

OKLAHOMA TAX COMMISSION

REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT SECOND REGULAR SESSION, FIFTY-EIGHTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: February 1, 2022

BILL NUMBER: HB 3754 STATUS AND DATE OF BILL: Introduced 01/20/22

AUTHORS: House Fetgatter Senate NA

TAX TYPE (S): Marijuana Excise and Sales Tax SUBJECT: Other

PROPOSAL: New Law and Amendatory

HB 3754 proposes to create the Oklahoma Adult Access to Marijuana Act, allowing the retail sale of marijuana and marijuana products to persons 21 year of age or older who do not possess a valid medical marijuana patient license or valid caregiver license issued by the Oklahoma Medical Marijuana Authority. An excise tax of 15% is levied on all such sales. The proposal further amends 63 O.S. §§ 421 – 423 and 427.14 to create an adult access business license for medical marijuana dispensaries, processors, commercial growers and transporters. The annual, nonrefundable application fee for an adult access business license is \$25,000, and all fees must be deposited into the Oklahoma Adult Access to Marijuana Revolving Fund.

EFFECTIVE DATE: September 1, 2022

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 23: Estimated increase in marijuana excise tax revenue of \$11.3 million.

Estimated increase in sales tax revenue of \$3.5 million.

FY 24: Estimated increase in marijuana excise tax revenue of \$15.4 million.

Estimated increase in sales tax revenue of \$4.6 million.

Feb. 11, 2022
DATE

Rick Miller
DIVISION DIRECTOR

bdf

2/11/2022
DATE

Huan Gong
HUAN GONG, ECONOMIST

2/14/2022
DATE

[Signature]
FOR THE COMMISSION

The revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.

ATTACHMENT TO REVENUE IMPACT – HB 3754 [Introduced] Prepared 2/1/2022

HB 3754 proposes to create the Oklahoma Adult Access to Marijuana Act (Act), which allows persons 21 year of age or older to lawfully perform the following acts:

- Possess, use, display, purchase or transport marijuana accessories or one ounce or less of marijuana;
- Transfer one ounce or less of marijuana without remuneration to a person who is 21 years of age or older;
- Consume marijuana; excluding consumption that is conducted openly, publicly, or in a manner that endangers others; or
- Assist another person who is 21 years of age or older in any of the allowable acts.

In addition, the Act allows a licensed medical marijuana dispensary to lawfully sell marijuana or marijuana products to a person who is 21 years of age or older who does not possess an Oklahoma medical marijuana patient license, and to purchase marijuana or marijuana products for retail sale to a person 21 years of age or older from a valid medical marijuana business licensee.

An excise tax of 15% is levied on all sales of marijuana and marijuana products by a licensed medical marijuana dispensary to any person 21 years of age or older who does not possess a valid medical marijuana patient license or valid caregiver license issued by the Oklahoma Medical Marijuana Authority (OMMA). The excise tax is calculated based on the gross sales price of the marijuana or marijuana products prior to any discounts. In addition, the retail sale of marijuana or marijuana products is subject to the Oklahoma Sales Tax Code and to any municipal or county sales taxes. The due and payable excise tax must be remitted to the Oklahoma Tax Commission (OTC) using procedures prescribed by the OTC.

The Oklahoma Adult Access to Marijuana Revolving Fund is created in the State Treasury for the OMMA. The Fund is a continuing fund, not subject to fiscal year limitations, and consists of all monies received by the OMMA from adult access business license fees collected pursuant to 63 O.S. §§ 421 – 423 and 427.14. All monies are apportioned, as follows:

- 25% of the fees collected to be used by the OMMA for the implementation and maintenance of an inventory tracking system, as provided for in the Oklahoma Medical Marijuana and Patient Protection Act; and
- 75% is to be distributed and credited to the General Revenue Fund.

The proposal further amends 63 O.S. §§ 421 – 423 and 427.14 to create an adult access business license for medical marijuana dispensaries, processors, commercial growers and transporters. Beginning September 1, 2022, the OMMA must make applications for an adult access business license for medical marijuana dispensaries, processors, commercial growers and transporters available on its website in an easy-to-find location. The annual, nonrefundable application fee for an adult access business license is \$25,000, and all fees must be deposited into the Oklahoma Adult Access to Marijuana Revolving Fund.

For this analysis, it is assumed that marijuana sales will increase by 10% for sales to persons 21 years of age or older who do not possess a valid medical marijuana patient or caregiver license.¹ Oklahoma Tax Commission records indicate approximately \$66 million in medical marijuana excise tax revenue for FY 21.² Related sales are estimated to be approximately \$943 million. Assuming similar activity for FY 23 and 24, the expected increase in marijuana excise tax that could occur as a result of the proposal is estimated as follows:

¹ Because marijuana retail sales are not limited to Oklahoma residents, it is assumed that sales will increase for both in-state and out-of-state customers.

² See <https://oklahoma.gov/content/dam/ok/en/tax/documents/resources/reports/annual-reports/otc/AR-2021.pdf>.

Period	Prior FY Est. Sales	Annual Inflation Rate *	Current FY Est. Sales	10% Increase In Sales	15% Excise Tax	Impact Rate	Estimated Impact
FY 22	\$943,000,000	4.20%	\$982,606,000	-	-	-	-
FY 23	\$982,606,000	2.40%	\$1,006,188,544	\$100,618,854	\$15,092,828	75% *	\$11,319,621
FY 24	\$1,006,188,544	2.30%	\$1,029,330,881	\$102,933,088	\$15,439,963	100%	\$15,439,963

* **Source:** Consumer Price Index: All Items Excluding Food and Energy

** Given the September 1, 2022, effective date of the proposal, a partial impact is expected for FY 23.

Based on these calculations, the expected revenue impact of the proposal is an estimated increase in marijuana excise tax revenue of approximately \$11.3 million for FY 23 and \$15.4 million for FY 24. In addition, related sales tax revenue is expected to increase by approximately \$3.4 million for FY 23 and \$4.6 million for FY 24.