S-1369.2

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**SUBSTITUTE SENATE BILL 5284**

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

**By** Senate Commerce, Labor & Sports (originally sponsored by Senators Carlyle and Rivers)

AN ACT Relating to the regulation of marijuana advertising; amending RCW 69.50.357 and 69.50.369; creating a new section; and prescribing penalties.

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

NEW SECTION. **Sec.**  The legislature finds that protecting the state's children, youth, and young adults under the legal age to purchase and consume marijuana, by establishing limited restrictions on the advertising of marijuana and marijuana products, is necessary to assist the state's efforts to discourage and prevent underage consumption and the potential risks associated with underage consumption. The legislature finds that these restrictions assist the state in maintaining a strong and effective regulatory and enforcement system as specified by the federal government. The legislature finds this act leaves ample opportunities for licensed marijuana businesses to market their products to those who are of legal age to purchase them, without infringing on the free speech rights of business owners. Finally, the legislature finds that the state has a substantial and compelling interest in enacting this act aimed at protecting Washington's children, youth, and young adults.

**Sec.**  RCW 69.50.357 and 2016 c 171 s 1 are each amended to read as follows:

(1) Retail outlets 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 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. However, qualifying patients between eighteen and twenty-one years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of eighteen with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement, but may not purchase products for their personal medical use.

(3)(a) Licensed marijuana retailers must ensure that all employees are trained on the rules adopted to implement this chapter, identification of persons under the age of twenty-one, and other requirements adopted by the state liquor and cannabis board to ensure that persons under the age of twenty-one are not permitted to enter or remain on the premises of a retail outlet.

(b) Licensed marijuana retailers with a medical marijuana endorsement must ensure that all employees are trained on the subjects required by (a) of this subsection as well as identification of authorizations and recognition cards. Employees must also be trained to permit qualifying patients who hold recognition cards and are between the ages of eighteen and twenty-one to enter the premises and purchase marijuana for their personal medical use and to permit qualifying patients who are under the age of eighteen with a recognition card to enter the premises if accompanied by their designated providers.

(4) ((~~Licensed marijuana retailers may not display any signage outside of the licensed premises, other than two signs identifying the retail outlet by the licensee's business or trade name. Each sign must be no larger than one thousand six hundred square inches, be permanently affixed to a building or other structure, and be posted not less than one thousand feet from any elementary school, secondary school, or playground.~~

~~(5)~~)) Except for the purposes of disposal as authorized by the state liquor and cannabis board, no licensed marijuana retailer or employee of a retail outlet may open or consume, or allow to be opened or consumed, any marijuana concentrates, useable marijuana, or marijuana-infused product on the outlet premises.

((~~(6)~~)) (5) The state liquor and cannabis board 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 account created under RCW 69.50.530.

**Sec.**  RCW 69.50.369 and 2015 2nd sp.s. c 4 s 204 are each amended to read as follows:

(1) No licensed marijuana producer, processor, researcher, or retailer may place or maintain, or cause to be placed or maintained, an advertisement of marijuana, useable marijuana, marijuana concentrates, 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) No marijuana licensee may:

(a) Take any action, directly or indirectly, to target youth in the advertising, promotion, or marketing of marijuana and marijuana products, or take any action the primary purpose of which is to initiate, maintain, or increase the incidence of youth use of marijuana or marijuana products;

(b) Use objects such as toys, inflatables, characters, or cartoon characters suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume marijuana; or

(c) Use or employ a commercial mascot outside of a licensed marijuana business. A "commercial mascot" means live human being, animal, or mechanical device used for the purpose of commercial advertising, such as sign spinners, sign clowns, sandwich board signs over a live human body, and persons dressed to appear or suggest as a trademark or symbol of a commercial enterprise.

(3) No marijuana licensees may engage in outdoor advertising except as specifically provided for in this section.

(a) Outdoor advertising is prohibited:

(i) On signs and placards in arenas, stadiums, shopping malls, fairs that receive state allocations, farmers markets, and video game arcades, whether any of the foregoing are open air or enclosed, but not including any such sign or placard located in an adult only facility;

(ii) On billboards that are visible from any street, road, highway, right-of-way, or public parking area; or

(iii) On any other advertisements placed outdoors or on the inside surface of a window facing outward that do not meet the exclusionary provisions contained in (b) of this section.

(b) Outdoor advertising does not include:

(i) An individual advertisement that does not occupy an area larger than one thousand six hundred square inches and that neither is placed in such proximity to any other such advertisement so as to create a single mosaic-type advertisement larger than one thousand six hundred square inches, nor functions solely as a segment of a larger advertising unit or series, and that is placed on the outside of any licensed retail establishment that sells marijuana products, outside but on the licensed premises of any such establishment, or on the inside surface of a window facing outward in any such establishment;

(ii) An advertisement inside a licensed retail establishment that sells marijuana products that is not placed on the inside surface of a window facing outward; or

(iii) An outdoor advertisement at the site of an event to be held at an adult only facility that is placed at such site during the period the facility or enclosed area constitutes an adult only facility, but in no event more than fourteen days before the event, and that does not advertise any marijuana product other than by using a brand name to identify the event.

(4) No marijuana licensees may engage in transit advertisements. "Transit advertisements" means advertising on or within private or public vehicles and all advertisements placed at, on or within any bus stop, taxi stand, transportation waiting area, train station, airport, or any similar transit-related location.

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

((~~(3)~~)) (6) This section does not apply to a noncommercial message.

((~~(4)~~)) (7)(a) The state liquor and cannabis board must:

(i) Adopt rules implementing this section. The advertising rules must be as restrictive as the state and federal guidelines regulating cigarette advertising; and

(ii) Fine a licensee one thousand dollars for each violation of ((~~subsection (1) of~~)) this section until the state liquor and cannabis board adopts rules prescribing penalties for violations of this section. The rules must establish escalating penalties including fines and up to suspension or revocation of a marijuana license for subsequent violations.

(b) Fines collected under this subsection must be deposited into the dedicated marijuana account created under RCW 69.50.530.

(8) A city, town, or county may adopt rules of outdoor advertising by licensed marijuana retailers that are more restrictive than the advertising restrictions imposed under this chapter. Enforcement of restrictions to advertising by a city, town, or county is the responsibility of the city, town, or county.

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