
HOUSE BILL 2008

State of Washington

64th Legislature

2015 Regular Session

By Representatives Carlyle, Hurst, Wylie, Condotta, Cody, Tharinger, Hunter, Kagi, and Reykdal

Read first time 02/06/15. Referred to Committee on Finance.

1 AN ACT Relating to comprehensive marijuana tax reform to ensure a
2 well regulated and taxed marijuana market in Washington; amending RCW
3 69.50.530, 69.50.535, 69.50.540, 69.50.357, and 69.50.369; adding a
4 new section to chapter 82.08 RCW; adding a new section to chapter
5 82.12 RCW; creating new sections; and providing a contingent
6 effective date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** (1) The legislature finds the
9 implementation of Initiative Measure No. 502 has established a
10 clearly disadvantaged regulated legal market with respect to prices
11 and the ability to compete with the unregulated medical dispensary
12 market and the illicit market. The legislature further finds that it
13 is crucial that the state continues to ensure a safe, highly
14 regulated system in Washington that protects public safety and state
15 revenues while continuing efforts towards disbanding the unregulated
16 marijuana markets. The legislature further finds that ongoing
17 evaluation on the impact of meaningful marijuana tax reform for the
18 purpose of stabilizing revenues is crucial to the overall effort of
19 protecting the citizens and resources of this state. The legislature
20 further finds that a partnership with local jurisdictions in this
21 effort is imperative to the success of the legislature's policy

1 objective. The legislature further finds that sharing revenues to
2 promote a successful partnership in achieving the legislature's
3 intent should be transparent and hold local jurisdictions accountable
4 for their use of state shared revenues. Therefore, the legislature
5 intends to reform the current tax structure for the regulated legal
6 marijuana system to create price parity with the large medical and
7 illicit markets with the specific objective of increasing the market
8 share of the legal marijuana market. The legislature further intends
9 to share marijuana tax revenues with local jurisdictions for public
10 safety and chemical dependency and mental health treatment
11 expenditures, requiring a rigorous evaluation of the incremental cost
12 and use of proceeds the legalization of marijuana has on local
13 communities.

14 (2) The legislature further finds marijuana use for qualifying
15 patients is a valid and necessary option health care professionals
16 may recommend for their patients. The legislature further finds that
17 while recognizing the difference between recreational and medical use
18 of marijuana, it is also imperative to distinguish that the
19 authorization for medical use of marijuana is different from a valid
20 prescription provided by a doctor to a patient. The legislature
21 further finds the authorization for medical use of marijuana is
22 unlike over-the-counter medications that require no oversight by a
23 health care professional. The legislature further finds that due to
24 the unique characterization of authorizations for the medical use of
25 marijuana, the policy of providing a tax preference benefit for
26 patients using an authorization should in no way be construed as
27 precedence for changes in the treatment of prescription medications
28 or over-the-counter medications. Therefore, the legislature intends
29 to provide qualifying patients a retail sale and use tax exemption on
30 purchases of marijuana for medical use when authorized by a health
31 care professional.

32 **Sec. 2.** RCW 69.50.530 and 2013 c 3 s 26 are each amended to read
33 as follows:

34 (1) ~~((There shall be a fund, known as the dedicated marijuana~~
35 ~~fund, which shall consist of all marijuana excise taxes, license~~
36 ~~fees, penalties, forfeitures, and all other moneys, income, or~~
37 ~~revenue received by the state liquor control board from marijuana-~~
38 ~~related activities. The state treasurer shall be custodian of the~~
39 ~~fund.~~

1 ~~(2))~~ The dedicated marijuana account is created in the state
2 treasury. All moneys received by the state liquor control board or
3 any employee thereof from marijuana-related activities (~~shall be~~
4 ~~deposited each day in a depository approved by the state treasurer~~
5 ~~and transferred to the state treasurer to be credited to the~~
6 ~~dedicated marijuana fund.~~

7 ~~(3) Disbursements from the dedicated marijuana fund shall be on~~
8 ~~authorization of the state liquor control board or a duly authorized~~
9 ~~representative thereof))~~ must be deposited into the account,
10 including all marijuana excise taxes collected under RCW 69.50.535
11 and the license fees, penalties, and forfeitures derived under
12 chapter 3, Laws of 2013 from marijuana producer, marijuana processor,
13 and marijuana retailer licenses. Moneys in the account may only be
14 spent after appropriation.

15 **Sec. 3.** RCW 69.50.535 and 2014 c 192 s 7 are each amended to
16 read as follows:

17 ~~(1) ((There is levied and collected a marijuana excise tax equal~~
18 ~~to twenty five percent of the selling price on each wholesale sale in~~
19 ~~this state of marijuana by a licensed marijuana producer to a~~
20 ~~licensed marijuana processor or another licensed marijuana producer.~~
21 ~~This tax is the obligation of the licensed marijuana producer.~~

22 ~~(2) There is levied and collected a marijuana excise tax equal to~~
23 ~~twenty five percent of the selling price on each wholesale sale in~~
24 ~~this state of marijuana concentrates, useable marijuana, and~~
25 ~~marijuana-infused products by a licensed marijuana processor to a~~
26 ~~licensed marijuana retailer. This tax is the obligation of the~~
27 ~~licensed marijuana processor.~~

28 ~~(3))~~ (a) There is levied and collected a marijuana excise tax
29 equal to ((~~twenty five~~)) thirty percent of the selling price on each
30 retail sale in this state of marijuana concentrates, useable
31 marijuana, and marijuana-infused products. This tax is the obligation
32 of the ((~~licensed marijuana retailer~~)) buyer, is separate and in
33 addition to general state and local sales and use taxes that apply to
34 retail sales of tangible personal property, and ((~~is part of the~~
35 total retail price to which general state and local sales and use
36 taxes apply)) must be separately itemized from the state and local
37 retail sales tax on the sales receipt.

38 (b) The tax levied in (a) of this subsection must be reflected in
39 the price list or quoted shelf price in the licensed marijuana retail

1 store and in any advertising that includes prices, for all marijuana-
2 infused products, useable marijuana, or marijuana concentrates.

3 ~~((4))~~ (2) All revenues collected from the marijuana excise
4 taxes imposed under subsection((s)) (1) ~~((through (3) of this section~~
5 shall be deposited each day in a depository approved by the state
6 treasurer and transferred to the state treasurer to be credited to
7 the dedicated marijuana fund)) of this section must be deposited in
8 the dedicated marijuana account.

9 ~~((5))~~ (3)(a) The state liquor control board ~~((shall))~~ must
10 regularly review the tax levels established under this section, in
11 consultation with the department of revenue, and make recommendations
12 to the legislature as appropriate regarding adjustments that would
13 further the goal of discouraging use while undercutting illegal
14 market prices.

15 (b) The state liquor control board must report, in compliance
16 with RCW 43.01.036, to the appropriate committees of the legislature
17 every two years. The report at a minimum must include the following:

18 (i) The specific recommendations required under (a) of this
19 subsection;

20 (ii) A comparison of gross sales and tax collections prior to and
21 after any marijuana tax change;

22 (iii) The increase or decrease in the volume of legal marijuana
23 sold prior to and after any marijuana tax change;

24 (iv) Increases or decreases in the number of licensed marijuana
25 producers, processors, and retailers;

26 (v) The number of illegal and noncompliant marijuana outlets the
27 state liquor control board shuts down; and

28 (vi) Gross marijuana sales and tax collections in Oregon.

29 **Sec. 4.** RCW 69.50.540 and 2013 c 3 s 28 are each amended to read
30 as follows:

31 (1) All marijuana excise taxes collected from sales of marijuana,
32 useable marijuana, and marijuana-infused products under RCW
33 69.50.535, and the license fees, penalties, and forfeitures derived
34 under chapter 3, Laws of 2013 from marijuana producer, marijuana
35 processor, and marijuana retailer licenses ~~((shall every three months~~
36 be disbursed by the state liquor control board)) must be dispersed
37 every three months by the state treasurer as follows:

38 ~~((1))~~ (a) One hundred twenty-five thousand dollars to the
39 department of social and health services to design and administer the

1 Washington state healthy youth survey, analyze the collected data,
2 and produce reports, in collaboration with the office of the
3 superintendent of public instruction, department of health,
4 department of commerce, family policy council, and state liquor
5 control board. The survey (~~shall~~) must be conducted at least every
6 two years and include questions regarding, but not necessarily
7 limited to, academic achievement, age at time of substance use
8 initiation, antisocial behavior of friends, attitudes toward
9 antisocial behavior, attitudes toward substance use, laws and
10 community norms regarding antisocial behavior, family conflict,
11 family management, parental attitudes toward substance use, peer
12 rewarding of antisocial behavior, perceived risk of substance use,
13 and rebelliousness. Funds disbursed under this subsection may be used
14 to expand administration of the healthy youth survey to student
15 populations attending institutions of higher education in Washington;

16 ~~((+2))~~ (b) Fifty thousand dollars to the department of social
17 and health services for the purpose of contracting with the
18 Washington state institute for public policy to conduct the cost-
19 benefit evaluation and produce the reports described in RCW
20 69.50.550. This appropriation (~~shall~~) ends after production of the
21 final report required by RCW 69.50.550;

22 ~~((+3))~~ (c) Five thousand dollars to the University of Washington
23 alcohol and drug abuse institute for the creation, maintenance, and
24 timely updating of web-based public education materials providing
25 medically and scientifically accurate information about the health
26 and safety risks posed by marijuana use;

27 ~~((+4))~~ (d) An amount not exceeding one million two hundred fifty
28 thousand dollars to the state liquor control board as is necessary
29 for administration of chapter 3, Laws of 2013;

30 ~~((+5))~~ (e) Of the funds remaining after the disbursements
31 identified in (~~subsections (1) through (4)~~) (a) through (d) of this
32 (~~section~~) subsection:

33 ~~((+a))~~ (i) Fifteen percent to the department of social and
34 health services division of behavioral health and recovery for
35 implementation and maintenance of programs and practices aimed at the
36 prevention or reduction of maladaptive substance use, substance-use
37 disorder, substance abuse or substance dependence, as these terms are
38 defined in the Diagnostic and Statistical Manual of Mental Disorders,
39 among middle school and high school age students, whether as an

1 explicit goal of a given program or practice or as a consistently
2 corresponding effect of its implementation; PROVIDED, That:

3 ((+i)) (A)(I) Of the funds disbursed under ((+a)) (e)(i) of
4 this subsection, at least eighty-five percent must be directed to
5 evidence-based and cost-beneficial programs and practices that
6 produce objectively measurable results; and

7 ((+ii)) (II) Up to fifteen percent of the funds disbursed under
8 ((+a)) (e)(i) of this subsection may be directed to research-based
9 and emerging best practices or promising practices.

10 (B) In deciding which programs and practices to fund, the
11 secretary of the department of social and health services ((shall))
12 must consult, at least annually, with the University of Washington's
13 social development research group and the University of Washington's
14 alcohol and drug abuse institute;

15 ((+b)) (ii) Ten percent to the department of health for the
16 creation, implementation, operation, and management of a marijuana
17 education and public health program that contains the following:

18 ((+i)) (A) A marijuana use public health hotline that provides
19 referrals to substance abuse treatment providers, utilizes evidence-
20 based or research-based public health approaches to minimizing the
21 harms associated with marijuana use, and does not solely advocate an
22 abstinence-only approach;

23 ((+ii)) (B) A grants program for local health departments or
24 other local community agencies that supports development and
25 implementation of coordinated intervention strategies for the
26 prevention and reduction of marijuana use by youth; and

27 ((+iii)) (C) Media-based education campaigns across television,
28 internet, radio, print, and out-of-home advertising, separately
29 targeting youth and adults, that provide medically and scientifically
30 accurate information about the health and safety risks posed by
31 marijuana use;

32 ((+e)) (iii) Six-tenths of one percent to the University of
33 Washington and four-tenths of one percent to Washington State
34 University for research on the short and long-term effects of
35 marijuana use, to include but not be limited to formal and informal
36 methods for estimating and measuring intoxication and impairment, and
37 for the dissemination of such research;

38 ((+d)) (iv) Fifty percent to the state basic health plan trust
39 account to be administered by the Washington basic health plan
40 administrator and used as provided under chapter 70.47 RCW;

1 ~~((e))~~ (v) Five percent to the Washington state health care
2 authority to be expended exclusively through contracts with community
3 health centers to provide primary health and dental care services,
4 migrant health services, and maternity health care services as
5 provided under RCW 41.05.220;

6 ~~((f))~~ (vi) Three-tenths of one percent to the office of the
7 superintendent of public instruction to fund grants to building
8 bridges programs under chapter 28A.175 RCW; and

9 ~~((g))~~ (vii)(A) Except as provided in (e)(vii)(B) of this
10 subsection (1), the remainder to the general fund.

11 (B) If marijuana excise tax collections deposited into the
12 general fund in the prior fiscal year exceeded twenty-five million
13 dollars, then an amount equal to twenty-five percent of all marijuana
14 excise taxes deposited into the general fund, the prior fiscal year,
15 must be distributed to counties and cities by October 1st as follows:

16 (I) Thirty percent distributed to counties. The share to each
17 county must be determined by a division among the counties ratably
18 based on population of the unincorporated area as last determined by
19 the office of financial management. However, no county in which the
20 producing, processing, or retailing of marijuana is prohibited is
21 entitled to share in such distributions. "Unincorporated area" means
22 any portion of any county not included within the limits of
23 incorporated cities and towns; and

24 (II) Seventy percent distributed to cities and towns. The share
25 to each city or town must be determined by a division among the
26 cities and towns within the state ratably based on population as last
27 determined by the office of financial management. However, no city or
28 town in which the producing, processing, or retailing of marijuana is
29 prohibited is entitled to share in such distributions.

30 (C) The total share of marijuana excise tax revenues distributed
31 to counties and cities may not exceed twenty million dollars per
32 fiscal year.

33 (D) All moneys distributed under this subsection to local
34 jurisdictions must be used solely for local law enforcement
35 expenditures, criminal justice purposes, or chemical dependency or
36 mental health treatment services. Criminal justice purposes has the
37 same meaning as defined in RCW 82.14.330(1)(c). Chemical dependency
38 or mental health treatment services has the same meaning as defined
39 in RCW 82.14.460(3).

1 (2)(a) The joint legislative audit and review committee must
2 provide a report to the fiscal committees of the legislature
3 analyzing the incremental cost of legalization of marijuana on local
4 jurisdictions, specifically focusing on the increased expenditures
5 for the criminal justice system and local law enforcement. The report
6 must include the following:

7 (i) The amount of marijuana tax revenues expended for the
8 purposes authorized in subsection (1)(e)(vii)(D) of this section;

9 (ii) The number and type of marijuana-related arrests by
10 jurisdiction; and

11 (iii) The number and type of liquor and other drug-related
12 arrests by jurisdiction.

13 (b) All counties and cities with a population greater than ten
14 thousand must provide the joint legislative audit and review
15 committee a report that includes the information listed in (a) of
16 this subsection by January 31st of each year starting the year after
17 the first distribution in subsection (1)(e)(vii)(B) of this section
18 occurs. Any county or city required to report under this subsection
19 (2)(b) that fails to report the requirements of this subsection to
20 the joint legislative audit and review committee is not authorized to
21 receive the distribution in subsection (1)(e)(vii)(B) of this
22 section. The joint legislative audit and review committee may also
23 rely on data from the state liquor control board, the state
24 treasurer, the Washington state patrol, and the state auditor for the
25 report.

26 (c) By January 31st of the calendar year that is the fourth
27 calendar year subsequent to the calendar year in which distributions
28 under subsection (1)(e)(vii)(B) of this section are first made, and
29 in compliance with RCW 43.01.036, the joint legislative audit and
30 review committee must submit the report required under this section.

31 **Sec. 5.** RCW 69.50.357 and 2014 c 192 s 4 are each amended to
32 read as follows:

33 (1) Retail outlets (~~shall sell no~~) may not sell products or
34 services other than marijuana concentrates, useable marijuana,
35 marijuana-infused products, or paraphernalia intended for the storage
36 or use of marijuana concentrates, useable marijuana, or marijuana-
37 infused products.

1 (2) Licensed marijuana retailers (~~shall~~) may not employ persons
2 under twenty-one years of age or allow persons under twenty-one years
3 of age to enter or remain on the premises of a retail outlet.

4 (3) Licensed marijuana retailers (~~shall~~) may not display any
5 signage in a window, on a door, or on the outside of the premises of
6 a retail outlet that is visible to the general public from a public
7 right-of-way, other than a single sign no larger than one thousand
8 six hundred square inches identifying the retail outlet by the
9 licensee's business or trade name.

10 (4) Licensed marijuana retailers (~~shall~~) may not display
11 useable marijuana or marijuana-infused products in a manner that is
12 visible to the general public from a public right-of-way.

13 (5) No licensed marijuana retailer or employee of a retail outlet
14 (~~shall~~) may open or consume, or allow to be opened or consumed, any
15 marijuana concentrates, useable marijuana, or marijuana-infused
16 product on the outlet premises.

17 (6) The state liquor control board (~~shall~~) must fine a licensee
18 one thousand dollars for each violation of any subsection of this
19 section. Fines collected under this section must be deposited into
20 the dedicated marijuana (~~fund~~) account created under RCW 69.50.530.

21 **Sec. 6.** RCW 69.50.369 and 2013 c 3 s 18 are each amended to read
22 as follows:

23 (1) No licensed marijuana producer, processor, or retailer
24 (~~shall~~) may place or maintain, or cause to be placed or maintained,
25 an advertisement of marijuana, useable marijuana, or a marijuana-
26 infused product in any form or through any medium whatsoever:

27 (a) Within one thousand feet of the perimeter of a school
28 grounds, playground, recreation center or facility, child care
29 center, public park, or library, or any game arcade admission to
30 which is not restricted to persons aged twenty-one years or older;

31 (b) On or in a public transit vehicle or public transit shelter;
32 or

33 (c) On or in a publicly owned or operated property.

34 (2) Merchandising within a retail outlet is not advertising for
35 the purposes of this section.

36 (3) This section does not apply to a noncommercial message.

37 (4) The state liquor control board (~~shall~~) must fine a licensee
38 one thousand dollars for each violation of subsection (1) of this

1 section. Fines collected under this subsection must be deposited into
2 the dedicated marijuana ((fund)) account created under RCW 69.50.530.

3 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.08
4 RCW to read as follows:

5 (1) Subject to the conditions and limitations provided in this
6 section, the tax levied by RCW 82.08.020 does not apply to the sales
7 of usable marijuana or marijuana-infused products to qualifying
8 patients or their designated providers.

9 (2) The exemption authorized in this section only applies to
10 purchases made from marijuana retail outlets authorized under chapter
11 69.50 RCW. Retail outlets that sell sales tax exempt usable marijuana
12 or marijuana-infused products are required to file their tax return
13 electronically with the department and report the total amount of
14 exempt sales made for the reporting period.

15 (3) Each marijuana retail outlet making exempt sales is required
16 to maintain records of qualifying patient authorizations provided by
17 the purchaser.

18 (4) The department must provide a separate tax reporting line for
19 exemption amounts claimed under this section.

20 (5) The definitions in this subsection apply throughout this
21 section unless the context clearly requires otherwise.

22 (a) "Designated provider" and "qualifying patient" have the same
23 meanings as provided in RCW 69.51A.010.

24 (b) "Marijuana-infused product" has the same meaning as provided
25 in RCW 69.50.101.

26 (c) "Usable marijuana" has the same meaning as provided in RCW
27 69.50.101.

28 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.12
29 RCW to read as follows:

30 (1) The provisions of this chapter do not apply to the use of
31 usable marijuana or marijuana-infused products by a qualifying
32 patient or their designated provider obtained from an authorized
33 marijuana retail outlet under chapter 69.50 RCW.

34 (2) The definitions, conditions, and limitations in section 7 of
35 this act apply to this section.

1 NEW SECTION. **Sec. 9.** The provisions of RCW 82.32.805 and
2 82.32.808 do not apply to the exemptions in sections 5 and 6 of this
3 act.

4 NEW SECTION. **Sec. 10.** This act takes effect January 1, 2016, if
5 House Bill No. 1461, or any amended version of House Bill No. 1461,
6 is enacted into law by January 1, 2016.

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