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**SENATE BILL 6291**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senator Palumbo

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Of the funds appropriated under (a)(i) of this subsection for new programs and new services, at least eighty-five percent must be directed to evidence-based or research-based programs and practices that produce objectively measurable results and, by September 1, 2020, are cost-beneficial; and

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

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

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

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

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

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

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

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

(B) The Washington poison control center; and

(C) During the 2015-2017 fiscal biennium, the funds appropriated under this subsection (2)(b) may be used for prevention activities that target youth and populations with a high incidence of tobacco use.

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

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

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

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

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

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

(ii) For the fiscal year beginning July 1, 2016, and each subsequent fiscal year, the legislature must appropriate a minimum of five hundred eleven thousand dollars to the office of the superintendent of public instruction under this subsection (2)(f); and

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

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

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

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

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

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

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

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

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