



## INFORMATIONAL MEMORANDUM

TO: **Finance and Governance Committee**

FROM: **Laurel Humphrey, Legislative Analyst**

DATE: **April 30, 2021** *(Updated following May 10, 2021 Committee Meeting)*

SUBJECT: **Marijuana Retail Tax Revenue**

### **ISSUE**

The City Council requested staff provide an update on revenue potential should zoning be expanded to allow marijuana retailers in more areas of Tukwila.

### **BACKGROUND**

Initiative 502 passed in November 2012 and created a comprehensive regulatory approach on marijuana with state-licensed producers, processors and retailers. Through the rulemaking process the Liquor and Cannabis Board adopted regulations on the number of retail store licenses for jurisdictions, determining a maximum of 2 for Tukwila. Currently, a license is issued to Mount Baker Retail Partnership, LLC (12539 E Marginal way S) and a license is pending for Dash & Wrigley, LLC (13003 Tukwila International Boulevard).

On September 3, 2013, the City Council adopted Ordinance 2407 to implement Initiative 502. In Tukwila, marijuana retailers, producers and processors are permitted uses in Tukwila Valley South and Heavy Industrial Zones, subject to the 1,000-foot exclusion rule. In 2015, 2SSB 5052 and HB 2136 allowed cities to reduce buffers from 1,000 to 100 feet around all entities except elementary and secondary schools and public playgrounds. In 2017, the City Council received two separate requests to expand permitted marijuana retail zones but denied both on February 13, 2017.

In 2019, the Finance Committee discussed marijuana revenue and zoning considerations and decided against recommending any changes to the City Council at that time.

### **DISCUSSION**

The state marijuana excise tax and its distributions has changed over time and can be altered in any future legislative session. The State currently taxes marijuana through a single excise tax of 37% at the time of retail sale, in addition to the regular state and local sales tax, and \$30M of that revenue is shared with cities, towns and counties. There are two components to the distributions: 1) per capita share to all jurisdictions that allow the siting of producers, processors and retailers; 2) retail share to all jurisdictions where licensed retailers are physically located and in proportion to total statewide retail sales. Tukwila does not have any marijuana businesses and therefore does not receive sales-based revenue. Tukwila’s per capita excise tax distribution has been:

<b>Year*</b>	<b>Revenues</b>
2021 (to date)	6,018.67
2020	23,951.38
2019	23,016.77
2018	30,275.81
2017	4,697.34

\*City Fiscal Year Jan 1 – Dec 3

It is difficult to estimate what Tukwila would receive for its retail share if the two state-issued licenses were active businesses. The formula depends not only on population but also on marijuana retail sales as a proportion of total retail sales, as well as the number/total population of cities and counties that prohibit marijuana. MRSC used to offer an estimate calculator but discontinued it due to complexity of the formula.

While the revenue is difficult to predict, we can look to neighboring jurisdictions for insight, while recognizing that their larger residential populations result in greater shares than Tukwila would receive in similar circumstances. The chart below shows the 2020 marijuana excise revenue for neighboring cities where marijuana retailers are currently open:

City (number of locations)	Population	2020 Marijuana Excise Revenue*
Burien (2)	51,477	\$111,115
Auburn (3)	80,134	\$178,918
Des Moines (1)	31,734	\$76,657
Renton (4)	101,484	\$207,866

\*State Fiscal Year: July 1 – June 30

At the May 10, 2021 Finance & Governance Committee meeting, several additional information requests were made. Answers provided as follows:

**Updated Public Safety Impacts**

Police Department staff provided an updated list of calls for service by month and call types of note for retailers in neighboring jurisdictions. Please see attached.

**Licensing Process and Social Equity**

Staff from the Washington State Liquor and Cannabis Board provided the following information:

- There is not a waiting list because all available licenses were distributed.
- Licensed retailers are required to be open and operational, but licenses can be held without opening if they obtain a title certificate relieving them of the requirement to be open based on a moratorium, ban, or other zoning restriction, or if the business is temporarily discontinued while they move locations.
- The two licensees for Tukwila have title certificates and are maintaining their requirements in case they are able to open, but they have reported they have been unable to find locations that comply with Tukwila’s zoning ordinance.

House Bill 2870 was passed in 2020 at the request of the Liquor and Cannabis Board to provide business opportunities to retail license applicants disproportionately impacted by the enforcement of marijuana prohibition laws. The bill created a Marijuana Social Equity Program and established a Legislative Task Force on Social Equity in Marijuana. The Task Force was supposed to begin meeting by July 1, 2020 but the COVID-19 pandemic interrupted and delayed this work. Engrossed Substitute House Bill 1443 passed in 2021 expanded the purpose of the Task Force, extended the due date of the final Task Force Report to December 9, 2022, expanded Cannabis Social Equity Technical Assistance Grant Program eligibility, and called for the establishment of a roster of mentors to support and advise social equity licensees and applicants.

**Job Creation**

The Liquor & Cannabis Board does not provide information about number of employees per licensee. According to the Leafly Jobs Report 2021, cannabis sales in Washington State grew 17% in 2020. Total jobs statewide grew by 524 to a total of 19,873. This includes processing, producing and retail jobs.

**Buffer Applicability to 311 Tukwila Parkway**

Because the City Council received an inquiry from a business owner interested in property at 311 Tukwila Parkway, the Committee asked for information on the buffer applicability at this site if the Tukwila Urban Center – Regional Center zone allowed marijuana retail as a permitted use. RCW 69.50.331(8) requires licensed marijuana producers, processors or retailers to be located at least 1,000 feet from elementary/secondary schools, playgrounds, recreation centers, child care centers, public parks, public transit centers, libraries, or game arcades where children are allowed. Staff reviewed the buffer for 311 Tukwila Parkway, and found that Tukwila Park and the game arcade at Bowlero are within 1,000 feet. There are also transit facilities on Andover Park West that fall within 1,000 feet, but it is unclear if those meet the state’s definition for this purpose.

RCW 69.50.331(8)(b) allows local governments to reduce the 1,000 foot buffer to 100 feet around all entities except elementary and secondary schools and public playgrounds by enacting an ordinance authorizing the distance reduction. No school or playground is located within 100 feet of 311 Tukwila Parkway.

**Map of Marijuana Retailers adjacent to Tukwila**

There are a number of interactive online maps showing retail locations, but these are not easily printable in a format suitable to include in the packet. <http://weedmaps.com> provides a good interface to search Washington State, then the areas adjacent to Tukwila.

**Zoning Code Update Process**

If the City Council desires to update the zoning for marijuana-related business, it is a significant work item that would require ordinance development, Planning Commission review, and a public outreach and hearing process.

**RECOMMENDATION**

Discussion only.

**ATTACHMENTS**

Marijuana Excise Tax Excerpt from 11/20 MRSC Revenue Guide for Washington Cities & Towns  
Calls for Service/Call Type Details at Local Marijuana Retailers  
LCB E2SHB 2870 Fact Sheet



## MARIJUANA EXCISE TAX

### Quick Summary

- A portion of the state’s marijuana excise tax is distributed to cities and counties depending on their marijuana policies.
- Two separate components:
  - **Per capita share** distributed to all cities and counties that do not prohibit marijuana businesses.
  - **Retail share** distributed to cities and counties where marijuana retailers are located, in proportion to statewide marijuana revenues.
- No clear guidance on use of revenues, but stated intent of I-502 is that marijuana legalization will “[allow] law enforcement resources to be focused on violent and property crimes [and generate] new state and local tax revenue for education, health care, research, and substance abuse prevention.”

**RCW: 69.50.540(2)(g)**

Initiative 502 (I-502), which was approved by voters in 2012, legalized recreational marijuana and authorized marijuana excise taxes. Marijuana excise taxes are imposed and collected by the State of Washington; as of 2018, the state imposes a 37% marijuana excise tax on the retail sale of marijuana, marijuana concentrates, and marijuana-infused products ([RCW 69.50.535](#) and [WAC 314-55-089](#)).

Cities and counties may *not* impose additional local excise taxes upon the sale of marijuana. However, the state shares some of the excise tax revenues with cities and counties, as mandated by I-502.<sup>60</sup> The actual revenues received by cities depend on legislative appropriations from the state budget. The state legislature has previously attempted to reduce local marijuana excise tax distributions, and like all shared revenues these distributions could be changed in future legislative sessions.

Marijuana excise tax distributions depend in significant part upon local marijuana policies and regulations. The regulatory approach that each city adopts, as well as the number of local marijuana retailers, will determine whether the city receives any marijuana excise tax revenue (and how much).

### **Eligibility and Distribution Formula**

There are two separate components to marijuana excise tax distributions:

- **Per capita share:** Distributed on a strictly per capita (population) basis to all cities, towns, and counties that allow the siting of marijuana producers, processors, AND retailers. Any jurisdiction that prohibits marijuana producers, processors, OR retailers is not eligible.
- **Retail share:** Distributed to all cities, towns, and counties where licensed marijuana retailers are physically located, and in proportional share to total statewide marijuana retail sales.

The different distribution formulas mean that some jurisdictions will receive both the per capita and retail distributions, while others may receive only one or the other, and some jurisdictions will receive neither. The chart below shows a few hypothetical scenarios to illustrate the differences.

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<sup>60</sup> The intent of I-502 states, among other things, that it will “[generate] new state *and local* tax revenue” [emphasis added], although it does not specify how the revenue will be shared with local governments or how much will be shared.

Hypothetical Marijuana Excise Tax Distribution Scenarios	Eligible for per capita share?	Eligible for retail share?
City allows marijuana production, processing, and retail and has at least one retailer located within the jurisdiction.	Yes	Yes
City prohibits marijuana entirely and has no retailers located within the jurisdiction.	No	No
Town took no action to prohibit marijuana, but is small enough that no marijuana businesses can locate there under state law due to the buffer requirements.	Yes	No
City prohibits marijuana producers and processors but allows retailers and has at least one retailer located within the jurisdiction.	No	Yes
City currently prohibits new marijuana businesses but has existing retailers that are grandfathered in.	No	Yes
City prohibits marijuana retail and has no retailers but allows marijuana production and processing.	No	No

Each year by September 15, the LCB must provide the state treasurer with the annual distribution amount for each county and city. For the most recent legislative appropriations and distribution estimates, refer to our annual [Budget Suggestions publication](#), released every year at the end of July.

### **Use of Revenues**

The restrictions on the use of marijuana excise tax revenues are somewhat murky, as there is no clear statute stating how the funds must be used. However, the notes in [RCW 69.50.540](#) reference [RCW 69.50.101](#) and the stated intent of I-502, which states that marijuana legalization will “[allow] law enforcement resources to be focused on violent and property crimes [and generate] new state and local tax revenue for education, health care, research, and substance abuse prevention.”

### **Timing of Receipts**

Payments are distributed quarterly on the last business day of March, June, September, and December. The State Treasurer’s Office distributes both the “per capita” and “retail” shares together in one payment using the same BARS code.

	Auburn		Burien		Des Moines		Renton			
	Evergreen Market	Lucid	The Stash Box	The Joint	Kush 21	Greenside	Buddy's	Emerald Haze	Evergreen Market North	Evergreen Market South
Jan 2019	1	0	2	0	1	4	1	1	3	7
Feb	5	0	0	1	0	1	1	2	1	0
Mar	5	3	1	0	0	7	2	2	4	0
Apr	4	1	2	0	2	9	2	3	7	4
May	3	1	3	1	1	7	2	1	1	1
Jun	3	2	4	3	1	7	1	2	3	5
Jul	0	2	0	0	5	14	1	1	2	2
Aug	5	2	0	1	2	10	0	6	3	4
Sep	8	5	0	1	1	8	4	3	5	4
Oct	9	3	3	4	3	6	1	8	2	2
Nov	3	2	0	1	3	4	3	3	1	4
Dec	1	1	1	0	0	6	2	3	6	0
Jan 2020	8	4	2	0	3	8	4	7	2	1
Feb	4	4	0	2	4	10	0	3	1	3
Mar	3	2	0	2	2	2	1	2	2	7
Apr	2	0	1	2	1	8	1	5	1	6
May	0	3	4	2	4	6	1	2	0	2
Jun	2	1	3	0	4	9	0	5	2	5
Jul	3	6	1	0	4	4	2	2	1	0
Aug	1	3	1	0	0	9	0	1	0	4
Sep	2	4	2	0	3	9	1	3	1	2
Oct	2	4	1	3	1	2	0	3	5	2
Nov	3	7	4	3	2	5	1	4	0	2
Dec	6	1	1	0	3	6	2	3	2	2
Jan 2021	2	2	2	2	0	3	2	1	1	5
Feb	5	1	7	3	1	4	0	2	1	5
Mar	1	3	1	1	2	5	5	4	0	4
Apr	4	1	3	1	0	5	3	1	1	2

Total	95	68	49	33	53	178	43	83	58	85
Avg/Month	3.39	2.43	1.75	1.18	1.89	6.36	1.54	2.96	2.07	3.04

Calls for Service by Month Jan 2019 - April 2021

**Top call types or call types of note:**

**Auburn**

Evergreen Market

Top: Unwanted/suspicious subjects/vehicles, welfare checks

Of Note: two assault calls

Lucid

Top: Unwanted/suspicious subjects

Of Note: four fight/assault calls, four robbery calls, two threats with weapon calls

Stash Box

Top: follow-up calls, suspicious circumstances, unwanted subjects

Of Note: none

**Burien**

The Joint

Top: Trespassing, disturbances

Of Note: Three assault/fight calls

Kush

Top: Suspicious circumstances/disturbance, extra patrols, trespass

Of Note: none

**Des Moines**

Greenside

Top: Unwanted/suspicious subjects, disputes, theft, threats

Of Note: 14 fight/assault calls, four robbery calls

**Renton**

Buddy's

Top: Unwanted/suspicious subjects

Of Note: none

Emerald Haze

Top: Unwanted subjects, disputes

Of Note: four fight/assault calls

Evergreen Market North

Top: Unwanted/suspicious subjects/vehicles

Of Note: three fight/assault calls

Evergreen Market South

Top: Unwanted/suspicious subjects, alarms (unknown if this is a malfunctioning alarm or not)

Of Note: none





**Bill Description:** Allowing additional marijuana retail licenses for social equity purposes.

**Bill Number:** E2SHB 2870

**Bill Sponsor:** Representative Eric Pettigrew, by request of Liquor and Cannabis Board

**Effective Date:** June 11, 2020

**Amends:** RCW 69.50.540; RCW 69.50.325; adds new sections to chapter 69.50 RCW and a new section to chapter 43.330 RCW

## Background

In response to a policy priority identified by the Board, this bill was developed by the Liquor and Cannabis Board to provide business opportunities to applicants of cannabis retail store license disproportionately impacted by the enforcement of marijuana prohibition laws. Initiative 502, the 2012 ballot measure that legalized recreational use of cannabis by adults over 21 years of age, did not include provisions or create programs to acknowledge the disproportionate harms the enforcement of cannabis laws had on some populations and communities.

As other states begin to legalize cannabis for medical or adult use, and to license cannabis production, processing, and retail businesses, they are building social equity programs into their legal frameworks. Programs underway in several states and local jurisdictions provide services, earmark money, and/or set aside a percentage of licenses for specific populations and communities. This LCB-request legislation focuses on 34 cannabis retail licenses currently available within the statewide total retail license cap of 569 stores. The 34 licenses are available because they have been forfeited, cancelled, or revoked or were licenses that were never issued, generally due to local government restrictions. Recognizing that cannabis prohibition laws were disproportionately enforced for decades and that the cumulative harms from this enforcement remain even today, the LCB is committed to providing technical assistance to the newly licensed entrepreneurs to help them launch their businesses successfully.

## Bill Summary

- A Marijuana Social Equity Program is created, authorizing the LCB to issue retailer licenses that were previously forfeited, cancelled, revoked, or never issued but which could have been issued without exceeding the statewide cap on the number of retail licenses set in rule by the Board.
- These licenses may only be issued to a “social equity applicant,” which is defined as someone who has lived in a disproportionately impacted area or was convicted of a cannabis offense or is a member of a family in which someone was convicted of a cannabis offense. Disproportionately impacted areas are defined as small geographic units such as census tracts or zip codes where there are high rates of poverty, unemployment, participation in income-based programs, and/or cannabis law enforcement.

- Social equity goals are to increase the number of licenses held by social equity applicants from disproportionately impacted areas and to reduce the accumulated harm suffered by people and areas subject to severe cannabis prohibition enforcement.
- Applicants must submit a social equity plan. The plan may include:
  - A description of how the retail license issuance will meet social equity goals;
  - The applicant’s personal or family history with the criminal justice system, including any cannabis-related offenses;
  - The composition of the workforce the applicant intends to hire;
  - Neighborhood characteristics of the location where the applicant intends to operate; and
  - Business plans involving partnerships or assistance to organizations or residents with connection to populations with a history of high rates of enforcement of marijuana prohibition.
- A technical assistance grant program is created, to be administered by the Department of Commerce. Grants may be offered to applicants who submit social equity plans.
  - Grants must be awarded competitively, based primarily on the strength of an applicant’s social equity plan.
  - Activities eligible for funding under the grant program include, but are not limited to, assistance with the marijuana retailer licensing process, marijuana business education and business plan development, regulatory compliance training, and connecting the social equity applicant with established industry members.
  - Grants are to be financed through a \$1.1 million annual appropriation to the Department of Commerce from the Dedicated Marijuana Account.
- The Legislative Task Force on Social Equity in Marijuana is established, expiring June 30, 2022.
  - The 18-member task force will be appointed jointly by legislative leadership, to include a member from the LCB, Commission on African American Affairs, Commission on Hispanic Affairs, Governor’s Office of Indian Affairs, and a member of the cannabis retail community, among several others;
  - Staff support for the task force is to be provided by the Health Equity Council of the Governor’s Interagency Council on Health Disparities. Staffing support responsibilities will be transferred to the Office of Equity created by E2SHB 1783, if that bill is enacted, upon request by the Office of Equity.
  - The purpose of the task force is to assist the LCB in developing the program authorized under the bill for issuance of up to 34 marijuana retail licenses, and to advise the Governor and the Legislature regarding future potential development or expansion of the Social Equity Program. One or more reports will be developed by the task force.
  - The task force report, due on December 1, 2020 must address whether any additional licenses should be issued beyond the number already issued or the 34 authorized under the new law.

**Contact Information:**

If you have questions, please contact [Chris Thompson, Director of Legislative Relations](#).