

HOUSE BILL REPORT

HB 2409

As Reported by House Committee On: Finance

Title: An act relating to delaying the use of existing tax preferences by the marijuana industry to ensure a regulated and safe transition to the controlled and legal marijuana market in Washington.

Brief Description: Delaying the use of existing tax preferences by the marijuana industry to ensure a regulated and safe transition to the controlled and legal marijuana market in Washington.

Sponsors: Representatives Carlyle, Nealey and Tharinger.

Brief History:

Committee Activity:

Finance: 1/21/14, 1/30/14 [DP].

Brief Summary of Bill

- Delays current tax preferences for marijuana, useable marijuana, and marijuana-infused products for 10 years.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 7 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Fitzgibbon, Hansen, Lytton and Springer.

Minority Report: Do not pass. Signed by 6 members: Representatives Orcutt, Assistant Ranking Minority Member; Condotta, Pollet, Reykdal, Vick and Wilcox.

Staff: Richelle Geiger (786-7175).

Background:

Business and Occupation Tax.

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

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay B&O tax even though they may not have any profits or may be operating at a loss. A business may have more than one B&O tax rate, depending on the types of activities conducted. Major tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services, and activities not classified elsewhere. Several lower rates also apply to specific business activities.

Retail Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products and some services. A retail sale is a sale to the final consumer or end user of the property, digital product or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes applies to the value of property, digital product, or service when used in this state. The state, most cities and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.1 percent, depending on the location.

Property Tax.

All real and personal property in this state is subject to the property tax each year based on its value, unless a specific exemption is provided by law. The tax bill is determined by multiplying the assessed value by the tax rate for each taxing district in which the property is located. The county treasurer mails a notice of tax due to taxpayers and collects the tax.

Tax Preferences.

Washington has over 650 tax preferences authorized in law. A tax preference includes exemptions, deductions, credits and preferential rates. Currently the agricultural industry has tax preferences for the B&O tax, retail sales and use tax and property tax.

Marijuana for Recreational Use.

In 2012 Washington voters approved Initiative 502, which established a regulatory system for the production, processing, and distribution of limited amounts of marijuana for nonmedical purposes. Under this system, the Liquor Control Board issues licenses to marijuana producers, processors, and retailers and adopts standards for the regulation of these operations. Persons over 21 years old may purchase up to one ounce of useable marijuana, 16 ounces of solid marijuana-infused product, and 72 ounces of liquid marijuana-infused product.

The initiative established a marijuana excise tax at each level of production; the excises tax is in addition to the state's B&O tax and retail sales tax.

Summary of Bill:

Marijuana, useable marijuana, and marijuana-infused products are excluded from existing tax preferences for a period of 10 years. Most of the exclusions include tax preferences for the agricultural industry in addition to a few other preferences. The exclusions for marijuana

include: eight B&O tax preferences, 16 sales and use tax preferences, four additional excise tax preferences, and four property tax preferences, two for real property and two for personal property.

The bill expires on July 1, 2024, thereby allowing marijuana and marijuana-related products to qualify for existing tax preferences.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 5 relating to preferential business and occupation tax rates, which takes effect July 1, 2015, and section 7 also relating to preferential business and occupation tax rates, which takes effect on July 1, 2015, contingent upon the siting of a significant commercial airplane manufacturing program in the state of Washington.

Staff Summary of Public Testimony:

(In support) This bill will ensure a highly regulated and monitored system to help keep marijuana out of the hands of children. Any regulation that improves the state's ability to protect the children is essential.

(Opposed) Taxation will be too high for small businesses to succeed in the marijuana producing industry if this bill passes. Only large corporations will succeed.

The Legislature should wait until recreational marijuana sales are made before regulating the tax revenue of the recreational marijuana industry.

Many marijuana patients will continue to grow their own marijuana if this bill passes.

Persons Testifying: (In support) Ramona Leber, Washington Association for Substance Abuse and Violence Prevention.

(Opposed) John Worthington, American Alliance for Medical Cannabis and Cannabis Action Coalition; Adam Assenberg; Brian Stone; Steve Sarich, Cannabis Action Coalition; John Noval; and Kirk Ludden.

Persons Signed In To Testify But Not Testifying: None.