
SENATE BILL 6291

State of Washington

65th Legislature

2018 Regular Session

By Senator Palumbo

Read first time 01/11/18. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to local regulation of licensed marijuana
2 retailers including local prohibitions of marijuana retailers and
3 distribution of marijuana excise tax revenues to counties and cities;
4 amending RCW 69.50.540; adding new sections to chapter 69.50 RCW;
5 adding a new section to chapter 36.01 RCW; adding a new section to
6 chapter 35.21 RCW; and adding a new section to chapter 35A.21 RCW.

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

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

10 (1) Except as provided in section 2 of this act and subsections
11 (2) and (3) of this section, the state of Washington has sole
12 authority to regulate marijuana retailers licensed under this chapter
13 and counties, cities, and towns are preempted from engaging in the
14 regulation of state licensed marijuana retailers.

15 (2) Except as provided in section 2 of this act, counties,
16 cities, and towns may not enact any ordinance, regulation, or land
17 use plan, including de facto bans through zoning restrictions or
18 references to federal law, that has the effect of precluding or
19 unreasonably restricting the siting or operation of licensed retail
20 marijuana businesses within their jurisdictional boundaries. However,
21 counties, cities, and towns may prohibit the siting and operation of

1 licensed retail marijuana businesses within up to one thousand feet
2 of existing retail marijuana businesses within their jurisdictional
3 boundaries.

4 (3) Nothing in this section is construed to prevent a city, town,
5 or county from applying ordinances of general application to retail
6 marijuana businesses, subject to the provisions in subsection (2) of
7 this section.

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

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

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

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

34 (2) With respect to a county enacting an ordinance under this
35 section, the ordinance may apply only to unincorporated areas of the
36 county. No voters within the boundaries of an incorporated city or
37 town may participate in a county election under this section.

1 (3) Nothing in this section extends powers to cities, counties,
2 or towns beyond the power to prohibit the siting or operation of a
3 business or facility to be used for the sale of marijuana.

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

6 (1) Beginning on the effective date of this section, a county may
7 enact an ordinance prohibiting the siting or operation of any retail
8 marijuana business or facility within its jurisdictional boundaries
9 provided the ordinance is enacted in accordance with the requirements
10 of section 2 of this act.

11 (2) Any ordinance or moratorium enacted by a county before the
12 effective date of this section that prohibits the siting or operation
13 of any retail marijuana business or facility within its
14 jurisdictional boundaries is repealed. However, this repeal does not
15 discharge any person from any liability, civil or criminal, for any
16 violation of any such ordinance or moratorium in existence before the
17 effective date of this section.

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

20 (1) Beginning on the effective date of this section, a city or
21 town may enact an ordinance prohibiting the siting or operation of
22 any retail marijuana business or facility within its jurisdictional
23 boundaries provided the ordinance is enacted in accordance with the
24 requirements of section 2 of this act.

25 (2) Any ordinance or moratorium enacted by a city or town before
26 the effective date of this section that prohibits the siting or
27 operation of any retail marijuana business or facility within its
28 jurisdictional boundaries is repealed. However, this repeal does not
29 discharge any person from any liability, civil or criminal, for any
30 violation of any such ordinance or moratorium in existence before the
31 effective date of this section.

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

34 (1) Beginning on the effective date of this section, a code city
35 may enact an ordinance prohibiting the siting or operation of any
36 retail marijuana business or facility within its jurisdictional

1 boundaries provided the ordinance is enacted in accordance with the
2 requirements of section 2 of this act.

3 (2) Any ordinance or moratorium enacted by a code city before the
4 effective date of this section that prohibits the siting or operation
5 of any retail marijuana business or facility within its
6 jurisdictional boundaries is repealed. However, this repeal does not
7 discharge any person from any liability, civil or criminal, for any
8 violation of any such ordinance or moratorium in existence before the
9 effective date of this section.

10 **Sec. 6.** RCW 69.50.540 and 2017 3rd sp.s. c 1 s 979 are each
11 amended to read as follows:

12 The legislature must annually appropriate moneys in the dedicated
13 marijuana account created in RCW 69.50.530 as follows:

14 (1) For the purposes listed in this subsection (1), the
15 legislature must appropriate to the respective agencies amounts
16 sufficient to make the following expenditures on a quarterly basis:

17 (a) Beginning July 1, 2015, one hundred twenty-five thousand
18 dollars to the department of social and health services to design and
19 administer the Washington state healthy youth survey, analyze the
20 collected data, and produce reports, in collaboration with the office
21 of the superintendent of public instruction, department of health,
22 department of commerce, family policy council, and state liquor and
23 cannabis board. The survey must be conducted at least every two years
24 and include questions regarding, but not necessarily limited to,
25 academic achievement, age at time of substance use initiation,
26 antisocial behavior of friends, attitudes toward antisocial behavior,
27 attitudes toward substance use, laws and community norms regarding
28 antisocial behavior, family conflict, family management, parental
29 attitudes toward substance use, peer rewarding of antisocial
30 behavior, perceived risk of substance use, and rebelliousness. Funds
31 disbursed under this subsection may be used to expand administration
32 of the healthy youth survey to student populations attending
33 institutions of higher education in Washington;

34 (b) Beginning July 1, 2015, fifty thousand dollars to the
35 department of social and health services for the purpose of
36 contracting with the Washington state institute for public policy to
37 conduct the cost-benefit evaluation and produce the reports described
38 in RCW 69.50.550. This appropriation ends after production of the
39 final report required by RCW 69.50.550;

1 (c) Beginning July 1, 2015, five thousand dollars to the
2 University of Washington alcohol and drug abuse institute for the
3 creation, maintenance, and timely updating of web-based public
4 education materials providing medically and scientifically accurate
5 information about the health and safety risks posed by marijuana use;

6 (d)(i) An amount not less than one million two hundred fifty
7 thousand dollars to the state liquor and cannabis board for
8 administration of this chapter as appropriated in the omnibus
9 appropriations act; and

10 (ii) Three hundred fifty-one thousand seven hundred fifty dollars
11 for fiscal year 2018 and three hundred fifty-one thousand seven
12 hundred fifty dollars for fiscal year 2019 to the health professions
13 account established under RCW 43.70.320 for the development and
14 administration of the marijuana authorization database by the
15 department of health. It is the intent of the legislature that this
16 policy will be continued in the 2019-2021 fiscal biennium;

17 (e) Twenty-three thousand seven hundred fifty dollars to the
18 department of enterprise services provided solely for the state
19 building code council established under RCW 19.27.070, to develop and
20 adopt fire and building code provisions related to marijuana
21 processing and extraction facilities. The distribution under this
22 subsection (1)(e) is for fiscal year 2016 only;

23 (2) From the amounts in the dedicated marijuana account after
24 appropriation of the amounts identified in subsection (1) of this
25 section, the legislature must appropriate for the purposes listed in
26 this subsection (2) as follows:

27 (a)(i) Up to fifteen percent to the department of social and
28 health services division of behavioral health and recovery for the
29 development, implementation, maintenance, and evaluation of programs
30 and practices aimed at the prevention or reduction of maladaptive
31 substance use, substance use disorder, substance abuse or substance
32 dependence, as these terms are defined in the Diagnostic and
33 Statistical Manual of Mental Disorders, among middle school and high
34 school-age students, whether as an explicit goal of a given program
35 or practice or as a consistently corresponding effect of its
36 implementation, mental health services for children and youth, and
37 services for pregnant and parenting women; PROVIDED, That:

38 (A) Of the funds appropriated under (a)(i) of this subsection for
39 new programs and new services, at least eighty-five percent must be
40 directed to evidence-based or research-based programs and practices

1 that produce objectively measurable results and, by September 1,
2 2020, are cost-beneficial; and

3 (B) Up to fifteen percent of the funds appropriated under (a)(i)
4 of this subsection for new programs and new services may be directed
5 to proven and tested practices, emerging best practices, or promising
6 practices.

7 (ii) In deciding which programs and practices to fund, the
8 secretary of the department of social and health services must
9 consult, at least annually, with the University of Washington's
10 social development research group and the University of Washington's
11 alcohol and drug abuse institute.

12 (iii) For the fiscal year beginning July 1, 2016, the legislature
13 must appropriate a minimum of twenty-seven million seven hundred
14 eighty-six thousand dollars, and for each subsequent fiscal year
15 thereafter, the legislature must appropriate a minimum of twenty-five
16 million five hundred thirty-six thousand dollars under this
17 subsection (2)(a);

18 (b)(i) Up to ten percent to the department of health for the
19 following, subject to (b)(ii) of this subsection (2):

20 (A) Creation, implementation, operation, and management of a
21 marijuana education and public health program that contains the
22 following:

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

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

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

37 (B) The Washington poison control center; and

38 (C) During the 2015-2017 fiscal biennium, the funds appropriated
39 under this subsection (2)(b) may be used for prevention activities

1 that target youth and populations with a high incidence of tobacco
2 use.

3 (ii) For the fiscal year beginning July 1, 2016, the legislature
4 must appropriate a minimum of seven million five hundred thousand
5 dollars and for each subsequent fiscal year thereafter, the
6 legislature must appropriate a minimum of nine million seven hundred
7 fifty thousand dollars under this subsection (2)(b);

8 (c)(i) Up to six-tenths of one percent to the University of
9 Washington and four-tenths of one percent to Washington State
10 University for research on the short and long-term effects of
11 marijuana use, to include but not be limited to formal and informal
12 methods for estimating and measuring intoxication and impairment, and
13 for the dissemination of such research.

14 (ii) For the fiscal year beginning July 1, 2016, the legislature
15 must appropriate a minimum of two hundred seven thousand dollars and
16 for each subsequent fiscal year, except for the 2017-2019 fiscal
17 biennium, the legislature must appropriate a minimum of one million
18 twenty-one thousand dollars to the University of Washington. For the
19 fiscal year beginning July 1, 2016, the legislature must appropriate
20 a minimum of one hundred thirty-eight thousand dollars and for each
21 subsequent fiscal year thereafter, except for the 2017-2019 fiscal
22 biennium, a minimum of six hundred eighty-one thousand dollars to
23 Washington State University under this subsection (2)(c). It is the
24 intent of the legislature that this policy will be continued in the
25 2019-2021 fiscal biennium;

26 (d) Fifty percent to the state basic health plan trust account to
27 be administered by the Washington basic health plan administrator and
28 used as provided under chapter 70.47 RCW;

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

34 (f)(i) Up to three-tenths of one percent to the office of the
35 superintendent of public instruction to fund grants to building
36 bridges programs under chapter 28A.175 RCW.

37 (ii) For the fiscal year beginning July 1, 2016, and each
38 subsequent fiscal year, the legislature must appropriate a minimum of
39 five hundred eleven thousand dollars to the office of the

1 superintendent of public instruction under this subsection (2)(f);
2 and

3 (g) At the end of each fiscal year, the treasurer must transfer
4 any amounts in the dedicated marijuana account that are not
5 appropriated pursuant to subsection (1) of this section and this
6 subsection (2) into the general fund, except as provided in (g)(i) of
7 this subsection (2).

8 (i) Beginning in fiscal year 2018, if marijuana excise tax
9 collections deposited into the general fund in the prior fiscal year
10 exceed twenty-five million dollars, then each fiscal year the
11 legislature must appropriate an amount equal to thirty percent of all
12 marijuana excise taxes deposited into the general fund the prior
13 fiscal year to the treasurer for distribution to counties, cities,
14 and towns as follows:

15 (A) Thirty percent must be distributed to counties, cities, and
16 towns where licensed marijuana retailers are physically located. Each
17 jurisdiction must receive a share of the revenue distribution under
18 this subsection (2)(g)(i)(A) based on the proportional share of the
19 total revenues generated in the individual jurisdiction from the
20 taxes collected under RCW 69.50.535, from licensed marijuana
21 retailers physically located in each jurisdiction. For purposes of
22 this subsection (2)(g)(i)(A), one hundred percent of the proportional
23 amount attributed to a retailer physically located in a city or town
24 must be distributed to the city or town.

25 (B) Seventy percent must be distributed to counties, cities, and
26 towns ratably on a per capita basis. Counties must receive sixty
27 percent of the distribution, which must be disbursed based on each
28 county's total proportional population. Funds may only be distributed
29 to jurisdictions that do not prohibit the siting of any state
30 licensed marijuana producer, processor, or retailer.

31 (ii) Distribution amounts allocated to each county, city, and
32 town must be distributed in four installments by the last day of each
33 fiscal quarter.

34 (iii) By September 15th of each year, the state liquor and
35 cannabis board must provide the state treasurer the annual
36 distribution amount, if any, for each county and city as determined
37 in (g)(i) of this subsection (2).

38 (iv) The total share of marijuana excise tax revenues distributed
39 to counties and cities in (g)(i) of this subsection (2) may not
40 exceed six million dollars in fiscal years 2018 and 2019 ((and

1 ~~twenty)) thirty million dollars in fiscal years 2020 and 2021, and~~
2 ~~forty million dollars per fiscal year thereafter~~((~~. However, if the~~
3 ~~February 2018 forecast of state revenues for the general fund in the~~
4 ~~2017-2019 fiscal biennium exceeds the amount estimated in the June~~
5 ~~2017 revenue forecast by over eighteen million dollars after~~
6 ~~adjusting for changes directly related to legislation adopted in the~~
7 ~~2017 legislative session, the total share of marijuana excise tax~~
8 ~~revenue distributed to counties and cities in (g)(i) of this~~
9 ~~subsection (2) may not exceed fifteen million dollars in fiscal years~~
10 ~~2018 and 2019. It is the intent of the legislature that the policy~~
11 ~~for the maximum distributions in the subsequent fiscal biennia will~~
12 ~~be no more than \$6 million per fiscal year)), unless less than three~~
13 ~~hundred sixty million dollars was received in revenue during the~~
14 ~~previous fiscal year. Starting in fiscal year 2022, if less than~~
15 ~~three hundred sixty million dollars was received in revenue during~~
16 ~~the previous fiscal year, then the excise tax revenues distributed to~~
17 ~~counties and cities may not exceed twenty-five million dollars for~~
18 ~~that fiscal year.~~

19 For the purposes of this section, "marijuana products" means
20 "useable marijuana," "marijuana concentrates," and "marijuana-infused
21 products" as those terms are defined in RCW 69.50.101.

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