
HOUSE BILL 2215

State of Washington 65th Legislature 2017 1st Special Session

By Representatives Sawyer and Fitzgibbon

Read first time 05/19/17. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to the authority of counties, cities, and towns
2 to regulate licensed retail marijuana businesses; amending RCW
3 69.50.325 and 69.50.334; adding new sections to chapter 69.50 RCW;
4 adding a new section to chapter 36.01 RCW; adding a new section to
5 chapter 35.21 RCW; and adding a new section to chapter 35A.21 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 69.50
8 RCW to read as follows:

9 (1) Except as provided in section 2 of this act and subsections
10 (2) through (4) of this section, the state of Washington has sole
11 authority to regulate marijuana retailers licensed under this chapter
12 and counties, cities, and towns are preempted from engaging in the
13 regulation of state licensed marijuana retailers.

14 (2) Cities, towns, and counties retain their existing zoning
15 authority regarding the siting of licensed marijuana retailers.

16 (3)(a) Except as provided in (b) of this subsection and section 2
17 of this act, counties, cities, and towns are prohibited from enacting
18 any ordinance, regulation, or land use plan that has the effect of
19 precluding the siting or operation of licensed retail marijuana
20 businesses within their jurisdictional boundaries.

1 (b) A county, city, or town that prohibits the siting and
2 operation of any retail business within its jurisdictional boundaries
3 may enact an ordinance or regulation that precludes the siting and
4 operation of state licensed marijuana businesses and (a) of this
5 subsection does not apply.

6 (4) Nothing in this section is construed to prevent a city, town,
7 or county from applying ordinances of general application to
8 marijuana businesses.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 69.50
10 RCW to read as follows:

11 (1)(a) A registered voter of a county, city, or town may submit a
12 petition calling for the county, city, or town to prohibit the siting
13 or operation of any business or facility to be used for the retail
14 sale of marijuana products under this chapter. The petition must be
15 signed by thirty percent or more of the voters of the jurisdiction
16 and must be filed with the legislative authority of the applicable
17 county, city, or town. With respect to petitions to be filed with a
18 county under this subsection, only registered voters in the
19 unincorporated area of the county may initiate and sign the petition.

20 (b) If the legislative authority determines the petition to be
21 sufficient, the legislative authority must, within sixty days of
22 determining the petition to be sufficient, hold a public hearing on
23 the petition and an implementing ordinance. Following the public
24 hearing, the legislative authority of the county, city, or town
25 legislative body must submit the question of prohibiting siting or
26 operation of any business or facility to be used for the retail sale
27 of marijuana under this chapter to the voters of the jurisdiction at
28 a general election.

29 (c) If a majority of the voters of the county, city, or town
30 voting in the election approve the prohibition, the prohibition takes
31 effect on the date specified in the petition. If no effective date is
32 specified in the petition, the prohibition takes effect on a date
33 specified by the legislative authority that must be at least thirty
34 days and no later than sixty days after the election.

35 (2) As an alternative to the petition process established in
36 subsection (1) of this section, the legislative authority of a city,
37 town, or county may initiate an ordinance provided for in subsection
38 (1) of this section by submitting a ballot proposition at a general
39 election prohibiting the siting or operation of any business or

1 facility to be used for the sale of marijuana under this chapter. If
2 a majority of the voters of the county, city, or town voting in the
3 election approve the prohibition, the prohibition takes effect on the
4 date specified in the ballot proposition. If no effective date is
5 specified in the ballot proposition, the prohibition takes effect on
6 a date specified by the legislative authority that must be at least
7 thirty days and no later than sixty days after the election.

8 (3) With respect to a county enacting an ordinance under this
9 section, the ordinance may apply only to unincorporated areas of the
10 county. No voters within the boundaries of an incorporated city or
11 town may participate in a county election under this section.

12 (4) Following the passage of an ordinance under subsection (1) or
13 (2) of this section, the state liquor and cannabis board may not
14 issue or renew a license under RCW 69.50.325(3) for the retail sale
15 of marijuana with respect to a business that is either located or
16 proposed to be located within an area subject to the ordinance.

17 (5) Nothing in this section may be construed to extend powers to
18 cities, counties, or towns beyond the power to prohibit the siting or
19 operation of a business or facility to be used for the sale of
20 marijuana.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.01
22 RCW to read as follows:

23 Notwithstanding any other provision of law, a county may enact an
24 ordinance prohibiting the siting or operation of any retail marijuana
25 business or facility within its jurisdictional boundaries provided
26 the ordinance is enacted in accordance with the requirements of
27 section 2 of this act.

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.21
29 RCW to read as follows:

30 Notwithstanding any other provision of law, a city or town may
31 enact an ordinance prohibiting the siting or operation of any retail
32 marijuana business or facility within its jurisdictional boundaries
33 provided the ordinance is enacted in accordance with the requirements
34 of section 2 of this act.

35 NEW SECTION. **Sec. 5.** A new section is added to chapter 35A.21
36 RCW to read as follows:

1 Notwithstanding any other provision of law, a code city may enact
2 an ordinance prohibiting the siting or operation of any retail
3 marijuana business or facility within its jurisdictional boundaries
4 provided the ordinance is enacted in accordance with the requirements
5 of section 2 of this act.

6 **Sec. 6.** RCW 69.50.325 and 2016 c 170 s 1 are each amended to
7 read as follows:

8 (1) There shall be a marijuana producer's license to produce
9 marijuana for sale at wholesale to marijuana processors and other
10 marijuana producers and to produce marijuana plants for sale to
11 cooperatives as described under RCW 69.51A.250, regulated by the
12 state liquor and cannabis board and subject to annual renewal. The
13 production, possession, delivery, distribution, and sale of marijuana
14 in accordance with the provisions of this chapter and the rules
15 adopted to implement and enforce it, by a validly licensed marijuana
16 producer, shall not be a criminal or civil offense under Washington
17 state law. Every marijuana producer's license shall be issued in the
18 name of the applicant, shall specify the location at which the
19 marijuana producer intends to operate, which must be within the state
20 of Washington, and the holder thereof shall not allow any other
21 person to use the license. The application fee for a marijuana
22 producer's license shall be two hundred fifty dollars. The annual fee
23 for issuance and renewal of a marijuana producer's license shall be
24 one thousand dollars. A separate license shall be required for each
25 location at which a marijuana producer intends to produce marijuana.

26 (2) There shall be a marijuana processor's license to process,
27 package, and label marijuana concentrates, useable marijuana, and
28 marijuana-infused products for sale at wholesale to marijuana
29 processors and marijuana retailers, regulated by the state liquor and
30 cannabis board and subject to annual renewal. The processing,
31 packaging, possession, delivery, distribution, and sale of marijuana,
32 useable marijuana, marijuana-infused products, and marijuana
33 concentrates in accordance with the provisions of this chapter and
34 chapter 69.51A RCW and the rules adopted to implement and enforce
35 these chapters, by a validly licensed marijuana processor, shall not
36 be a criminal or civil offense under Washington state law. Every
37 marijuana processor's license shall be issued in the name of the
38 applicant, shall specify the location at which the licensee intends
39 to operate, which must be within the state of Washington, and the

1 holder thereof shall not allow any other person to use the license.
2 The application fee for a marijuana processor's license shall be two
3 hundred fifty dollars. The annual fee for issuance and renewal of a
4 marijuana processor's license shall be one thousand dollars. A
5 separate license shall be required for each location at which a
6 marijuana processor intends to process marijuana.

7 (3) There shall be a marijuana retailer's license to sell
8 marijuana concentrates, useable marijuana, and marijuana-infused
9 products at retail in retail outlets, regulated by the state liquor
10 and cannabis board and subject to annual renewal. The possession,
11 delivery, distribution, and sale of marijuana concentrates, useable
12 marijuana, and marijuana-infused products in accordance with the
13 provisions of this chapter and the rules adopted to implement and
14 enforce it, by a validly licensed marijuana retailer, shall not be a
15 criminal or civil offense under Washington state law. Every marijuana
16 retailer's license shall be issued in the name of the applicant,
17 shall specify the location of the retail outlet the licensee intends
18 to operate, which must be within the state of Washington, and the
19 holder thereof shall not allow any other person to use the license.
20 The application fee for a marijuana retailer's license shall be two
21 hundred fifty dollars. The annual fee for issuance and renewal of a
22 marijuana retailer's license shall be one thousand dollars. A
23 separate license shall be required for each location at which a
24 marijuana retailer intends to sell marijuana concentrates, useable
25 marijuana, and marijuana-infused products.

26 (4) The state liquor and cannabis board may not issue or renew a
27 license under subsection (3) of this section for any premises located
28 within the jurisdictional boundaries of a county, city, or town that
29 has enacted an ordinance pursuant to section 2 of this act
30 prohibiting the siting or operation of any business or facility to be
31 used for the retail sale of marijuana.

32 **Sec. 7.** RCW 69.50.334 and 2015 2nd sp.s. c 4 s 201 are each
33 amended to read as follows:

34 (1) Except as provided under subsection (6) of this section, the
35 action, order, or decision of the state liquor and cannabis board as
36 to any denial of an application for the reissuance of a license to
37 produce, process, or sell marijuana, or as to any revocation,
38 suspension, or modification of any license to produce, process, or
39 sell marijuana, or as to the administrative review of a notice of

1 unpaid trust fund taxes under RCW 69.50.565, must be an adjudicative
2 proceeding and subject to the applicable provisions of chapter 34.05
3 RCW.

4 (2) An opportunity for a hearing may be provided to an applicant
5 for the reissuance of a license prior to the disposition of the
6 application, and if no opportunity for a prior hearing is provided
7 then an opportunity for a hearing to reconsider the application must
8 be provided the applicant.

9 (3) An opportunity for a hearing must be provided to a licensee
10 prior to a revocation or modification of any license and, except as
11 provided in subsection (~~(6)~~) (7) of this section, prior to the
12 suspension of any license.

13 (4) An opportunity for a hearing must be provided to any person
14 issued a notice of unpaid trust fund taxes under RCW 69.50.565.

15 (5) No hearing may be required under this section until demanded
16 by the applicant, licensee, or person issued a notice of unpaid trust
17 fund taxes under RCW 69.50.565.

18 (6) The provisions of subsection (1) of this section do not apply
19 to an action, order, or decision of the state liquor and cannabis
20 board as to any denial of an application for the reissuance of a
21 license to sell marijuana or as to any revocation, suspension, or
22 modification of any license to sell marijuana if the licensee or
23 applicant's designated premises is located within an area subject to
24 an ordinance enacted pursuant to section 2 of this act, prohibiting
25 the siting or operation of any business or facility to be used for
26 the retail sale of marijuana.

27 (7) The state liquor and cannabis board may summarily suspend a
28 license for a period of up to one hundred eighty days without a prior
29 hearing if it finds that public health, safety, or welfare
30 imperatively require emergency action, and it incorporates a finding
31 to that effect in its order. Proceedings for revocation or other
32 action must be promptly instituted and determined. An administrative
33 law judge may extend the summary suspension period for up to one
34 calendar year from the first day of the initial summary suspension in
35 the event the proceedings for revocation or other action cannot be
36 completed during the initial one hundred eighty-day period due to
37 actions by the licensee. The state liquor and cannabis board's
38 enforcement division shall complete a preliminary staff investigation

1 of the violation before requesting an emergency suspension by the
2 state liquor and cannabis board.

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