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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 355      Session of  
1997

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INTRODUCED BY REBER, FICHTER, OLASZ, RAYMOND, HENNESSEY, TIGUE,  
CLYMER, BOSCOLA AND E. Z. TAYLOR, FEBRUARY 10, 1997

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REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 10, 1997

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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,  
19 produces, transports or imports into this Commonwealth a

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

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

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

8 Section 3. Incidence and rate of taxation.

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

19 Section 4. Liability for payment of tax.

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

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

27 Section 5. Interest and penalties.

28 The taxes imposed under this act are subject to the same  
29 interest and the same procedure for collection and enforcement  
30 as taxes imposed under the act of March 4, 1971 (P.L.6, No.2),

1 known as the Tax Reform Code of 1971.

2 Section 6. Administration.

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

5 Section 7. Penalties.

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

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

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

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

16 Section 8. Pharmaceuticals.

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

24 Section 9. Confidential nature of information.

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

1 Section 10. Effective date.

2 This act shall take effect in 60 days.