
SENATE BILL 5004

State of Washington

67th Legislature

2021 Regular Session

By Senators Keiser, Warnick, Conway, Das, King, Kuderer, Saldaña, and Wilson, C.

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1 AN ACT Relating to providing a tax exemption for medical
2 marijuana patients; amending RCW 69.50.535; and providing an
3 effective date.

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

5 **Sec. 1.** RCW 69.50.535 and 2015 2nd sp.s. c 4 s 205 are each
6 amended to read as follows:

7 (1)(a) There is levied and collected a marijuana excise tax equal
8 to thirty-seven percent of the selling price on each retail sale in
9 this state of marijuana concentrates, useable marijuana, and
10 marijuana-infused products. This tax is separate and in addition to
11 general state and local sales and use taxes that apply to retail
12 sales of tangible personal property, and is not part of the total
13 retail price to which general state and local sales and use taxes
14 apply. The tax must be separately itemized from the state and local
15 retail sales tax on the sales receipt provided to the buyer.

16 (b) The tax levied in this section must be reflected in the price
17 list or quoted shelf price in the licensed marijuana retail store and
18 in any advertising that includes prices for all useable marijuana,
19 marijuana concentrates, or marijuana-infused products.

20 (2)(a) The tax levied by subsection (1) of this section does not
21 apply to sales, by a marijuana retailer with a medical marijuana

1 endorsement to qualifying patients or designated providers who have
2 been issued a recognition card, of marijuana concentrates, useable
3 marijuana, or marijuana-infused products, identified by the
4 department in rules adopted under RCW 69.50.375(4) in chapter 246-70
5 WAC as being compliant marijuana products.

6 (b) Each seller making exempt sales under this subsection (2)
7 must maintain information establishing eligibility for the exemption
8 in the form and manner required by the board.

9 (c) The board must provide a separate tax reporting line on the
10 excise tax form for exemption amounts claimed under this subsection
11 (2).

12 (3) All revenues collected from the marijuana excise tax imposed
13 under this section must be deposited each day in the dedicated
14 marijuana account.

15 ~~((3))~~ (4) The tax imposed in this section must be paid by the
16 buyer to the seller. Each seller must collect from the buyer the full
17 amount of the tax payable on each taxable sale. The tax collected as
18 required by this section is deemed to be held in trust by the seller
19 until paid to the board. If any seller fails to collect the tax
20 imposed in this section or, having collected the tax, fails to pay it
21 as prescribed by the board, whether such failure is the result of the
22 seller's own acts or the result of acts or conditions beyond the
23 seller's control, the seller is, nevertheless, personally liable to
24 the state for the amount of the tax.

25 ~~((4))~~ (5) The definitions in this subsection apply throughout
26 this section unless the context clearly requires otherwise.

27 ~~(a) ("Board" means the state liquor and cannabis board.~~

28 ~~(b))~~ "Retail sale" has the same meaning as in RCW 82.08.010.

29 ~~((e))~~ (b) "Selling price" has the same meaning as in RCW
30 82.08.010, except that when product is sold under circumstances where
31 the total amount of consideration paid for the product is not
32 indicative of its true value, "selling price" means the true value of
33 the product sold.

34 ~~((d))~~ (c) "Product" means marijuana, marijuana concentrates,
35 useable marijuana, and marijuana-infused products.

36 ~~((e))~~ (d) "True value" means market value based on sales at
37 comparable locations in this state of the same or similar product of
38 like quality and character sold under comparable conditions of sale
39 to comparable purchasers. However, in the absence of such sales of
40 the same or similar product, true value means the value of the

1 product sold as determined by all of the seller's direct and indirect
2 costs attributable to the product.

3 ~~((+5))~~ (6)(a) The board must regularly review the tax level
4 established under this section and make recommendations, in
5 consultation with the department of revenue, to the legislature as
6 appropriate regarding adjustments that would further the goal of
7 discouraging use while undercutting illegal market prices.

8 (b) The ~~((state liquor and cannabis))~~ board must report, in
9 compliance with RCW 43.01.036, to the appropriate committees of the
10 legislature every two years. The report at a minimum must include the
11 following:

12 (i) The specific recommendations required under (a) of this
13 subsection;

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

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

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

20 (v) The number of illegal and noncompliant marijuana outlets the
21 board requires to be closed;

22 (vi) Gross marijuana sales and tax collections in Oregon; and

23 (vii) The total amount of reported sales and use taxes exempted
24 for qualifying patients. The department of revenue must provide the
25 data of exempt amounts to the board.

26 (c) The board is not required to report to the legislature as
27 required in (b) of this subsection after January 1, 2025.

28 ~~((+6))~~ (7) The legislature does not intend and does not
29 authorize any person or entity to engage in activities or to conspire
30 to engage in activities that would constitute per se violations of
31 state and federal antitrust laws including, but not limited to,
32 agreements among retailers as to the selling price of any goods sold.

33 NEW SECTION. **Sec. 2.** This act takes effect January 1, 2022.

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