

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 34011 of the Revenue and Taxation Code is amended to read:

34011. (a) (1) *(A)* Effective January 1, 2018, a cannabis excise tax shall be imposed upon purchasers of cannabis or cannabis products sold in this state at the rate of 15 percent of the average market price of any retail sale by a cannabis retailer. ~~A~~

(B) (i) Effective July 1, 2025, and until July 1, 2026, the cannabis excise tax imposed in subparagraph (A) shall be increased by an additional percentage of the average market price of any retail sale by a cannabis retailer that the Department of Finance estimates will generate an amount of revenue equivalent to half the amount that would have been collected pursuant to the weight-based cultivation tax imposed under Section 34012, as that section read on June 30, 2022.

(ii) Effective July 1, 2026, the cannabis excise tax imposed in subparagraph (A) shall be increased by an additional percentage of the average market price of any retail sale by a cannabis retailer that the Department of Finance estimates will generate an amount of revenue equivalent to the amount that would have been collected pursuant to the weight-based cultivation tax imposed under Section 34012, as that section read on June 30, 2022.

(iii) The Department of Finance shall determine the additional percentage increases specified in this subparagraph by analyzing the historical average value of quarterly cultivation taxes collected pursuant to Section 34012, as that section read on June 30, 2022, as a percentage of retail sales from the third quarter of 2018 through the fourth quarter of 2021, as reported by the department.

(2) A purchaser's liability for the cannabis excise tax is not extinguished until the cannabis excise tax has been paid to this state except that an invoice, receipt, or other document from a cannabis retailer given to the purchaser pursuant to this subdivision is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers.

~~(2)~~
(3) Each cannabis retailer shall provide a purchaser with an invoice, receipt, or other document that includes a statement that reads: "The cannabis excise taxes are included in the total amount of this invoice."

~~(3)~~
(4) The department may prescribe other means to display the cannabis excise tax on an invoice, receipt, or other document from a cannabis retailer given to the purchaser.

(b) (1) A distributor in an arm's length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer. A

distributor in a nonarm's length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer, or at the time of retail sale by the cannabis retailer, whichever is earlier. A distributor shall report and remit the cannabis excise tax to the department pursuant to Section 34015. A cannabis retailer shall be responsible for collecting the cannabis excise tax from the purchaser and remitting the cannabis excise tax to the distributor in accordance with rules and procedures established under law and any regulations adopted by the department.

(2) A distributor shall provide an invoice, receipt, or other similar document to the cannabis retailer that identifies the licensee receiving the product, the distributor from which the product originates, including the associated unique identifier, the amount of cannabis excise tax, and any other information deemed necessary by the department. The department may authorize other forms of documentation under this paragraph.

(c) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

(d) Gross receipts from the sale of cannabis or cannabis products for purposes of assessing the sales and use taxes under Part 1 (commencing with Section 6001) shall include the tax levied pursuant to this section.

(e) Cannabis or cannabis products shall not be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

(f) The sales and use taxes imposed by Part 1 (commencing with Section 6001) shall not apply to retail sales of medicinal cannabis, medicinal cannabis concentrate, edible medicinal cannabis products, or topical cannabis as those terms are defined in Division 10 (commencing with Section 26000) of the Business and Professions Code when a qualified patient or primary caregiver for a qualified patient provides their card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

(g) Nothing in this section shall be construed to impose an excise tax upon medicinal cannabis, or medicinal cannabis product, donated for no consideration to a medicinal cannabis patient pursuant to Section 26071 of the Business and Professions Code.

(h) (1) Nothing in this section shall be construed to impose an excise tax upon cannabis or cannabis products designated as a trade sample pursuant to Section 26153.1 of the Business and Professions Code.

(2) A person licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code that sells cannabis or cannabis products designated as a trade sample pursuant to Section 26153.1 of the Business and Professions Code shall be liable for the excise tax imposed by this section as if the person were a cannabis retailer at the time of sale.

SEC. 2. Section 34012 of the Revenue and Taxation Code is amended to read:

34012. (a) Effective January 1, 2018, *and until July 1, 2022*, there is hereby imposed a cultivation tax on all harvested cannabis that enters the commercial market upon all cultivators. The tax shall be due after the cannabis is harvested and enters the commercial market.

(1) The tax for cannabis flowers shall be nine dollars and twenty-five cents (\$9.25) per dry-weight ounce.

(2) The tax for cannabis leaves shall be set at two dollars and seventy-five cents (\$2.75) per dry-weight ounce.

(b) The department may adjust the tax rate for cannabis leaves annually to reflect fluctuations in the relative price of cannabis flowers to cannabis leaves.

(c) The department may from time to time establish other categories of harvested cannabis, categories for unprocessed or frozen cannabis or immature plants, or cannabis that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with cannabis flowers.

- (d) The department may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the cannabis is packaged.
- (e) The tax stamps and product bags shall be of the designs, specifications, and denominations as may be prescribed by the department and may be purchased by any licensee under Division 10 (commencing with Section 26000) of the Business and Professions Code.
- (f) Subsequent to the establishment of a tax stamp program, the department may by regulation provide that cannabis shall not be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.
- (g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26068 of the Business and Professions Code.
- (h) Cultivators shall be responsible for payment of the tax pursuant to regulations adopted by the department. A cultivator's liability for the tax is not extinguished until the tax has been paid to this state except that an invoice, receipt, or other document from a distributor or manufacturer given to the cultivator pursuant to paragraph (3) is sufficient to relieve the cultivator from further liability for the tax to which the invoice, receipt, or other document refers. Cannabis shall not be sold unless the tax has been paid as provided in this part.
- (1) A distributor shall collect the cultivation tax from a cultivator on all harvested cannabis that enters the commercial market. This paragraph shall not apply where a cultivator is not required to send, and does not send, the harvested cannabis to a distributor.
- (2) (A) A manufacturer shall collect the cultivation tax from a cultivator on the first sale or transfer of unprocessed cannabis by a cultivator to a manufacturer. The manufacturer shall remit the cultivation tax collected on the cannabis product sold or transferred to a distributor for quality assurance, inspection, and testing, as described in Section 26110 of the Business and Professions Code. This paragraph shall not apply where a distributor collects the cultivation tax from a cultivator pursuant to paragraph (1).
- (B) Notwithstanding subparagraph (A), the department may prescribe a substitute method and manner for collection and remittance of the cultivation tax under this paragraph, including a method and manner for collection of the cultivation tax by a distributor.
- (3) A distributor or manufacturer shall provide to the cultivator, and a distributor that collects the cultivation tax from a manufacturer pursuant to paragraph (2) shall provide to the manufacturer, an invoice, receipt, or other similar document that identifies the licensee receiving the product, the cultivator from which the product originates, including the associated unique identifier, the amount of cultivation tax, and any other information deemed necessary by the department. The department may authorize other forms of documentation under this paragraph.
- (4) The department may adopt regulations prescribing procedures for the refund of cultivation tax collected on cannabis or cannabis product that fails quality assurance, inspection, and testing as described in Section 26110 of the Business and Professions Code.
- (i) All cannabis removed from a cultivator's premises, except for plant waste or medicinal cannabis or medicinal cannabis products designated for donation, shall be presumed to be sold and thereby taxable under this section, except as otherwise exempt pursuant to Section 34012.2.
- (j) The tax imposed by this section shall be imposed on all cannabis cultivated in the state pursuant to rules and regulations promulgated by the department, but shall not apply to cannabis cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act of 1996 (Proposition 215), found in Section 11362.5 of the Health and Safety Code.

(k) (1) For the 2020 calendar year, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the department for inflation.

(2) For the 2021 calendar year, the rates shall be those imposed for the 2020 calendar year in paragraph (1) and shall not be adjusted for inflation unless the adjustment is for an inflation rate that is less than zero.

(3) For the 2022 calendar year, *until July 1, 2022*, the rates shall be those imposed for the 2021 calendar year in paragraph (2) and shall be adjusted by the department for inflation.

~~(4) Beginning January 1, 2023, the rates imposed for the previous calendar year shall be adjusted by the department annually for inflation.~~

(l) The Department of Cannabis Control is not responsible for enforcing any provisions of the cultivation tax.

(m) This section shall become inoperative on July 1, 2022.

SEC. 3. The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.