

HOUSE BILL REPORT

HB 2347

As Reported by House Committee On:
Commerce & Gaming

Title: An act relating to reducing the tax on useable marijuana, marijuana concentrates, and marijuana-infused products.

Brief Description: Reducing the tax on useable marijuana, marijuana concentrates, and marijuana-infused products.

Sponsors: Representatives Hurst, Reykdal, Appleton, Kirby and Condotta.

Brief History:

Committee Activity:

Commerce & Gaming: 1/25/16, 1/26/16 [DP].

Brief Summary of Bill

- Reduces the excise tax on the retail sale of marijuana products from 37 percent to 25 percent of the retail sales price.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: Do pass. Signed by 9 members: Representatives Hurst, Chair; Wylie, Vice Chair; Condotta, Ranking Minority Member; Holy, Assistant Ranking Minority Member; Blake, Kirby, Scott, Van De Wege and Vick.

Staff: Thamas Osborn (786-7129).

Background:

Overview of Initiative 502.

Initiative 502 (I-502) was a ballot measure approved by Washington voters in November 2012 that: (1) legalized the production, processing, possession, and personal use of marijuana and marijuana-derived products; (2) created a framework for a regulatory scheme to be further developed by the Liquor and Cannabis Board (LCB) through its rule-making authority; and (3) implemented a taxation system for commercial marijuana enterprises.

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.

Licensing of Marijuana Producers, Processors, and Retailers.

The LCB issues three categories of commercial marijuana licenses: (1) the marijuana producer's license entitles the holder to produce marijuana for sale at wholesale to licensed marijuana processors or other producers; (2) the marijuana processor's license entitles the holder to process, package, and label marijuana for sale at wholesale to marijuana retailers and other processors; and (3) the marijuana retailer's license entitles the holder to sell marijuana products at retail prices in retail outlets.

History of the Excise Tax on the Retail Sale of Recreational Marijuana.

Under the taxation scheme for marijuana products originally established in I-502, an excise tax of 25 percent of the sale price was imposed upon each of the three categories of licensees for sales occurring at each step of the production, processing, and marketing process:

- Producers were subject to a tax of 25 percent of the wholesale price of the marijuana sold to processors or to other producers.
- Processors were subject to a tax of 25 percent of the wholesale price of marijuana products sold to retailers or to other processors.
- Retailers were subject to a tax of 25 percent of the retail price of the useable marijuana or marijuana-infused products sold to the consumer.

During the 2015 session, legislation was passed that fundamentally revised the original I-502 taxation scheme applicable to the sale of useable marijuana, marijuana-infused products, and marijuana concentrates. Under the new taxation scheme, there is a single excise tax imposed on licensed marijuana retailers based on the retail sales price, and producers and processors are no longer subject to marijuana-related excise taxes.

The retail sale of marijuana products is subject to an excise tax of 37 percent of the retail price. This tax is in addition to state retail sales and use tax and must be separately itemized on the sales receipt provided to consumers. However, the displayed shelf price must illustrate the final price to the consumer, including the marijuana excise tax, but does not need to include the general retail sales tax.

Distribution of Marijuana Excise Tax Revenue.

A portion of marijuana excise tax revenues deposited into the State General Fund are shared with counties and cities. Starting no earlier than fiscal year 2018, distributions to local jurisdictions will not occur until \$25 million of marijuana tax revenues have been deposited into the State General Fund, at which point 30 percent of the previous fiscal year's General Fund revenues will be distributed to eligible counties, cities, and towns in four installments. Thirty percent of the local distribution is disbursed to counties, cities, and towns allocated as a portion of state marijuana revenue based on the amount of marijuana excise tax revenues attributable to any licensed retail store within the county, city, or town. The remaining 70 percent is disbursed based on population with counties receiving 60 percent of this allocation, and cities and towns will share the remaining 40 percent. Local jurisdiction distributions may not exceed \$15 million per fiscal year for the 2017-19 biennium and \$20 million per fiscal year thereafter.

Summary of Bill:

The excise tax on the retail sale of useable marijuana, marijuana-infused products, and marijuana concentrates is reduced from 37 percent to 25 percent of the retail sales price.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is not intended to increase marijuana sales or use. On the contrary, the bill is intended as another essential step in eliminating the marijuana black market in order to realize the public safety and public health goals of I-502. Reduced marijuana taxes and prices will make the Washington market more competitive with the Oregon market as well. Lowering the tax is an essential step that should be done now. Lower marijuana taxes will lower the retail price offered to the consumer, which will greatly undercut the appeal of black market and out-of-state marijuana products. Until such time as legal marijuana prices are competitive with prices on the black market, the illicit market will continue to thrive. All of the key goals of I-502 will never be realized if legal marijuana is not marketed with competitive prices. Lower taxes will greatly benefit the marijuana producers, processors, and retailers who are operating legally and following the rules. Lowering the retail marijuana excise tax will result in more state tax revenue due to the increases in sales which will follow. Also, lower marijuana taxes and prices will benefit medical marijuana patients who are forced to buy their medications from recreational marijuana retailers. The 37 percent tax is a hardship on medical marijuana patients.

(Opposed) None.

Persons Testifying: Representative Hurst, prime sponsor; Chris Kealy, Washington Emerald Green Alliance; Sean O'Sullivan, Association for Medical Cannabis Reform; Lew McMurrin, Cannabis Organization of Retail Establishments (CORE); K.C. Franks, Stash Pot Shop; Logan Bowers, Hashtag; and Ezra Eickmeyer, E&A Strategic Consulting.

Persons Signed In To Testify But Not Testifying: None.