

---

## Finance Committee

---

### HB 2198

**Brief Description:** Providing tax relief to qualifying patients for purchases of marijuana for medical use.

**Sponsors:** Representative Carlyle.

#### Brief Summary of Bill

- Provides a sales and use tax exemption for ten years for qualified patients who purchase marijuana for medical use.
- Includes a tax preference performance statement describing the specific public policy objective of the legislation as well as the data and metrics for measuring the legislation's effectiveness in achieving the public policy objective.

**Hearing Date:** 1/15/14

**Staff:** Dominique Meyers (786-7150).

#### Background:

##### Marijuana for Medical Use.

Marijuana is classified as a Schedule I substance under the Controlled Substances Act (CSA). Under the CSA, Schedule I substances are characterized as having a high potential for abuse, no currently accepted medical use, and no accepted safe means for using the drug under medical supervision. The manufacture, possession, or distribution of Schedule I substances is a criminal offense under federal law.

In 1998 Washington voters approved Initiative 692 to allow certain patients to use limited amounts of marijuana for medicinal purposes. To become a “qualifying patient,” a person must have been: (1) diagnosed with a terminal or debilitating condition; (2) advised by a health care professional about the risks and benefits of the medical use of marijuana; and (3) advised by a health care professional that he or she may benefit from the medical use of marijuana.

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Qualifying patients and designated providers are protected from arrest or prosecution under state laws relating to marijuana if the individual uses and possesses it for medicinal purposes, does not exceed specified amounts, and meets other criteria. Qualifying patients may grow marijuana themselves or designate a provider to grow on their behalf. They may also obtain marijuana through collective gardens, which consist of groups of up to ten qualifying patients who share in the responsibilities of producing and processing marijuana for medical use.

#### Marijuana for Recreational Use.

In 2012 Washington voters approved Initiative 502, which established a regulatory system for the production, processing, and distribution of limited amounts of marijuana for nonmedical purposes. Under this system, the Liquor Control Board issues licenses to marijuana producers, processors, and retailers and adopts standards for the regulation of these operations. Persons over 21 years old may purchase up to one ounce of useable marijuana, 16 ounces of solid marijuana-infused product, and 72 ounces of liquid marijuana-infused product.

Initiative 502 established a marijuana excise tax at each level of production. These excises taxes are in addition to the state's business and occupation tax and retail sales tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products and some services. A retail sale is a sale to the final consumer or end user of the property, digital product or service. If retail sales taxes were not collected when the user acquired the property, digital products or services, then use taxes applies to the value of property, digital product or service when used in this state. The state, most cities and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.1 percent, depending on the location.

#### Liquor Control Board Work Group.

Section 141, chapter 4, Laws of 2013 2nd special session (3ESSB 5034) directed the Liquor Control Board to work with the Department of Health and the Department of Revenue to develop recommendations related to the interaction between the regulation of recreational marijuana and medical marijuana. The recommendations must address: age limits; authorization requirements for medical marijuana; regulation of health care professionals; collective gardens; possession amounts; location requirements; licensing requirements for medical marijuana production, processing, and retailing; taxation of medical marijuana; and the appropriate regulatory agency.

The Liquor Control Board submitted its recommendations to the Legislature in December 2013. The recommendations include:

- allowing 18 to 20 year olds to have access to medical marijuana;
- allowing access to medical marijuana for children under 18 years old with parent or guardian consent;
- establishing a mandatory registry for qualifying patients and designated providers and cards that are issued from the registry;
- requiring registry information to be entered by the authorizing health care professional;
- allowing access to the registry for law enforcement, the Department of Revenue, health professions disciplining authorities;
- requiring the Department of Health to define "debilitating" and "intractable pain;"
- eliminating collective gardens;
- reducing possession amounts from 24 ounces of useable marijuana to three ounces;

- allowing qualifying patients and designated providers to possess up to six marijuana plants;
- integrating medical and recreational marijuana producers, processors, and retailers into a single licensing system; and
- exempting purchases by qualifying patients from sales and use taxes.

#### Tax Preferences.

In 2013 the Legislature passed Engrossed Substitute Senate Bill 5882 (ESSB 5882), which requires all new tax preference legislation to include a tax preference performance statement. Tax preferences include deductions, exemptions, preferential tax rates, and tax credits. The performance statement must clearly specify the public policy objectives of the tax preference, and the specific metrics and data that will be used by The Joint Legislative Audit and Review Committee (JLARC) to evaluate the efficacy of the tax preference.

ESSB 5882 also establishes an automatic 10-year expiration date for new tax preferences if an alternate expiration date is not provided in the new tax preference legislation.

#### **Summary of Bill:**

A sales and use tax exemption is created for qualified patients that purchase marijuana or marijuana-infused products for medical use from authorized retail outlets licensed by the liquor control board.

The bill's tax preference performance statement specifies that the public policy objective is to provide tax relief to qualified patients purchasing marijuana for medical use. The tax preference performance statement requires JLARC to use data collected from the department of revenue on exempt sales of marijuana to evaluate the actual fiscal impact of the bill compared to the fiscal note provided to the legislature prior to the enactment of the legislation.

The bill provides an expiration date for the sales and use tax exemption of July 1, 2024.

**Appropriation:** None.

**Fiscal Note:** Requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.