
HOUSE BILL 1453

State of Washington

68th Legislature

2023 Regular Session

By Representatives Wylie, Chapman, and Kloba

Read first time 01/19/23. Referred to Committee on Regulated Substances & Gaming.

1 AN ACT Relating to providing a tax exemption for medical cannabis
2 patients; and amending RCW 69.50.535.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

19 (2)(a) The tax levied by subsection (1) of this section does not
20 apply to sales by a cannabis retailer with a medical cannabis
21 endorsement to qualifying patients or designated providers who have

1 been issued a recognition card, of cannabis concentrates, useable
2 cannabis, or cannabis-infused products, identified by the department
3 as a compliant cannabis product in chapter 246-70 WAC and tested to
4 the standards in WAC 246-70-040.

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

8 (c) The board must provide a separate tax reporting line on the
9 excise tax form for exemption amounts claimed under this subsection
10 (2).

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

14 ~~((3))~~ (4) The tax imposed in this section must be paid by the
15 buyer to the seller. Each seller must collect from the buyer the full
16 amount of the tax payable on each taxable sale. The tax collected as
17 required by this section is deemed to be held in trust by the seller
18 until paid to the board. If any seller fails to collect the tax
19 imposed in this section or, having collected the tax, fails to pay it
20 as prescribed by the board, whether such failure is the result of the
21 seller's own acts or the result of acts or conditions beyond the
22 seller's control, the seller is, nevertheless, personally liable to
23 the state for the amount of the tax.

24 ~~((4))~~ (5) The definitions in this subsection apply throughout
25 this section unless the context clearly requires otherwise.

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

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

28 ~~((e))~~ (b) "Selling price" has the same meaning as in RCW
29 82.08.010, except that when product is sold under circumstances where
30 the total amount of consideration paid for the product is not
31 indicative of its true value, "selling price" means the true value of
32 the product sold.

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

35 ~~((e))~~ (d) "True value" means market value based on sales at
36 comparable locations in this state of the same or similar product of
37 like quality and character sold under comparable conditions of sale
38 to comparable purchasers. However, in the absence of such sales of
39 the same or similar product, true value means the value of the

1 product sold as determined by all of the seller's direct and indirect
2 costs attributable to the product.

3 ~~((5))~~ (6)(a) The board must regularly review the tax level
4 established under this section and make recommendations, in
5 consultation with the department of revenue, to the legislature as
6 appropriate regarding adjustments that would further the goal of
7 discouraging use while undercutting illegal market prices.

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

11 (i) The specific recommendations required under (a) of this
12 subsection;

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

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

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

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

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

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

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

27 ~~((6))~~ (7) The legislature does not intend and does not
28 authorize any person or entity to engage in activities or to conspire
29 to engage in activities that would constitute per se violations of
30 state and federal antitrust laws including, but not limited to,
31 agreements among retailers as to the selling price of any goods sold.

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