



# Senate

General Assembly

**File No. 396**

February Session, 2010

Substitute Senate Bill No. 339

*Senate, April 8, 2010*

The Committee on Planning and Development reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT AUTHORIZING MUNICIPALITIES TO COLLECT THE MARIJUANA AND CONTROLLED SUBSTANCES TAX.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-651 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) A tax is imposed on any marijuana or controlled substances  
4 purchased, acquired, transported or imported into the state. Payment  
5 thereof shall be evidenced by the permanent affixing of stamps on the  
6 marijuana or controlled substance immediately after receipt. Each  
7 stamp or other official indicia may be used only once.

8 (b) The tax imposed pursuant to this section shall be at the following  
9 rates: (1) On each gram of marijuana or portion of a gram, three dollars  
10 and fifty cents, and (2) on each gram of a controlled substance, or  
11 portion of a gram, two hundred dollars or on each fifty dosage units of  
12 a controlled substance that is not sold by weight, or portion thereof,

13 two thousand dollars. For the purpose of calculating the tax due under  
14 this section, an ounce of marijuana or other controlled substance is  
15 measured by the weight of the substance in the dealer's possession.

16 (c) Any tax imposed pursuant to this section is due and payable  
17 immediately upon acquisition or possession in this state by a dealer.

18 (d) Notwithstanding the provisions of this chapter, any  
19 municipality having a population of less than twenty-five thousand  
20 may collect the tax imposed pursuant to this section on any marijuana  
21 or controlled substance that is seized in such municipality by a law  
22 enforcement officer as a result of a lawful arrest of a dealer or a lawful  
23 search of the real or personal property of a dealer, provided (1) such  
24 tax is due and payable, (2) the chief of police of such municipality or, if  
25 such municipality does not have an organized police department, the  
26 chief elected official of such municipality, notifies the commissioner of  
27 such municipality's intent to collect such tax, and (3) the municipality  
28 complies with the provisions of subsection (e) of this section. The full  
29 amount of any tax collected pursuant to this subsection may be  
30 retained by such municipality.

31 (e) Before a municipality may collect any tax imposed pursuant to  
32 this section, the chief elected official of such municipality shall appoint  
33 one or more hearing officers, other than police officers or persons who  
34 work in the police department, to hear the petitions of aggrieved  
35 taxpayers and shall establish by ordinance a hearing procedure  
36 following the timelines and requirements set forth in section 12-553.  
37 The provisions of sections 12-553 and 12-554, adapted accordingly,  
38 shall apply to hearings before and appeals from a municipality under  
39 this section.

40 Sec. 2. Section 12-655 of the general statutes is repealed and the  
41 following is substituted in lieu thereof (*Effective October 1, 2010*):

42 (a) Each dealer shall keep complete and accurate records of all  
43 marijuana or controlled substances on which a tax is imposed. Such  
44 records shall be a kind and in such form as the commissioner may

45 prescribe and shall be preserved for three years in such manner as to  
46 insure permanency and accessibility for inspection by the  
47 commissioner or his authorized agents. The commissioner and his  
48 authorized agents and any municipality collecting a tax pursuant to  
49 section 12-651, as amended by this act, may examine the books, papers  
50 and records of any dealer for the purpose of determining whether the  
51 tax imposed by this chapter has been paid and may examine any  
52 marijuana or controlled substances upon any premises where such  
53 marijuana or controlled substances are possessed to determine if the  
54 provisions of this chapter are being obeyed.

55 (b) If, after an examination of the invoices, books and records of a  
56 dealer, or if, from any other information obtained by [him] the  
57 commissioner or [his] the commissioner's authorized agents or the tax  
58 collector for any municipality collecting a tax pursuant to section 12-  
59 651, as amended by this act, the commissioner or municipality  
60 determines that the dealer has not purchased sufficient stamps to cover  
61 his receipts and sales or other disposition of any marijuana or  
62 controlled substances, [he] the commissioner or tax collector shall  
63 thereupon assess the deficiency in tax. There shall be imposed a  
64 penalty of ten per cent of the deficiency or fifty dollars, whichever  
65 amount is greater, and interest shall accrue on the tax at the rate of one  
66 per cent per month from the due date of such tax to the date of  
67 payment. In any case where a dealer cannot produce evidence of  
68 sufficient stamp purchases to cover the receipt of any marijuana or  
69 controlled substances, it shall be presumed that such marijuana or  
70 controlled substances were sold without having the proper stamps  
71 affixed.

72 (c) If the commissioner determines that the deficiency or any part  
73 thereof is due to a fraudulent intent to evade the tax, there shall be  
74 imposed a penalty of twenty-five per cent of the deficiency and interest  
75 shall accrue on the tax at the rate of one per cent per month or fraction  
76 thereof from the due date of such tax to the date of payment. Subject to  
77 the provisions of section 12-3a, the commissioner may waive all or part  
78 of the penalties provided under this chapter when it is proven to his

79 satisfaction that the failure to pay any tax on time was due to  
80 reasonable cause and was not intentional or due to neglect. The  
81 amount of any tax, penalty or interest due to the commissioner and  
82 unpaid under the provisions of this chapter may be collected under the  
83 provisions of section 12-35. The warrant therein provided for shall be  
84 signed by the commissioner or his authorized agent. The amount of  
85 any such tax, penalty and interest shall be a lien, from the last day of  
86 the month next preceding the due date of such tax until discharged by  
87 payment, against all real estate of the taxpayer within the state, and a  
88 certificate of such lien signed by the commissioner may be filed for  
89 record in the office of the clerk of any town in which such real estate is  
90 situated, provided no such lien shall be effective as against any bona  
91 fide purchaser or qualified encumbrancer of any interest in any such  
92 property. When any tax with respect to which a lien has been recorded  
93 under the provisions of this section has been satisfied, the  
94 commissioner, upon request of any interested party, shall issue a  
95 certificate discharging such lien, which certificate shall be recorded in  
96 the same office in which the lien is recorded. Any action for the  
97 foreclosure of such lien shall be brought by the Attorney General in the  
98 name of the state in the superior court for the judicial district in which  
99 the property subject to such lien is situated, or, if such property is  
100 located in two or more judicial districts, in the superior court for any  
101 one such judicial district, and the court may limit the time for  
102 redemption or order the sale of such property or make such other or  
103 further decree as it judges equitable.

104 (d) The amount of any tax, penalty and interest due to a  
105 municipality and unpaid under the provisions of this chapter shall  
106 constitute a lien upon any real estate owned by the dealer in the  
107 municipality collecting such tax, penalty and interest. Each such lien  
108 may be continued, recorded and released in the manner provided by  
109 the general statutes for continuing, recording and releasing property  
110 tax liens. Each such lien shall take precedence over all other liens filed  
111 after October 1, 2010, and encumbrances, except taxes, and may be  
112 enforced in the same manner as property tax liens.

113        [(c)] (e) Except in the case of a wilfully false or fraudulent intent to  
 114 evade the tax, no assessment of additional tax with respect to any  
 115 return shall be made after the expiration of more than three years from  
 116 the date of the filing of such return or from the original due date of  
 117 such return, whichever is later, provided, if no return has been filed as  
 118 provided in this chapter, the Commissioner of Revenue Services may  
 119 determine the amount of tax due from the best information available  
 120 and assess such tax together with statutory penalties and interest at  
 121 any time. If prior to the expiration of the period prescribed in this  
 122 section for the assessment of additional tax, a taxpayer has consented  
 123 in writing that such period may be extended, the amount of such  
 124 additional tax due may be determined at any time within such  
 125 extended period. Any such extended period may be further extended  
 126 by consent in writing before the expiration of such extended period.

127        [(d)] (f) The provisions of sections 12-553 and 12-554 shall apply to  
 128 the provisions of this chapter in the same manner and with the same  
 129 force and effect as if the language of said sections had been  
 130 incorporated in full into said chapter and had expressly referred to the  
 131 tax imposed under said chapter, except to the extent that any such  
 132 provision is inconsistent with a provision of said chapter.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	12-651
Sec. 2	October 1, 2010	12-655

**PD**        *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 11 \$</b>	<b>FY 12 \$</b>
Department of Revenue Services	GF - Revenue Loss	Minimal	Minimal

Note: GF=General Fund

#### **Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 11 \$</b>	<b>FY 12 \$</b>
Various Municipalities	Revenue Gain	Minimal	Minimal

### **Explanation**

The bill will result in a minimal revenue loss to the General Fund from the controlled substance tax and a minimal revenue gain to certain municipalities.

The revenue impact is a result of allowing a municipality of less than 25,000 people to keep 100% of the Controlled Substance Tax when it notifies the Department of Revenue Services (DRS) of a potential violation of the law following the municipality's lawful arrest of a dealer or lawful search of the dealer's real or personal property.

In FY 08 Connecticut collected approximately \$60,000 from the controlled substance tax.

### **The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Department of Revenue Services

**OLR Bill Analysis****sSB 339*****AN ACT AUTHORIZING MUNICIPALITIES TO COLLECT THE MARIJUANA AND CONTROLLED SUBSTANCES TAX.*****SUMMARY:**

This bill allows a municipality with a population under 25,000 to collect unpaid taxes on marijuana and controlled substances when they are seized during an arrest or found during a search. Currently, all tax is collected by the Department of Revenue Services (DRS).

The bill requires the municipality to establish, by ordinance, a hearing process for the dealer that allows for an appeal to Superior Court.

The bill extends to a municipality trying to collect the tax the authority of the DRS commissioner to examine records, marijuana, and controlled substances to determine if a dealer has paid the appropriate tax.

Under the bill, any unpaid taxes of this nature owed to a municipality constitute a lien against any property the dealer has in the municipality and are treated similarly to a property tax lien.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2010

**COLLECTING THE TAX ON MARIJUANA AND CONTROLLED SUBSTANCES**

The bill allows municipalities with fewer than 25,000 people to collect a tax on any marijuana or controlled substance seized within the municipality by a law enforcement officer as a result of a lawful arrest of a dealer or a lawful search of a dealer's personal or real

property, so long as the:

1. tax is due and payable;
2. municipality's chief of police, or chief elected official if a municipality does not have an organized police department, notifies the DRS commissioner of the municipality's intent to collect the tax; and
3. chief elected official of the municipality, prior to collecting this tax, establishes by ordinance a hearing process to hear petitions from dealers.

The municipality may keep the full amount of the collected tax. Currently, all tax is collected by DRS.

### **HEARING PROCESS**

The bill requires the chief elected official to appoint one or more hearing officers, other than police officers or police department employees, to hear petitions from aggrieved dealers. The timeline and requirements are those established in statute for appealing an admissions, cabaret, or dues tax assessment from the DRS commissioner (CGS §§ 12-553 and 12-554) and must be adapted accordingly. In that process, the aggrieved party has 60 days to appeal the assessment, to the commissioner. The aggrieved can appeal the commissioner's decision to the Superior Court.

### **EXAMINING RECORDS AND MARIJUANA**

Under current law, the commissioner and his authorized agents are allowed to:

1. examine the books, papers, and records of any dealer to determine whether the imposed tax has been paid;
2. examine any marijuana or controlled substances in any premises where they are possessed to determine if the substances bear the proper tax stamp; and

3. assess the dealer the deficiency in tax if the examination of the invoices, books, and records shows that the dealer has not purchased sufficient stamps to cover the receipts and sales or other disposition of any marijuana or controlled substance.

The bill extends this authority to the municipality collecting the tax or the municipality's tax collector.

**PROPERTY TAX LIENS**

The bill specifies that the amount of any tax, penalty, and interest due a municipality and left unpaid constitutes a lien against any real estate owned by the dealer in the municipality collecting the tax. It allows each lien to be continued, recorded, and released in the usual manner for continuing, recording, and releasing property tax liens. Under the bill, each such lien takes precedence over all other liens filed after October 1, 2010 and encumbrances, except taxes, and may be enforced in the same manner as property tax liens.

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea 14 Nay 6 (03/22/2010)