



Legislation Text

File #: 20-1379, Version: 1

AN ORDINANCE AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY AMENDING TITLE X, FINANCE AND TAXATION, BY ADDING A NEW CHAPTER 33 MEDICAL CANNABIS TRANSFER TAX PURSUANT TO N.J.S.A. 24A:61-10(i).

WHEREAS, the State of New Jersey has acknowledged that there is a beneficial use for cannabis in treating or alleviating the pain or other symptoms associated with certain debilitating medical conditions and therefore has adopted the Jake Honig Compassionate Use Medical Cannabis Act (“CUMCA”), N.J.S.A. 24A:61-1 et seq.; and

WHEREAS, the CUMCA authorizes a municipality to implement a Medical Cannabis Transfer tax on any medical cannabis dispensed by the dispensary, including medical cannabis that is furnished by the dispensary to a medical cannabis handler for delivery to a registered qualifying patient or the patient’s caregiver; and

WHEREAS, N.J.S.A. 24:61-10(i) of the CUMCA mandates that the Medical Cannabis Transfer tax is not permitted to exceed two percent (2%) of the purchase price of the medical cannabis; and

WHEREAS, the Mayor and Municipal Council desires to impose a Medical Cannabis Transfer tax of two percent (2%) on all sales or transfer of medical Cannabis and, if authorized by the State Legislature, a two percent (2%) sales tax on the sale or transfer of recreational cannabis.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

[Editor’s Note: Additions are shown as **underlined and bold**. Deletions are shown as ~~strikethroughs~~].

SECTION 1: Title X, Finance and of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended as follows to add a new Chapter 33 Medical Cannabis Transfer Tax:

10:33-1. SHORT TITLE.

This Chapter shall be known and cited as the “Medical Cannabis Transfer Tax”.

10:33-2. TAX IMPOSED.

There shall be imposed in the City of Newark a tax of two percent (2%) on all sales or

transfers of cannabis products from a Medical Cannabis Dispensary, as authorized by N.J.S.A. 24:61-10(i) of the CUMCA. This tax shall be in addition to any other tax or fee imposed pursuant to statute, state and federal or local ordinance or resolution by any government entity upon a Medical Cannabis Dispensary.

If the State passes a law authorizing the City to collect a two (2%) tax on the sale or transfer of recreational cannabis, then said two (2%) tax shall be authorized and in full force and effect without the necessity of passing a separate ordinance.

10:33-3. DEFINITIONS.

As used in this chapter:

Cannabis - All parts of the plant genus Cannabis, whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant; but shall not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" shall not mean hemp, or a hemp product cultivated, handled, processed, transported, or sold pursuant to the "New Jersey Hemp Farming Act," P.L.2019, c.238 (C.4:28-6 et al.).

CUMCA - The Jake Honing Compassionate Use Medical Cannabis Act, N.J.S.A. 24A:61-1 et seq.

Medical Cannabis Dispensary - An organization issued a permit by the commission that authorizes the organization to: purchase or obtain medical cannabis and related supplies from medical cannabis cultivators; purchase or obtain medical cannabis products and related supplies from medical cannabis manufacturers; purchase or obtain medical cannabis, medical cannabis products, and related supplies and paraphernalia from other medical cannabis dispensaries and from clinical registrants; deliver, transfer, transport, distribute, supply, and sell medical cannabis and medical cannabis products to other medical cannabis dispensaries; furnish medical cannabis, including medical cannabis products, to a medical cannabis handler for delivery to a registered qualifying patient, designated caregiver, or institutional caregiver consistent with the requirements of Subsection i. of Section 27 of P.L.2019, c.153 (C.24:61-20); and possess, display, deliver, transfer, transport, distribute, supply, sell, and dispense medical cannabis, medical cannabis products, paraphernalia, and related supplies to qualifying patients, designated caregivers, and institutional caregivers. A medical cannabis dispensary permit shall not authorize the permit holder to cultivate medical cannabis, to produce, manufacture, or otherwise create medical cannabis products.

10:33-4. COLLECTION AND REMITTANCE OF TAX.

All revenues collected from the tax shall be remitted to the Director of the Department of Finance, in quarterly installments, on or before those dates when real property tax payments are due to the municipality under State law.

10:33-5. LIABILITY.

Every person required to collect any tax imposed by this chapter, shall be personally liable for the tax imposed, collected or required to be collected hereunder. Any such person shall have the

same right in respect to collecting the tax from his/her customer at the same time of every transaction and payable at the same time.

10:33-6. TAX TO BE SEPARATELY CHARGED; NO REFUND.

No person required to collect any tax hereunder shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the tax will not be separately charged and stated to the customer or that the tax will be refunded to the customer.

10:33-7. DELINQUENT TAXES.

The City shall enforce the payment of delinquent Medical Cannabis Transfer Taxes in the same manner as provided for municipal real property taxes.

10:33-8. EXAMINATION OF BOOKS.

The operator of the business shall permit, upon request, examination and audit of the books, contracts, records, documents and papers of the business by representatives duly authorized by the City of Newark for purposes of verifying the required remittance to the City. Such examinations or audits shall be made during reasonable hours of the business day, in the presence of the hotel owner or his/her agent.

10:33-9. RULES AND REGULATIONS.

The Director of the Department of Finance is authorized to promulgate rules and regulations consistent with this chapter, pertaining to the collection, payment, accounting and auditing of the medical cannabis tax.

A copy of this shall be transmitted to the State Treasurer and to every existing Medical Cannabis Dispensary now existing in the City and immediately upon the application of a new Medical Cannabis Dispensary.

10:33-10. ACTION FOR COLLECTION.

In an action or proceeding brought to collect the tax imposed by this chapter, the Director of the Department of Finance shall be joined as a party.

10:33-11. APPLICABILITY OF TAX ABATEMENT ORDINANCES

Any application for a license to operate an Alternative Treatment Center for dispensing medical cannabis under CUMCA or a license to operate a recreational Cannabis business shall be eligible to be considered for a Five-Year Tax Exemption and Abatement (10:23-1 et seq.) and a Long-term Tax Exemption and Abatement (10:24-1 et seq.) provided in this Title if the requirements are met.

SECTION 2: If any provision of this ordinance or application thereof to any person(s) or circumstance is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the ordinance that can be given effect without the invalidated provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3: The ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This ordinance amends Title X, Finance and Taxation by adding a new Chapter 33, entitled Medical Cannabis Transfer Tax.