

SENATE BILL REPORT

SB 6271

As Passed Senate, February 2, 2024

Title: An act relating to modifying the cannabis excise tax to consider THC concentration.

Brief Description: Modifying the cannabis excise tax to consider THC concentration.

Sponsors: Senators Keiser, Stanford, Kuderer and Mullet.

Brief History:

Committee Activity: Labor & Commerce: 1/22/24, 1/25/24 [DP, DNP, w/oRec].

Floor Activity: Passed Senate: 2/2/24, 44-5.

Brief Summary of Bill

- Requires the Liquor and Cannabis Board (LCB) to collect data on cannabis product sales and submit a report to the Legislature by November 14, 2025.
- Requires LCB to formulate a recommended approach and implementation plan for modifying the cannabis excise tax and submit a report to the Legislature by September 18, 2026.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; Hansen, MacEwen and Stanford.

Minority Report: Do not pass.

Signed by Senator Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senators King, Ranking Member; Braun.

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.

Staff: Madeline Ralstin (786-7356)

Background: Liquor and Cannabis Board. The Legislature grants authority to the Liquor and Cannabis Board (LCB) to enforce laws and regulations relating to cannabis. LCB enforces the Uniform Controlled Substances Act, which consists of regulating the production, sale, and distribution of cannabis in Washington State.

Usable Cannabis, Cannabis Concentrates, and Cannabis-Infused Products. The possession of cannabis, usable cannabis, cannabis concentrates, or cannabis-infused products that do not exceed certain amounts specified in the law are not considered a violation of the Uniform Substances Act or any other provision of the law.

Cannabis refers to the entire cannabis plant, growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis during the growing cycle through harvest and usable cannabis.

Useable cannabis refers to dried cannabis flowers.

Cannabis concentrates are products that consist entirely or partly of the resin extracted from any part of the cannabis plant and contains a THC concentration greater than 10 percent.

Cannabis-infused products are products that contain cannabis or cannabis extracts and are intended for human use. These products have a THC concentration no greater than 10 percent.

Cannabis Excise Tax. The cannabis excise tax is paid by the buyer to the seller and then collected by LCB. This tax is equal to 37 percent of the selling price on each retail sale of cannabis concentrates, useable cannabis, and cannabis-infused products. This tax is paid in addition to general state and local sales and use taxes.

Summary of Bill: Data Collection. LCB must collect data on cannabis product sales beginning December 1, 2024. LCB must collect data on the following information in Washington State:

- the amount of cannabis products sold in the following categories: usable cannabis, cannabis concentrates, and cannabis-infused products;
- the average THC concentration in usable cannabis and cannabis concentrates, and the average THC milligrams per unit in cannabis-infused products; and
- the range of THC concentration in usable cannabis and cannabis concentrates.

LCB must submit a report on the information collected to the Legislature by November 14, 2025.

Recommendation and Implementation Plan. LCB must formulate a recommended approach and implementation plan for modifying the cannabis excise tax. The proposed modification

must be revenue neutral and propose a higher tax on cannabis products with a higher THC concentration. LCB may recommend alternative approaches and plans for the Legislature to consider. LCB must submit a report to the Legislature by September 18, 2026.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill takes into account the health effects of high potency THC. There is a lack of research on the health effects of cannabis use. However, high potency THC product use has actually been studied well, especially in Washington State. The data indicates that in an underdeveloped brain, which is under 25, the frequent use of these products can trigger outcomes such as addiction, cannabis hyperemesis syndrome, anxiety, depression, and long-term mental health diseases. There should be reduced access to youth and young adults. This bill is also an opportunity to adjust the current approach to cannabis taxation, which is to disincentivize high THC products with a higher tax. To be revenue neutral, the tax is lowered on products with lower THC. The current tax system needs to be examined and reformed. The data requested in the bill is the data needed to do an analysis to determine the appropriate ranges of what taxation should be. This is a better approach than prohibition.

CON: In 2019, the LCB was appropriated funds to conduct a similar study on cannabis taxation. The study found that it wouldn't be economically feasible to push the new tax structure into place and the public health community did not have confidence that it would actually guarantee the desired outcome. Substance use in youth and young adults is a big issue that has not been addressed in the state. There is the illicit market that can make the same products as the regulated market at a cheaper price. If there is a graduated tax system, and this increases the price of the products that people want, then they can turn to the illicit market. Instead of repeating that study, it is recommended that an allocation be given to the Department of Commerce for an analysis based on using detailed data to model a variety of options for further analysis. At 37 percent, we are the most highly taxed industry in the country for adult use and we should be deterring people from buying these types of products and not just these types of products within the regulated market. There should also be significantly more education and public outreach on cannabis use. Specifically, this education should go towards Washingtonians using cannabis. It would be better to fund this education than allocate funds towards studies.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor; Megan Moore, Washington State Public Health Association; Caitlein Ryan, THE CANNABIS ALLIANCE; Vicki Christophersen, Washington CannaBusiness Association.

CON: Ezra Eickmeyer, Producers NW; Lukas Hunter, Harmony Farms; Sage Prengel, 2536 28th ave nw.

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