

HOUSE BILL REPORT

SHB 1453

As Passed Legislature

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

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

Sponsors: House Committee on Finance (originally sponsored by Representatives Wylie, Chapman and Kloba).

Brief History:

Committee Activity:

Regulated Substances & Gaming: 1/24/23, 2/2/23 [DP];

Finance: 2/20/23, 2/21/23 [DPS].

Floor Activity:

Passed House: 2/9/24, 85-12.

Senate Amended.

Passed Senate: 3/1/24, 36-13.

House Concurred.

Passed House: 3/6/24, 82-14.

Passed Legislature.

Brief Summary of Substitute Bill

- Provides a tax exemption from the 37 percent cannabis excise tax for qualifying patients and designated providers with a recognition card on purchases of cannabis products that are labeled as Department of Health (DOH)-compliant product and tested in accordance with the DOH's rules.
- Expires the tax exemption June 30, 2029, includes a tax preference performance statement, and directs the Joint Legislative Audit and Review Committee to review the tax preference with a report due in 2028.

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.

HOUSE COMMITTEE ON REGULATED SUBSTANCES & GAMING

Majority Report: Do pass. Signed by 10 members: Representatives Kloba, Co-Chair; Wylie, Co-Chair; Stearns, Vice Chair; Chambers, Ranking Minority Member; Cheney, Morgan, Orwall, Reeves, Walsh and Waters.

Staff: Peter Clodfelter (786-7127).

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard, Chopp, Ramel, Santos, Springer, Stokesbary, Walen and Wylie.

Staff: Rachelle Harris (253-444-316).

Background:

There is levied and collected a cannabis excise tax equal to 37 percent of the selling price on each retail sale in Washington of cannabis concentrates, useable cannabis, and cannabis-infused products. This tax is separate and in addition to general state and local sales and use taxes that apply to retail sales of tangible personal property, and is not part of the total retail price to which general state and local sales and use taxes apply.

The tax must be reflected in the price list or quoted shelf price in the licensed cannabis retail store and in any advertising that includes prices for all cannabis products. All revenues collected from the cannabis excise tax must be deposited each day in the Dedicated Cannabis Account.

Qualifying patients and designated providers who have opted to participate in the Medical Cannabis Authorization Database and be issued a recognition card, have an exemption from sales and use taxes on purchases of cannabis products identified by the Department of Health (DOH) as being a compliant cannabis product, but do not have an exemption from the 37 percent cannabis excise tax.

Cannabis products are subject to several mandatory fields of testing pursuant to the rules of the Liquor and Cannabis Board. Additionally, cannabis producers and processors may voluntarily opt to submit their products for additional testing for compliance with another layer of quality assurance standards established by the DOH and, if passing, may be labeled as a DOH "compliant product" bearing a label logo developed by the DOH. For example, heavy metal screening is required for all DOH-compliant product. Heavy metal screening is optional for a non-DOH-compliant product; however, heavy metal limits apply to all products and any product exceeding the provided limits are subject to recall and destruction.

When legislation creates a new tax preference, the new tax preference is required to include a tax preference performance statement and the tax preference expires after 10 years unless another expiration date is specified. However, legislation can exempt a new tax preference from these requirements in order to continue the tax preference indefinitely and to not include a tax preference performance statement.

Summary of Substitute Bill:

Until June 30, 2029, a tax exemption is provided to qualifying patients and designated providers who hold a recognition card, from the 37 percent cannabis excise tax, on their purchases of cannabis products that are labeled as a Department of Health (DOH)-compliant product and tested in accordance with the DOH's rules.

Each seller making exempt sales must maintain information establishing eligibility for the exemption in the form and manner required by the Liquor and Cannabis Board (LCB). The LCB must provide a separate tax reporting line on the excise tax form for exemption amounts claimed.

A tax preference performance statement is included. The Joint Legislative Audit and Review Committee (JLARC) must review the tax preference and submit a report to the Legislature by December 1, 2028. The review must include an evaluation of any change in the number of qualifying patients or designated providers; any change in the amount, types, or sales of tax-exempt products; and any other information the JLARC deems necessary to evaluate the tax preference.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Regulated Substances & Gaming):

(In support) This legislation makes a long overdue change to Washington's law to enable qualifying patients and designated providers with terminal or debilitating medical conditions to have more affordable access to their medicine. The state's merger of the medical and recreational cannabis systems in 2016 did not work as planned and patients who were provided assurances that did not come true are angry. The once thriving medical system is on the verge of collapse. Of the cannabis stores that have a medical endorsement, very few are actually capable of entering patients into the registry or carry Department of Health (DOH)-compliant product. There are only about 10,000 qualifying patients or designated providers in the registry, which is the lowest participation per capita in states

with medical cannabis, and there is little incentive to participate. Currently only about four cannabis producers in Washington produce products that are sold and labeled as DOH-compliant products. Cannabis is the only form of medicine subject to tax. This is unethical. Washington's cannabis tax rate is also the highest tax rate in the United States. Medical cannabis helps patients relieve impairments from pharmaceutical drugs and is an incredibly important part of treatment. Unaffordability of cannabis is currently a huge problem for patients. Patients are being forced to choose between their medicinal cannabis and putting food on their table or paying utility bills. A monthly supply of cannabis can cost a patient up to \$800 or even over \$1,000. The current 37 percent tax applicable to qualifying patients and designated providers purchasing cannabis is the single biggest impediment to the program's success. The tax is stifling innovation with medical cannabis products and drives medical patients to the illicit market. The medical cannabis system is for children and adults with rare and untreatable diseases who need to access safe cannabis products as part of their treatment plan with their healthcare professional. Veterans and seniors use the program and will benefit from this legislation. This bill will lead to a wider variety of DOH-compliant cannabis products on the market available to qualifying patients and designated providers, will improve program participation, and will help ease suffering.

(Opposed) None.

Staff Summary of Public Testimony (Finance):

(In support) Prior to recreational cannabis being legalized, we decriminalized medical cannabis, and we did not really understand the balance between medical and recreational cannabis. Medical cannabis is being taxed too heavily and many patients have lost access to products. This bill attempts to balance the equation and make the market more fair. Reducing the tax will incentivize people to specialize more in the medical area of the market. The state does not tax other medicine so we should not be taxing cannabis. The 37 percent tax has been the singular reason that the industry has not been investing in research and development to improve medical products. The current system aligns much more with medical practice for prescriptions. The very small fiscal note reflects a market that does not serve the needs of patients and demonstrates that access to medical products is insufficient. Medical products are a higher cost because they require meeting more regulations and that becomes burdensome for patients. Patients rely on disability benefits and food stamps, and the cost of life-saving medicinal cannabis is a financial strain. Cannabis is used as a replacement for other difficult and dangerous drugs. We should treat cannabis like a prescription drug.

(Opposed) None.

Persons Testifying (Regulated Substances & Gaming): Representative Sharon Wylie, prime sponsor; Michael Schermerhorn; Burl Bryson and Donald Guzman, The Cannabis Alliance; Matthew Friedlander, Skagit Organics; Steven Field; Justin Nordhorn, Washington State Liquor and Cannabis Board; Ezra Eickmeyer, Producers Northwest;

Dawn Darington; Jay Jones; Micah Sherman, Washington Sun and Craft Growers Association; Lukas Hunter, Harmony Farms; and Jim MacRae.

Persons Testifying (Finance): Representative Sharon Wylie, prime sponsor; Lara Kaminsky, The Cannabis Alliance; Hana Keefe-Guerrero; Ezra Eickmeyer, Producers North West; Steven Field; and Gwen Bartol, Holistic Evaluations.

Persons Signed In To Testify But Not Testifying (Regulated Substances & Gaming): None.

Persons Signed In To Testify But Not Testifying (Finance): None.