



HOUSE BILL No. 5071

September 29, 1993, Introduced by Reps. Gire, Weeks, Pitoniak, Berman, Gubow, Scott and Yokich and referred to the Committee on Taxation.

A bill to impose a tax on controlled substances; to prescribe remedies and penalties; and to prescribe the powers and duties of certain state agencies and officers.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "controlled substances tax act".

3 Sec. 2. As used in this act:

4 (a) "Cocaine" means a substance specified in
5 section 7214(a)(iv) of the public health code, Act No. 368 of the
6 Public Acts of 1978, being section 333.7214 of the Michigan
7 Compiled Laws.

8 (b) "Commissioner" means the state commissioner of revenue.

9 (c) "Controlled substance" means a drug, substance, or

10 immediate precursor listed in schedules 1 to 5 of part 72 of the

1 public health code, Act No. 368 of the Public Acts of 1978, being
2 sections 333.7201 to 333.7231 of the Michigan Compiled Laws.

3 (d) "Current monthly interest rate" means current monthly
4 interest rate as determined pursuant to section 23 of Act No. 122
5 of the Public Acts of 1941, being section 205.23 of the Michigan
6 Compiled Laws.

7 (e) "Department" means the department of treasury.

8 (f) "Person" means an individual, partnership, corporation,
9 association, or other legal entity.

10 (g) "Stamp" means the stamp, label, or other official indi-
11 cia issued by the department that evidences payment of the tax
12 imposed by this act.

13 Sec. 3. A specific tax is levied on controlled substances
14 at the following rates:

15 (a) On each gram or portion of a gram of marihuana, \$5.00.

16 (b) On each gram or portion of a gram of cocaine, \$300.00.

17 (c) On each gram or portion of a gram of any other con-
18 trolled substance that is ordinarily sold by weight, \$250.00.

19 (d) On each 50 dosage units or portion of 50 dosage units of
20 a controlled substance that is not ordinarily sold by weight,
21 \$2,000.00.

22 Sec. 4. A person shall not possess a controlled substance
23 upon which a tax is levied by this act unless the tax has been
24 paid on the controlled substance as evidenced by a stamp affixed
25 to the controlled substance in the manner required by the
26 department.

1 Sec. 5. (1) If a stamp of the required value is not affixed
2 when a person on a single occasion imports into this state,
3 manufactures, purchases, acquires, or transports 42-1/2 or more
4 grams of marihuana, 3 or more grams of cocaine, 50 or more grams
5 of a controlled substance other than marihuana or cocaine, or 5
6 or more dosage units of a controlled substance other than mari-
7 huana or cocaine, the person shall immediately and permanently
8 affix a stamp of the required value on the controlled substance.
9 A stamp shall not be used more than once. A stamp shall be pur-
10 chased from the department. The purchaser shall pay the face
11 value of each stamp at the time of purchase.

12 (2) For the purposes of this act, a quantity of a controlled
13 substance shall be measured by weight unless that controlled sub-
14 stance is not sold by weight. A quantity of a controlled sub-
15 stance not measured by weight shall be measured by dosage units.

16 (3) The weight of a quantity of a controlled substance is
17 the weight of the substance in the taxpayer's possession, whether
18 pure, impure, or dilute. A controlled substance is dilute if it
19 consists of a detectable quantity of a pure controlled substance
20 and excipients or fillers.

21 Sec. 6. This act does not provide immunity from criminal
22 prosecution of a person who imports into this state, manufac-
23 tures, purchases, acquires, or transports a controlled
24 substance.

25 Sec. 7. A person licensed under section 7303 of the public
26 health code, Act No. 368 of the Public Acts of 1978, being
27 section 333.7303 of the Michigan Compiled Laws, or otherwise

1 lawfully in possession of a controlled substance is exempt from
2 the tax imposed by this act.

3 Sec. 8. (1) In addition to the tax imposed by this act, a
4 person who violates this act is subject to a civil fine of 400%
5 of the amount of the tax, together with interest at the current
6 monthly interest rate from the time the tax was due and until the
7 tax is paid.

8 (2) If a person fails to pay the tax imposed by this act,
9 the department may assess the tax against the person, notify the
10 person of the amount of the tax, and demand immediate payment of
11 the tax. If payment is not made immediately after the demand,
12 the department may institute an action at law for the collection
13 of the tax, civil fine, and interest in a county in which the
14 person renders or transacts business.

15 Sec. 9. (1) A person shall not bring an action to enjoin
16 the assessment or collection of a tax, interest, fine, or penalty
17 imposed by this act.

18 (2) A tax or fine assessed by the department is presumed to
19 be valid and correctly determined and assessed. The burden is
20 upon the taxpayer to show its incorrectness or invalidity. A
21 certificate filed by the commissioner of the amount of the tax or
22 fine determined or assessed is admissible in evidence and is
23 prima facie evidence of the facts it contains.

24 Sec. 10. (1) A payment required by this act shall be made
25 to the department in the form and manner required by the
26 department. The department shall collect the taxes, civil fines,

1 and interest on the taxes and civil fines under this act for
2 deposit in the general fund.

3 (2) The department shall promulgate rules to implement this
4 act pursuant to the administrative procedures act of 1969, Act
5 No. 306 of the Public Acts of 1969, being sections 24.201 to
6 24.328 of the Michigan Compiled Laws.

7 (3) The commissioner may request in writing information or
8 records in possession of another department, institution, or
9 agency of the state for the performance of duties under this
10 act. A department, institution, or agency of the state shall
11 furnish the information and records upon receipt of the
12 commissioner's request.

13 Sec. 11. (1) Except in connection with a proceeding involv-
14 ing taxes due under this act, an employee of the department shall
15 not reveal to a person who is not an employee of the department
16 information obtained from a taxpayer pursuant to this act.
17 Information obtained from a taxpayer pursuant to this act shall
18 not be used against that taxpayer in a criminal proceeding unless
19 the information is also obtained independently.

20 (2) A person who violates this section is guilty of a
21 misdemeanor.

22 (3) This section does not prohibit the state treasurer from
23 publishing statistics that do not disclose the identity of tax-
24 payers or information provided by particular taxpayers.

25 Sec. 12. (1) Neither the commissioner nor an employee of
26 the department shall compromise or reduce the taxes due to or
27 claimed by the department under this act. This subsection shall

1 not be construed to prevent a compromise of interest or civil
2 fines, or both.

3 (2) A person who violates subsection (1) is guilty of a
4 felony, punishable by imprisonment for not more than 5 years or a
5 fine of not more than \$5,000.00, or both. In addition, the
6 person shall be dismissed from office or discharged from employ-
7 ment upon conviction.

8 Sec. 13. The period of limitations is 6 years for actions
9 or proceedings for the recovery of the tax and civil fine and for
10 prosecution of a felony provided for by this act.

11 Sec. 14. The tax imposed by this act shall be administered
12 by the department in accordance with this act and Act No. 122 of
13 the Public Acts of 1941, being sections 205.1 to 205.31 of the
14 Michigan Compiled Laws. In case of conflict between the provi-
15 sions of this act and Act No. 122 of the Public Acts of 1941, the
16 provisions of this act shall prevail.