

HOUSE BILL REPORT

HB 2060

As Reported by House Committee On: Commerce & Gaming

Title: An act relating to requiring counties, cities, and towns to permit the operation of state licensed marijuana retail businesses in order to receive marijuana-related tax distributions.

Brief Description: Requiring counties, cities, and towns to permit the operation of state licensed marijuana retail businesses in order to receive marijuana-related tax distributions.

Sponsors: Representative Taylor.

Brief History:

Committee Activity:

Commerce & Gaming: 2/13/17, 2/16/17 [DP].

Brief Summary of Bill

- Requires that by January 1, 2018, a municipality must have a fully operational state-licensed marijuana retailer within its jurisdictional boundaries in order to receive its share of marijuana excise tax revenues.
- Establishes specified exemptions from the tax revenue forfeiture requirement for a municipality that has been unable to establish a local state-licensed marijuana retailer due to circumstances beyond the control of the municipality.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: Do pass. Signed by 11 members: Representatives Sawyer, Chair; Kloba, Vice Chair; Condotta, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Barkis, Blake, Farrell, Jenkin, Kirby, Ryu and Young.

Staff: Thamas Osborn (786-7129).

Background:

Resistance by Local Governments to the Siting and Operation of State-Licensed Marijuana Businesses.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Many cities and counties throughout the state have enacted ordinances that explicitly prohibit the siting of licensed marijuana producers, processors, and retailers within their jurisdictional boundaries. Some cities and counties have enacted special zoning ordinances limiting the location of recreational marijuana businesses to certain areas or have special licensing requirements for such businesses. Other municipalities have simply refused to issue the permits or business licenses necessary for the siting or operation of a marijuana business, but without the enactment of any ordinance or resolution explicitly prohibiting the operation of such businesses within their jurisdictional boundaries.

These actions by Washington cities and counties have given rise to litigation regarding whether or not local governments are preempted from enacting local ordinances that have the effect of preventing or interfering with the siting of state-licensed marijuana businesses authorized under Initiative 502. Washington courts have ruled that state law does not preempt such actions by local governments. Also, in 2014 the Washington State Attorney General published a formal opinion stating that Initiative 502 does not preempt local governments from implementing ordinances that impose bans or moratoria regarding the siting of marijuana producers, processors, and retailers.

Distribution of State Marijuana Excise Tax Revenues to Local Governments Beginning in 2018.

Beginning in fiscal year 2018, a portion of marijuana excise tax revenues deposited into the State General Fund will be shared with counties and cities. However, the funds derived from marijuana tax revenues may only be distributed to jurisdictions that do not prohibit the siting of state-licensed marijuana producers, processors, and retailers.

Starting no earlier than fiscal year 2018, distributions to local jurisdictions will not occur until \$25 million of marijuana tax revenues have been deposited into the State General Fund, at which point 30 percent of the previous fiscal year's General Fund revenues will be distributed to eligible counties and cities in four installments. Thirty percent of the local distribution is disbursed to counties, cities, and towns allocated as a portion of state marijuana revenue based on the amount of marijuana excise tax revenues attributable to any licensed retail store within the county, city, or town. The remaining 70 percent is disbursed based on population, with counties receiving 60 percent of this allocation and cities and towns sharing the remaining 40 percent. Jurisdictions that prohibit the siting of state-licensed marijuana producers, processors, and retailers are not eligible for a share of state marijuana tax revenue.

Summary of Bill:

Effective January 1, 2018, each county, city, or town that chooses to have a state-licensed marijuana retailer within its jurisdiction must have a retailer that is fully operational and conducting business within its jurisdictional boundaries in order to receive its share of marijuana excise tax revenues. A county, city, or town that does not meet this requirement is subject to the forfeiture of all marijuana-related tax revenues to which it would otherwise be entitled.

A county, city, or town may be exempt from these tax revenue forfeiture provisions if any of the following apply:

- The Liquor and Cannabis Board (LCB) has not issued a marijuana retailer's license authorizing a person or entity to operate a marijuana retail business within the jurisdictional boundaries of the county, city, or town.
- A state-licensed marijuana retail outlet is in the process of opening for business within the jurisdiction and the county, city, or town has cooperated in this process by issuing the local licenses and permits necessary for conducting business within the jurisdiction.
- The LCB has issued a marijuana retailer's license authorizing a person to operate a marijuana retail business within the jurisdictional boundaries of the county, city, or town, but the opening of the business has been delayed due to inaction on the part of the licensee. This exemption does not apply if the reason for the delay or failure to open is the result of actions by the local government intended to delay or impede the opening of the retail business.

These revenue forfeiture exemptions do not apply to any county, city, or town that uses its local regulatory authority to unreasonably impede, delay, or otherwise prevent the operation of a state-licensed marijuana retailer within its jurisdictional boundaries.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill endeavors to address the problem of municipalities receiving a share of marijuana revenues while at the same time preventing marijuana retailers from locating within their jurisdictional boundaries. Local control is an important value, but not when a municipality seeks marijuana revenues while at the same time keeping marijuana businesses out. This bill represents a positive approach that simply says that if a municipality wants the revenue, then they must have a retailer open by January 1, 2018. The bill creates important exceptions to the revenue forfeiture provisions so as to ensure that municipalities who are acting in good faith will still be entitled to a share of marijuana revenues. The hope is that the bill will act as a positive motivation for municipalities to allow marijuana retailers within their jurisdictions.

(Opposed) The problem with this bill lies in how marijuana revenues are shared under current law. Through no fault of their own, many jurisdictions do not have a local marijuana retailer. Such jurisdictions should not be punished. The bill eliminates per capita revenue sharing. The original intent of per capita revenue sharing was to allow counties to get their 70 percent share in order to deal with the impacts of marijuana legalization. Towns and counties without retailers or bans should be entitled to a share of marijuana revenues.

Persons Testifying: (In support) Representative Taylor, prime sponsor; and Ezra Eickmeyer.

(Opposed) Candice Bock, Association of Washington Cities; and Josh Weiss, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: None.