

AMENDMENTS TO LB643

(Amendments to Howard amendments, AM2599)

Introduced by Krist, 10.

1 1. Strike original sections 48 to 54 and 56 to 64 and insert the
2 following new sections:

3 Sec. 48. (1) Each manufacturer shall pay a tax equal to thirty-
4 three percent of its net revenue for each calendar year on or before
5 February 1 of the following calendar year. The Tax Commissioner shall
6 collect the taxes imposed under this section and shall remit them to the
7 State Treasurer for credit to the Medical Cannabis Regulation Fund.

8 (2) For purposes of this section, net revenue means the revenue
9 obtained by a manufacturer from the production and sale of cannabis
10 pursuant to the Medical Cannabis Act less normal business expenses as
11 determined by the Tax Commissioner.

12 Sec. 50. Section 77-2701.16, Revised Statutes Cumulative Supplement,
13 2014, is amended to read:

14 77-2701.16 (1) Gross receipts means the total amount of the sale or
15 lease or rental price, as the case may be, of the retail sales of
16 retailers.

17 (2) Gross receipts of every person engaged as a public utility
18 specified in this subsection, as a community antenna television service
19 operator, or as a satellite service operator or any person involved in
20 connecting and installing services defined in subdivision (2)(a), (b), or
21 (d) of this section means:

22 (a)(i) In the furnishing of telephone communication service, other
23 than mobile telecommunications service as described in section
24 77-2703.04, the gross income received from furnishing ancillary services,
25 except for conference bridging services, and intrastate
26 telecommunications services, except for value-added, nonvoice data

1 service.

2 (ii) In the furnishing of mobile telecommunications service as
3 described in section 77-2703.04, the gross income received from
4 furnishing mobile telecommunications service that originates and
5 terminates in the same state to a customer with a place of primary use in
6 Nebraska;

7 (b) In the furnishing of telegraph service, the gross income
8 received from the furnishing of intrastate telegraph services;

9 (c)(i) In the furnishing of gas, sewer, water, and electricity
10 service, other than electricity service to a customer-generator as
11 defined in section 70-2002, the gross income received from the furnishing
12 of such services upon billings or statements rendered to consumers for
13 such utility services.

14 (ii) In the furnishing of electricity service to a customer-
15 generator as defined in section 70-2002, the net energy use upon billings
16 or statements rendered to customer-generators for such electricity
17 service;

18 (d) In the furnishing of community antenna television service or
19 satellite service, the gross income received from the furnishing of such
20 community antenna television service as regulated under sections 18-2201
21 to 18-2205 or 23-383 to 23-388 or satellite service; and

22 (e) The gross income received from the provision, installation,
23 construction, servicing, or removal of property used in conjunction with
24 the furnishing, installing, or connecting of any public utility services
25 specified in subdivision (2)(a) or (b) of this section or community
26 antenna television service or satellite service specified in subdivision
27 (2)(d) of this section, except when acting as a subcontractor for a
28 public utility, this subdivision does not apply to the gross income
29 received by a contractor electing to be treated as a consumer of building
30 materials under subdivision (2) or (3) of section 77-2701.10 for any such
31 services performed on the customer's side of the utility demarcation

1 point.

2 (3) Gross receipts of every person engaged in selling, leasing, or
3 otherwise providing intellectual or entertainment property means:

4 (a) In the furnishing of computer software, the gross income
5 received, including the charges for coding, punching, or otherwise
6 producing any computer software and the charges for the tapes, disks,
7 punched cards, or other properties furnished by the seller; and

8 (b) In the furnishing of videotapes, movie film, satellite
9 programming, satellite programming service, and satellite television
10 signal descrambling or decoding devices, the gross income received from
11 the license, franchise, or other method establishing the charge.

12 (4) Gross receipts for providing a service means:

13 (a) The gross income received for building cleaning and maintenance,
14 pest control, and security;

15 (b) The gross income received for motor vehicle washing, waxing,
16 towing, and painting;

17 (c) The gross income received for computer software training;

18 (d) The gross income received for installing and applying tangible
19 personal property if the sale of the property is subject to tax. If any
20 or all of the charge for installation is free to the customer and is paid
21 by a third-party service provider to the installer, any tax due on that
22 part of the activation commission, finder's fee, installation charge, or
23 similar payment made by the third-party service provider shall be paid
24 and remitted by the third-party service provider;

25 (e) The gross income received for services of recreational vehicle
26 parks;

27 (f) The gross income received for labor for repair or maintenance
28 services performed with regard to tangible personal property the sale of
29 which would be subject to sales and use taxes, excluding motor vehicles,
30 except as otherwise provided in section 77-2704.26 or 77-2704.50;

31 (g) The gross income received for animal specialty services except

1 (i) veterinary services, (ii) specialty services performed on livestock
2 as defined in section 54-183, and (iii) animal grooming performed by a
3 licensed veterinarian or a licensed veterinary technician in conjunction
4 with medical treatment; and

5 (h) The gross income received for detective services.

6 (5) Gross receipts includes the sale of admissions. When an
7 admission to an activity or a membership constituting an admission is
8 combined with the solicitation of a contribution, the portion or the
9 amount charged representing the fair market price of the admission shall
10 be considered a retail sale subject to the tax imposed by section
11 77-2703. The organization conducting the activity shall determine the
12 amount properly attributable to the purchase of the privilege, benefit,
13 or other consideration in advance, and such amount shall be clearly
14 indicated on any ticket, receipt, or other evidence issued in connection
15 with the payment.

16 (6) Gross receipts includes the sale of live plants incorporated
17 into real estate except when such incorporation is incidental to the
18 transfer of an improvement upon real estate or the real estate.

19 (7) Gross receipts includes the sale of any building materials
20 annexed to real estate by a person electing to be taxed as a retailer
21 pursuant to subdivision (1) of section 77-2701.10.

22 (8) Gross receipts includes the sale of and recharge of prepaid
23 calling service and prepaid wireless calling service.

24 (9) Gross receipts includes the retail sale of digital audio works,
25 digital audiovisual works, digital codes, and digital books delivered
26 electronically if the products are taxable when delivered on tangible
27 storage media. A sale includes the transfer of a permanent right of use,
28 the transfer of a right of use that terminates on some condition, and the
29 transfer of a right of use conditioned upon the receipt of continued
30 payments.

31 (10) Gross receipts does not include:

1 (a) The amount of any rebate granted by a motor vehicle or motorboat
2 manufacturer or dealer at the time of sale of the motor vehicle or
3 motorboat, which rebate functions as a discount from the sales price of
4 the motor vehicle or motorboat; or

5 (b) The price of property or services returned or rejected by
6 customers when the full sales price is refunded either in cash or credit.

7 (11) Gross receipts includes the retail sale of cannabis obtained
8 pursuant to the Medical Cannabis Act.

9 Sec. 51. Section 77-2701.32, Reissue Revised Statutes of Nebraska,
10 is amended to read:

11 77-2701.32 (1) Retailer means any seller.

12 (2) To facilitate the proper administration of the Nebraska Revenue
13 Act of 1967, the following persons have the duties and responsibilities
14 of sellers for the purposes of sales and use taxes:

15 (a) Any person in the business of making sales subject to tax under
16 section 77-2703 at auction of property owned by the person or others;

17 (b) Any person collecting the proceeds of the auction, other than
18 the owner of the property, together with his or her principal, if any,
19 when the person collecting the proceeds of the auction is not the
20 auctioneer or an agent or employee of the auctioneer. The seller does not
21 include the auctioneer in such case;

22 (c) Every person who has elected to be considered a retailer
23 pursuant to subdivision (1) of section 77-2701.10;

24 (d) Every person operating, organizing, or promoting a flea market,
25 craft show, fair, or similar event;~~and~~

26 (e) Every person engaged in the business of providing any service
27 defined in subsection (4) of section 77-2701.16; and -

28 (f) Every person doing business as a compassion center pursuant to
29 the Medical Cannabis Act.

30 (3) For the proper administration of the Nebraska Revenue Act of
31 1967, the following persons do not have the duties and responsibilities

1 of a seller for purposes of sales and use taxes:

2 (a) Any person who leases or rents films when an admission tax is
3 charged under the Nebraska Revenue Act of 1967;

4 (b) Any person who leases or rents railroad rolling stock
5 interchanged pursuant to the provisions of the federal Interstate
6 Commerce Act;

7 (c) Any person engaged in the business of furnishing rooms in a
8 facility licensed under the Health Care Facility Licensure Act in which
9 rooms, lodgings, or accommodations are regularly furnished for a
10 consideration or a facility operated by an educational institution
11 established under Chapter 79 or Chapter 85 in which rooms are regularly
12 used to house students for a consideration for periods in excess of
13 thirty days; or

14 (d) Any person making sales at a flea market, craft show, fair, or
15 similar event when such person does not have a sales tax permit and has
16 arranged to pay sales taxes collected to the person operating,
17 organizing, or promoting such event.

18 Sec. 52. Section 77-2704.09, Reissue Revised Statutes of Nebraska,
19 is amended to read:

20 77-2704.09 (1) Sales and use taxes shall not be imposed on the gross
21 receipts from the sale, lease, or rental of and the storage, use, or
22 other consumption in this state of (a) insulin, (b) mobility enhancing
23 equipment and drugs, not including cannabis obtained pursuant to the
24 Medical Cannabis Act or over-the-counter drugs, when sold for a patient's
25 use under a prescription, and (c) the following when sold for a patient's
26 use under a prescription and which are of the type eligible for coverage
27 under the medical assistance program established pursuant to the Medical
28 Assistance Act: Durable medical equipment; home medical supplies;
29 prosthetic devices; oxygen; and oxygen equipment.

30 (2) For purposes of this section:

31 (a) Drug means a compound, substance, preparation, and component of

1 a compound, substance, or preparation, other than food and food
2 ingredients, dietary supplements, or alcoholic beverages:

3 (i) Recognized in the official United States Pharmacopoeia, official
4 Homeopathic Pharmacopoeia of the United States, or official National
5 Formulary, and any supplement to any of them;

6 (ii) Intended for use in the diagnosis, cure, mitigation, treatment,
7 or prevention of disease; or

8 (iii) Intended to affect the structure or any function of the body;

9 (b) Durable medical equipment means equipment which can withstand
10 repeated use, is primarily and customarily used to serve a medical
11 purpose, generally is not useful to a person in the absence of illness or
12 injury, is appropriate for use in the home, and is not worn in or on the
13 body. Durable medical equipment includes repair and replacement parts for
14 such equipment;

15 (c) Home medical supplies means supplies primarily and customarily
16 used to serve a medical purpose which are appropriate for use in the home
17 and are generally not useful to a person in the absence of illness or
18 injury;

19 (d) Mobility enhancing equipment means equipment which is primarily
20 and customarily used to provide or increase the ability to move from one
21 place to another, which is not generally used by persons with normal
22 mobility, and which is appropriate for use either in a home or a motor
23 vehicle. Mobility enhancing equipment includes repair and replacement
24 parts for such equipment. Mobility enhancing equipment does not include
25 any motor vehicle or equipment on a motor vehicle normally provided by a
26 motor vehicle manufacturer;

27 (e) Over-the-counter drug means a drug that contains a label that
28 identifies the product as a drug as required by 21 C.F.R. 201.66, as such
29 regulation existed on January 1, 2003. The over-the-counter drug label
30 includes a drug facts panel or a statement of the active ingredients with
31 a list of those ingredients contained in the compound, substance, or

1 preparation;

2 (f) Oxygen equipment means oxygen cylinders, cylinder transport
3 devices including sheaths and carts, cylinder studs and support devices,
4 regulators, flowmeters, tank wrenches, oxygen concentrators, liquid
5 oxygen base dispensers, liquid oxygen portable dispensers, oxygen tubing,
6 nasal cannulas, face masks, oxygen humidifiers, and oxygen fittings and
7 accessories;

8 (g) Prescription means an order, formula, or recipe issued in any
9 form of oral, written, electronic, or other means of transmission by a
10 duly licensed practitioner authorized under the Uniform Credentialing
11 Act; and

12 (h) Prosthetic devices means a replacement, corrective, or
13 supportive device worn on or in the body to artificially replace a
14 missing portion of the body, prevent or correct physical deformity or
15 malfunction, or support a weak or deformed portion of the body, and
16 includes any supplies used with such device and repair and replacement
17 parts.

18 Sec. 53. Section 77-4303, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 77-4303 (1) A tax is hereby imposed on marijuana and controlled
21 substances at the following rates:

22 (a) On each ounce of marijuana or each portion of an ounce, one
23 hundred dollars;

24 (b) On each gram or portion of a gram of a controlled substance that
25 is customarily sold by weight or volume, one hundred fifty dollars; or

26 (c) On each fifty dosage units or portion thereof of a controlled
27 substance that is not customarily sold by weight, five hundred dollars.

28 (2) For purposes of calculating the tax under this section,
29 marijuana or any controlled substance that is customarily sold by weight
30 or volume shall be measured by the weight of the substance in the
31 dealer's possession. The weight shall be the actual weight, if known, or

1 the estimated weight as determined by the Nebraska State Patrol or other
2 law enforcement agency. Such determination shall be presumed to be the
3 weight of such marijuana or controlled substances for purposes of
4 sections 77-4301 to 77-4316.

5 (3) The tax shall not be imposed upon a person registered or
6 otherwise lawfully in possession of marijuana or a controlled substance
7 pursuant to Chapter 28, article 4, or a person lawfully in possession of
8 cannabis under the Medical Cannabis Act.

9 2. On page 1, line 3, strike "54" and insert "48".

10 3. On page 13, line 17, strike "Medical Cannabis Board" and insert
11 "Director of Public Health".

12 4. On page 14, lines 2 and 3; and page 16, line 1, strike "Medical
13 Cannabis Board" and insert "Director of Public Health".

14 5. On page 17, line 10, strike "Medical Cannabis Board" and insert
15 "Director of Public Health"; and in lines 13, 17, and 18 strike "board"
16 and insert "director".

17 6. Renumber the remaining sections and correct the repealer
18 accordingly.