

## COMMENTS ON HB 2411 -Cannabis Action Coalition

This bill does not adequately explain the need for a “Marijuana Tax Stamp”. The excise taxes required by I-502 require payment from producers, processors and retailers at the time of sale. This bill apparently sets up an entirely different, and conflicting, tax payment structure.

Current regulations require that taxes must be paid through the existing LCB rules. This new legislation seems to confuse the tax collection that is currently to be paid by individual producers, processors, and retailers. This bill would appear to only require producers and processors to produce tax stamps. The bill is so woefully confusing it would certainly be found void for vagueness.

Does marijuana sold to a processor require a stamp before it goes to a processor? Does this mean that all marijuana shipped to the processor must have a stamp on the bulk packaging and then must be re-stamped when it is repackaged and goes from the processor to the retailer?

Are these producers and processors required to purchase these “marijuana tax stamps, thus paying the excise taxes to the LCB, in advance of production or processing? Does this mean that these producers and processors no longer to pay their taxes to the LCB on a monthly or quarterly basis? This could create a financial disaster for producers and processors who must purchase these stamps, pay the 25% excise tax, prior to the sale of their products.

Since the 25% excise tax is based on the selling price, what would the price of the stamps be? Would there be both an excise tax as well as a separate price for the tax stamps?

The current law provides that one ounce of marijuana acquired from any source is “legal” under the provisions of I-502. This bill would appear to establish a distinction between marijuana purchased through an LCB licensed producer, processor or retailer, and marijuana that was acquired from a different source, for example, marijuana acquired from a patient’s own garden, marijuana from a collective garden, or marijuana acquired from the black market.

It would appear, to even the most casual interpretation, that these tax stamps are ultimately intended to be used to arrest those that did not purchase their marijuana through an LCB licensed store.

Not only have these “marijuana tax stamps” been ruled to be an illegal violation of Fifth Amendment Constitutional protections against self-incrimination under *Leary v. United States*, but these marijuana tax stamps have also be found to be unconstitutional under *State v. Wilson* for violating the double-jeopardy protections under the Fifth Amendment.

The fact that there is no mention of violations, jurisdiction or enforcement, only makes this law even more impossible to understand and appear to be more of a precursor for a law than a complete statute. There appear to be no penalties for the possession of marijuana in packaging that does not have the required stamp attached to the marijuana.

It is further unclear as to who is to enforce this new law, what the penalties will be. Will all law enforcement agencies be charged with arresting offenders and collecting these taxes? Will the LCB be the only agency allowed to make arrests for violations of this marijuana tax law? Will these be state cases?

This bill is not only incomplete and void for vagueness, but it clearly violates decades of constitutional case law that has already determined that “marijuana tax stamps” are illegal. The fact that so little homework was done on this bill, we suggest that the legislature develop panel of experts on Marijuana/Cannabis law before wasting taxpayer resources on legislation that can either not be implemented or that will certainly face constitutional challenges in the Federal courts.

Sincerely,

Steve Sarich  
Executive Director  
Cannabis Action Coalition  
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American Medical Association  
Bureau of Legal Medicine and Legislation  
Chicago, July 10, 1937  
Hon. Pat Harrison  
Chairman, Committee on Finance, United States Senate  
Washington D.C.

SIR: I have been instructed by the board of trustees of the American Medical Association to protest on behalf of the association against the enactment in its present form of so much of H.R. 6906 as relates to the medicinal use of cannabis and its preparations and derivatives. The act is entitled "An Act to impose an occupational excise tax upon certain dealers in marihuana, to impose a transfer tax upon certain dealings in marihuana, and to safeguard the revenue therefrom by registry and recording."

Cannabis and its preparations and derivatives are covered in the bill by the term "marihuana" as that term is defined in section 1, paragraph (b). There is no evidence, however, that the medicinal use of these drugs has caused or is causing cannabis addiction. As remedial agents, they are used to an inconsiderable extent, and the obvious purpose and effect of this bill is to impose so many restrictions on their use as to prevent such use altogether. Since the medicinal use of cannabis has not caused and is not causing addiction, the prevention of the use of the drug for medicinal purposes can accomplish no good end whatsoever. How far it may serve to deprive the public of the benefits of a drug that on further research may prove to be of substantial value, it is impossible to foresee.

The American Medical Association has no objection to any reasonable regulation of the medicinal use of cannabis and its preparations and derivatives. It does protest, however, against being called upon to pay a special tax, to use special order forms in order to procure the drug, to keep special records concerning its professional use and to make special returns to the Treasury Department officials, as a condition precedent to the use of cannabis in the practice of medicine. In the several States, all separate and apart from the taxes, order forms, records, and reports required under the Harrison Narcotics Act with reference to opium and coca leaves and their preparations and derivatives.

If the medicinal use of cannabis calls for Federal legal regulation further than the legal regulation that now exists, the drug can without difficulty be covered under the provisions of the Harrison Narcotics Act by a suitable amendment. By such a procedure the professional use of cannabis may readily be controlled as effectively as are the professional uses of opium and coca leaves, with less interference with professional practice and less cost and labor on the part of the Treasury Department.

It has been suggested that the inclusion of cannabis into the Harrison Narcotics Act would jeopardize the constitutionality of that act, but that suggestion has been supported by no specific statements of its legal basis or citations of legal authorities.

Wm. C. Woodward,

Legislative Counsel

# History of Repressive Tax Stamps



## *British Tax Stamp - 1765*

The British Tax Stamp of 1765 was the first tax imposed on the American colonists. This tax is credited, at least in part, to the beginning of the American revolution against the British government.

This action led to the one of the most famous quotes of the revolution.

*"No taxation without representation"*

## *Federal Marijuana Tax Stamp - 1937*



The Federal Tax Stamp of 1937 was the beginning of the decades long war on cannabis in the United States, a war which our country spread throughout the world. In 1937, when this stamp act was established, 34% of all medications produced in the United States contained cannabis.

This stamp act was vigorously opposed by the medical community, including the American Medical Association. The Stamp Act was the beginning of the War on Drug in America which is costing the US \$51,000,000,000 per year.

The Marijuana Tax Stamp was found to be a violation of the 5th Amendment right against self incrimination by a unanimous vote of the U.S. Supreme Court in 1969. The case was *Leary v. United States*. This decision has never been overturned.



Texas



Nebraska

## *State Marijuana Tax Stamps - 1937-1995*

Since 1937, numerous states have also issued Marijuana Tax Stamps. The last state to issue these stamps was Arizona in 1983, during the height of the War on Drugs.

In 1995 the Court ruled (*State v. Wilson*), that these tax stamps violated the Fifth Amendment right against double jeopardy. This put an end to Marijuana Tax Stamps in the United States.

*Any attempt at initiating a new Marijuana Tax Stamp in Washington State would clearly be ruled unconstitutional by the Federal Courts.*