

Washington medical cannabis users get break from the nation's highest pot taxes

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Thanks to a new state law, Washingtonians with a medical cannabis card can get a break from the nation's highest tax on the drug.

The change could nudge more people to get medical cards and potentially depress revenues from the cannabis tax, which generated nearly \$470 million in fiscal year 2023.

While the state is developing formal rules, a trade group representing cannabis businesses in Washington says the state needs to act faster to help them adapt to the new law and prevent the tax exemption from bolstering the illicit market for cannabis.

As of December, 21 states including Washington taxed recreational cannabis, according to the Tax Foundation. Most of those states levy an excise tax as a percentage of the retail price, as Washington does. Washington has a 37% tax rate—top in the nation—while neighboring Oregon taxes recreational cannabis at a rate of 17%.

It's unclear how much state cannabis taxes could decrease under the new law, but if assuming there's a demand for [medical products](#) and the supply meets the demand, state fiscal analysts predict "a significant negative impact."

To receive the tax exemption, the buyer must be a registered patient in the Department of Health's Medical Cannabis Authorization database, and the exemption only applies to products that comply with DOH's standards, including testing for heavy metals and prohibited pesticides. Further, only those retailers who have a medical cannabis endorsement can provide the tax break. There are more than 500 licensed cannabis stores in Washington, according to the Liquor and Cannabis Board.

Julie Graham, a spokesperson for Washington's Liquor and Cannabis Board, said that the board doesn't expect the new exemption will have "a significant impact on the overall cannabis market" in the state.

"Most consumers will continue to buy cannabis produced for the adult-

use recreational market," Graham said. "But it is important that we fulfill the goals of the medical program, too, and we will watch to see if this tax exemption helps increase availability and demand for medically compliant cannabis."

A spokesperson for the state's Department of Health said it was "difficult to speculate" about how many new medical cannabis cards might be issued.

While interest in getting a card may increase, the standards for getting a card will remain the same. Washington residents diagnosed with one of a fairly narrow list of "qualifying conditions"—including cancer, epilepsy and multiple sclerosis—must get a medical cannabis authorization form from their [health care provider](#) to get a card.

"DOH is working on a number of publications for cannabis patients, retailers and producers to help them understand the new law and how to navigate the changes," said spokesperson Frank Ameduri.

The number of medical cardholders has been on the decline in recent years. There were about 12,000 in 2022, compared with about 20,600 in 2017.

Before Washington legalized recreational cannabis in 2012, the state was flooded with quasi-legal dispensaries that sold to patients with medical marijuana authorization. The definition of an authorized patient at the time was far more loosely regulated than after the passage of the legalization measure, Initiative 502.

The Washington CannaBusiness Association, a trade association, has expressed concern that the law is going into effect with little formal guidance for legal businesses.

The lack of official rules from the state "has created a precarious position for the regulated marketplace," said Aaron Pickus, a spokesperson for the association.

You must be 21 or older to purchase cannabis from a licensed retail shop, but you only need to be 18 to get a medical card. (Patients under 18 must have a parent or legal guardian designated as a provider).

"Our goal is that the integrity of the law is protected, so that this new significant financial incentive isn't used as a way to turn back the clock with medical cards available for everyone—including those under 21—and allow for a new toehold for the illicit marketplace," Pickus said.

Pickus says that while the LCB has worked to provide more clarity on what retailers must do, there aren't formal rules in place yet. And that matters to businesses because if a customer didn't pay the excise tax when they should have, the retailer is liable for that tax. There is also a lack of clarity around whether producers and processors need to update their packaging, he said.

Late last month, in response to questions and requests for more information, the agency listed information that retailers should track and maintain when selling medical products to people eligible for the tax break, including the date and price of the sale, and the patient's authorization card number.

The agency's rule-making process is scheduled to take place over the summer months, but the rules won't take effect until September "at the earliest," according to the guidance issued by the agency May 29.

The new tax break applies only to medically-compliant products. A store with a medical cannabis endorsement must have a medical consultant on

staff and be able to register patients in the state DOH database.

The Department of Health says it's the responsibility of the medical cannabis consultant to verify the authenticity of the provider authorization form, and will be issuing a "resource guide" for retailers and consultants on how to help them verify that a form is authentic. If any part of the form is incomplete or the form appears invalid, DOH said, the consultant should tell the patient or designated provider to go back to the medical professional.

The tax exemption is scheduled to expire in about five years, in June 2029. Medical cardholders can already get an exemption from the state's retail sales tax.

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