

SENATE BILL REPORT

ESSB 5004

As Passed Senate, January 19, 2022

Title: An act relating to providing a tax exemption for medical marijuana patients.

Brief Description: Providing a tax exemption for medical marijuana patients.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Warnick, Conway, Das, King, Kuderer, Saldaña and Wilson, C.).

Brief History:

Committee Activity: Ways & Means: 1/18/21, 2/17/21 [DPS, DNP, w/oRec].

Floor Activity: Passed Senate: 3/5/21, 42-7; 1/19/22, 40-8.

Brief Summary of Engrossed First Substitute Bill

- Provides an exemption to the 37 percent excise tax for certain purchases made by qualifying medical marijuana patients who are in the statewide database and hold a recognition card.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5004 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Lias, Mullet, Muzzall, Pedersen, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

Minority Report: Do not pass.

Signed by Senators Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Braun and Gildon.

Minority Report: That it be referred without recommendation.

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

Signed by Senator Brown, Assistant Ranking Member, Operating.

Staff: Alia Kennedy (786-7405)

Background: Qualifying Medical Marijuana Patients. A Washington State resident qualifies for medical marijuana use if they are a patient of a health care professional, have been diagnosed with a terminal or debilitating medical condition, have been advised of the benefits and risks of marijuana use, and have been advised they may benefit from the use of medical marijuana by their health care professional.

The qualifying patient must either have an authorization form from their health care professional, or must be entered into the medical marijuana authorization database and receive a recognition card.

All medical marijuana patients must pay the marijuana excise tax equal to 37 percent of the selling price on each retail sale of marijuana concentrates, useable marijuana, and marijuana infused products.

Qualifying patients holding a recognition card are granted a sales tax exemption on the following products, when sold by a marijuana retailer who has a medical marijuana endorsement:

- marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the Department of Health (DOH) to be beneficial for medical use; and
- products containing tetrahydrocannabinol (THC) with a THC concentration of 0.3 percent or less.

Medical Marijuana Endorsement. Marijuana retailers may apply to the Liquor and Cannabis Board (LCB) for an endorsement to sell marijuana for medical use to qualifying patients and designated providers. To qualify for this endorsement, the retailer must:

- carry marijuana concentrates and infused products that have been identified as beneficial for medical use;
- enter qualifying patients and designated providers in a medical marijuana database;
- issue medical marijuana patient recognition cards;
- keep records of qualifying patients and designated provider's recognition cards;
- ensure all employees are trained on medical marijuana, including the ability to identify authorizations and recognition cards; and
- enter information about medical sales in the traceability system.

Summary of Engrossed First Substitute Bill: Until January 1, 2027, qualifying patients or designated providers who have been issued a recognition card, are exempt from the 37 percent excise tax on purchases of marijuana concentrates, useable marijuana, or marijuana-infused products, if the products have been identified in rule by DOH for medical use and are purchased from a marijuana retailer with a medical marijuana endorsement.

Each seller making exempt sales must maintain information establishing eligibility for the exemption in the form and manner required by the LCB.

The LCB must provide a separate tax reporting line on the excise tax form for exemption amounts claimed.

The Joint Legislative Audit and Review Committee must conduct a study to determine whether the exemption results in any changes in consumer behavior or unanticipated decreases in state revenue, and submit a report of its findings to the Legislature by December 1, 2025.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2023.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill aligns with the sales tax exemption already allowed for qualifying medical marijuana products. People with certain medical conditions rely on medical marijuana to alleviate their symptoms. The excise tax imposed on medical marijuana makes these products unaffordable for some people. The fiscal note does not accurately reflect the revenue impact. The excise tax should have never been imposed on medical marijuana. The bill only exempts a small number of marijuana products and should be expanded so that the exemption applies to all marijuana products that patients may use.

OTHER: The bill would benefit by taking into consideration that lower cost of marijuana products could increase youth consumption.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor; Lara Kaminsky, The Cannabis Alliance; Danielle Rosellison, Trail Blazin' Productions; Lukas Barfield, citizen; Ezra Eickmeyer, Producers Northwest; Jeffrey Wilhoit, citizen.

OTHER: Seth Dawson, Washington Association for Substance Abuse and Violence Prevention.

Persons Signed In To Testify But Not Testifying: No one.