

Initiative Measure No. IL26-349

Filed March 25, 2025

AN ACT Relating to reducing the excise tax on cannabis sales to 7%; amending RCW 69.50.535;

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

Amend 1.Sec. 2. RCW 69.50.535 and 2024 c 79 s 1 are each amended to read as follows:

(1) (a) There is levied and collected a cannabis excise tax equal to ~~((thirty-seven))~~ seven percent of the selling price on each retail sale in this state of cannabis concentrates, useable cannabis, and cannabis-infused products. This tax 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 not part of the total retail price to which general state and local sales and use taxes apply. The tax must be separately itemized from the state and local retail sales tax on the sales receipt provided to the buyer.

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

(2) (a) Until June 30, 2029, the tax levied by subsection (1) of this section does not apply to sales by a cannabis retailer with a medical cannabis endorsement to qualifying patients or designated providers who have been issued a recognition card, of cannabis concentrates, useable cannabis, or cannabis-infused products, identified by the department as a compliant cannabis product in chapter 246-70 WAC and tested to the standards in WAC 246-70-040.

(b) Each seller making exempt sales under this subsection (2) must maintain information establishing eligibility for the exemption in the form and manner required by the board.

(c) The board must provide a separate tax reporting line on the excise tax form for exemption amounts claimed under this subsection (2) .

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

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

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

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

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

(c) "Product" means cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products.

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

(6) (a) The board must regularly review the tax level established under this section and make recommendations, in consultation with the department of revenue, to the legislature as appropriate

regarding adjustments that would further the goal of discouraging use while undercutting illegal market prices.

(b) The 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 cannabis tax change;

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

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

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

(vi) Gross cannabis sales and tax collections in Oregon; and

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

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

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

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