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HOUSE BILL 1595

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State of Washington

68th Legislature

2023 Regular Session

By Representatives Chambers and Robertson

1 AN ACT Relating to modifying the cannabis excise tax; and  
2 amending RCW 69.50.535.

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

4 **Sec. 1.** RCW 69.50.535 and 2022 c 16 s 101 are each amended to  
5 read as follows:

6 (1)(a) There is levied and collected a cannabis excise tax  
7 (~~equal to thirty-seven percent of the selling price on each retail~~  
8 ~~sale in this state of cannabis concentrates, useable cannabis, and~~  
9 ~~cannabis-infused products.~~)) as follows:

10 (i) For useable cannabis and cannabis concentrates with a THC  
11 concentration no greater than 20 percent, the tax is equal to 25  
12 percent of the selling price on each retail sale in this state;

13 (ii) For useable cannabis and cannabis concentrates with a THC  
14 concentration greater than 20 percent but no greater than 50 percent,  
15 the tax is equal to 35 percent of the selling price on each retail  
16 sale in this state;

17 (iii) For useable cannabis and cannabis concentrates with a THC  
18 concentration greater than 50 percent, the tax is equal to 40 percent  
19 of the selling price on each retail sale in this state;

20 (iv) For cannabis-infused edible products in solid or liquid form  
21 with no greater than four milligrams of total tetrahydrocannabinol

1 included per serving in the container, the tax is equal to 25 percent  
2 of the selling price on each retail sale in this state; and

3 (v) For cannabis-infused edible products in solid and liquid form  
4 with greater than four milligrams of total tetrahydrocannabinol  
5 included per serving in the container, the tax is equal to 35 percent  
6 of the selling price on each retail sale in this state.

7 (b) This tax is separate and in addition to general state and  
8 local sales and use taxes that apply to retail sales of tangible  
9 personal property, and is not part of the total retail price to which  
10 general state and local sales and use taxes apply. The tax must be  
11 separately itemized from the state and local retail sales tax on the  
12 sales receipt provided to the buyer.

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

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

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

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

32 (a) ~~("Board" means the state liquor and cannabis board.~~  
33 ~~(b))~~ "Product" means cannabis, cannabis concentrates, useable  
34 cannabis, and cannabis-infused products.

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

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

1 (d) (~~"Product" means cannabis, cannabis concentrates, useable~~  
2 ~~cannabis, and cannabis-infused products.~~

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

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

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

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

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

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

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

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

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

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

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

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

39 (7) The board shall collect data related to sales of cannabis  
40 products sold in this state subject to tax under subsection (1) of

1 this section to include how many individual cannabis products were  
2 sold for each product type and tax rate, how much cannabis product  
3 was sold for each product type and tax rate, and how much cannabis  
4 excise tax was collected under each of subsection (1)(a)(i) through  
5 (v) of this section. The board may consult with other agencies as  
6 necessary.

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