

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

Anchorage, Alaska  
September 14, 2023  
2:52 p.m.

**MEMBERS PRESENT**

Representative Jesse Sumner, Chair  
Representative Justin Ruffridge, Vice Chair  
Representative Mike Prax  
Representative Dan Saddler  
Representative Ashley Carrick

**MEMBERS ABSENT**

Representative Stanley Wright  
Representative Zack Fields

**COMMITTEE CALENDAR**

HOUSE BILL NO. 119

"An Act relating to marijuana taxes; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 119

SHORT TITLE: MARIJUANA TAX

SPONSOR(s): RULES BY REQUEST

03/17/23	(H)	READ THE FIRST TIME - REFERRALS
03/17/23	(H)	L&C, FIN
03/24/23	(H)	L&C AT 3:15 PM BARNES 124
03/24/23	(H)	<Bill Hearing Canceled>
03/31/23	(H)	L&C AT 3:15 PM BARNES 124
03/31/23	(H)	Heard & Held
03/31/23	(H)	MINUTE(L&C)
04/24/23	(H)	L&C AT 3:15 PM BARNES 124
04/24/23	(H)	<Bill Hearing Rescheduled to 04/26/23>
04/26/23	(H)	L&C AT 3:15 PM BARNES 124
04/26/23	(H)	Heard & Held
04/26/23	(H)	MINUTE(L&C)
08/17/23	(H)	L&C AT 3:00 PM ANCH LIO DENALI Rm
08/17/23	(H)	-- Rescheduled to 09/14/23 --

09/14/23

(H)

L&C AT 3:00 PM ANCH LIO DENALI Rm

**WITNESS REGISTER**

CODY RICE, House Majority Staff  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** On behalf of the bill sponsor, House Rules by request, gave a PowerPoint presentation, titled "HB 119 Marijuana Tax."

BRANDON EMMETT, Co-Chair  
Governor's Advisory Task Force on Recreational Marijuana  
Fairbanks, Alaska

**POSITION STATEMENT:** Answered questions on CSHB 119, Version B.

CHRISTY LAWTON, Deputy Director  
Division of Public Health  
Department of Health  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions on CSHB 119, Version B.

ELIZA MUSE, Health Specialist  
Division of Public Health  
Department of Health  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions on CSHB 119, Version B.

LACY WILCOX, Legislative Liaison  
Alaska Marijuana Industry Association  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions on CSHB 119, Version B.

**ACTION NARRATIVE**

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**CHAIR JESSE SUMNER** called the House Labor and Commerce Standing Committee meeting to order at 2:52 p.m. Representatives Ruffridge, Prax, Carrick, and Sumner were present at the call to order. Representative Saddler arrived as the meeting was in progress.

**HB 119-MARIJUANA TAX**

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CHAIR SUMNER announced that the only order of business would be HOUSE BILL NO. 119, "An Act relating to marijuana taxes; and providing for an effective date." [Before the committee, adopted as a working document on 4/26/23, was the proposed committee substitute (CS) for HB 119, Version 33-LS0636\B, Radford, 4/18/23, ("Version B").]

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CODY RICE, House Majority Staff, Alaska State Legislature, on behalf of the bill sponsor, House Rules by request, gave a PowerPoint presentation, titled "HB 119 Marijuana Tax" [hard copy included in the committee packet]. He stated that there are a variety of views on this policy, and he said he would "stick to the facts." He said that a number of states have price-based marijuana taxes; however, Alaska has an excise tax on each category of the cannabis plant. He explained that CSHB 119, Version B, if passed, would first change this tax to a single tax across all categories, and then a move to a retail sales tax would be made after 18 months.

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MR. RICE moved to slide 2, which showed that Alaska is ranked in the middle among states in terms of cannabis tax revenue. He moved to slide 3, which shows the comparisons of these taxes across the legal jurisdictions in the country. He explained that because of the differences in the taxing systems, making a comparison is a complicated process. Notwithstanding that, the comparison suggests that the tax on marijuana in Alaska is higher than that in other jurisdictions [with legalized marijuana] in the country.

MR. RICE moved to slide 4 concerning Colorado's market. He explained that marijuana is a commodity, and the graph on the slide shows that once legal, the price of marijuana has moved in a downward trend. He pointed out that this is especially important if cannabis is federally legalized, as this would create more competition for the market in Alaska.

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MR. RICE moved to slide 5, displaying the Department of Revenue's (DOR's) historical data on the ounces of cannabis sold by the categories of bud, immature, and trim product in Alaska. He stated that the highest selling category in 2021 had been bud. After this year, he pointed out the change in the product

mix on the graph. He expressed the opinion that this has been a response to the tax policy. He explained that it is objectively difficult to measure, test, and determine the difference between the categories of bud, trim, and immature product [which creates the product mix]. He stated that this is defined in regulation but difficult to enforce. He suggested that this gives growers incentive to find fault in their own product. He disclosed that this is not an opinion on policy, rather these are the effects of the current policy. In result of this product mix, he pointed out that the tax revenues from marijuana are decreasing.

MR. RICE moved to slide 7 and stated that the graph shows the weighted average tax, which reinforces that tax revenues are decreasing. He moved to slide 8 to show the estimated marijuana tax revenues under the current law and slide 9 to further explain these forecasted revenues compared with forecasts from Version B. He addressed the model he had presented to the committee in a previous meeting and described the four different scenarios. He pointed out that in every scenario the revenues would exceed the expectation when using a tax of \$12.50 per ounce for 18 months, and then moving to a 10 percent sales tax.

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MR. RICE, referencing questions from the previous committee meeting, expressed the understanding that under the proposed legislation it appears the tax rate would decrease from \$50 per ounce to \$12.50; however, he explained that this is not a fair comparison because the \$50 per ounce tax is for the top category only. He continued that [for all categories], the current weighted average tax would be around \$28 per ounce, and he suggested that it would be lower for the upcoming year. He advised that comparing this to a sales tax is difficult, and he estimated that a sales tax would be around \$12 per ounce, which would be about a 2 percent reduction.

MR. RICE summarized the presentation, stating that the facts reveal that legal marijuana prices tend to drop over time, Alaska has higher than average marijuana taxes, and the changing product mix is resulting in lower revenue. He estimated that if nothing changes these revenues would be \$9 million less in three years. He reiterated that the models he made of the proposed legislation all show higher revenue.

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REPRESENTATIVE CARRICK, regarding slide 4, questioned Alaska's marijuana tax burden in comparison to other states, if Version B were to pass.

MR. RICE, per the proposed legislation, explained that there is a higher forecasted reduction in revenue in the near term; however, in the long term it would be a 1 percent to 2 percent reduction.

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CHAIR SUMNER questioned the percentage of retail sales tax needed to move Alaska to the middle of the chart on slide 4.

MR. RICE expressed uncertainty but stated that the average in other states with a retail sales tax is about 7 percent to 12 percent.

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REPRESENTATIVE PRAX pointed out that the fiscal note from DOR comes to a different conclusion regarding a marijuana tax reduction. He questioned the difference between this conclusion and DOR's.

MR. RICE expressed the opinion that DOR's conclusion is not accurate. He explained that, in reference to the status quo, DOR assumed that revenue would stay in place or go up. He expressed confidence that revenue would go down without the proposed changes.

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REPRESENTATIVE CARRICK referred to the comment that revenue has been reduced because of a product mix. She questioned whether the loss of cultivation in the state is also influencing the reduction of revenue.

MR. RICE responded in the affirmative. He deferred to the industry representatives to speak to this.

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BRANDON EMMETT, Co-Chair, Governor's Advisory Task Force on Recreational Marijuana, pointed out he is only speaking to the analysis of the task force and not speaking for the industry. He pointed out that recommendations made by the task force are

similar to the proposed legislation, with the difference being the task force recommends a percentage of tax change. Given the industry's burden of producing, along with the evidence of the black market and attrition rate, he suggested that it would be prudent that the committee recommends a dramatic reduction in taxes.

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REPRESENTATIVE CARRICK questioned the task force's opinion concerning the tax of 10 percent verses a lower rate.

MR. EMMETT expressed the belief that changing to a 10 percent tax would not provide much relief. He stated that Alaska has the highest effective tax in the nation, as well as the highest cost to produce marijuana, and this is combined with a very healthy black market. He expressed the belief that without any other changes, a 10 percent tax would not provide relief for long-term sustainability.

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REPRESENTATIVE PRAX questioned the estimated amount of marijuana on the black market. He questioned whether legalization had changed this.

MR. EMMETT responded that when marijuana became legal, there had been several surveys on individuals and the amount of marijuana they consumed. Using this data, he expressed the opinion that now 40 to 50 percent of marijuana sold in the state is on the black market. He stressed that anyone in the state can find marijuana that costs 50 percent less on the black market than in a retail store.

REPRESENTATIVE PRAX said the task force made several other recommendations, such as removing the product transfer restriction and amending the annual registration. He asked if the committee should consider these recommendations.

MR. EMMETT said that many of the recommendations were made through the scope of whether public safety would be affected. He suggested that the task force's recommendations were made in the consideration of public safety while allowing the industry the best chance for survival.

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REPRESENTATIVE PRAX referenced statistics from the Department of Health (DOH) and a nationwide study. He suggested that in these statistics the assumption is that any use of marijuana presents a health concern; however, the nationwide study suggested that many people are self-medicating in regard to a health problem, such as depression or insomnia. He questioned whether there is any data on the benefits of marijuana.

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ELIZA MUSE, Health Specialist, Division of Public Health, Department of Health, explained that there are conditions where marijuana use could be seen as advantageous. She said that prior to Alaska's legalization, DOH had a medical marijuana registry; however, because of legalization the need for medical marijuana cards has decreased. She said, "There is certainly a time and place for medical marijuana." She added that there is a list of debilitating conditions in which medical marijuana has been beneficial. She stated that the survey Representative Prax referred to is the International Cannabis Policy Study. She stated that it is a comprehensive study that looks at use and trends over time, and it discusses where Alaskans have purchased products, legally and illegally.

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CHRISTY LAWTON, Deputy Director, Division of Public Health, Department of Health, explained that CSHB 119, Version B, would address the fiscal challenges the marijuana industry is facing. She said that Version B would also supply funding for prevention education and treatment. She stated that implementation would be long term through DOH, with after school programs for grades 5 through grades 8. She stated that Version B would result in a temporary reduction in these funds until the sales tax is fully enacted. She further detailed the funding provision for recidivism, education, and treatment. She continued that the proposed legislation would reduce, stall, or end some of these public health programs for the first 18 months, while in the long run, programs for youth would grow.

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REPRESENTATIVE CARRICK asked if there are any current programs funded independently from sources other than marijuana revenue.

MS. LAWTON said that the division has 10 grantees that provide after school programs with activities and services. Of these

programs, three are exclusively funded by grant programs. In response to a follow-up question, she stated that, per the proposed legislation, the temporary pause on programs would last 18 months.

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REPRESENTATIVE PRAX shared that in high school he had been involved in a service organization which discouraged drug use. He expressed the understanding that now such work may have been counterproductive. He questioned whether there is any data showing the success rate of DOH's prevention efforts.

MS. MUSE responded that in the last several decades more has been learned on the topic, and programs like D.A.R.E. may have been counterproductive in the effort to reduce substance misuse. She said that success rates are created now by using safe spaces for youth where they can interact with their peers and ask questions of trusted adults. These programs use fact-based arguments rather than "fear mongering." She said that the programs are not based on prevention, rather they are based on creating safe spaces, as the goal is to have structured quality programs with trained individuals. She stated that the grants are targeted for youth in grade 5 to grade 8, as this is the time that experimenting with marijuana happens. She added that earlier use will more often lead to addiction issues in adulthood. She said success rates are not determined by asking youth about their marijuana use, but rather by implementing metrics, such as expanding programs with quality training for staff.

REPRESENTATIVE PRAX pointed out that reports have put forth that marijuana use among high schoolers is elevated. He opined that the usage did not seem to change much even after legalization. He asked if there is any data addressing whether this usage has gone up or down.

MS. MUSE answered that there is data from a 2019 Alaska Youth Risk Survey; however, the survey was not done in 2021. She said that over time the trendline has been stable for the use of cannabis products pre and post legalization. She continued that there has not been a change in the trend for all high school students, but when the data is disaggregated by gender or grade, there has been a small uptick in female use. She expressed hope that there will be 2023 data available. In response to a follow-up question, she stated that there has been enough data to establish usable trends in program evaluations. She

continued that marijuana, tobacco minus vaping, and alcohol usage has remained stable. She pointed out that this is an area that could use more research. In response to a follow-up question about the conclusion that the programs are successful, she answered that the trend across all populations nationally where recreation use is legalized shows marijuana use has remained stable, despite the funding of prevention programs. She reiterated more research is needed.

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LACY WILCOX, Legislative Liaison, Alaska Marijuana Industry Association (AMIA), stated that AMIA's concerns have been addressed during the meeting, and AMIA supports the task force's recommendations. She referenced the economic impact on the industry because of attrition, tax delinquency, and burdensome regulations. She stated that the industry is in "survival mode" and expressed the opinion that this is not a surprise because it has been known the industry would need help from the legislature regarding the high and complex tax scheme. She pointed out that data had not been available at the time [of legalization] for forecasting. She outlined various tax percentages and said that AMIA supports the 3 percent tax, as a 10 percent tax would grow over time. Considering some municipal taxes, she explained that the proposed legislation does not contain language for a cap, and this would allow the tax burden to increase over time.

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REPRESENTATIVE CARRICK questioned the attrition on the cultivation side of the industry and how this may be related to the tax burden and regulatory concerns.

MS. WILCOX stated that when legalization occurred and the framework was created, two cultivation types were created, a limited and standard grow. The limited cultivator was created to bring in black-market growers into the legal system. She talked about the small home-grow operations, as taxing these has caused attrition at about 30 percent. She suggested that because of the overburdensome regulations, these operations are not renewing their licenses. She pointed out that within the last year there has been a 25 percent loss of large grow operation cultivators as well. She added that each cultivator grows various qualities and amounts, and this creates a varied amount of tax to the state, which is difficult to track. She stated that the marijuana consumption rate in the state has not changed, but where the product is purchased has. She suggested

that when small cultivators do not renew their licenses, they do not shut down, rather, they become part of the black market.

REPRESENTATIVE CARRICK expressed the understanding that the industry is not seeing a drop off in demand, but the drop off is in the [legal] supply.

MS. WILCOX responded in the affirmative. She pointed out that product mixing, as explained by Mr. Rice, has also decreased the amount of tax the state receives. She expressed the opinion that this has incentivized the industry to "cheat." She reasoned that this is because the system, as is, is not sustainable.

REPRESENTATIVE CARRICK questioned whether there is an ideal tax rate between 10 percent and 3 percent which would prevent black market growth.

MS. WILCOX responded in the negative, insisting that the percentage number should be 3; however, she continued that 3 percent still feels like a tax. She stressed that long-term thinking is needed and said that 10 percent is punitive while 3 percent would allow the industry to grow.

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REPRESENTATIVE RUFFRIDGE questioned the current tax structures and how this effects the "cheating model."

MS. WILCOX responded that in the beginning cultivators were following the guidelines for fear of enforcement; however, seeing the lack of enforcement and the price drop, cultivators understood that they could declare the value of their product as lower, while still being "honest enough," and this could be declared on taxes with no repercussions. She expressed the opinion that 90 percent of cultivators have done this.

[HB 119, Version B, was held over.]

[4:00:09 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was [adjourned] at 4:00 p.m.