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HOUSE BILL 2347

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State of Washington

64th Legislature

2016 Regular Session

By Representatives Hurst, Reykdal, Appleton, Kirby, and Condotta

Prefiled 01/05/16. Read first time 01/11/16. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to reducing the tax on useable marijuana,  
2 marijuana concentrates, and marijuana-infused products; and amending  
3 RCW 69.50.535.

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

5 **Sec. 1.** RCW 69.50.535 and 2015 2nd sp.s. c 4 s 205 are each  
6 amended to read as follows:

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

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

1 (2) All revenues collected from the marijuana excise tax imposed  
2 under this section must be deposited each day in the dedicated  
3 marijuana account.

4 (3) The tax imposed in this section must be paid by the buyer to  
5 the seller. Each seller must collect from the buyer the full amount  
6 of the tax payable on each taxable sale. The tax collected as  
7 required by this section is deemed to be held in trust by the seller  
8 until paid to the board. If any seller fails to collect the tax  
9 imposed in this section or, having collected the tax, fails to pay it  
10 as prescribed by the board, whether such failure is the result of the  
11 seller's own acts or the result of acts or conditions beyond the  
12 seller's control, the seller is, nevertheless, personally liable to  
13 the state for the amount of the tax.

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

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

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

18 (c) "Selling price" has the same meaning as in RCW 82.08.010,  
19 except that when product is sold under circumstances where the total  
20 amount of consideration paid for the product is not indicative of its  
21 true value, "selling price" means the true value of the product sold.

22 (d) "Product" means marijuana, marijuana concentrates, useable  
23 marijuana, and marijuana-infused products.

24 (e) "True value" means market value based on sales at comparable  
25 locations in this state of the same or similar product of like  
26 quality and character sold under comparable conditions of sale to  
27 comparable purchasers. However, in the absence of such sales of the  
28 same or similar product, true value means the value of the product  
29 sold as determined by all of the seller's direct and indirect costs  
30 attributable to the product.

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

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

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

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

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

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

9 (v) The number of illegal and noncompliant marijuana outlets the  
10 board requires to be closed;

11 (vi) Gross marijuana sales and tax collections in Oregon; and

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

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

17 (6) The legislature does not intend and does not authorize any  
18 person or entity to engage in activities or to conspire to engage in  
19 activities that would constitute per se violations of state and  
20 federal antitrust laws including, but not limited to, agreements  
21 among retailers as to the selling price of any goods sold.

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