

Multiple Agency Fiscal Note Summary

Bill Number: 1453 S HB	Title: Medical cannabis/tax
-------------------------------	------------------------------------

Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Liquor and Cannabis Board	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	0	0	0	0	0	0	0

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Department of Revenue	.0	0	0	0	.0	0	0	0	.0	0	0	0
Liquor and Cannabis Board	.2	0	0	49,142	.2	0	0	49,142	.2	0	0	49,142
Total \$	0.2	0	0	49,142	0.2	0	0	49,142	0.2	0	0	49,142

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
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

Prepared by: Amy Hatfield, OFM	Phone: (360) 280-7584	Date Published: Final 3/ 2/2023
---------------------------------------	---------------------------------	---

Department of Revenue Fiscal Note

Bill Number: 1453 S HB	Title: Medical cannabis/tax	Agency: 140-Department of Revenue
-------------------------------	------------------------------------	--

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: Rachelle Harris	Phone: 60-786-7137	Date: 02/24/2023
Agency Preparation: Van Huynh	Phone: 60-534-1512	Date: 02/27/2023
Agency Approval: Valerie Torres	Phone: 60-534-1521	Date: 02/27/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/27/2023

Request # 1453-2-1

Part II: Narrative Explanation

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

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

Note: This fiscal note reflects language in SHB 1453, 2023 Legislative Session.

COMPARISON OF THE SUBSTITUTE BILL WITH THE ORIGINAL:

The substitute ensures the new tax preference performance provisions do not apply to this bill.

CURRENT LAW:

The law imposes a cannabis excise tax of 37% of the selling price on each retail sale.

PROPOSAL:

This bill provides an exemption from the cannabis excise tax for medical cannabis patients.

The new tax preference performance provisions do not apply to this bill (see section 2 of the bill).

EFFECTIVE DATE:

The bill takes effect 90 days after final adjournment of the session in which it is enacted.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

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

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

The department 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: *FTEs listed by classification and corresponding annual compensation. Totals 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

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 1453 S HB	Title: Medical cannabis/tax	Agency: 195-Liquor and Cannabis Board
-------------------------------	------------------------------------	--

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	0.2	0.2	0.2	0.2
Account					
Dedicated Cannabis Account-State 315-1	24,571	24,571	49,142	49,142	49,142
Total \$	24,571	24,571	49,142	49,142	49,142

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: Rachele Harris	Phone: 360-786-7137	Date: 02/24/2023
Agency Preparation: Colin O Neill	Phone: (360) 664-4552	Date: 03/01/2023
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 03/01/2023
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 03/02/2023

Part II: Narrative Explanation

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

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

Section 1(2):

(a) The tax levied by RCW 69.50.535 (37% cannabis excise tax) 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 of Health 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).

Section 2: The provisions of RCW 82.32.805 [tax preferences] and 82.32.808 [performance statement] do not apply to this act.

CHANGES MADE BY THE SUBSTITUTE: Section 2 is new.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished 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% cannabis excise tax on purchases of Department of Health (DOH) compliant cannabis products (as defined in WAC 246-70) and tested to the standards in WAC 246-70-040, when purchased at a cannabis retailer with a medical cannabis endorsement. Currently the testing standards set by DOH include testing for pesticides, heavy metals, and mycotoxins.

Current DOH policy states that for purposes of the sales and use tax exemption, any cannabis product purchased by a qualifying patient with a recognition card is "compliant cannabis product." This bill takes that one step further and requires that cannabis products meet the testing standards in WAC 246-70-040 to qualify for the excise tax exemption.

At the present time, very few patients appear to be utilizing the sales tax exemption, likely weighing the minimal benefit of saving 9%-10% on purchases in exchange for the hassle of going through the process of obtaining a recognition card and being entered into the state's medical cannabis authorization database. In 2022, approximately 12,000 cards were created in the database (this includes both new cards and renewals as the cards need to be renewed each year).

LCB analysis shows about 1% of FY22 sales were retail sales tax exempt (made to cardholders). In fact, the percentage of tax-exempt sales appears to be declining almost every year since 2017. See the attached chart "Sales-tax exempt sales as a percentage of total sales.pdf".

By creating an exemption from the 37% cannabis excise tax, this policy creates an incentive for more customers to obtain a recognition card to take advantage of the savings. Assuming there is a demand for product that meets the DOH testing standards, and the supply meets the demand, then there is the potential that there could be a significant negative impact to cannabis excise tax revenue. For context, cannabis excise tax revenues were \$511.1 million in FY22. If 1% of those sales were products to recognition card holders that met the DOH testing standards, then the revenue loss would be \$5.1 million per year.

That being said, it is unknown how much more cannabis product would be produced that meets the standards of WAC 246-70-040 and how many more patients would take advantage of the excise tax exemption. The potential exists however, for the impact on cannabis excise tax revenues to be significant.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

ENFORCEMENT DIVISION:

The Washington State Liquor and Cannabis Board ("Board") 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.

Please see the attached "1453 SHB Medical Cannabis Tax Enforcement Field Increment Calculator.pdf" for the workload calculations.

Based on 478 cannabis retailers, audits, complaint investigations and support and education would be conducted by the Enforcement Division requiring:

0.2 FTE LCB Enforcement Officer 2 - \$24,571/yr (\$21,399 salary/benefits, \$3,172 in associated costs).

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
315-1	Dedicated Cannabis Account	State	24,571	24,571	49,142	49,142	49,142
Total \$			24,571	24,571	49,142	49,142	49,142

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	0.2	0.2	0.2	0.2
A-Salaries and Wages	15,406	15,406	30,812	30,812	30,812
B-Employee Benefits	5,993	5,993	11,986	11,986	11,986
C-Professional Service Contracts					
E-Goods and Other Services	872	872	1,744	1,744	1,744
G-Travel	2,232	2,232	4,464	4,464	4,464
J-Capital Outlays	68	68	136	136	136
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	24,571	24,571	49,142	49,142	49,142

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 2024	FY 2025	2023-25	2025-27	2027-29
LCB Enforcement Officer 2	77,028	0.2	0.2	0.2	0.2	0.2
Total FTEs		0.2	0.2	0.2	0.2	0.2

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Enforcement Division (060)	24,571	24,571	49,142	49,142	49,142
Total \$	24,571	24,571	49,142	49,142	49,142

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

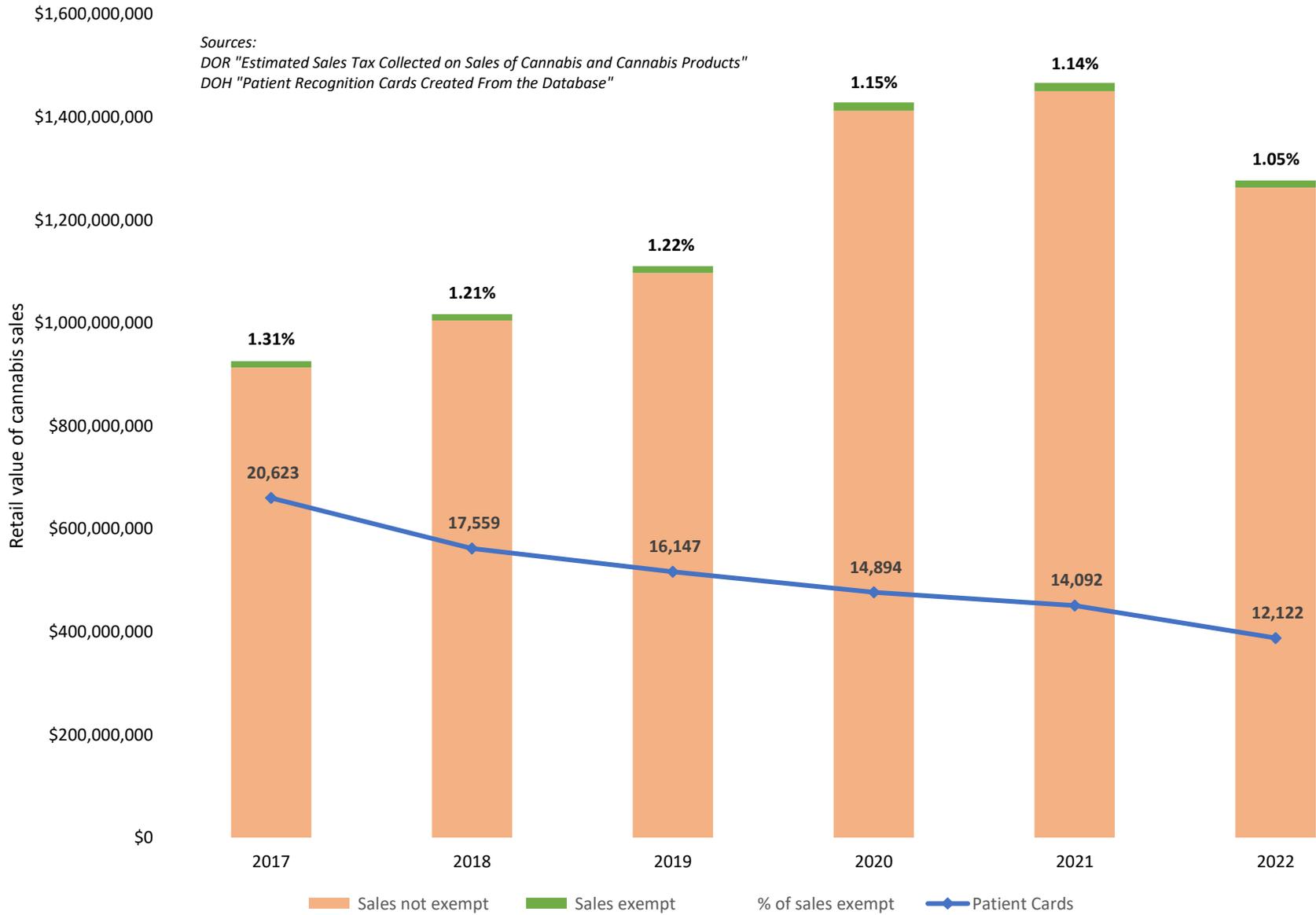
NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Sales-tax exempt sales as percentage of total sales (with patient recognition cards by year)

*Sources:
DOR "Estimated Sales Tax Collected on Sales of Cannabis and Cannabis Products"
DOH "Patient Recognition Cards Created From the Database"*



Enforcement Field Increment (FI) Calculator

1453 SHB: "Medical Cannabis/Tax"

(annual cost per year ongoing)

Event	# of events	Time Factor	Staffing Factor	FI Total	Officer	Consultant
Cannabis Tax Audit	12	10	1	120	120	0
License Support and Education	72	7	1.3	652	652	
Complaint Investigations Cannabis	10	20	1.3	249	249	

Factors	Values
Retail locations	478
Cannabis Tax Audit	2.5%
License Support and Education	15%
Complaint Investigations Cannabis	2%

Total FI's	1,021	1,021	0
Total Field Increments per FTE	4,220	4,220	4,220
FTE's required	0.24	0.24	0.00
Round	0.20	0.20	0.00