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**SUBSTITUTE SENATE BILL 5417**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Commerce & Labor (originally sponsored by Senators Rivers, Mullet, Dansel, Cleveland, Hatfield, and Hill)

AN ACT Relating to local government marijuana policies; amending RCW 69.50.357, 69.50.369, 69.50.530, 69.50.535, 69.50.540, and 69.50.331; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 69.50.357 and 2014 c 192 s 4 are each amended to read as follows:

(1) Retail outlets ((~~shall sell no~~)) may not sell products or services other than marijuana concentrates, useable marijuana, marijuana-infused products, or paraphernalia intended for the storage or use of marijuana concentrates, useable marijuana, or marijuana-infused products.

(2) Licensed marijuana retailers ((~~shall~~)) may not employ persons under twenty-one years of age or allow persons under twenty-one years of age to enter or remain on the premises of a retail outlet.

(3) Licensed marijuana retailers ((~~shall~~)) may not display any signage in a window, on a door, or on the outside of the premises of a retail outlet that is visible to the general public from a public right-of-way, other than a single sign no larger than one thousand six hundred square inches identifying the retail outlet by the licensee's business or trade name.

(4) Licensed marijuana retailers ((~~shall~~)) may not display useable marijuana or marijuana-infused products in a manner that is visible to the general public from a public right-of-way.

(5) ((~~No~~)) A licensed marijuana retailer or employee of a retail outlet ((~~shall~~)) may not open or consume, or allow to be opened or consumed, any marijuana concentrates, useable marijuana, or marijuana-infused product on the outlet premises.

(6) The state liquor control board ((~~shall~~)) must fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated marijuana ((~~fund~~)) account created under RCW 69.50.530.

**Sec.**  RCW 69.50.369 and 2013 c 3 s 18 are each amended to read as follows:

(1) ((~~No~~)) A licensed marijuana producer, processor, or retailer ((~~shall~~)) may not place or maintain, or cause to be placed or maintained, an advertisement of marijuana, useable marijuana, or a marijuana-infused product in any form or through any medium whatsoever:

(a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;

(b) On or in a public transit vehicle or public transit shelter; or

(c) On or in a publicly owned or operated property.

(2) Merchandising within a retail outlet is not advertising for the purposes of this section.

(3) This section does not apply to a noncommercial message.

(4) The state liquor control board ((~~shall~~)) must fine a licensee one thousand dollars for each violation of subsection (1) of this section. Fines collected under this subsection must be deposited into the dedicated marijuana ((~~fund~~)) account created under RCW 69.50.530.

**Sec.**  RCW 69.50.530 and 2013 c 3 s 26 are each amended to read as follows:

((~~(1) There shall be a fund, known as the dedicated marijuana fund, which shall consist of all marijuana excise taxes, license fees, penalties, forfeitures, and all other moneys, income, or revenue received by the state liquor control board from marijuana-related activities. The state treasurer shall be custodian of the fund.~~

~~(2)~~)) The dedicated marijuana account is created in the state treasury. All moneys received by the state liquor control board, or any employee thereof, from marijuana-related activities ((~~shall~~)) must be deposited ((~~each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the dedicated marijuana fund.~~

~~(3) Disbursements from the dedicated marijuana fund shall be on authorization of the state liquor control board or a duly authorized representative thereof~~)) in the account. All marijuana excise taxes collected from sales of marijuana, useable marijuana, and marijuana-infused products under RCW 69.50.535, and the license fees, penalties, and forfeitures derived under chapter 3, Laws of 2013 from marijuana producer, marijuana processor, and marijuana retailer licenses, must be deposited in the account. Moneys in the account may only be spent after appropriation.

**Sec.**  RCW 69.50.535 and 2014 c 192 s 7 are each amended to read as follows:

(1) There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each wholesale sale in this state of marijuana by a licensed marijuana producer to a licensed marijuana processor or another licensed marijuana producer. This tax is the obligation of the licensed marijuana producer.

(2) There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each wholesale sale in this state of marijuana concentrates, useable marijuana, and marijuana-infused products by a licensed marijuana processor to a licensed marijuana retailer. This tax is the obligation of the licensed marijuana processor.

(3) There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each retail sale in this state of marijuana concentrates, useable marijuana, and marijuana-infused products. This tax is the obligation of the licensed marijuana retailer, is separate and in addition to general state and local sales and use taxes that apply to retail sales of tangible personal property, and is part of the total retail price to which general state and local sales and use taxes apply.

(4) All revenues collected from the marijuana excise taxes imposed under subsections (1) through (3) of this section ((~~shall~~)) must be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the dedicated marijuana ((~~fund~~)) account.

(5) The state liquor control board ((~~shall~~)) must regularly review the tax levels established under this section and make recommendations to the legislature as appropriate regarding adjustments that would further the goal of discouraging use while undercutting illegal market prices.

**Sec.**  RCW 69.50.540 and 2013 c 3 s 28 are each amended to read as follows:

((~~All marijuana excise taxes collected from sales of marijuana, useable marijuana, and marijuana-infused products under RCW 69.50.535, and the license fees, penalties, and forfeitures derived under chapter 3, Laws of 2013 from marijuana producer, marijuana processor, and marijuana retailer licenses shall every three months be disbursed by the state liquor control board~~)) At the end of each quarter during each fiscal year, subject to appropriated amounts, the funds in the dedicated marijuana account must be disbursed as follows:

(1) One hundred twenty-five thousand dollars to the department of social and health services to design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and state liquor control board. The survey ((~~shall~~)) must be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

(2) Fifty thousand dollars to the department of social and health services for the purpose of contracting with the Washington state institute for public policy to conduct the cost-benefit evaluation and produce the reports described in RCW 69.50.550. This appropriation ((~~shall~~)) must end after production of the final report required by RCW 69.50.550;

(3) Five thousand dollars to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by marijuana use;

(4) An amount not exceeding one million two hundred fifty thousand dollars of the funds deposited into the account for the quarter must be disbursed to the state liquor control board as is necessary for administration of chapter 3, Laws of 2013;

(5) Of the funds remaining after the disbursements identified in subsections (1) through (4) of this section:

(a) Fifteen percent to the department of social and health services division of behavioral health and recovery for implementation and maintenance of programs and practices aimed at the prevention or reduction of maladaptive substance use, substance-use disorder, substance abuse or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, among middle school and high school age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation; PROVIDED, That:

(i) Of the funds disbursed under (a) of this subsection, at least eighty-five percent must be directed to evidence-based and cost-beneficial programs and practices that produce objectively measurable results; and

(ii) Up to fifteen percent of the funds disbursed under (a) of this subsection may be directed to research-based and emerging best practices or promising practices.

In deciding which programs and practices to fund, the secretary of the department of social and health services ((~~shall~~)) must consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute;

(b) Ten percent to the department of health for the creation, implementation, operation, and management of a marijuana education and public health program that contains the following:

(i) A marijuana use public health hotline that provides referrals to substance abuse treatment providers, utilizes evidence-based or research-based public health approaches to minimizing the harms associated with marijuana use, and does not solely advocate an abstinence-only approach;

(ii) A grants program for local health departments or other local community agencies that supports development and implementation of coordinated intervention strategies for the prevention and reduction of marijuana use by youth; and

(iii) Media-based education campaigns across television, internet, radio, print, and out-of-home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by marijuana use;

(c) Six-tenths of one percent to the University of Washington and four-tenths of one percent to Washington State University for research on the short and long-term effects of marijuana use, to include but not be limited to formal and informal methods for estimating and measuring intoxication and impairment, and for the dissemination of such research;

(d) ((~~Fifty percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW;~~)) Thirty-three percent must be appropriated to counties, cities, and towns in the following manner:

(i) Fifty percent must be distributed to counties, cities, and towns where marijuana licensees are physically located. Each jurisdiction must receive a share of this distribution based on the proportional share of the total revenues generated in the individual jurisdiction from the taxes collected under RCW 69.50.535 from licensees physically located in each jurisdiction; and

(ii) Fifty percent must be distributed to counties, cities, and towns to be used for criminal justice purposes. Criminal justice purposes has the same meaning as described in RCW 82.14.340. The funds must be distributed as follows:

(A) Seventy percent distributed on a per capita basis to counties; and

(B) Thirty percent distributed on a per capita basis to cities; and

(C) Funds may only be distributed to those jurisdictions that have not banned the siting or operation of state licensed marijuana producers, processors, or retailers through affirmative legislative action, moratorium, or other legal action;

(e) Five percent to the Washington state health care authority to be expended exclusively through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;

(f) Three-tenths of one percent to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW; and

(g) The remainder to the general fund.

**Sec.**  RCW 69.50.331 and 2013 c 3 s 6 are each amended to read as follows:

(1) For the purpose of considering any application for a license to produce, process, or sell marijuana, or for the renewal of a license to produce, process, or sell marijuana, the state liquor control board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, or renewal or denial thereof, of any license, the state liquor control board may consider any prior criminal conduct of the applicant including an administrative violation history record with the state liquor control board and a criminal history record information check. The state liquor control board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor control board ((~~shall~~)) must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW ((~~shall~~)) do not apply to these cases. Subject to the provisions of this section, the state liquor control board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (9) of this section. Authority to approve an uncontested or unopposed license may be granted by the state liquor control board to any staff member the board designates in writing. Conditions for granting this authority ((~~shall~~)) must be adopted by rule. No license of any kind may be issued to:

(a) A person under the age of twenty-one years;

(b) A person doing business as a sole proprietor who has not lawfully resided in the state for at least three months prior to applying to receive a license;

(c) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or

(d) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The state liquor control board may, in its discretion, subject to the provisions of RCW 69.50.334, suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, or selling marijuana, useable marijuana, or marijuana-infused products thereunder ((~~shall~~)) must be suspended or terminated, as the case may be.

(b) The state liquor control board ((~~shall~~)) must immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license ((~~shall~~)) must be automatic upon the state liquor control board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The state liquor control board may request the appointment of administrative law judges under chapter 34.12 RCW who ((~~shall~~)) must have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under rules and regulations the state liquor control board may adopt.

(d) Witnesses ((~~shall be~~)) are allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the state liquor control board or a subpoena issued by the state liquor control board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, ((~~shall~~)) must compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee ((~~shall forthwith~~)) must deliver ((~~up~~)) the license to the state liquor control board. Where the license has been suspended only, the state liquor control board ((~~shall~~)) must return the license to the licensee at the expiration or termination of the period of suspension. The state liquor control board ((~~shall~~)) must notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any marijuana, useable marijuana, or marijuana-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under chapter 3, Laws of 2013 ((~~shall be~~)) is subject to all conditions and restrictions imposed by chapter 3, Laws of 2013 or by rules adopted by the state liquor control board to implement and enforce chapter 3, Laws of 2013. All conditions and restrictions imposed by the state liquor control board in the issuance of an individual license ((~~shall~~)) must be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee ((~~shall~~)) must post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) ((~~No~~)) A licensee ((~~shall~~)) may not employ any person under the age of twenty-one years.

(7)(a) Before the state liquor control board issues a new or renewed license to an applicant it ((~~shall~~)) must give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns.

(b) The incorporated city or town through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, ((~~shall have~~)) has the right to file with the state liquor control board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The state liquor control board may extend the time period for submitting written objections.

(c) The written objections ((~~shall~~)) must include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the state liquor control board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the state liquor control board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, state liquor control board representatives ((~~shall~~)) must present and defend the state liquor control board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the state liquor control board ((~~shall~~)) must send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8) The state liquor control board ((~~shall~~)) may not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older, unless the legislative body of an incorporated city or town has exempted the city or town from the one thousand foot restriction set forth in this subsection by adopting legislation that declares such an exemption to be necessary to create enough potential locations within the city or town to allow a marijuana retail facility to be sited. The legislative body of an incorporated city or town may exempt certain specific land uses, except elementary or secondary schools, from the one thousand foot restriction set forth in this subsection. The legislative body of an incorporated city or town may reduce the size of the one thousand foot restriction set forth in this subsection for one or more specific land uses.

(9) In determining whether to grant or deny a license or renewal of any license, the state liquor control board ((~~shall~~)) must give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

**--- END ---**