

Roll Call

Present: Rep. Chaffee, Rep. Derby, Rep. Drury, Rep. Jamison, Rep. Koth, Rep. Olson, Rep. Ernie Otten, Rep. Pourier, Rep. Randolph, Rep. Thomason, Rep. Tidemann, Rep. Pischke, and Rep. Dennert

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Representative Dennert

MOTION: TO APPROVE THE MINUTES OF TUESDAY, MARCH 01ST

Moved by: Chaffee
Second by: Drury
Action: Prevailed by voice vote

SB 25 : provide for the taxation of marijuana.

Proponents: Representative Hugh Bartels, District 5

MOTION: AMEND SB 25

25A

On page 1, line 7, of the Introduced bill, after "consumer;" delete "
(2) "Manufacturer," a licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells marijuana products to a marijuana facility;"
On page 1, line 10, of the Introduced bill, delete "(3)" and insert "(2)"
On page 1, line 12, of the Introduced bill, delete "(4)" and insert "(3)"
On page 1, line 13, of the Introduced bill, delete "(5)" and insert "(4)"
On page 1, line 16, of the Introduced bill, delete "(6)" and insert "(5)"
On page 1, line 19, of the Introduced bill, delete "There is hereby levied on all marijuana an excise tax of fifteen percent that must be calculated based on the average market rate. A manufacturer shall pay the marijuana excise tax on all marijuana manufactured and sold directly to a dispensary. In order to calculate the tax using the average market rate, the weight or unit of marijuana sold must be multiplied by the average market rate and the result must be multiplied by fifteen percent. For purposes of this section, the term, average market rate, means the average prices as determined by the department on all marijuana sold or transferred from manufacturer to dispensary."
and insert "There is imposed an excise tax at the rate of eight and one-half percent on the gross receipts from the sale of marijuana, marijuana concentrate, and marijuana products by a dispensary. The excise tax imposed under this chapter does not apply to gross receipts from the sale of marijuana, marijuana concentrate, and marijuana products to a cardholder as defined in § 34-20G-1(6)."

On page 2, after line 2, of the Introduced bill, insert: "

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

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

On page 2, after line 2, of the Introduced bill, insert: "

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

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

On page 2, after line 2, of the Introduced bill, insert: "

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

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

On page 2, after line 2, of the Introduced bill, insert: "

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

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

On page 2, after line 2, of the Introduced bill, insert: "

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

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

On page 2, after line 2, of the Introduced bill, insert: "

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

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

On page 2, line 3, of the Introduced bill, after "dispensary." delete "Section 3. That a NEW SECTION be added to title 10:

"

On page 2, line 4, of the Introduced bill, after "10:" delete "Each manufacturer liable for the payment of taxes levied under this chapter shall file with the secretary of revenue a return, on a form prescribed by the secretary, showing the kind and quantity of marijuana manufactured, received, and in the manufacturer's possession, together with the names of the persons from whom received, the amount of tax due, and any other information prescribed by the secretary. The return, covering the period of one calendar month, together with payment of the tax due, must be transmitted to the Department of Revenue on or before the twenty-fifth day of the second month following the close of the reporting period. A violation of this section is a Class 1 misdemeanor."

On page 2, line 13, of the Introduced bill, after "misdemeanor." delete "Section 4. That a NEW SECTION be added to title 10:

"

On page 2, line 14, of the Introduced bill, after "10:" delete "Any manufacturer required to file returns or reports under this chapter, who fails to file a return or report or pay the tax when due, is subject to interest and penalty at the rates set forth in § 10-59-6. For reasonable cause shown, the secretary of revenue may reduce or eliminate the penalty. If any manufacturer files a false or fraudulent return, an amount equal to the tax evaded, or attempted to be evaded, shall be added to the tax. Penalty and interest are considered the same as tax for the purposes of collection and enforcement, including liens, distress warrants, and criminal violations. Any payment received for taxes, penalty, or interest is applied first to tax, beginning with the oldest delinquency,

then to interest, and then to penalty. No court may enjoin the collection of the tax or civil penalty."

On page 2, line 24, of the Introduced bill, after "penalty." delete "Section 5. That a NEW SECTION be added to title 10:

"

On page 2, line 25, of the Introduced bill, after "10:" delete "Any manufacturer liable for the payment of the taxes shall keep, in current and available form on the licensed premises, records of all purchases, sales, quantities on hand, and any other information the secretary of revenue may prescribe by rule promulgated pursuant to chapter 1-26. The secretary of revenue may require from a manufacturer any report necessary to administer the requirements of this chapter. The secretary may require the production of any book, record, document, invoice, and voucher kept, maintained, received, or issued by the manufacturer in connection with the manufacturer's business that, in the judgment of the secretary, may be necessary to administer and discharge the secretary's duties, to secure the maximum of revenue to be paid, and to carry out the requirements of this chapter. A violation of this section is a Class 1 misdemeanor.

If default is made, or if any manufacturer fails or refuses to furnish any other relevant reports or information upon request, the secretary may enter the manufacturer's premises where the records are kept and examine the records as necessary to compile the required report. The cost of the examination must be paid by the manufacturer whose reports are in default."

On page 3, line 10, of the Introduced bill, after "default." delete "Section 6. That a NEW SECTION be added to title 10:

"

On page 3, line 11, of the Introduced bill, after "10:" delete "There is hereby created within the state treasury the marijuana fund into which all funds collected under this chapter shall be deposited. Expenditures from the fund must be appropriated through the normal budget process."

On page 3, line 14, of the Introduced bill, after "process." delete "Section 7. That chapter 10-45 be amended with a NEW SECTION:

"

On page 3, line 15, of the Introduced bill, after "SECTION:" delete "The tax imposed by this chapter applies to the gross receipts of all marijuana and marijuana products sold to any person by a dispensary."

On page 3, line 17, of the Introduced bill, after "dispensary." delete "Section 8. That chapter 10-46 be amended with a NEW SECTION:

"

On page 3, line 18, of the Introduced bill, after "SECTION:" delete "The tax imposed by this chapter applies to the gross receipts of all marijuana and marijuana products sold to any person by a dispensary."

Moved by: Derby

Second by: Chaffee

Action: Prevailed by voice vote

MOTION: WITHOUT RECOMMENDATION SB 25 AS AMENDED

Moved by: Derby

Second by: Koth

Action: Prevailed by Majority Members Elect (12-1-0-0)

Voting Yes: Chaffee, Derby, Drury, Jamison, Koth, Olson, Ernie Otten, Pourier, Thomason, Tidemann, Pischke, and Dennert

Voting No: Randolph

Summer Studies Discussion

MOTION: **To approve an interim study request to study South Dakota's property tax structure and how to reduce the overall property tax burden**

Moved by: Dennert
Second by: Drury
Action: Prevailed by roll call vote (13-0-0-0)

Voting Yes: Chaffee, Derby, Drury, Jamison, Koth, Olson, Ernie Otten, Pourier, Randolph, Thomason, Tidemann, Pischke, and Dennert

MOTION: **ADJOURN**

Moved by: Chaffee
Second by: Drury
Action: Prevailed by voice vote

Gail Tennant, Committee Secretary

/s/ DREW DENNERT
Drew Dennert, Chair