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SENATE BILL 5417

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State of Washington                      64th Legislature                      2015 Regular Session

By Senators Rivers, Mullet, Dandel, Cleveland, Hatfield, and Hill

Read first time 01/21/15. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to local government marijuana policies; amending  
2 RCW 69.50.357, 69.50.369, 69.50.530, 69.50.535, 69.50.540, and  
3 69.50.331; providing an effective date; and declaring an emergency.

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

5            **Sec. 1.** RCW 69.50.357 and 2014 c 192 s 4 are each amended to  
6 read as follows:

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

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

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

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

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

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

12 **Sec. 2.** RCW 69.50.369 and 2013 c 3 s 18 are each amended to read  
13 as follows:

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

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

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

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

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

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

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

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

35 (~~(1) There shall be a fund, known as the dedicated marijuana~~  
36 ~~fund, which shall consist of all marijuana excise taxes, license~~  
37 ~~fees, penalties, forfeitures, and all other moneys, income, or~~  
38 ~~revenue received by the state liquor control board from marijuana-~~

1 ~~related activities. The state treasurer shall be custodian of the~~  
2 ~~fund.~~

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

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

18 **Sec. 4.** RCW 69.50.535 and 2014 c 192 s 7 are each amended to  
19 read as follows:

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

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

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

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

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

11 **Sec. 5.** RCW 69.50.540 and 2013 c 3 s 28 are each amended to read  
12 as follows:

13 (~~All marijuana excise taxes collected from sales of marijuana,~~  
14 ~~useable marijuana, and marijuana infused products under RCW~~  
15 ~~69.50.535, and the license fees, penalties, and forfeitures derived~~  
16 ~~under chapter 3, Laws of 2013 from marijuana producer, marijuana~~  
17 ~~processor, and marijuana retailer licenses shall every three months~~  
18 ~~be disbursed by the state liquor control board~~) At the end of each  
19 quarter during each fiscal year, subject to appropriated amounts, the  
20 funds in the dedicated marijuana account must be disbursed as  
21 follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 ~~(g) The remainder to the general fund~~)).

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

18 (1) For the purpose of considering any application for a license  
19 to produce, process, or sell marijuana, or for the renewal of a  
20 license to produce, process, or sell marijuana, the state liquor  
21 control board may cause an inspection of the premises to be made, and  
22 may inquire into all matters in connection with the construction and  
23 operation of the premises. For the purpose of reviewing any  
24 application for a license and for considering the denial, suspension,  
25 revocation, or renewal or denial thereof, of any license, the state  
26 liquor control board may consider any prior criminal conduct of the  
27 applicant including an administrative violation history record with  
28 the state liquor control board and a criminal history record  
29 information check. The state liquor control board may submit the  
30 criminal history record information check to the Washington state  
31 patrol and to the identification division of the federal bureau of  
32 investigation in order that these agencies may search their records  
33 for prior arrests and convictions of the individual or individuals  
34 who filled out the forms. The state liquor control board (~~shall~~)  
35 must require fingerprinting of any applicant whose criminal history  
36 record information check is submitted to the federal bureau of  
37 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A  
38 RCW (~~shall~~) do not apply to these cases. Subject to the provisions  
39 of this section, the state liquor control board may, in its

1 discretion, grant or deny the renewal or license applied for. Denial  
2 may be based on, without limitation, the existence of chronic illegal  
3 activity documented in objections submitted pursuant to subsections  
4 (7)(c) and (9) of this section. Authority to approve an uncontested  
5 or unopposed license may be granted by the state liquor control board  
6 to any staff member the board designates in writing. Conditions for  
7 granting this authority (~~shall~~) must be adopted by rule. No license  
8 of any kind may be issued to:

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

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

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

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

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

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

36 (c) The state liquor control board may request the appointment of  
37 administrative law judges under chapter 34.12 RCW who (~~shall~~) must  
38 have power to administer oaths, issue subpoenas for the attendance of  
39 witnesses and the production of papers, books, accounts, documents,  
40 and testimony, examine witnesses, and to receive testimony in any



1 inquiry, investigation, hearing, or proceeding in any part of the  
2 state, under rules and regulations the state liquor control board may  
3 adopt.

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

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

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

31 (4) Every license issued under chapter 3, Laws of 2013 (~~shall~~  
32 ~~be~~) is subject to all conditions and restrictions imposed by chapter  
33 3, Laws of 2013 or by rules adopted by the state liquor control board  
34 to implement and enforce chapter 3, Laws of 2013. All conditions and  
35 restrictions imposed by the state liquor control board in the  
36 issuance of an individual license (~~shall~~) must be listed on the  
37 face of the individual license along with the trade name, address,  
38 and expiration date.

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

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

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

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

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

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

38          (8) The state liquor control board ~~((shall))~~ may not issue a  
39 license for any premises within one thousand feet of the perimeter of  
40 the grounds of any elementary or secondary school, playground,

1 recreation center or facility, child care center, public park, public  
2 transit center, or library, or any game arcade admission to which is  
3 not restricted to persons aged twenty-one years or older, unless the  
4 legislative body of an incorporated city or town has exempted the  
5 city or town from the one thousand foot restriction set forth in this  
6 subsection by adopting legislation that declares such an exemption to  
7 be necessary to create enough potential locations within the city or  
8 town to allow a marijuana retail facility to be sited. The  
9 legislative body of an incorporated city or town may exempt certain  
10 specific land uses, except elementary or secondary schools, from the  
11 one thousand foot restriction set forth in this subsection. The  
12 legislative body of an incorporated city or town may reduce the size  
13 of the one thousand foot restriction set forth in this subsection for  
14 one or more specific land uses.

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

35 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
36 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes  
2 effect July 1, 2015.

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