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No. 1392

S.P. 559

In Senate, March 28, 2023

An Act to Change How the Adult Use Cannabis Excise Tax Is Calculated

Reference to the Committee on Taxation suggested and ordered printed.

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DAREK M. GRANT Secretary of the Senate

Presented by Senator PIERCE of Cumberland. Cosponsored by Representative PERRY of Bangor and Senators: DAUGHTRY of Cumberland, RENY of Lincoln, Representative: BOYER of Poland.

	Be it enacted by the People of the State of Maine as follows:
	Sec. 1. 36 MRSA §4921, sub-§2-A is enacted to read:
	2-A. Department. "Department" has the same meaning as in Title 28-B, section 102, subsection 14.
	Sec. 2. 36 MRSA §4921, sub-§2-B is enacted to read:
	2-B. Extraction. "Extraction" has the same meaning as "cannabis extraction" in Title 28-B, section 102, subsection 30.
	Sec. 3. 36 MRSA §4921, sub-§2-C is enacted to read:
	2-C. Fair market value. "Fair market value" means the average price, as determined by the department by rulemaking on a biannual basis, based on the price that a buyer would pay to a seller in an arm's length transaction for cannabis in the wholesale market, with the determination including one or more rates that cover unprocessed cannabis that is allocated for extraction and the initial rates for these product types being lower than the rate for unprocessed cannabis that is allocated for sale to consumers.
i	Sec. 4. 36 MRSA §4923, as amended by PL 2021, c. 323, §§3 and 4 and c. 669, §5, is further amended by amending the section headnote to read:
í	§4923. Excise tax imposed <u>prior to July 1, 2024</u>
,	Sec. 5. 36 MRSA §4923, first ¶, as enacted by PL 2019, c. 231, Pt. B, $\$7$ and amended by PL 2021, c. 669, $\$5$, is further amended to read:
	Beginning on the first day of the calendar month in which adult use cannabis may be sold in the State by a cultivation facility under Title 28-B, chapter 1 and prior to July 1, 2024, an excise tax on adult use cannabis is imposed in accordance with this chapter.
(Sec. 6. 36 MRSA §4923-A, as enacted by PL 2021, c. 323, §5 and amended by c. 669, §5, is amended to read:
	§4923-A. Calculation of excise tax imposed on wet cannabis flower and wet cannabis trim
1	For purposes of the excise tax imposed pursuant to section 4923 <u>or section 4923-B</u> on wet cannabis flower or wet cannabis trim, a cultivation facility licensee shall calculate the taxable weight by reducing the total weight of the wet cannabis flower or wet cannabis trim by 75% before applying the excise tax.
	Sec. 7. 36 MRSA §4923-B is enacted to read:
	<u>§4923-B. Excise tax imposed beginning July 1, 2024</u>
	Beginning July 1, 2024, an excise tax on adult use cannabis is imposed in accordance with this chapter.
	1. Excise tax on cannabis flower. A cultivation facility licensee shall pay an excise tax of 10% of the fair market value of cannabis flower sold to other licensees in the State.
	2. Excise tax on cannabis trim. A cultivation facility licensee shall pay an excise tax of 10% of the fair market value of cannabis trim sold to other licensees in the State.

- 1 3. Excise tax on cannabis flower and cannabis trim for extraction. A cultivation 2 facility licensee shall pay an excise tax of 10% of the fair market value of cannabis flower 3 and cannabis trim allocated for extraction sold to other licensees in the State. 4 4. Excise tax on immature cannabis plants and seedlings. A cultivation facility licensee shall pay an excise tax of 10% of the fair market value of immature cannabis plants 5 and seedlings sold to other licensees in the State. 6 7 5. Excise tax on mature cannabis plants. A cultivation facility licensee shall pay an excise tax of 10% of the fair market value of mature cannabis plants sold to other licensees 8 9 in the State. 10 6. Excise tax on cannabis seeds. A cultivation facility licensee shall pay an excise tax of 10% of the fair market value of cannabis seeds sold to other licensees in the State. 11 12 7. Excise tax on purchases from registered caregivers and registered dispensaries. 13 A cultivation facility licensee authorized pursuant to Title 28-B, section 501, subsection 6, paragraph A to purchase cannabis plants and cannabis seeds from registered caregivers and 14 15 registered dispensaries that transacts such a purchase shall pay to the assessor the excise taxes that would have been imposed under subsections 1 to 6 on the sale of the cannabis 16 17 plants and cannabis seeds if the cannabis plants and cannabis seeds had been sold by a 18 cultivation facility licensee to another licensee. 19 8. Multiple licenses. When a cultivation facility licensee also holds a license to 20 operate another cannabis establishment, the taxes imposed by subsections 1 to 6 apply to any transfer of cannabis from the cultivation facility to the other cannabis establishment or, 21 22 if no such transfer is made, to any activity undertaken pursuant to Title 28-B, section 501, subsection 2 or 4 with regard to cannabis cultivated by the cultivation facility. 23 24 **SUMMARY** 25 Beginning July 1, 2024, this bill changes the basis for the calculation of the excise tax 26 on cannabis products from the weight or quantity of product sold to the fair market value 27 of the product sold. Fair market value would be determined biannually by the Department
- 28 of Administrative and Financial Services.