36 clinical registrant at the time the patient or caregiver requests the
37 dispensing or delivery of medical cannabis, which medical cannabis
38 dispensary or clinical registrant shall verify and log the
39 documentation presented. An institutional caregiver shall
40 additionally present an authorization executed by the patient
41 certifying that the institutional caregiver is authorized to obtain
42 medical cannabis on behalf of the patient. A health care
43 practitioner may provide a copy of a written instruction by

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 electronic or other means, as determined by the commission,
2 directly to a medical cannabis dispensary or a clinical registrant on
3 behalf of a registered qualifying patient. The dispensation of
4 medical cannabis pursuant to any written instructions shall occur
5 within one year of the date that the instructions were written or
6 become eligible for dispensing, whichever is later, or the
7 instructions are void.

8 d. (Deleted by amendment, P.L.2019, c.153)

9 e. Prior to dispensing medical cannabis to a qualifying patient,
10 the patient's designated caregiver, or an institutional caregiver, the
11 medical cannabis dispensary or clinical registrant shall access the
12 system established pursuant to section 11 of P.L.2009, c.307
13 (C.45:1-45.1) to ascertain whether medical cannabis was dispensed
14 to or on behalf of the patient by any medical cannabis dispensary or
15 clinical registrant within the preceding 30 days. Upon dispensing
16 medical cannabis to a qualifying patient, the patient's designated
17 caregiver, or an institutional caregiver, the medical cannabis
18 dispensary or clinical registrant shall transmit to the patient's health
19 care practitioner information concerning the amount, strain, and
20 form of medical cannabis that was dispensed.

21 f. (1) Except as provided in paragraph (2) of this subsection, for
22 a period of 18 months after the effective date of P P.L.2019, c.153
23 (C.24:6I-5.1 et al.), the maximum amount of usable cannabis that a
24 patient may be dispensed, in weight, in a 30-day period, shall be
25 three ounces. Commencing 18 months after the effective date of P
26 P.L.2019, c.153 (C.24:6I-5.1 et al.), the maximum amount of usable
27 cannabis that a patient may be dispensed shall be prescribed by the
28 commission by regulation.

29 (2) The monthly limits set forth in paragraph (1) of this
30 subsection shall not apply to patients who are terminally ill or who
31 are currently receiving hospice care through a licensed hospice,
32 which patients may be dispensed an unlimited amount of medical
33 cannabis. Qualifying patients who are not receiving hospice care or
34 who are not terminally ill may petition the commission, on a form
35 and in a manner as the commission shall require by regulation, for
36 an exemption from the monthly limits set forth in paragraph (1) of
37 this paragraph, which petition the commission shall approve if the
38 commission finds that granting the exemption is necessary to meet
39 the patient's treatment needs and is consistent with the provisions of
40 P.L.2009, c.307 (C.24:6I-1 et al.).

41 g. The commission shall establish, by regulation, curricula for
42 health care practitioners and for staff at medical cannabis
43 dispensaries and clinical registrants:

44 (1) The curriculum for health care practitioners shall be
45 designed to assist practitioners in counseling patients with regard to
46 the quantity, dosing, and administration of medical cannabis as

1 shall be appropriate to treat the patient's qualifying medical
2 condition. Health care practitioners shall complete the curriculum
3 as a condition of authorizing patients for the medical use of
4 cannabis; and

5 (2) The curriculum for employees of medical cannabis
6 dispensaries and clinical registrants shall be designed to assist the
7 employees in counseling patients with regard to determining the
8 strain and form of medical cannabis that is appropriate to treat the
9 patient's qualifying medical condition. Employees of medical
10 cannabis dispensaries and clinical registrants shall be required to
11 complete the curriculum as a condition of registration with the
12 commission. Completion of the curriculum may constitute part of
13 the annual training required pursuant to paragraph (1) of subsection
14 j. of section 7 of P.L.2009, c.307 (C.24:6I-7).

15 h. **【**Commencing July 1, 2020, the amount of the sales tax that
16 may be imposed under the "Sales and Use Tax Act," P.L.1966, c.30
17 (C.54:32B-1 et seq.) on medical cannabis dispensed by a medical
18 cannabis dispensary or clinical registrant shall not exceed four
19 percent.

20 Commencing July 1, 2021, the amount of the sales tax that may
21 be imposed under the "Sales and Use Tax Act," P.L.1966, c.30
22 (C.54:32B-1 et seq.) on medical cannabis dispensed by a medical
23 cannabis dispensary or clinical registrant shall not exceed two
24 percent.

25 Commencing July 1, 2022, medical **】** Medical cannabis dispensed
26 by a medical cannabis dispensary or clinical registrant shall not be
27 subject to any tax imposed under the "Sales and Use Tax Act,"
28 P.L.1966, c.30 (C.54:32B-1 et seq.).

29 **【**Any revenue collected pursuant to a tax imposed on the sale of
30 medical cannabis under the "Sales and Use Tax Act," P.L.1966,
31 c.30 (C.54:32B-1 et seq.), shall be exclusively appropriated to
32 programs for the treatment of mental health and substance use
33 disorders.**】**

34 i. A municipality in which a medical cannabis dispensary is
35 located may adopt an ordinance imposing a transfer tax on any
36 medical cannabis dispensed by the dispensary, including medical
37 cannabis that is furnished by the dispensary to a medical cannabis
38 handler for delivery to a registered qualifying patient or the patient's
39 caregiver. The rate of a transfer tax established pursuant to this
40 subsection shall be at the discretion of the municipality, except that
41 in no case shall the rate exceed two percent of the purchase price of
42 the medical cannabis.

43 (cf: P.L.2019, c.153, s.18)

44

45 2. Section 13 of P.L.1980, c.105 (C.54:32B-8.1) is amended to
46 read as follows:

1 13. a. Receipts from sales of the following sold for human use
2 are exempt from the tax imposed under the "Sales and Use Tax
3 Act":

- 4 (1) drugs sold pursuant to a doctor's prescription;
- 5 (2) over-the-counter drugs;
- 6 (3) diabetic supplies;
- 7 (4) prosthetic devices;
- 8 (5) tampons or like products;
- 9 (6) medical oxygen;
- 10 (7) human blood and its derivatives;
- 11 (8) durable medical equipment for home use;
- 12 (9) mobility enhancing equipment sold by prescription; **[and]**
- 13 (10) repair and replacement parts for any of the foregoing
14 exempt devices and equipment; and
- 15 (11) medical cannabis dispensed pursuant to the "Jake Honig
16 Compassionate Use Medical Cannabis Act," P.L.2009, c.307
17 (C.24:6I-1 et seq.).

18 b. As used in this section:

19 "Drug" means a compound, substance, or preparation, and any
20 component of a compound, substance, or preparation, other than
21 food and food ingredients, dietary supplements, or alcoholic
22 beverages:

23 (1) recognized in the official United States Pharmacopoeia,
24 official Homeopathic Pharmacopoeia of the United States, or
25 official National Formulary, and supplement to any of them; or

26 (2) intended for use in the diagnosis, cure, mitigation, treatment,
27 or prevention of disease; or

28 (3) intended to affect the structure or any function of the body.

29 "Over-the-counter-drug" means a drug that contains a label
30 which identifies the product as a drug, required by 21 CFR 201.66.
31 The label includes:

32 (1) a "Drug Facts" panel or

33 (2) a statement of the "active ingredient" or "active ingredients"
34 with a list of those ingredients contained in the compound,
35 substance or preparation. "Over-the-counter drug" does not include
36 a grooming and hygiene product.

37 "Grooming and hygiene product" is soap or cleaning solution,
38 shampoo, toothpaste, mouthwash, anti-perspirant, or sun tan lotion
39 or screen, regardless of whether the item meets the definition of
40 "over-the-counter drug."

41 "Prescription" means an order, formula, or recipe issued in any
42 form of oral, written, electronic, or other means of transmission by
43 a duly licensed practitioner authorized by the laws of this State.

44 "Prosthetic device" means a replacement, corrective, or
45 supportive device including repair and replacement parts for same
46 worn on or in the body in order to:

- 47 (1) artificially replace a missing portion of the body; or
- 48 (2) prevent or correct a physical disability; or

1 (3) support a weak or disabled portion of the body.

2 "Durable medical equipment" means equipment, including repair
3 and replacement parts, but not including mobility enhancing
4 equipment, that:

5 (1) can withstand repeated use;

6 (2) is primarily and customarily used to serve a medical
7 purpose;

8 (3) is generally not useful to a person in the absence of illness or
9 injury; and

10 (4) is not worn in or on the body.

11 "Mobility enhancing equipment" means equipment, including
12 repair and replacement parts, other than durable medical equipment,
13 that:

14 (1) is primarily and customarily used to provide or increase the
15 ability to move from one place to another and which is appropriate
16 for use either at home or in a motor vehicle; and

17 (2) is not generally used by persons with typical mobility; and

18 (3) does not include any motor vehicle or equipment on a motor
19 vehicle normally provided by a motor vehicle manufacturer.

20 c. Receipts from sales of supplies purchased for use in
21 providing medical services for compensation, but not transferred to
22 the purchaser of the service in conjunction with the performance of
23 the service, shall be considered taxable receipts from retail sales
24 notwithstanding the exemption from the tax imposed under the
25 "Sales and Use Tax Act" provided under this section.

26 (cf: P.L.2017, c.131, s.214)

27

28 3. This act shall take effect immediately.

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30

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STATEMENT

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33 This bill provides that medical cannabis dispensed to a registered
34 qualifying patient from a medical cannabis dispensary or clinical
35 registrant will not be subject to any tax imposed under the "Sales
36 and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

37 Currently, as provided in section 13 of P.L.1980, c.105
38 (C.54:32B-8.1), prescription and over-the-counter drugs are exempt
39 from taxation under the "Sales and Use Tax Act." It is the
40 sponsor's belief that medical cannabis should be treated the same as
41 other medications for taxation purposes, and that allowing sales and
42 use taxes to be assessed against medical cannabis sets an
43 unfortunate precedent that could serve to economically burden
44 patients and undermine access to needed forms of medical
45 treatment.