
Government Accountability & Oversight Committee

HB 2411

Brief Description: Creating a tax stamp system for the sale of recreational marijuana.

Sponsors: Representatives Wylie, Nealey, Tharinger and Ryu.

Brief Summary of Bill

- Requires the Liquor Control Board to develop and implement a tax stamp program so as to facilitate the collection and monitoring of taxes related to the production and sale of recreational marijuana.
- Requires licensed producers, processors, and retailers of recreational marijuana to keep and preserve accurate records relating to regulated transactions, inventories, invoices, and tax stamps purchased or received.

Hearing Date: 1/23/14

Staff: Thamas Osborn (786- 7129).

Background:

Initiative Measure No. 502 Generally

Initiative Measure No. 502 ("I-502" or "initiative") was a ballot measure approved by Washington voters in November of 2012 that legalized the production, processing, possession and personal use of marijuana and created a framework for a regulatory scheme to be further developed by the Liquor Control Board (LCB) through its rule-making authority. The scope of I-502 is quite broad and contains statutory provisions that include the following:

- licensing and regulating marijuana production, distribution, and retailing;
- designating the LCB as the regulatory entity responsible for the implementation of the initiative, including continuing oversight over the commercial practices and conduct of licensed marijuana producers, processors, and retailers;

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- providing the LCB with very broad rule-making authority with respect to the development of the requisite regulatory scheme;
- implementing an excise tax system with respect to marijuana production, distribution, and retailing; and
- creating a dedicated marijuana fund for the collection and distribution of marijuana-related tax revenues.

Excise Taxes Under I-502

Under the initiative, an excise tax of 25 percent of the sale price must be paid by each of the three categories of licensees at each step of the production/marketing process:

1. Producers pay a tax of 25 percent of the wholesale price of the marijuana sold to the processor.
2. Processors pay a tax of 25 percent of the wholesale price of the marijuana sold to the retailer.
3. Retailers pay a tax of 25 percent of the retail price of the marijuana sold to the consumer.

Administrative Rules of the Liquor Control Board Regarding Tax Reporting and Payment

Under the administrative rules developed by the LCB, licensed marijuana producers, processors, and retailers are required to maintain tax-related records and submit monthly reports containing specified information pertinent to determining the tax liability of the licensee. Tax payments are due on a monthly basis. A licensee that fails to either timely submit its monthly report or tax payment is subject to sanctions that may include financial penalties, license suspension, or license revocation.

Dedicated Marijuana Fund.

The initiative creates what is called a "dedicated marijuana fund," deposited with the State Treasurer, and which consists of moneys derived from marijuana excise taxes, license fees, penalties, forfeitures, and all other moneys, income, or revenue received by the LCB from marijuana-related marketing and regulatory activities. Proceeds from the fund must be distributed every three months by the LCB to specified public entities and in amounts established in statute.

Tax Stamps and Cigarette Excise Taxes

In order to enforce the collection of excise taxes on cigarettes, the Department of Revenue (DOR) requires that a specially designed "tax stamp" be affixed to each package of cigarettes produced, distributed, sold, or consumed. The purpose of the stamp is to verify and ensure that the requisite excise taxes have been paid to the DOR with respect to each cigarette package. Such tax stamps must be purchased and affixed by the wholesaler to each cigarette package in its inventory. The DOR sells the stamps to wholesalers in sheets or rolls, each of which must have trackable serial numbers that are recorded by the DOR. The DOR has extensive rule making authority regarding the design of the stamps and the regulatory details of this tax stamp system.

Summary of Bill:

Tax Stamp System for Marijuana Producers, Processors, and Retailers

In consultation with the Department of Revenue, the LCB is required to develop and implement a tax stamp program so as to facilitate the collection and monitoring of taxes related to the production and sale of recreational marijuana. The purpose of the tax stamp program is to ensure that taxes on recreational marijuana are collectible, enforceable, and subject to audit. The tax stamp program must include the following provisions:

1. Producers and processors must be required to purchase counterfeit-resistant tax stamps from the LCB.
2. Marijuana products may not be shipped to a processor or retailer without a properly affixed tax stamp.
3. Marijuana products leaving the producer and processor must be sealed in a secure, tamper-resistant package affixed with a counterfeit-resistant tax stamp.
4. A retailer may only accept wholesale products that have been packaged and tax stamped in accordance with the requirements of the act.

The LCB is required to develop rules for implementation of the tax stamp program not later than October 1, 2014, and the program must be operational not later than January 1, 2015.

Tax Related Record Keeping Requirements Applicable to Licensed Marijuana Producers, Processors, and Retailers

All licensees are required to keep and preserve accurate records relating to regulated transactions, inventories, invoices, and tax stamps purchased or received. The LCB may inspect all such records and the taxable inventory of a licensee at any "reasonable" time.

Appropriation: None.

Fiscal Note: Requested.

Effective Date: The act is subject to an emergency clause and is takes effect immediately upon enactment.