
ENGROSSED SUBSTITUTE SENATE BILL 6062

State of Washington 64th Legislature 2015 Regular Session

By Senate Ways & Means (originally sponsored by Senator Hill)

READ FIRST TIME 04/02/15.

1 AN ACT Relating to marijuana regulations; amending RCW 69.50.535,
2 69.50.325, 69.50.339, and 66.08.012; adding new sections to chapter
3 69.50 RCW; repealing RCW 69.50.530, 69.50.540, 69.50.545, and
4 69.50.550; providing an effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 69.50.535 and 2014 c 192 s 7 are each amended to
7 read as follows:

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

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

19 ~~(3))~~ (a) There is levied and collected a marijuana excise tax
20 equal to ~~((twenty-five))~~ thirty-seven percent of the selling price on
21 each retail sale in this state of marijuana concentrates, useable

1 marijuana, and marijuana-infused products. This tax is ~~((the~~
2 ~~obligation of the licensed marijuana retailer, is))~~ separate and in
3 addition to general state and local sales and use taxes that apply to
4 retail sales of tangible personal property, and is not part of the
5 total retail price to which general state and local sales and use
6 taxes apply. The tax must be separately itemized from the selling
7 price and state and local retail sales tax on the sales receipt
8 provided to the buyer.

9 (b) The tax levied in this section must be reflected in the price
10 list or quoted shelf price in the seller's retail store and in any
11 advertising that includes prices for all useable marijuana, marijuana
12 concentrates, or marijuana-infused products.

13 ~~((4))~~ (2) All revenues collected by the board from the
14 marijuana excise ~~((taxes imposed under subsections (1) through (3) of~~
15 this section shall be deposited each day in a depository approved by
16 the state treasurer and transferred to the state treasurer to be
17 credited to the dedicated marijuana fund.

18 ~~(5) The state liquor control board shall regularly review the tax~~
19 ~~levels established under this section and make recommendations))~~ tax
20 imposed under this section must be distributed as follows:

21 (a) Eleven million seven hundred thousand dollars per year to the
22 general fund; and

23 (b) The remainder into the education legacy trust account.

24 (3) Each year, six million dollars of the amount distributed to
25 the general fund under subsection (2) of this section must be
26 appropriated to counties, cities, and towns in the following manner:

27 (a) Fifty percent to counties, cities, and towns where marijuana
28 licensees are physically located on a quarterly basis. Each
29 jurisdiction must receive a share of this distribution based on the
30 proportional share of the total revenues generated in the individual
31 jurisdiction from the taxes collected under this section from
32 licensees physically located in each jurisdiction; and

33 (b) Fifty percent must be distributed to counties, cities, and
34 towns to be used for criminal justice purposes. Criminal justice
35 purposes has the same meaning as described in RCW 82.14.340. The
36 funds must be distributed as follows:

37 (i) Seventy percent distributed on a per capita basis to
38 counties; and

39 (ii) Thirty percent distributed on a per capita basis to cities.

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

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

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

14 (b) "Product" means marijuana, marijuana concentrates, useable
15 marijuana, and marijuana-infused products.

16 (c) "Retail sale" has the same meaning as in RCW 82.08.010.

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

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

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

34 NEW SECTION. Sec. 2. A new section is added to chapter 69.50
35 RCW under the subchapter heading "ARTICLE V" to read as follows:

36 (1) Whenever the board determines that a limited liability
37 business entity has collected trust fund taxes and has failed to
38 remit those taxes to the board and that business entity has been
39 terminated, dissolved, or abandoned, or is insolvent, the board may

1 pursue collection of the entity's unpaid trust fund taxes, including
2 penalties on those taxes, against any or all of the responsible
3 individuals. For purposes of this subsection, "insolvent" means the
4 condition that results when the sum of the entity's debts exceeds the
5 fair market value of its assets. The board may presume that an entity
6 is insolvent if the entity refuses to disclose to the board the
7 nature of its assets and liabilities.

8 (2)(a) For a responsible individual who is the current or a
9 former chief executive or chief financial officer, liability under
10 this section applies regardless of fault or whether the individual
11 was or should have been aware of the unpaid trust fund tax liability
12 of the limited liability business entity.

13 (b) For any other responsible individual, liability under this
14 section applies only if he or she willfully failed to pay or to cause
15 to be paid to the board the trust fund taxes due from the limited
16 liability business entity.

17 (3)(a) Except as provided in this subsection (3)(a), a
18 responsible individual who is the current or a former chief executive
19 or chief financial officer is liable under this section only for
20 trust fund tax liability accrued during the period that he or she was
21 the chief executive or chief financial officer. However, if the
22 responsible individual had the responsibility or duty to remit
23 payment of the limited liability business entity's trust fund taxes
24 to the board during any period of time that the person was not the
25 chief executive or chief financial officer, that individual is also
26 liable for trust fund tax liability that became due during the period
27 that he or she had the duty to remit payment of the limited liability
28 business entity's taxes to the board but was not the chief executive
29 or chief financial officer.

30 (b) All other responsible individuals are liable under this
31 section only for trust fund tax liability that became due during the
32 period he or she had the responsibility or duty to remit payment of
33 the limited liability business entity's taxes to the board.

34 (4) Persons described in subsection (3)(b) of this section are
35 exempt from liability under this section in situations where
36 nonpayment of the limited liability business entity's trust fund
37 taxes was due to reasons beyond their control as determined by the
38 board by rule.

1 (5) Any person having been issued a notice of unpaid trust fund
2 taxes under this section is entitled to an administrative hearing
3 under RCW 69.50.334 and any such rules the board may adopt.

4 (6) This section does not relieve the limited liability business
5 entity of its trust fund tax liability or otherwise impair other tax
6 collection remedies afforded by law.

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

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

10 (b) "Chief executive" means: The president of a corporation or
11 for other entities or organizations other than corporations or if the
12 corporation does not have a president as one of its officers, the
13 highest ranking executive manager or administrator in charge of the
14 management of the company or organization.

15 (c) "Chief financial officer" means: The treasurer of a
16 corporation or for entities or organizations other than corporations
17 or if a corporation does not have a treasurer as one of its officers,
18 the highest senior manager who is responsible for overseeing the
19 financial activities of the entire company or organization.

20 (d) "Limited liability business entity" means a type of business
21 entity that generally shields its owners from personal liability for
22 the debts, obligations, and liabilities of the entity, or a business
23 entity that is managed or owned in whole or in part by an entity that
24 generally shields its owners from personal liability for the debts,
25 obligations, and liabilities of the entity. Limited liability
26 business entities include corporations, limited liability companies,
27 limited liability partnerships, trusts, general partnerships and
28 joint ventures in which one or more of the partners or parties are
29 also limited liability business entities, and limited partnerships in
30 which one or more of the general partners are also limited liability
31 business entities.

32 (e) "Manager" has the same meaning as in RCW 25.15.005.

33 (f) "Member" has the same meaning as in RCW 25.15.005, except
34 that the term only includes members of member-managed limited
35 liability companies.

36 (g) "Officer" means any officer or assistant officer of a
37 corporation, including the president, vice president, secretary, and
38 treasurer.

1 (h)(i) "Responsible individual" includes any current or former
2 officer, manager, member, partner, or trustee of a limited liability
3 business entity with unpaid trust fund tax liability.

4 (ii) "Responsible individual" also includes any current or former
5 employee or other individual, but only if the individual had the
6 responsibility or duty to remit payment of the limited liability
7 business entity's unpaid trust fund tax liability.

8 (iii) Whenever any taxpayer has one or more limited liability
9 business entities as a member, manager, or partner, "responsible
10 individual" also includes any current and former officers, members,
11 or managers of the limited liability business entity or entities or
12 of any other limited liability business entity involved directly in
13 the management of the taxpayer. For purposes of this subsection
14 (7)(h)(iii), "taxpayer" means a limited liability business entity
15 with unpaid trust fund taxes.

16 (i) "Trust fund taxes" means taxes collected from buyers and
17 deemed held in trust under RCW 69.50.535.

18 (j) "Willfully failed to pay or to cause to be paid" means that
19 the failure was the result of an intentional, conscious, and
20 voluntary course of action.

21 **Sec. 3.** RCW 69.50.325 and 2014 c 192 s 2 are each amended to
22 read as follows:

23 (1) There shall be a marijuana producer's license to produce
24 marijuana for sale at wholesale to marijuana processors and other
25 marijuana producers, regulated by the state liquor control board and
26 subject to annual renewal. The production, possession, delivery,
27 distribution, and sale of marijuana in accordance with the provisions
28 of chapter 3, Laws of 2013 and the rules adopted to implement and
29 enforce it, by a validly licensed marijuana producer, (~~shall~~) is
30 not (~~be~~) a criminal or civil offense under Washington state law.
31 Every marijuana producer's license (~~shall~~) must be issued in the
32 name of the applicant, (~~shall~~) must specify the location at which
33 the marijuana producer intends to operate, which must be within the
34 state of Washington, and the holder thereof (~~shall~~) may not allow
35 any other person to use the license. The application fee for a
36 marijuana producer's license (~~shall-be~~) is two hundred fifty
37 dollars. The annual fee for issuance and renewal of a marijuana
38 producer's license (~~shall-be~~) is one thousand dollars. A separate

1 license (~~shall be~~) is required for each location at which a
2 marijuana producer intends to produce marijuana.

3 (2) There shall be a marijuana processor's license to process,
4 package, and label marijuana concentrates, useable marijuana, and
5 marijuana-infused products for sale at wholesale to marijuana
6 processors and marijuana retailers, regulated by the state liquor
7 control board and subject to annual renewal. The processing,
8 packaging, possession, delivery, distribution, and sale of marijuana,
9 useable marijuana, marijuana-infused products, and marijuana
10 concentrates in accordance with the provisions of chapter 3, Laws of
11 2013 and the rules adopted to implement and enforce it, by a validly
12 licensed marijuana processor, (~~shall~~) is not (~~be~~) a criminal or
13 civil offense under Washington state law. Every marijuana processor's
14 license (~~shall~~) must be issued in the name of the applicant,
15 (~~shall~~) must specify the location at which the licensee intends to
16 operate, which must be within the state of Washington, and the holder
17 thereof (~~shall~~) may not allow any other person to use the license.
18 The application fee for a marijuana processor's license (~~shall be~~)
19 is two hundred fifty dollars. The annual fee for issuance and renewal
20 of a marijuana processor's license (~~shall be~~) is one thousand
21 dollars. A separate license (~~shall be~~) is required for each
22 location at which a marijuana processor intends to process marijuana.

23 (3) There shall be a marijuana retailer's license to sell
24 marijuana concentrates, useable marijuana, and marijuana-infused
25 products at retail in retail outlets, regulated by the state liquor
26 control board and subject to annual renewal. The possession,
27 delivery, distribution, and sale of marijuana concentrates, useable
28 marijuana, and marijuana-infused products in accordance with the
29 provisions of chapter 3, Laws of 2013 and the rules adopted to
30 implement and enforce it, by a validly licensed marijuana retailer,
31 (~~shall~~) is not (~~be~~) a criminal or civil offense under Washington
32 state law. Every marijuana retailer's license (~~shall~~) must be
33 issued in the name of the applicant, (~~shall~~) must specify the
34 location of the retail outlet the licensee intends to operate, which
35 must be within the state of Washington, and the holder thereof
36 (~~shall~~) may not allow any other person to use the license. The
37 application fee for a marijuana retailer's license (~~shall be~~) is
38 two hundred fifty dollars. The annual fee for issuance and renewal of
39 a marijuana retailer's license (~~shall be~~) is one thousand dollars.
40 A separate license (~~shall be~~) is required for each location at

1 which a marijuana retailer intends to sell marijuana concentrates,
2 useable marijuana, and marijuana-infused products.

3 (4) The revenue from the fees in this section must be deposited
4 into the general fund.

5 **Sec. 4.** RCW 69.50.339 and 2013 c 3 s 8 are each amended to read
6 as follows:

7 (1) If the state liquor control board approves, a license to
8 produce, process, or sell marijuana may be transferred, without
9 charge, to the surviving spouse or domestic partner of a deceased
10 licensee if the license was issued in the names of one or both of the
11 parties. For the purpose of considering the qualifications of the
12 surviving party to receive a marijuana producer's, marijuana
13 processor's, or marijuana retailer's license, the state liquor
14 control board may require a criminal history record information
15 check. The state liquor control board may submit the criminal history
16 record information check to the Washington state patrol and to the
17 identification division of the federal bureau of investigation in
18 order that these agencies may search their records for prior arrests
19 and convictions of the individual or individuals who filled out the
20 forms. The state liquor control board shall require fingerprinting of
21 any applicant whose criminal history record information check is
22 submitted to the federal bureau of investigation.

23 (2) The proposed sale of more than ten percent of the outstanding
24 or issued stock of a corporation licensed under this chapter (~~(3,~~
25 ~~Laws of 2013)~~), or any proposed change in the officers of such a
26 corporation, must be reported to the state liquor control board, and
27 state liquor control board approval must be obtained before the
28 changes are made. A fee of seventy-five dollars will be charged for
29 the processing of the change of stock ownership or corporate
30 officers.

31 (3) The revenue from the fee in this section must be deposited
32 into the general fund.

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 69.50
34 RCW to read as follows:

35 (1) Marijuana producers, processors, and retailers are prohibited
36 from making sales of any marijuana or marijuana product, if the sale
37 of the marijuana or marijuana product is conditioned upon the buyer's
38 purchase of any service or nonmarijuana product. This subsection

1 applies whether the buyer purchases such service or nonmarijuana
2 product at the time of sale of the marijuana or marijuana product, or
3 in a separate transaction.

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

6 (a) "Marijuana product" means "useable marijuana," "marijuana
7 concentrates," and "marijuana-infused products" as those terms are
8 defined in RCW 69.50.101.

9 (b) "Nonmarijuana product" includes paraphernalia, promotional
10 items, lighters, bags, boxes, containers, and such other items as may
11 be identified by the board.

12 (c) "Service" includes memberships and any other services
13 identified by the board.

14 **Sec. 6.** RCW 66.08.012 and 2012 c 117 s 265 are each amended to
15 read as follows:

16 There shall be a board, known as the "Washington state liquor
17 (~~control~~) and cannabis board," consisting of three members, to be
18 appointed by the governor, with the consent of the senate, who
19 (~~shall~~) must each be paid an annual salary to be fixed by the
20 governor in accordance with the provisions of RCW 43.03.040. The
21 governor may, in his or her discretion, appoint one of the members as
22 chair of the board, and a majority of the members (~~shall~~)
23 constitutes a quorum of the board.

24 NEW SECTION. **Sec. 7.** The following acts or parts of acts are
25 each repealed:

26 (1) RCW 69.50.530 (Dedicated marijuana fund) and 2013 c 3 s 26;

27 (2) RCW 69.50.540 (Marijuana excise taxes—Disbursements) and 2013
28 c 3 s 28;

29 (3) RCW 69.50.545 (Departments of social and health services,
30 health—Adoption of rules for disbursement of marijuana excise taxes)
31 and 2013 c 3 s 29; and

32 (4) RCW 69.50.550 (Cost-benefit evaluations) and 2013 c 3 s 30.

33 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect July 1, 2015.

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