

# HOUSE BILL REPORT

## SB 6505

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### As Reported by House Committee On: Finance

**Title:** An act relating to clarifying that marijuana, useable marijuana, and marijuana-infused products are not agricultural products.

**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:** Senators Hargrove, Hill and Braun.

#### **Brief History:**

##### **Committee Activity:**

Finance: 3/7/14, 3/10/14 [DP].

#### **Brief Summary of Bill**

- Excludes marijuana, useable marijuana, and marijuana-infused products from existing tax preferences.
- Exempts persons producing marijuana and marijuana products from inspection and licensing by the Department of Agriculture in regard to plants, seeds and packaging.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 7 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Hansen, Lytton, Pollet, Reykdal and Springer.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta and Vick.

**Staff:** Richelle Geiger (786-7175).

#### **Background:**

Business and Occupation (B&O) Tax.

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*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 tax (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. 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 (I-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 of age may purchase up to 1 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 excise tax is in addition to the state's B&O tax and retail sales tax.

#### Marijuana Production Inspection and Licensing.

In I-502, the Liquor Control Board is identified as the licensing authority for marijuana and marijuana product producers. The Department of Agriculture (DOA) provides similar operating licenses to agricultural producers. However, marijuana producers will be subject to DOA pesticide requirements, scale certification, and food processing safety standards that apply to agricultural products.

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#### **Summary of Bill:**

Marijuana, useable marijuana, and marijuana-infused products are excluded from existing tax preferences. The growing or producing of marijuana products is explicitly removed from the definitions of agriculture and farmer, which eliminates the ability for persons in that industry to take advantage of the agriculture exemptions. 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.

Additionally, the bill exempts persons producing marijuana and marijuana products from inspection and licensing by the DOA in regard to plants, seeds, and packaging. Marijuana is not subject to agriculture commodity provisions.

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**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 4 relating to preferential business and occupation tax rates, which takes effect July 1, 2015, section 6 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 and section 32 relating to nursery dealer licensing exemptions, which takes effect on July 1, 2020.

**Staff Summary of Public Testimony:**

(In support) None.

(Opposed) I am glad hemp will be brought into the agricultural industry. However, I don't understand why the DOA shouldn't monitor the pesticides used in this industry like it does for agricultural industries.

**Persons Testifying:** David Montgomery.

**Persons Signed In To Testify But Not Testifying:** None.