

DON'T TAX MEDICAL CANNABIS PATIENTS

SB 987

Authored by Senator Mike McQuire (Dist. 2)

OPPOSE

Location: SENATE

SB 987 would impose an additional 15% tax on medical cannabis consumption statewide, in addition to existing sales tax and any other taxes imposed by local governments. The revenue generated by the new tax would be allocated to the state's General Fund, a grant program for local enforcement, maintenance of state parks, and drug and alcohol treatment programs. This tax would not be effective if voters approve a similar tax in November.

Americans for Safe Access (ASA) opposes SB 987 because this tax is an unfair burden on legal medical cannabis patients. Medical cannabis is already very expensive, and it is not covered by insurance. Unlike prescription medicines, medical cannabis is subject to sales tax of between 7.5% and 10%. Furthermore, a number of cities have imposed an additional tax of between 5% and 15% on medical cannabis.

Stacking taxes on medical cannabis is a hardship for legal patients, and may also undermine implementation of the newly adopted Medical Marijuana Regulation and Safety Act (MMRSA) and local licensing ordinances. The Tax Foundation, the nation's leading independent tax policy research organization, found that high taxes on medical cannabis create an incentive for buying cannabis from the illicit market. In fact, Colorado, Oregon, Washington and Alaska are considering or in the process of lowering their tax rates on cannabis (*Marijuana Legalization and Taxes: Lessons for Other States from Colorado and Washington*, The Tax Foundation, May 12, 2016).

Legitimate medicine should be taxed differently than a vice, such as alcohol, tobacco, or cannabis used for non-medical purposes. Some lawmakers are under the impression that most medical cannabis users are not legitimate, although no evidence supports this claim. We must not let anecdotes or unsubstantiated bias influence policies that affect people lawfully using medical cannabis with a doctor's recommendation.

Research shows that more than 1.4 million Californians had used medical cannabis as of 2012, and 92% of those reported significant relief from a serious medical condition. The most commonly treated conditions included chronic pain, arthritis, migraines, and cancer – conditions for which conventional treatments may be unavailable or ineffective [*"Prevalence of medical marijuana use in California, 2012," Drug and Alcohol Review (2014), DOI: 10.1111/dar.12207*]. These are not trivial conditions, and use of medical cannabis to treat their symptoms is legal and legitimate under California law. Therefore, patients should not incur an excessive tax burden to treat their medical conditions.

There is a legitimate need for revenue to implement California's new medical cannabis licensing and regulation program. However, the Medical Marijuana Regulation and Safety Act (MMRSA) already requires applicants for state licenses to cover all the costs associated with licensing. State law also provides for recovering the cost of enforcement and environmental remediation from violators. Cities and counties may rely on similar local fees and fines to cover their costs.

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ASA calls on lawmakers to refrain from adopting any new state tax on medical cannabis. Numerous factors will affect the total cumulative tax burden on medical cannabis patients and the viability of the MMRSA:

1. Cities and counties will tax medical cannabis businesses and organizations to cover their local licensing and enforcement costs. Excessive state taxation may put pressure on local governments to collect less tax revenue to avoid incentivizing the illicit market.
2. Voters will decide on a ballot measure in November that would impose a 15% tax on medical and non-medical cannabis but exempt medical cannabis from sales tax. This will change the state/local tax equation.
3. The cost associated with enforcement and remediation is still unknown. Existing laws and regulations may cover most or all of these costs (MMRSA, SB 165, water board rules, etc.).

We will have a better idea of costs and revenue in the future. State lawmakers should coordinate with local governments this year to create a revenue strategy based on real-world data. If we avoid the temptation to impose excessive taxation up front, we can create a rational tax plan that is fair for legal patients, encourages the growth of the legal medical cannabis industry, and meets the needs of the state and local governments.

Constituent Comments on SB 987

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