

Date: 04/19/2023

To: Honorable Representative Jesse Sumner
Chair, House Labor & Commerce Committee
House.Labor.And.Commerce@akleg.gov

From: Two Black Dogs Property MGMT LLC.

Re: PLEASE DO NOT Support "HB 119"
An Act relating to marijuana taxes.

Chair Sumner and distinguished members of the House Labor and Commerce Committee,

I strongly urge you to NOT support HB 119. This is NOT a responsible change in tax policy that will benefit all Alaskans, nor will it ensure that our homegrown Alaskan industry is positioned to survive and thrive in the years to come.

There are a lot of cannabis cultivators that are way behind on their tax bills both State and Federal, and those reason often are due to mismanagement of those companies. If a cultivator grows a sub-par product and cannot charge top price that burden is on the cultivator, not the retailer. The fact is, quality cultivators are charging top shelf prices per-pound up to \$3500, and they can not produce enough. Cultivators who are growing a sub-par product are charging up to \$2500 per-pound. The solution for any cultivator is not to pass on your tax burden to the consumer, but to cultivate a quality product that can be sold at a premium price. As with any industry, the Invisible Hand is the best at regulating a free market and this is proven by cultivators that are operating/marketing a quality product, they will outlast the competition. <https://www.adamsmithworks.org/documents/adam-smith-peter-foster-invisible-hand> while those that are not will be replaced.

Cannabis cultivators ARE truly paying too much in tax per-pound of cannabis sold to a retail store or a manufacturer. I truly believe the tax on cultivators should be reduced. However, I do not support a 3% tax being placed on cannabis dispensary retailers. Shifting this tax burden creates multiple issues for many dispensaries inside and outside of Anchorage. For example, the City of Seward has a 7% sales tax, adding 3% to our local dispensary's puts the total tax at 10%. The dispensaries in Soldotna and Kenai have a 3% sales tax and Anchorage charges a 5% cannabis sales tax. The implantation of an additional 3% tax instantly puts some business financially ahead of others.

In addition, Cannabis dispensaries are already faced with a massive tax burden that manufactures and cultivators do not have with the Federal Government. The tax code under 280E <https://www.irs.gov/about-irs/providing-resources-to-help-cannabis-business-owners-successfully-navigate-unique-tax-responsibilities> only allows a cannabis business to use C.O.G.S as a deduction, and nothing else. However, cannabis cultivators and manufactures get a lot more deductions on their federal taxes under C.O.G.S. Every cultivator and manufacturer are aware they are way ahead when it comes to tax liabilities between the individual cannabis industries.

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I am sure you have received a letter of support drafted by AMIA. I also received the letter and will address AMIA point here.

AMIA <https://alaskamia.org/> is suggestion the following in a letter they are sending to you, and those within the cannabis industry.

“Hemp derived THC is severely undercutting Alaska's taxed cannabis market, allowing retailers to cut out the cultivation and production supply lines. Intoxicating Hemp is reducing the taxable revenue for both municipalities and the State alike. The black market is taking advantage of the current tax rate, which creates an artificially high price floor - and is subjecting Alaska's regulated cannabis market to arbitrage.” -AMIA letter received on 04/18/2023

I do not understand how AMIA can state that the black-market is taking advantage of the current tax rate. The term “Black Market” is being used falsely by AMIA to gain support for this bill. The definition of black market is found here, <https://www.investopedia.com/terms/b/blackmarket.asp>. AMIA is inferring that Federally Legal Hemp companies operate within the black market, which is false. I do understand why cannabis manufacturers and cultivators within the state of Alaska want to ban the sale of D9 products produced from Federally Legal Hemp, but I do not understand why they are using false terms like black market.

AMIA also suggests the following,

“A 3% tax at the retail level is the correct change that should be implemented to create a fair market. A retail percentage tax is more effective to administer and enforce than a weight-based excise tax. Retailers already track sales and revenue, making it easier for them to collect and remit the tax. On the other hand, a weight-based tax requires monitoring and tracking at multiple stages of the supply chain, which can be more complicated and costly to administer.” -AMIA

How AMIA can state that adding a 3% tax burden to retailers would create a fair market is not understandable, as I stated at the beginning of this letter.

AMIA also suggest the following,

The State has not made tax collection easy; with only one cash drop box currently in Anchorage; this requires cultivators to make a monthly trip to Anchorage. Retail sales collection could also happen for the State at the municipal level, on a quarterly basis - which would drastically reduce the burden on the State and the Taxpayer. -AMIA

Cannabis retail companies must drive/fly to their local sales tax office to make sales tax payments just like any cultivator or manufacturer. For the business located in Seward, that is a 2-hour one-way drive. How could making retailers pay an additional 3% tax “drastically reduce” the burden on the State and the Taxpayer?

AMIA also suggest the following,

“A change to taxation at the retail level would allow for prices to come down for consumers - this would stave off the black market, while also allowing value added products to be captured by the tax. A retail percentage tax ensures that the tax burden is distributed fairly and equitably based on the final sale price of the product. A weight-based tax unfairly penalizes producers who have lower yields and less potent products, while allowing producers with higher yields and higher potency to have lower effective tax rates per pound. The current tax structure rewards potency and quality, and craft cannabis growers are suffering. . A retail percentage tax is a more equitable and transparent way of taxing marijuana products.” -AMIA

How can AMIA make the statement that the retail prices for consumers would come down by an increase in sales tax, this makes zero mathematical “Cent’s.” Every economist knows that any increase in sales tax raises consumer purchasing prices and lowers consumer purchasing power. This is basic economics. <https://smallbusiness.chron.com/sales-tax-effect-supply-demand-20815.html>

Lastly, AMIA suggest the following,

“Long-term a retail percentage tax will generate more revenue than a weight-based excise tax because it is based on the final sale price of the product, captures value-added products and a more competitive market will inhibit black market growth. . As the legal market matures, prices would stabilize and a retail percentage tax can provide a more reliable and predictable source of revenue to the state.” - AMIA

“The original framers of the current tax structure have admitted that revisions would be necessary and now is the time. Overall, a retail percentage tax on marijuana provides a simpler, fairer, and more reliable way to generate revenue for the state while also providing stability and continued job growth for the marijuana industry.”-AMIA

Implementing a 3% tax burden to retailers who are already under a heavy federal tax burden in comparison to cultivators and manufactures only aids one group within the cannabis industry, the cultivators. To imply that cultivators will lower their prices and create a more competitive market price is a “pipe” dream. To think that the price increase that consumers directly pay won’t increase the true cannabis black market is blind economics at best.

Finally, I hope I have stated a clear response to the request from AMIA and the Marijuana Task Force to implement a 3% tax burden to cannabis retailers. The State truly should lower the tax burden put on cannabis cultivators and leave it at that.

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