

Initiative Measure No. 502:

Issues related to legalized marijuana

State of Washington

Department of Revenue

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Operations

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Legalized marijuana

1. Review Initiative Measure No. 502
2. Liquor Control Board rulemaking
3. Recreational vs. medical cannabis
4. State tax issues
5. Federal issues



What does I-502 do?

- Regulate and tax legalized recreational marijuana market.
- Creates three taxable activities in the supply chain:
 - Producers
 - Processors
 - Retailers
- Each must obtain a license from the Liquor Control Board (LCB).
- Each is subject to a 25% marijuana excise tax collected by the LCB.

Major LCB implementation dates

- **October 9, 2013** Public hearings on proposed rules
- **October 16, 2013** Rules adopted
- **November 16, 2013** Rules become effective
- **November 18, 2013** Begin accepting applications for all license types.
- **December 1, 2013** Rules are complete (as mandated by law)
- **Dec. 2013 / Jan. 2014** Begin issuing processor and retailer licenses



LCB's license objectives

- Create a controlled, regulated marijuana market.
- Include strict controls to prevent diversion, illegal sales, and sales to minors.
- Provide reasonable access to products to mitigate the illicit market.



Licensee Qualifications

- Washington resident
- Full financial disclosure
- Operating Plan
- Criminal history
- Less than 8 points



Description	Time Period	Points Assigned
Felony conviction	10 years	12 points
Gross misdemeanor conviction	3 years	5 points
Misdemeanor conviction	3 years	4 points
Currently under federal or state supervision for a felony conviction	N/A	8 points
Nondisclosure of any of the above	N/A	4 points each

License requirements

Costs and Fees



- \$250 application fee
- \$1,000 annual renewal fee
- Additional fees for background check and filing for local business license

Taxes

- License applicants must submit a signed attestation that they are current on all taxes owed to the Washington State Department of Revenue



Producers

- Produce (i.e. grow) marijuana for sale at wholesale to processors.
- 25% excise tax paid to LCB on sales to licensed processors.
- Must be located within Washington.



Processors

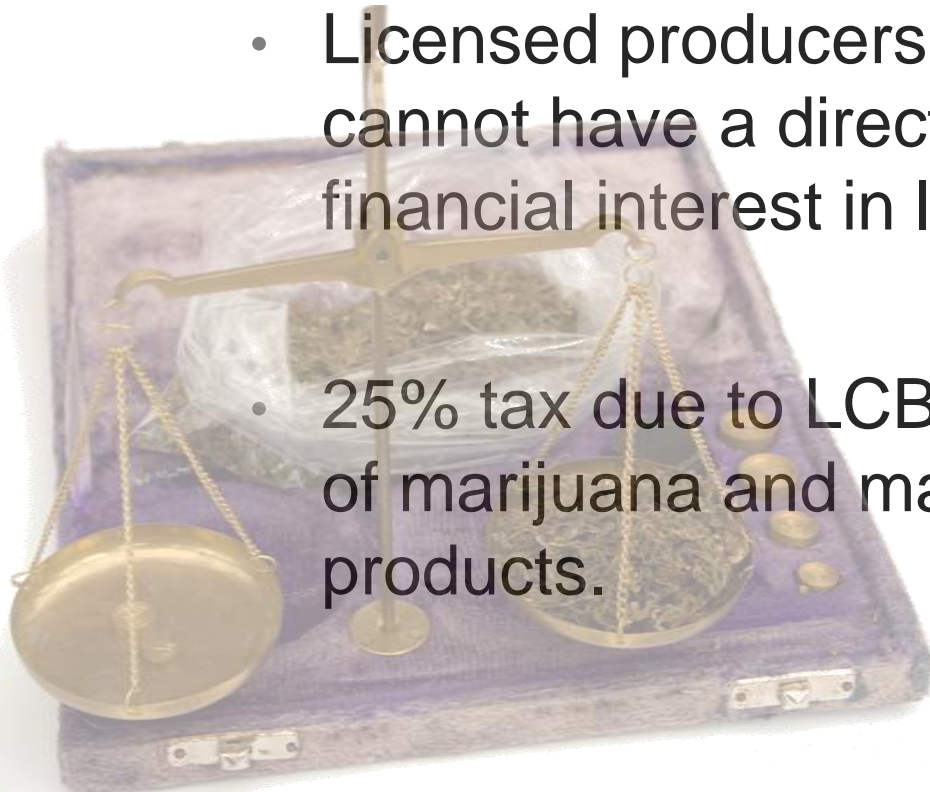
- Process, package, and label marijuana and marijuana-infused products for sale at wholesale to licensed marijuana retailers.
- 25% excise tax due to LCB on sales to licensed retailers.



Retailers

Allows for the sale of marijuana, marijuana-infused products, and marijuana paraphernalia at licensed retail outlets.

- Licensed producers and processors cannot have a direct or indirect financial interest in licensed retailers.
- 25% tax due to LCB on licensed sales of marijuana and marijuana-infused products.



Limits on retail stores

- LCB to determine number of retail outlets per county.
- Consumption will drive number of retail outlets.
- Awarded in a county-by-county lottery accounting for population distribution.



Where are we now?

- We now have a framework for regulating and taxing recreational marijuana.
- LCB is finalizing rules.
- DOR is in the process of analyzing tax policy issues.
- LCB will accept applications for licenses starting mid November 2013.
- The Initiative did not repeal or modify medical marijuana laws and taxes, and a different tax structure applies.



Medical marijuana and recreational marijuana are regulated and taxed differently.

The Liquor Control Board, Department of Health, Department of Revenue and Department of Agriculture have been directed to make recommendations to the state Legislature on the interaction of medical marijuana and I-502.



I-502 - Recreational Marijuana

Medical Marijuana

Producer 25% Tax	Producer sells to Processor Cost of goods sold = \$10.00 <u>plus 25% Producer tax = 2.50</u> Processor pays = \$12.50
Processor 25% Tax	Processor sells to Retailer Cost of goods sold = \$12.50 <u>plus 25% Processor tax = 3.13</u> Retailer pays = \$15.63
Retailer 25% Tax	Retailer sells to Consumer Cost of goods sold = \$15.63 <u>plus 25% Retailer tax = 3.91</u> Retail price = \$19.54 <u>plus 6.5% WA RST = 1.27</u>

Dispensary sells to qualifying patient Cost of goods sold \$10.00 <u>plus 6.5% WA RST = .65</u>

Consumer Pays \$20.81

Consumer Pays \$10.65

Is marijuana considered an “agricultural product?”

- Wholesale sales of agricultural products are eligible for a B&O exemption.
- There are certain tax benefits for specific sales and purchases of farm inputs — for example, fertilizer.



Are marijuana producers “farmers?”

You must be a farmer to
receive certain tax benefits.



Is a marijuana processor also a manufacturer?

There are a variety of tax benefits for manufacturers.



Exemptions for food

Are sales of marijuana-infused foods exempt from retail sales tax?



Property tax

**Does marijuana
production qualify for
the open spaces
property tax exemption?**



Internal Revenue Code 280E

The Tax Court ruled that marijuana sales constitutes “trafficking” even when sales are legal under state law. CHAMPS v. Comm’r of Internal Revenue, 128 T.C. No. 14 (2007).



Federal banking laws

- Banks will not accept money from suspected criminal activity.
 - National banks must report known or suspected criminal activity they suspect involves money laundering or violates the Bank Secrecy Act. See 12 CFR 21.11.
- This drives a “cash” industry



Justice Department won't challenge state marijuana laws

The federal Justice Department announced in August 2013 that it would not sue to prevent Washington and Colorado from implementing laws that allow for the recreational use of marijuana for adults, if drug sales don't conflict with federal enforcement priorities and the states maintain sound regulatory and enforcement programs.



Dept. of Justice's eight priorities

- Preventing the distribution of marijuana to minors.
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels.
- Preventing the diversion of marijuana from states where it is legal under state law to other states.
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or illegal activity. ...



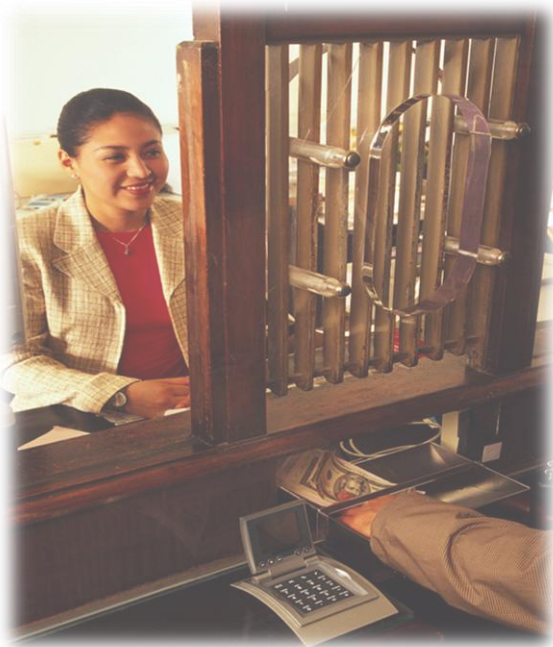
Eight priorities continued

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana.
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use.
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands.
- Preventing marijuana possession or use on federal property.



Safety and security

How will DOR safely and securely handle cash payments of taxes on marijuana?



Additional Resources

www.liq.wa.gov/marijuana/I-502

