

SHB 1453 - S COMM AMD

By Committee on Ways & Means

ADOPTED AS AMENDED 03/01/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 69.50.535 and 2022 c 16 s 101 are each amended to
4 read as follows:

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

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

18 (2)(a) Until January 1, 2034, the tax levied by subsection (1) of
19 this section does not apply to sales by a cannabis retailer with a
20 medical cannabis endorsement to qualifying patients or designated
21 providers who have been issued a recognition card, of cannabis
22 concentrates, useable cannabis, or cannabis-infused products,
23 identified by the department as a compliant cannabis product in
24 chapter 246-70 WAC and tested to the standards in WAC 246-70-040.

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

28 (c) The board must provide a separate tax reporting line on the
29 excise tax form for exemption amounts claimed under this subsection
30 (2).

1 (3) All revenues collected from the cannabis excise tax imposed
2 under this section must be deposited each day in the dedicated
3 cannabis account.

4 ~~((3))~~ (4) The tax imposed in this section must be paid by the
5 buyer to the seller. Each seller must collect from the buyer the full
6 amount of the tax payable on each taxable sale. The tax collected as
7 required by this section is deemed to be held in trust by the seller
8 until paid to the board. If any seller fails to collect the tax
9 imposed in this section or, having collected the tax, fails to pay it
10 as prescribed by the board, whether such failure is the result of the
11 seller's own acts or the result of acts or conditions beyond the
12 seller's control, the seller is, nevertheless, personally liable to
13 the state for the amount of the tax.

14 ~~((4))~~ (5) The definitions in this subsection apply throughout
15 this section unless the context clearly requires otherwise.

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

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

18 ~~((c))~~ (b) "Selling price" has the same meaning as in RCW
19 82.08.010, except that when product is sold under circumstances where
20 the total amount of consideration paid for the product is not
21 indicative of its true value, "selling price" means the true value of
22 the product sold.

23 ~~((d))~~ (c) "Product" means cannabis, cannabis concentrates,
24 useable cannabis, and cannabis-infused products.

25 ~~((e))~~ (d) "True value" means market value based on sales at
26 comparable locations in this state of the same or similar product of
27 like quality and character sold under comparable conditions of sale
28 to comparable purchasers. However, in the absence of such sales of
29 the same or similar product, true value means the value of the
30 product sold as determined by all of the seller's direct and indirect
31 costs attributable to the product.

32 ~~((5))~~ (6) (a) The board must regularly review the tax level
33 established under this section and make recommendations, in
34 consultation with the department of revenue, to the legislature as
35 appropriate regarding adjustments that would further the goal of
36 discouraging use while undercutting illegal market prices.

37 (b) The board must report, in compliance with RCW 43.01.036, to
38 the appropriate committees of the legislature every two years. The
39 report at a minimum must include the following:

1 (i) The specific recommendations required under (a) of this
2 subsection;

3 (ii) A comparison of gross sales and tax collections prior to and
4 after any cannabis tax change;

5 (iii) The increase or decrease in the volume of legal cannabis
6 sold prior to and after any cannabis tax change;

7 (iv) Increases or decreases in the number of licensed cannabis
8 producers, processors, and retailers;

9 (v) The number of illegal and noncompliant cannabis outlets the
10 board requires to be closed;

11 (vi) Gross cannabis sales and tax collections in Oregon; and

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

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

17 ~~((+6))~~ (7) The legislature does not intend and does not
18 authorize any person or entity to engage in activities or to conspire
19 to engage in activities that would constitute per se violations of
20 state and federal antitrust laws including, but not limited to,
21 agreements among retailers as to the selling price of any goods sold.

22 NEW SECTION. **Sec. 2.** (1) This section is the tax preference
23 performance statement for the tax preference contained in section 1,
24 chapter . . . , Laws of 2024 (section 1 of this act). This performance
25 statement is only intended to be used for subsequent evaluation of
26 the tax preference. It is not intended to create a private right of
27 action by any party or to be used to determine eligibility for
28 preferential tax treatment.

29 (2) The legislature categorizes this tax preference as one
30 intended to provide tax relief for certain businesses or individuals,
31 as indicated in RCW 82.32.808(2)(e).

32 (3) It is the legislature's specific public policy objective to
33 ensure medical cannabis products are accessible and affordable for
34 qualifying patients and designated providers.

35 (4) The joint legislative audit and review committee must include
36 in its review of this tax preference an evaluation of:

37 (a) Any change in the number of qualifying patients or designated
38 providers;

1 (b) Any change in the amount, types, or sales of tax-exempt
2 products, as identified in section 1 of this act; and
3 (c) Any other information the joint legislative audit and review
4 committee deems necessary to evaluate the tax preference in section 1
5 of this act.
6 (5) In order to obtain the data necessary to perform the review
7 in subsection (4) of this section, the joint legislative audit and
8 review committee may access any data collected by the department of
9 health or the liquor and cannabis board or any other data collected
10 by the state.
11 (6) The joint legislative audit and review committee must submit
12 an initial report of its findings to the legislature by December 1,
13 2029."

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14 On page 1, line 2 of the title, after "patients;" strike the
15 remainder of the title and insert "amending RCW 69.50.535; and
16 creating a new section."

EFFECT: Expires the cannabis excise tax exemption for medical
cannabis patients and designated providers on January 1, 2034,
requires a tax preference performance review by the joint legislative
audit and review committee; and requires the joint legislative audit
and review committee submit an initial report to the legislature by
December 1, 2029.

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