



Senate

General Assembly

File No. 142

January Session, 2013

Substitute Senate Bill No. 295

Senate, March 26, 2013

The Committee on Planning and Development reported through SEN. CASSANO, S. of the 4th 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 Section 12-651 of the general statutes is repealed and the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, 2013*):

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 seventy-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, 2013*):

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

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

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

103 (d) The amount of any tax, penalty and interest due to a
104 municipality and unpaid under the provisions of this chapter shall
105 constitute a lien upon any real estate owned by the dealer in the
106 municipality collecting such tax, penalty and interest. Each such lien
107 may be continued, recorded and released in the manner provided by
108 the general statutes for continuing, recording and releasing property
109 tax liens. Each such lien shall take precedence over all other liens filed
110 after October 1, 2013, and encumbrances, except taxes, and may be
111 enforced in the same manner as property tax liens.

112 ~~[(c)]~~ (e) Except in the case of a wilfully false or fraudulent intent to

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	12-651
Sec. 2	<i>October 1, 2013</i>	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: None

Municipal Impact:

Municipalities	Effect	FY 14 \$	FY 15 \$
Various Municipalities, Population < 75,000	Potential Revenue Gain	Less than \$50,000 Cumulatively	Less than \$50,000 Cumulatively

Explanation

The bill results in a potential revenue gain to municipalities with a population of less than 75,000. The cumulative revenue gain for all eligible municipalities is not expected to exceed \$50,000 annually.¹

The bill allows municipalities with a population less than 75,000 to collect a tax on marijuana or other controlled substances seized by law enforcement. To the extent that any municipality would choose to do so, it would potentially receive revenue at the following rates:

- Marijuana, each gram or portion thereof- \$3.50
- Controlled substance, each gram or portion thereof- \$200
- Controlled substance not sold by weight, each 50 dosage unit or portion thereof- \$2,000.

The bill requires municipalities that choose to collect this tax to appoint hearing officers and establish a hearing process. Municipalities would be expected to factor any cost associated with

¹ In FY 12, the Department of Revenue Services collected approximately \$35,300 from the marijuana and controlled substance tax.

this into their decision making as to whether to implement the tax.

The Out Years

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

OLR Bill Analysis**sSB 295*****AN ACT AUTHORIZING MUNICIPALITIES TO COLLECT THE MARIJUANA AND CONTROLLED SUBSTANCES TAX.*****SUMMARY:**

This bill allows a municipality with a population under 75,000 to collect and retain unpaid state taxes on illegal marijuana and controlled substances seized during an arrest or found during a search. Currently, taxes on marijuana and controlled substances are collected by the Department of Revenue Services (DRS). By law, the tax is:

1. \$3.50 per gram, or portion thereof, of marijuana (1 pound is 454 grams);
2. \$200 per gram, or portion thereof, of a controlled substance sold by weight; and
3. \$2,000 per 50 dosage units, or portion thereof, of a controlled substance not sold by weight.

The bill requires municipalities opting to collect the tax to appoint hearing officers and establish, by ordinance, a hearing process. It gives these municipalities the authority to examine dealers' (see BACKGROUND) records, marijuana, and controlled substances to determine whether taxes have been paid.

Under the bill, unpaid taxes owed to a municipality constitute a lien on any real property the dealer has in the municipality. These liens are treated similarly to property tax liens.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2013

TAX COLLECTION

The bill allows any municipality with a population under 75,000 to collect the state-imposed tax on marijuana and controlled substances seized within the municipality by a law enforcement officer as a result of a lawful (1) arrest of a dealer or (2) search of a dealer's personal or real property. The municipality may collect the tax if 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 its intent to collect the tax; and
3. municipality, before collecting the tax, appoints one or more hearing officers and establishes, by ordinance, a hearing process for aggrieved dealers.

Currently, all tax is collected by DRS and retained by the state. The bill allows a municipality to keep any tax it collects.

HEARING

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

EXAMINING RECORDS

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

1. examine the books, papers, and records of a dealer to determine whether the imposed tax has been paid;
2. assess a tax deficiency if an examination shows a dealer has not

purchased sufficient stamps to cover the receipts and sales or other disposition of any marijuana or controlled substance; and

3. examine marijuana or controlled substances upon the premises where they are kept to determine whether the substances bear the proper tax stamp.

The bill extends this authority to any municipality collecting the tax and its tax collector.

TAX LIENS

The bill specifies that any unpaid tax, penalty, or interest due to a municipality constitutes a lien against any real property the dealer owns in the municipality. It allows each lien to be continued, recorded, and released in the same manner as property tax liens. Under the bill, such liens take precedence over all other liens filed after October 1, 2013, and encumbrances, except taxes, and may be enforced in the same way as property tax liens.

BACKGROUND

The tax on dealers, which varies for marijuana and controlled substances, is due when a dealer acquires or possesses these substances. A stamp issued by the DRS commissioner and affixed to these substances indicates payment of the tax.

By law, a dealer is a person who illegally manufactures, produces, ships, transports or imports into the state, or acquires or possesses:

1. over 42.5 grams of marijuana;
2. at least seven grams of a controlled substance sold by weight; or
3. 10 or more dosage units of a controlled substance not sold by weight.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/13/2013)