

By Mr. DeFilippi of West Springfield, petition of Walter A. DeFilippi for legislation to require tax stamps for dealers in controlled substances. Taxation.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Ninety-One.

AN ACT REQUIRING TAX STAMPS FOR DEALERS IN CONTROLLED SUBSTANCES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 The General Laws are hereby amended by inserting after  
2 chapter 64J the following chapter: —

3 **CHAPTER 64K.**

4 Section 1. For the purposes of this chapter the following words  
5 shall have the following meanings: —

6 “Marijuana”, marijuana, whether real or counterfeit, as defined  
7 in section one of chapter ninety-four C, that is held, possessed,  
8 transported, transferred, sold or offered to be sold in violation  
9 of Massachusetts law.

10 “Controlled substance”, any drug or substance, whether real or  
11 counterfeit, as defined in section one of chapter ninety-four C,  
12 that is held, possessed, or transported, transferred, sold or offered  
13 to be sold in violation of Massachusetts law. For the purposes  
14 of this act, “Controlled substance” shall not include marijuana.

15 “Dealer”, a person who in violation of Massachusetts law  
16 manufactures, produces, ships, transports, or imports into  
17 Massachusetts or in any manner acquires or possesses more than  
18 forty grams of marijuana, or seven or more grams of any  
19 controlled substance, or ten or more dosage units of any  
20 controlled substance which is not sold by weight. A quantity of  
21 marijuana or controlled substance is measured by the weight of

22 the substance whether pure or impure or dilute, or by dosage units  
23 when the substance is not sold by weight, in the dealer's  
24 possession. A quantity of a controlled substance is dilute if it  
25 consists of a detectable quantity of pure controlled substance and  
26 any excipients or fillers.

27 "Commissioner", the commissioner of the department of  
28 revenue.

29 Section 2. The commissioner shall administer this chapter.  
30 Payments required by this chapter must be made to the  
31 commissioner on the form provided by the commissioner. Dealers  
32 are not required to give their name, address, social security  
33 number, or other identifying information on the form. The  
34 commissioner shall collect all taxes under this chapter.

35 Section 3. The commissioner may adopt rules necessary to  
36 enforce this chapter. The commissioner shall adopt a uniform  
37 system of providing, affixing, and displaying official stamps,  
38 official labels, or other official indicia for marijuana and  
39 controlled substances on which a tax is imposed.

40 Section 4. No dealer may possess any marijuana or controlled  
41 substance upon which a tax is imposed by section eight unless the  
42 tax has been paid on the marijuana or controlled substance as  
43 evidenced by a stamp or other official indicia.

44 Section 5. Nothing in this chapter may in any manner provide  
45 immunity for a dealer from criminal prosecution pursuant to  
46 Massachusetts law.

47 Section 6. Nothing in this chapter requires persons lawfully in  
48 possession of marijuana or a controlled substance to pay the tax  
49 required under this chapter.

50 Section 7. For the purpose of calculating the tax under section  
51 eight, a quantity of marijuana or controlled substance is measured  
52 by the weight of the substance whether pure or impure or dilute,  
53 or by dosage units when the substance is not sold by weight, in  
54 the dealer's possession. A quantity of a controlled substance is  
55 dilute if it consists of a detectable quantity of pure controlled  
56 substance and any excipients or fillers.

57 Section 8. A tax is imposed on marijuana and controlled  
58 substances as defined in section one at the following rates:

59 (1) on each gram of marijuana, or each portion of a gram, three  
60 dollars and fifty cents; and

61 (2) on each gram of controlled substance, or portion of a gram,  
62 two hundred dollars; or

63 (3) on each fifty dosage units of a controlled substance that is  
64 not sold by weight, or portion thereof, two thousand dollars.

65 Section 9. 1. Any dealer violating this chapter is subject to a  
66 penalty of one hundred percent of the tax in addition to the tax  
67 imposed by section eight. The penalty will be collected as part of  
68 the tax.

69 1a. In addition to the tax penalty imposed, a dealer distributing  
70 or possessing marijuana or controlled substances without affixing  
71 the appropriate stamps, labels, or other indicia is guilty of a crime  
72 and, upon conviction, may be sentenced to imprisonment for not  
73 more than five years or to payment of a fine of not more than  
74 ten thousand dollars, or both.

75 Section 10. Official stamps, labels, or other indicia to be  
76 affixed to all marijuana or controlled substances shall be  
77 purchased from the commissioner. The purchaser shall pay one  
78 hundred percent of face value for each stamp, label, or other  
79 indicia at the time of the purchase.

80 Section 11. 1. When a dealer purchases, acquires, transports, or  
81 imports into this state marijuana or controlled substances on  
82 which a tax is imposed by section eight, and if the indicia  
83 evidencing the payment of the tax have not already been affixed,  
84 the dealer shall have them permanently affixed on the marijuana  
85 or controlled substance immediately after receiving the substance.  
86 Each stamp or other official indicia may be used only once.

87 2. Taxes imposed upon marijuana or controlled substances by  
88 this chapter are due and payable immediately upon acquisition or  
89 possession in this state by a dealer.

90 Section 12. 1. An assessment for a dealer not possessing valid  
91 stamps or other official indicia showing that the tax has been paid  
92 shall be considered a jeopardy assessment or collection. The  
93 commissioner shall assess a tax and applicable penalties based on  
94 personal knowledge or information available to the commis-  
95 sioner; mail the taxpayer at the taxpayer's last known address or  
96 serve in person, a written notice of the amount of tax and penalty;  
97 demand its immediate payment; and, if payment is not  
98 immediately made, collect the tax and penalty by any method  
99 available under law.

100 2. No person may bring suit to enjoin the assessment or  
101 collection of any taxes, interest, or penalties imposed by this  
102 chapter.

103 3. The tax and penalties assessed by the commissioner are  
104 presumed to be valid and correctly determined and assessed. The  
105 burden is upon the taxpayer to show their incorrectness or  
106 invalidity. Any statement filed by the commissioner with the court  
107 administrator, or any other certificate by the commissioner of the  
108 amount of tax and penalties determined or assessed is admissible  
109 in evidence and is prima facie evidence of the facts it contains.

110 Section 13. 1. Notwithstanding any law to the contrary, neither  
111 the commissioner nor a public employee may reveal facts  
112 contained in a report or return required by this chapter or any  
113 information obtained from a dealer; nor can any information  
114 contained in such a report or return or obtained from a dealer  
115 be used against the dealer in any criminal proceeding, unless  
116 independently obtained, except in connection with a proceeding  
117 involving taxes due under this chapter from the dealer making  
118 the return.

119 2. Any person violating this section is guilty of a misdemeanor.

120 3. This section does not prohibit the commissioner from  
121 publishing statistics that do not disclose the identity of dealers or  
122 the contents of particular returns or reports.

123 Section 14. For the purpose of determining the correctness of  
124 any return, determining the amount of tax that should have been  
125 paid, determining whether or not the dealer should have made  
126 a return or paid taxes, or collecting any taxes under this chapter,  
127 the commissioner may examine, or cause to be examined, any  
128 books, papers, records, or memoranda, that may be relevant to  
129 making such determinations, whether the books, papers, records,  
130 or memoranda, are the property of or in the possession of the  
131 dealer or another person. The commissioner may require the  
132 attendance of any person having knowledge or information that  
133 may be relevant, compel the production of books, papers, records,  
134 or memoranda by persons required to attend, take testimony on  
135 matters material to the determination, and administer oaths or  
136 affirmations. Upon demand of the commissioner or any examiner  
137 or investigator, the clerk of any court shall issue a subpoena for  
138 the attendance of a witness or the production of books, papers,

139 records, and memoranda. The commissioner may also issue  
140 subpoenas. Disobedience of subpoenas issued under this chapter  
141 is punishable by the district court of the district in which the  
142 subpoena is issued, or, if the subpoena is issued by the  
143 commissioner, by the district court of the district in which the  
144 party served with the subpoena is located, in the same manner  
145 as contempt of district court.





