



# HOUSE OF REPRESENTATIVES

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**Testimony of Representative David Boyer  
Presenting L.D. 1405 An Act to Change How Adult Use Cannabis  
Excise Tax Is Calculated  
Before the Joint Standing Committee on Taxation**

Senator Grohoski, Representative Perry and distinguished members of the Joint Standing Committee on Taxation, my name is Representative David Boyer and I am proud to present L.D. 1405 An Act to Change How Adult Use Cannabis Excise Tax is Calculated.

As originally passed by Maine voters in 2016, the only tax on cannabis was at the retail level and it was a 10% tax. Drafters of the initiative knew that a high tax rate would empower the illicit market.

After the vote, the legislature created the Marijuana Legalization Implementation Committee. The MLI committee made many substantive changes to the law, some welcomed and others not-so much. One of those changes was a tax increase by adding an excise tax at the cultivation level.

Their idea to was to have about a 20% tax on cannabis: 10% at the point of sale and 10% on cultivators. The MLI Committee chose to enact a fixed excise tax on cultivators rather than a percentage based one. They knew that the price of cannabis would go down, so they wanted a flat amount that would stay roughly the same.

So, to figure out what that excise tax should be, the committee decided to use 10% of the cost of a pound of cannabis at the time. Nearly six years ago, that was determined to be \$3,350. Thus, we have a \$335 excise tax on cultivators. Since 2017, the price of cannabis has tumbled, and adult-use cultivators are being overtaxed.

My bill would remedy this by directing the department to determine the average market rate on an annual basis. This change would better reflect the intent of the MLI Committee. Additionally, my bill would lower the excise tax for cannabis trim from \$94 to \$25 per pound. Between rising energy costs, 280E prohibiting deduction of normal business expenses, and competition from the illicit market, our adult-use cultivators are in desperate need of fair and sensible tax policies.

Since submitting this bill, it has come to my attention that when medical cannabis operators move into the adult-use market, they have to pay an excise tax when they transfer their medical plants to adult-use plants. They then must pay the same excise tax on the cannabis when they sell it to a retailer. This is a double tax which should be fixed. There should be no tax when switching to adult-use.

The best way to stamp out the illicit market is to allow the adult-use industry to compete in quality, price, and convenience. As we have learned in the VLA Committee, every regulation and every tax come at a cost. We must choose which regulations are absolutely necessary for public health and public safety.

I appreciate the committee's time and consideration of this bill. Thank you.