



Legislation Text

File #: 22-0536, Version: 1

Recommendation to request the State Legislation Committee to review and consider supporting SB 1281 and AB 2792; and consider adding an item to the State Legislative Agenda generally advocating for lowering the state cannabis cultivation tax.

The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) established a structure to: regulate the production, sale, and taxation of marijuana products; prevent access by minors; protect public safety, public health, and the environment; and take non-medical marijuana production and sales out of the hands of the illegal market.

The tax provisions contained under this framework have proven to be significantly burdensome for legal cannabis operators. Under existing law, the AUMA imposes a weight-based cultivation tax on harvested cannabis that enters the commercial market and a separate 15% excise tax on purchases of cannabis or cannabis products sold in this state. Local taxes are imposed in addition to these state taxes.

Currently, the weight-based cultivation tax on harvested cannabis is \$161 per pound. This is a flat tax and therefore not proportional to the sales price, meaning that the impact of this tax will vary depending on the market price per pound of cannabis. In cases where the price per pound of cannabis has dropped, this tax is a greater burden on legal cannabis operators, often leading businesses to cut jobs, cut operating costs, or close their doors altogether, accentuating unstable boom and bust cycles in the industry. This tax structure has also inadvertently strengthened the illicit market, as displaced workers and closed cannabis entities seek other, more low-cost avenues for business when prices are low, and only return to legal operations when sustained price growth is seen.

SB 1281 would discontinue the imposition of the cultivation tax, would reduce the excise tax to 5%, and would remove the mark-up, which is based on inflation and determined by the California Department of Tax and Fee Administration, from the definition of market price. Similarly, AB 2792, would prohibit the State from including any mark-up amount in the average market price, would reduce the rate of the cannabis excise tax to 8%, and suspend the cultivation tax until July 1, 2025.

Current taxes make it very difficult for licensed cannabis businesses to turn a profit due to rising operating and regulatory costs. These are significant costs that can exceed 50% in total depending on cannabis price and are cost factors that the illicit market does not face. We all know that consumers of most goods are price-conscious, and some studies have shown a significant majority of customers still operate in the illicit market due to the difference in prices. If legal cannabis businesses struggle to operate, the illicit market will grow stronger

and be more pervasive. These bills will help a more viable legal cannabis market compete against the illicit cannabis market, over time crowding it out and increasing good local jobs, government revenues, and community benefits from local business owners thriving.

This matter was reviewed by Grace H. Yoon on May 5, 2022.

STATEMENT OF URGENCY:

Approval of this recommendation is urgent to ensure the City of Long Beach demonstrates strong support for lowering the cannabis cultivation tax as the California legislature discusses SB1281, AB 2792, and future related items.

This recommendation requests the State Legislation Committee to consider supporting SB 1281 and AB 2792, and add an item advocating for lowering the state cannabis cultivation tax onto the committee agenda. The requested action is anticipated to have a minimal impact on staff hours beyond the budgeted scope of duties and is expected to have a minimal impact on existing City Council priorities.

Approve recommendation.

CINDY ALLEN, COUNCILWOMAN
FIRST DISTRICT

ROBERTO URANGA, COUNCILMEMBER
SEVENTH DISTRICT

REX RICHARDSON, VICE MAYOR
NINTH DISTRICT

APPROVED:

THOMAS B. MODICA
CITY MANAGER