

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 517 Session of
1995

INTRODUCED BY REBER, TIGUE, HENNESSEY, PESCI, TRUE, L. I. COHEN,
MARSICO, E. Z. TAYLOR, BUNT, LAUGHLIN, TRELLO AND MILLER,
FEBRUARY 1, 1995

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 1, 1995

AN ACT

1 Imposing a tax on manufacturing, producing, transporting or
2 importing certain controlled substances; conferring powers
3 and duties on the Department of Revenue; imposing penalties;
4 and making an appropriation.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Controlled
9 Substance Tax Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Controlled substance." A drug or substance or its immediate
15 precursor included in Schedules I through V of the act of April
16 14, 1972 (P.L.233, No.64), known as The Controlled Substance,
17 Drug, Device and Cosmetic Act.

18 "Dealer." A person in this Commonwealth who manufactures,

1 produces, transports or imports into this Commonwealth a
2 controlled substance and who is not registered under section 6
3 of the act of April 14, 1972 (P.L.233, No.64), known as The
4 Controlled Substance, Drug, Device and Cosmetic Act, or licensed
5 under the act of December 14, 1992 (P.L.1116, No.145), known as
6 the Wholesale Prescription Drug Distributors License Act.

7 "Department." The Department of Revenue of the Commonwealth.

8 "Secretary." The Secretary of Revenue of the Commonwealth.

9 Section 3. Incidence and rate of taxation.

10 If a person not registered under section 6 of the act of
11 April 14, 1972 (P.L.233, No.64), known as The Controlled
12 Substance, Drug, Device and Cosmetic Act, or licensed under the
13 act of December 14, 1992 (P.L.1116, No.145), known as the
14 Wholesale Prescription Drug Distributors License Act,
15 manufactures, produces, transports, delivers or possesses with
16 intent to deliver a controlled substance, there is a taxable
17 transaction. A tax is levied on each taxable transaction at the
18 rate of 20% of the estimated retail price of the controlled
19 substance involved.

20 Section 4. Liability for payment of tax.

21 (a) Payment.--Taxes imposed by section 3 are due and payable
22 immediately upon acquisition or possession in this Commonwealth
23 by a dealer.

24 (b) Proof.--If the tax is paid under subsection (a), the
25 department shall affix an indication of payment to the container
26 of the controlled substance. The dealer shall bear the cost of
27 the indicator.

28 Section 5. Interest and penalties.

29 The taxes imposed under this act are subject to the same
30 interest and the same procedure for collection and enforcement

1 as taxes imposed under the act of March 4, 1971 (P.L.6, No.2),
2 known as the Tax Reform Code of 1971.

3 Section 6. Administration.

4 The department shall administer this act. The department may
5 promulgate regulations to administer this act.

6 Section 7. Penalties.

7 (a) Prohibition.--A dealer may not possess a controlled
8 substance with respect to which tax is imposed under section 3
9 unless the tax has been paid under section 4.

10 (b) Civil penalties.--A dealer who violates subsection (a)
11 is subject to a civil penalty in the amount of 100% of the tax.

12 (c) Criminal penalty.--A dealer who violates subsection (a)
13 commits a misdemeanor of the second degree.

14 (d) Disposition.--Fines and penalties collected under this
15 section shall be deposited into the General Fund and are
16 appropriated to the department to administer this act.

17 Section 8. Pharmaceuticals.

18 Nothing in this act requires persons registered under section
19 6 of the act of April 14, 1972 (P.L.233, No.64), known as The
20 Controlled Substance, Drug, Device and Cosmetic Act, persons
21 licensed under the act of December 14, 1992 (P.L.1116, No.145),
22 known as the Wholesale Prescription Drug Distributors License
23 Act, or otherwise lawfully in possession of a controlled
24 substance to pay the tax required under this act.

25 Section 9. Confidential nature of information.

26 Neither the secretary nor a public employee may reveal facts
27 contained in a report or return required by this act, nor may
28 any information contained in a report or return be used against
29 the dealer in a criminal proceeding, unless independently
30 obtained, except in connection with a proceeding involving taxes

- 1 due under this act from the taxpayer making the return.
- 2 Section 10. Effective date.
- 3 This act shall take effect in 60 days.