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**HOUSE BILL 2008**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Carlyle, Hurst, Wylie, Condotta, Cody, Tharinger, Hunter, Kagi, and Reykdal

AN ACT Relating to comprehensive marijuana tax reform to ensure a well regulated and taxed marijuana market in Washington; amending RCW 69.50.530, 69.50.535, 69.50.540, 69.50.357, and 69.50.369; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating new sections; and providing a contingent effective date.

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

NEW SECTION. **Sec.**  (1) The legislature finds the implementation of Initiative Measure No. 502 has established a clearly disadvantaged regulated legal market with respect to prices and the ability to compete with the unregulated medical dispensary market and the illicit market. The legislature further finds that it is crucial that the state continues to ensure a safe, highly regulated system in Washington that protects public safety and state revenues while continuing efforts towards disbanding the unregulated marijuana markets. The legislature further finds that ongoing evaluation on the impact of meaningful marijuana tax reform for the purpose of stabilizing revenues is crucial to the overall effort of protecting the citizens and resources of this state. The legislature further finds that a partnership with local jurisdictions in this effort is imperative to the success of the legislature's policy objective. The legislature further finds that sharing revenues to promote a successful partnership in achieving the legislature's intent should be transparent and hold local jurisdictions accountable for their use of state shared revenues. Therefore, the legislature intends to reform the current tax structure for the regulated legal marijuana system to create price parity with the large medical and illicit markets with the specific objective of increasing the market share of the legal marijuana market. The legislature further intends to share marijuana tax revenues with local jurisdictions for public safety and chemical dependency and mental health treatment expenditures, requiring a rigorous evaluation of the incremental cost and use of proceeds the legalization of marijuana has on local communities.

(2) The legislature further finds marijuana use for qualifying patients is a valid and necessary option health care professionals may recommend for their patients. The legislature further finds that while recognizing the difference between recreational and medical use of marijuana, it is also imperative to distinguish that the authorization for medical use of marijuana is different from a valid prescription provided by a doctor to a patient. The legislature further finds the authorization for medical use of marijuana is unlike over-the-counter medications that require no oversight by a health care professional. The legislature further finds that due to the unique characterization of authorizations for the medical use of marijuana, the policy of providing a tax preference benefit for patients using an authorization should in no way be construed as precedence for changes in the treatment of prescription medications or over-the-counter medications. Therefore, the legislature intends to provide qualifying patients a retail sale and use tax exemption on purchases of marijuana for medical use when authorized by a health care professional.

**Sec.**  RCW 69.50.530 and 2013 c 3 s 26 are each amended to read as follows:

(1) ((~~There shall be a fund, known as the dedicated marijuana fund, which shall consist of all marijuana excise taxes, license fees, penalties, forfeitures, and all other moneys, income, or revenue received by the state liquor control board from marijuana-related activities. The state treasurer shall be custodian of the fund.~~

~~(2)~~))The dedicated marijuana account is created in the state treasury. All moneys received by the state liquor control board or any employee thereof from marijuana-related activities ((~~shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the dedicated marijuana fund.~~

~~(3) Disbursements from the dedicated marijuana fund shall be on authorization of the state liquor control board or a duly authorized representative thereof~~))must be deposited into the account, including all marijuana excise taxes collected under RCW 69.50.535 and the license fees, penalties, and forfeitures derived under chapter 3, Laws of 2013 from marijuana producer, marijuana processor, and marijuana retailer licenses. Moneys in the account may only be spent after appropriation.

**Sec.**  RCW 69.50.535 and 2014 c 192 s 7 are each amended to read as follows:

(1) ((~~There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each wholesale sale in this state of marijuana by a licensed marijuana producer to a licensed marijuana processor or another licensed marijuana producer. This tax is the obligation of the licensed marijuana producer.~~

~~(2) There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each wholesale sale in this state of marijuana concentrates, useable marijuana, and marijuana-infused products by a licensed marijuana processor to a licensed marijuana retailer. This tax is the obligation of the licensed marijuana processor.~~

~~(3)~~))(a) There is levied and collected a marijuana excise tax equal to ((~~twenty-five~~))thirty percent of the selling price on each retail sale in this state of marijuana concentrates, useable marijuana, and marijuana-infused products. This tax is the obligation of the ((~~licensed marijuana retailer~~))buyer, 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 part of the total retail price to which general state and local sales and use taxes apply~~))must be separately itemized from the state and local retail sales tax on the sales receipt.

(b) The tax levied in (a) of this subsection must be reflected in the price list or quoted shelf price in the licensed marijuana retail store and in any advertising that includes prices, for all marijuana-infused products, useable marijuana, or marijuana concentrates.

((~~(4)~~))(2) All revenues collected from the marijuana excise taxes imposed under subsection((~~s~~)) (1) ((~~through (3) of this section shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the dedicated marijuana fund~~))of this section must be deposited in the dedicated marijuana account.

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

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

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

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

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

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

(v) The number of illegal and noncompliant marijuana outlets the state liquor control board shuts down; and

(vi) Gross marijuana sales and tax collections in Oregon.

**Sec.**  RCW 69.50.540 and 2013 c 3 s 28 are each amended to read as follows:

(1) All marijuana excise taxes collected from sales of marijuana, useable marijuana, and marijuana-infused products under RCW 69.50.535, and the license fees, penalties, and forfeitures derived under chapter 3, Laws of 2013 from marijuana producer, marijuana processor, and marijuana retailer licenses ((~~shall every three months be disbursed by the state liquor control board~~))must be dispersed every three months by the state treasurer as follows:

((~~(1)~~))(a) One hundred twenty-five thousand dollars to the department of social and health services to design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and state liquor control board. The survey ((~~shall~~))must be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

((~~(2)~~))(b) Fifty thousand dollars to the department of social and health services for the purpose of contracting with the Washington state institute for public policy to conduct the cost-benefit evaluation and produce the reports described in RCW 69.50.550. This appropriation ((~~shall~~)) ends after production of the final report required by RCW 69.50.550;

((~~(3)~~))(c) Five thousand dollars to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by marijuana use;

((~~(4)~~))(d) An amount not exceeding one million two hundred fifty thousand dollars to the state liquor control board as is necessary for administration of chapter 3, Laws of 2013;

((~~(5)~~))(e) Of the funds remaining after the disbursements identified in ((~~subsections (1) through (4)~~))(a) through (d) of this ((~~section~~))subsection:

((~~(a)~~))(i) Fifteen percent to the department of social and health services division of behavioral health and recovery for implementation and maintenance of programs and practices aimed at the prevention or reduction of maladaptive substance use, substance-use disorder, substance abuse or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, among middle school and high school age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation; PROVIDED, That:

((~~(i)~~))(A)(I) Of the funds disbursed under ((~~(a)~~))(e)(i) of this subsection, at least eighty-five percent must be directed to evidence-based and cost-beneficial programs and practices that produce objectively measurable results; and

((~~(ii)~~))(II) Up to fifteen percent of the funds disbursed under ((~~(a)~~))(e)(i) of this subsection may be directed to research-based and emerging best practices or promising practices.

(B) In deciding which programs and practices to fund, the secretary of the department of social and health services ((~~shall~~))must consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute;

((~~(b)~~))(ii) Ten percent to the department of health for the creation, implementation, operation, and management of a marijuana education and public health program that contains the following:

((~~(i)~~))(A) A marijuana use public health hotline that provides referrals to substance abuse treatment providers, utilizes evidence-based or research-based public health approaches to minimizing the harms associated with marijuana use, and does not solely advocate an abstinence-only approach;

((~~(ii)~~))(B) A grants program for local health departments or other local community agencies that supports development and implementation of coordinated intervention strategies for the prevention and reduction of marijuana use by youth; and

((~~(iii)~~))(C) Media-based education campaigns across television, internet, radio, print, and out-of-home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by marijuana use;

((~~(c)~~))(iii) Six-tenths of one percent to the University of Washington and four-tenths of one percent to Washington State University for research on the short and long-term effects of marijuana use, to include but not be limited to formal and informal methods for estimating and measuring intoxication and impairment, and for the dissemination of such research;

((~~(d)~~))(iv) Fifty percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW;

((~~(e)~~))(v) Five percent to the Washington state health care authority to be expended exclusively through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;

((~~(f)~~))(vi) Three-tenths of one percent to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW; and

((~~(g)~~))(vii)(A) Except as provided in (e)(vii)(B) of this subsection (1), the remainder to the general fund.

(B) If marijuana excise tax collections deposited into the general fund in the prior fiscal year exceeded twenty-five million dollars, then an amount equal to twenty-five percent of all marijuana excise taxes deposited into the general fund, the prior fiscal year, must be distributed to counties and cities by October 1st as follows:

(I) Thirty percent distributed to counties. The share to each county must be determined by a division among the counties ratably based on population of the unincorporated area as last determined by the office of financial management. However, no county in which the producing, processing, or retailing of marijuana is prohibited is entitled to share in such distributions. "Unincorporated area" means any portion of any county not included within the limits of incorporated cities and towns; and

(II) Seventy percent distributed to cities and towns. The share to each city or town must be determined by a division among the cities and towns within the state ratably based on population as last determined by the office of financial management. However, no city or town in which the producing, processing, or retailing of marijuana is prohibited is entitled to share in such distributions.

(C) The total share of marijuana excise tax revenues distributed to counties and cities may not exceed twenty million dollars per fiscal year.

(D) All moneys distributed under this subsection to local jurisdictions must be used solely for local law enforcement expenditures, criminal justice purposes, or chemical dependency or mental health treatment services. Criminal justice purposes has the same meaning as defined in RCW 82.14.330(1)(c). Chemical dependency or mental health treatment services has the same meaning as defined in RCW 82.14.460(3).

(2)(a) The joint legislative audit and review committee must provide a report to the fiscal committees of the legislature analyzing the incremental cost of legalization of marijuana on local jurisdictions, specifically focusing on the increased expenditures for the criminal justice system and local law enforcement. The report must include the following:

(i) The amount of marijuana tax revenues expended for the purposes authorized in subsection (1)(e)(vii)(D) of this section;

(ii) The number and type of marijuana-related arrests by jurisdiction; and

(iii) The number and type of liquor and other drug-related arrests by jurisdiction.

(b) All counties and cities with a population greater than ten thousand must provide the joint legislative audit and review committee a report that includes the information listed in (a) of this subsection by January 31st of each year starting the year after the first distribution in subsection (1)(e)(vii)(B) of this section occurs. Any county or city required to report under this subsection (2)(b) that fails to report the requirements of this subsection to the joint legislative audit and review committee is not authorized to receive the distribution in subsection (1)(e)(vii)(B) of this section. The joint legislative audit and review committee may also rely on data from the state liquor control board, the state treasurer, the Washington state patrol, and the state auditor for the report.

(c) By January 31st of the calendar year that is the fourth calendar year subsequent to the calendar year in which distributions under subsection (1)(e)(vii)(B) of this section are first made, and in compliance with RCW 43.01.036, the joint legislative audit and review committee must submit the report required under this section.

**Sec.**  RCW 69.50.357 and 2014 c 192 s 4 are each amended to read as follows:

(1) Retail outlets ((~~shall sell no~~))may not sell products or services other than marijuana concentrates, useable marijuana, marijuana-infused products, or paraphernalia intended for the storage or use of marijuana concentrates, useable marijuana, or marijuana-infused products.

(2) Licensed marijuana retailers ((~~shall~~))may not employ persons under twenty-one years of age or allow persons under twenty-one years of age to enter or remain on the premises of a retail outlet.

(3) Licensed marijuana retailers ((~~shall~~))may not display any signage in a window, on a door, or on the outside of the premises of a retail outlet that is visible to the general public from a public right-of-way, other than a single sign no larger than one thousand six hundred square inches identifying the retail outlet by the licensee's business or trade name.

(4) Licensed marijuana retailers ((~~shall~~))may not display useable marijuana or marijuana-infused products in a manner that is visible to the general public from a public right-of-way.

(5) No licensed marijuana retailer or employee of a retail outlet ((~~shall~~))may open or consume, or allow to be opened or consumed, any marijuana concentrates, useable marijuana, or marijuana-infused product on the outlet premises.

(6) The state liquor control board ((~~shall~~))must fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated marijuana ((~~fund~~))account created under RCW 69.50.530.

**Sec.**  RCW 69.50.369 and 2013 c 3 s 18 are each amended to read as follows:

(1) No licensed marijuana producer, processor, or retailer ((~~shall~~))may place or maintain, or cause to be placed or maintained, an advertisement of marijuana, useable marijuana, or a marijuana-infused product in any form or through any medium whatsoever:

(a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;

(b) On or in a public transit vehicle or public transit shelter; or

(c) On or in a publicly owned or operated property.

(2) Merchandising within a retail outlet is not advertising for the purposes of this section.

(3) This section does not apply to a noncommercial message.

(4) The state liquor control board ((~~shall~~))must fine a licensee one thousand dollars for each violation of subsection (1) of this section. Fines collected under this subsection must be deposited into the dedicated marijuana ((~~fund~~))account created under RCW 69.50.530.

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

(1) Subject to the conditions and limitations provided in this section, the tax levied by RCW 82.08.020 does not apply to the sales of usable marijuana or marijuana-infused products to qualifying patients or their designated providers.

(2) The exemption authorized in this section only applies to purchases made from marijuana retail outlets authorized under chapter 69.50 RCW. Retail outlets that sell sales tax exempt usable marijuana or marijuana-infused products are required to file their tax return electronically with the department and report the total amount of exempt sales made for the reporting period.

(3) Each marijuana retail outlet making exempt sales is required to maintain records of qualifying patient authorizations provided by the purchaser.

(4) The department must provide a separate tax reporting line for exemption amounts claimed under this section.

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

(a) "Designated provider" and "qualifying patient" have the same meanings as provided in RCW 69.51A.010.

(b) "Marijuana-infused product" has the same meaning as provided in RCW 69.50.101.

(c) "Usable marijuana" has the same meaning as provided in RCW 69.50.101.

NEW SECTION. **Sec.**  A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply to the use of usable marijuana or marijuana-infused products by a qualifying patient or their designated provider obtained from an authorized marijuana retail outlet under chapter 69.50 RCW.

(2) The definitions, conditions, and limitations in section 7 of this act apply to this section.

NEW SECTION. **Sec.**  The provisions of RCW 82.32.805 and 82.32.808 do not apply to the exemptions in sections 5 and 6 of this act.

NEW SECTION. **Sec.**  This act takes effect January 1, 2016, if House Bill No. 1461, or any amended version of House Bill No. 1461, is enacted into law by January 1, 2016.

**--- END ---**