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**SUBSTITUTE HOUSE BILL 1712**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** House Commerce & Gaming (originally sponsored by Representatives Sawyer and Condotta)

AN ACT Relating to establishing an endorsement to the marijuana retailer's license to authorize marijuana delivery services; amending RCW 43.06.490; adding a new section to chapter 69.50 RCW; and providing an effective date.

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

NEW SECTION. **Sec.**  A new section is added to chapter 69.50 RCW to read as follows:

(1) There is a marijuana delivery endorsement to a marijuana retailer's license that authorizes the holder to deliver marijuana products to a person age twenty-one or over at a private residence, hotel, motel, boarding house, resort, hostel, trailer camp, or similar lodging business.

(2)(a) The state liquor and cannabis board may issue a delivery endorsement only to a qualified applicant, as determined by the board, that holds a marijuana retailer license issued pursuant to RCW 69.50.325 and the premises of which is located in a local jurisdiction that authorizes the delivery of marijuana products pursuant to an ordinance. The state liquor and cannabis board has discretion in determining whether an applicant is qualified to receive a delivery endorsement.

(b)(i) A local jurisdiction may authorize the delivery of marijuana products only by ordinance.

(ii) A copy of the local jurisdiction's ordinance must be transmitted to the state liquor and cannabis board.

(c)(i) The state liquor and cannabis board shall establish the fee for the delivery endorsement.

(ii) The amount of the fee must reflect the expected costs of administering the program and may subsequently be adjusted by the state liquor and cannabis board to reflect the program's actual costs.

(d) The state liquor and cannabis board may, after examining the overall characteristics of the commercial marijuana market in local jurisdictions that authorize marijuana delivery and the qualifications of applicants for the delivery endorsement, limit the number of delivery endorsements issued or stop issuing delivery endorsements.

(e)(i) Each delivery endorsement issued pursuant to this section applies to only one licensed marijuana retail outlet.

(ii) If a person or entity that applies for a delivery endorsement holds more than one marijuana retailer's license, a separate delivery endorsement is required for each marijuana retail outlet from which the holder wishes to conduct the delivery of marijuana products.

(3)(a) A delivery of marijuana products by a marijuana retailer with a delivery endorsement may be made only to a person age twenty-one or over who is the same person who placed the order and who receives the delivery at a premises described in subsection (1) of this section that is located within a local jurisdiction that authorizes the delivery of marijuana products.

(b) The holder of a delivery endorsement may utilize not more than two delivery vehicles per work shift.

(c) Any person delivering marijuana products must be an owner or employee of the licensed marijuana retailer with the delivery endorsement and must have undergone training regarding proof of age identification and verification.

(4) In accordance with this section and rules adopted to implement this section, a licensed marijuana retailer with a delivery endorsement may:

(a) Receive an order over the telephone or internet, by a person age twenty-one or over, for the purchase and delivery of marijuana products not in excess of the amounts authorized in RCW 69.50.360(3); and

(b) Deliver marijuana products not in excess of the amounts authorized in RCW 69.50.360(3), to the same person age twenty-one or over who placed the order for the marijuana products over the telephone or internet.

(5)(a) A person placing an order for the purchase and delivery of marijuana products in accordance with this section must possess valid identification and must allow the marijuana retailer with the delivery endorsement or its owner or employee to inspect the person's valid identification for proof of age.

(b) The marijuana retailer with a delivery endorsement or its owner or employee must confirm the validity of the person's identification utilizing an electronic device or web-based application as required by the state liquor and cannabis board.

(6) All provisions of this chapter and all rules adopted pursuant to this chapter apply to the sale and delivery of marijuana products by a licensed marijuana retailer with a delivery endorsement issued in accordance with this section.

(7) It is not a violation of any provision of state law, civil or criminal, for a marijuana retail outlet with a delivery endorsement, or its owner or employee who is trained in accordance with rules adopted pursuant to this section, to possess, transport, and deliver marijuana products pursuant to a delivery endorsement in amounts that do not exceed amounts established by the state liquor and cannabis board.

(8) No marijuana advertising may be displayed on a vehicle that delivers marijuana products pursuant to a delivery endorsement issued under this section.

(9) The state liquor and cannabis board may adopt rules to implement this section. The rules must include the following:

(a) Eligibility requirements for qualified licensed marijuana retailers;

(b) Training requirements for owners or employees of marijuana retailers that hold a delivery endorsement who will deliver marijuana products pursuant to this section;

(c) Practices and procedures for conducting compliance tests to ensure that no marijuana products are delivered to a person under twenty-one years of age by a marijuana retailer with a delivery endorsement;

(d) Civil penalties and other administrative action, as the board deems appropriate, that apply to a marijuana retailer with a delivery endorsement that delivers marijuana products to a person under twenty-one years of age;

(e) Procedures for proof of age identification and verification;

(f) Delivery vehicle requirements;

(g) Security requirements;

(h) Recordkeeping requirements;

(i) Limits on the amounts of marijuana products and money that may be carried in a delivery vehicle;

(j) Practices and procedures to ensure that marijuana products delivered pursuant to this section are subject to the same traceability requirement that otherwise apply to marijuana products sold by a licensed marijuana retailer pursuant to this chapter and rules adopted to implement this chapter; and

(k) Penalties for violations of this section or rules adopted to implement this section.

**Sec.**  RCW 43.06.490 and 2015 c 207 s 2 are each amended to read as follows:

(1) The governor may enter into agreements with federally recognized Indian tribes concerning marijuana. Marijuana agreements may address any marijuana-related issue that involves both state and tribal interests or otherwise has an impact on tribal-state relations. Such agreements may include, but are not limited to, the following provisions and subject matter:

(a) Criminal and civil law enforcement;

(b) Regulatory issues related to the commercial production, processing, sale, and possession of marijuana, and processed marijuana products, for both recreational and medical purposes;

(c) Medical and pharmaceutical research involving marijuana;

(d) Taxation in accordance with subsection (2) of this section;

(e) Any tribal immunities or preemption of state law regarding the production, processing, or marketing of marijuana; ((~~and~~))

(f) Dispute resolution, including the use of mediation or other nonjudicial process; and

(g) Delivery sales by tribes, tribal enterprises, or tribal member-owned businesses that are retailers of marijuana, to consumers, where:

(i) The delivery of marijuana originates in Indian country;

(ii) Physical transfer of possession of marijuana occurs within or outside of Indian country; and

(iii) Delivery sale requirements are the same or substantially the same as delivery sale requirements pursuant to section 1 of this act.

(2)(a) Each marijuana agreement adopted under this section must provide for a tribal marijuana tax that is at least one hundred percent of the state marijuana excise tax imposed under RCW 69.50.535 and state and local sales and use taxes on sales of marijuana. Marijuana agreements apply to sales in which tribes, tribal enterprises, or tribal member-owned businesses (i) deliver or cause delivery to be made to or receive delivery from a marijuana producer, processor, or retailer licensed under chapter 69.50 RCW or (ii) physically transfer possession of the marijuana from the seller to the buyer within Indian country.

(b) The tribe may allow an exemption from tax for sales to the tribe, tribal enterprises, tribal member-owned businesses, or tribal members[,] on marijuana grown, produced, or processed within its Indian country, or for activities to the extent they are exempt under state or federal law from the state marijuana excise tax imposed under RCW 69.50.535 or state and local sales or use taxes on sales of marijuana. Medical marijuana products used in the course of medical treatments by a clinic, hospital, or similar facility owned and operated by a federally recognized Indian tribe within its Indian country may be exempted from tax under the terms of an agreement entered into under this section.

(3) Any marijuana agreement relating to the production, processing, and sale of marijuana in Indian country, whether for recreational or medical purposes, must address the following issues:

(a) Preservation of public health and safety;

(b) Ensuring the security of production, processing, retail, and research facilities; and

(c) Cross-border commerce in marijuana.

(4) The governor may delegate the power to negotiate marijuana agreements to the state liquor ((~~control~~)) and cannabis board. In conducting such negotiations, the state liquor ((~~control~~)) and cannabis board must, when necessary, consult with the governor and/or the department of revenue.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Indian country" has the same meaning as in RCW 82.24.010.

(b) "Indian tribe" or "tribe" means a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.

(c) "Marijuana" means "marijuana," "marijuana concentrates," "marijuana-infused products," and "useable marijuana," as those terms are defined in RCW 69.50.101.

NEW SECTION. **Sec.**  This act takes effect July 1, 2018.

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