

Multiple Agency Fiscal Note Summary

Bill Number: 5004 SB	Title: Medical marijuana tax ex.
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Estimated Cash Receipts

Agency Name	2021-23			2023-25			2025-27		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Liquor and Cannabis Board	0	0	(7,433,785)	0	0	(9,911,714)	0	0	(9,911,714)
Liquor and Cannabis Board	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Total \$	0	0	(7,433,785)	0	0	(9,911,714)	0	0	(9,911,714)

Estimated Operating Expenditures

Agency Name	2021-23				2023-25				2025-27			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Washington State Health Care Authority	Fiscal note not available											
Department of Revenue	.0	0	0	0	.0	0	0	0	.0	0	0	0
Liquor and Cannabis Board	.1	0	0	21,764	.2	0	0	43,528	.2	0	0	43,528
Total \$	0.1	0	0	21,764	0.2	0	0	43,528	0.2	0	0	43,528

Estimated Capital Budget Expenditures

Agency Name	2021-23			2023-25			2025-27		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Washington State Health Care Authority	Fiscal note not available								
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Liquor and Cannabis Board	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

NONE

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Department of Revenue Fiscal Note

Bill Number: 5004 SB	Title: Medical marijuana tax ex.	Agency: 140-Department of Revenue
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Alia Kennedy	Phone: 360-786-7405	Date: 01/10/2021
Agency Preparation: Van Huynh	Phone: 360-534-1512	Date: 01/12/2021
Agency Approval: Don Gutmann	Phone: 360-534-1510	Date: 01/12/2021
OFM Review: Ramona Nabors	Phone: (360) 902-0547	Date: 01/18/2021

Request # 5004-1-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This bill provides an exemption from the marijuana excise tax under RCW 69.50.535 for medical marijuana patients.

The marijuana excise tax is 37 percent of the selling price on each retail sale.

The bill is effective January 1, 2022.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

This bill does not impact taxes or fees administered by the Department of Revenue.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The Department of Revenue will not incur any costs with the implementation of this legislation.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

NONE

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

NONE

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

None.

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 5004 SB	Title: Medical marijuana tax ex.	Agency: 195-Liquor and Cannabis Board
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2022	FY 2023	2021-23	2023-25	2025-27
Dedicated Marijuana Account-State 315-1	(2,477,928)	(4,955,857)	(7,433,785)	(9,911,714)	(9,911,714)
Total \$	(2,477,928)	(4,955,857)	(7,433,785)	(9,911,714)	(9,911,714)

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.0	0.2	0.1	0.2	0.2
Account					
Dedicated Marijuana Account-State 315-1	0	21,764	21,764	43,528	43,528
Total \$	0	21,764	21,764	43,528	43,528

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Alia Kennedy	Phone: 360-786-7405	Date: 01/10/2021
Agency Preparation: Thea McNally	Phone: 360-664-4552	Date: 01/14/2021
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 01/14/2021
OFM Review: Ramona Nabors	Phone: (360) 902-0547	Date: 01/18/2021

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Sec. 1. (2) (a) The tax levied by subsection (1) of this section does not apply to sales, by a marijuana retailer with a medical marijuana endorsement to qualifying patients or designated providers who have been issued a recognition card, of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department in rules adopted under RCW 69.50.375(4) in chapter 246-70 WAC as being compliant marijuana products.

(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.

Sec. 2. This act takes effect January 1, 2022.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

This bill would exempt qualifying patients (or their designated providers) that have been issued a recognition card, from the 37% marijuana excise tax on purchases of compliant marijuana products (as defined in WAC 246-70), when purchased at a marijuana retailer with a medical marijuana endorsement. This would take effect January 1, 2022.

The Department of Revenue (DOR) collects information on retail sales of marijuana for purposes of collecting retail sales taxes. This includes sales reported by retailers as being exempt from retail sales taxes. As of January 11, 2021 DOR reports for Fiscal year 2020, \$14,620,000 in tax-exempt retail sales of marijuana. These sales fall into one of three categories, as found in RCW 82.08.9998, subsections 1a, 1b, and 1c.

Sales to recognition cardholders (\$13,394,208):

1a) Sales and donations of marijuana products determined by the Department of Health (DOH) to be beneficial for medical use to qualifying patients and designated providers who have been issued recognition cards. (See WAC 246-70-040)

1b) Sales and donations of low THC products to qualifying patients and designated providers who have been issued recognition cards.

Sales to all consumers (\$1,225,792):

1c) Sales of marijuana products having low THC, high CBD ratio to any person.

Sales under subsection 1a (sales to patients with recognition cards and beneficial for medical use as determined by DOH rules) would be exempt from the marijuana excise tax under this bill because these are the products that fit Section 1(2a) of this bill. However, DOR's tax form only allows for reporting exempt sales to patients with recognition cards versus any consumer, and does not break down sales between 1a (DOH compliant) and 1b (low THC), therefore it is indeterminate what the actual revenue loss from the excise tax exemption would be.

If it was assumed that both 1a & 1b (all sales to patients with recognition cards) were exempt from the marijuana excise tax, the annual revenue loss to the Dedicated Marijuana Account would be \$4,955,857 (\$13,394,208 x 37%). The bill does not take effect until January 1, 2022, so FY2022 would represent half of the ongoing loss in revenue (\$2,477,928). However, the actual revenue loss will be less as all the sales tax exempt sales are not of DOH compliant products but it is not known what portion of the sales were DOH compliant products.

The Board realizes that removing the excise tax on compliant marijuana products purchased by registered patients, would have the potential to lower the market price of these products. This may be an incentive for patients without a recognition card, to obtain one for the express purpose of benefitting from the excise tax exemption. This would in turn increase the revenue loss to the state. However, the Board makes no assumption regarding a potential increase in marijuana sales to registered patients or the resulting increase in revenue loss.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

ENFORCEMENT:

The LCB keeps detailed statistics on all of its enforcement activities and tracks this activity using a unit of measure called a Field Increment (FI). All direct enforcement activities such as premise checks, inspections and investigations are tracked to determine how many FI's are needed to accomplish each activity. Each FI is equivalent to 1/10th of an hour (6 minutes). For example, if a tavern premise check takes 2 FI's and two officers, it is anticipated that one check will consume 4 FI's. Using historical data to factor out indirect activities such as driving time, training, office time and leave, it has been determined that officers are available for an average of 4,220 FI's each year.

Based on 483 marijuana retailers, audits, complaint investigations and support and education would be conducted by the Enforcement Division requiring:

0.2 FTE LCB Enforcement Officer 2 - \$21,764/yr (\$21,210 salary/benefits, \$554 in associated costs).

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
315-1	Dedicated Marijuana Account	State	0	21,764	21,764	43,528	43,528
Total \$			0	21,764	21,764	43,528	43,528

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years		0.2	0.1	0.2	0.2
A-Salaries and Wages		14,921	14,921	29,842	29,842
B-Employee Benefits		6,289	6,289	12,578	12,578
C-Professional Service Contracts					
E-Goods and Other Services		526	526	1,052	1,052
G-Travel					
J-Capital Outlays		28	28	56	56
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	21,764	21,764	43,528	43,528

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2022	FY 2023	2021-23	2023-25	2025-27
LCB Enforcement Officer 2	74,604		0.2	0.1	0.2	0.2
Total FTEs			0.2	0.1	0.2	0.2

III. D - Expenditures By Program (optional)

Program	FY 2022	FY 2023	2021-23	2023-25	2025-27
Enforcement Division (060)		21,764	21,764	43,528	43,528
Total \$		21,764	21,764	43,528	43,528

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

Enforcement Field Increment (FI) Calculator				
5004 SB "Medical Marijuana Excise Tax"				
	Number of events	Time Factor	Staffing Factor	FI Total
Marijuana Tax Audit	3	10	1	34
Complaint Investigations Marijuana	10	20	1.3	251
License Support and Education	97	7	1	676
		40	1.3	

Total FI's	961
Total Field Increments per FTE	4,220
FTE's required	0.23
Round	0.20

INVESTIGATIONS			Number of Retailers
Marijuana Tax Audit	35%	Based on # of retailers	483
Complaint Investigations Marijuana	2%	Assumes 2% of 483 retailers would result in complaint investigations	
License Support and Education	20%	Based on # of retailers	