

# HOUSE BILL REPORT

## HB 1650

---

---

**As Reported by House Committee On:**  
Regulated Substances & Gaming

**Title:** An act relating to requiring voter approval for local government prohibitions on the operation and siting of cannabis retail businesses.

**Brief Description:** Requiring voter approval for local government prohibitions on cannabis businesses.

**Sponsors:** Representatives Wylie and Kloba.

**Brief History:**

**Committee Activity:**

Regulated Substances & Gaming: 1/31/23, 2/16/23 [DP], 1/9/24, 1/18/24 [DPS].

**Brief Summary of Substitute Bill**

- Prevents local governments from prohibiting cannabis retail businesses in their jurisdiction after July 1, 2028, unless a majority of voters in the jurisdiction voting in a general election held after July 1, 2024, vote to approve an ordinance prohibiting cannabis retailers.
- Establishes state preemption of the regulation of cannabis retailers except for voter-approved bans and limited exceptions, and reallocates certain cannabis excise tax revenues until July 1, 2033.

---

### HOUSE COMMITTEE ON REGULATED SUBSTANCES & GAMING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Kloba, Co-Chair; Wylie, Co-Chair; Stearns, Vice Chair; Morgan, Orwall and Reeves.

**Minority Report:** Without recommendation. Signed by 4 members: Representatives Chambers, Ranking Minority Member; Caldier, Cheney and Waters.

---

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

**Staff:** Peter Clodfelter (786-7127).

**Background:**

Following enactment of Initiative Measure No. 502 (I-502) in 2012, legalizing adult-use cannabis and establishing a state licensing and regulatory structure, some cities, towns, and counties in Washington enacted bans, moratoria, or policies against authorizing or permitting cannabis business activity in their jurisdiction. A 2014 Washington State Attorney General opinion concluded that I-502 does not preempt local governments from banning licensed cannabis businesses from being sited or operating in their jurisdiction. A 2018 opinion of the Washington State Court of Appeals Division II reached the same conclusion. Currently, certain cities, towns, and counties throughout Washington have these types of policies enacted in ordinances prohibiting the siting or operation of licensed cannabis businesses within the jurisdiction. Generally, local governments have broad authority to legislate in furtherance of public health, safety, and welfare and are preempted from enacting local ordinances only if expressly or implicitly preempted by state law.

---

**Summary of Substitute Bill:**

Beginning July 1, 2028, a city, town, or county may prohibit the siting or operation of any business or facility to be used for the retail sale of cannabis products only if: (1) the city, town, or county initiates an ordinance by submitting a ballot proposition at a general election prohibiting the siting or operation of any business or facility to be used for the retail sale of cannabis; (2) a majority of the voters of the county, city, or town voting in the election approve the prohibition; and (3) the election is held on a date after July 1, 2024.

A prohibition takes effect on the date specified in the ballot proposition. If no effective date is specified in the ballot proposition, the prohibition takes effect on a date specified by the legislative authority that must be at least 30 days and no later than 60 days after the election.

With respect to a county enacting an ordinance, 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.

It is established that the state has sole authority to regulate licensed cannabis retailers. Counties, cities, and towns are preempted from engaging in the regulation of cannabis retailers other than enacting voter-approved bans on cannabis retailers. However, cities, towns, and counties retain their existing zoning authority regarding the siting of cannabis retailers. It is also specified that nothing in the legislation may be construed to prevent a city, town, or county from applying ordinances of general application to cannabis businesses.

Except by voter approval, counties, cities, and towns may not enact any ordinance,

regulation, or land use plan that has the effect of precluding the siting or operation of cannabis retailers within their jurisdictional boundaries. However, a city, town, or county that prohibits the siting and operation of any retail business within its jurisdictional boundaries may enact an ordinance or regulation that precludes the siting and operation of state cannabis businesses.

Following the passage of a local ordinance by voter approval at a general election, the Liquor and Cannabis Board (LCB) may not issue a cannabis retail license with respect to a business that is either located or proposed to be located within an area subject to the ordinance.

Until July 1, 2033, an amount equivalent to the total cannabis excise taxes generated by retail outlets in cities, towns, and counties that, on the effective date of the act, have a ban or moratorium on the operation or siting of cannabis retailers and have no cannabis retailers operating in their jurisdiction, and that, after the effective date of the act, authorize cannabis retail activity, must be disbursed annually as follows: (1) 50 percent of funds must be used to support substance abuse disorder prevention treatment services including development of best practices for programs and services; and (2) 50 percent of funds must be used for cannabis research including research conducted by the University of Washington and Washington State University.

**Substitute Bill Compared to Original Bill:**

The substitute bill makes the following changes to the original bill:

- adjusts dates by one year to prevent local governments from prohibiting the siting or operation of cannabis retail businesses in their jurisdiction after July 1, 2028 (instead of July 1, 2027), unless a majority of voters in the jurisdiction voting in a general election held after July 1, 2024 (instead of July 1, 2023), vote to approve an ordinance prohibiting the siting or operation of cannabis retailers;
- adjusts another date by one year to reallocate certain cannabis excise tax revenues until July 1, 2033 (instead instead of July 1, 2032); and
- makes a technical change to amend the current version of RCW 69.50.540, relating to cannabis excise tax appropriations, which was affected by a law enacted during the 2023 Regular Legislative Session.

---

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available. New fiscal note requested on January 18, 2024.

**Effective Date of Substitute Bill:** 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 issue is not taken on lightly. Ten years have passed since legalization, and many things communities were nervous about when I-502 became law have not come to pass. After a decade of lessons learned and administrative choices made, it is time to change the policy around local bans of cannabis retailers. Washington should approach the availability of cannabis like the availability of alcohol, where communities can choose to prohibit the sale of alcohol in their area by voting in an election to approve that decision. Benefits of legalization are observable in communities that allow cannabis retailers, including additional funding for law enforcement. The proposed timeline offers the flexibility to add this question to future elections that will occur. Additional cannabis research is needed and will be funded by the bill. The bill recognizes the importance of local democracy. Voters who approved I-502 will have the power to determine if they want to allow or prohibit the sale of cannabis products within their boundaries. The bill does not require local jurisdictions to allow cannabis businesses, but allows local electors to make the decision. There are bans and moratoria in jurisdictions in which a majority of voters supported I-502, showing there can be a disconnect between the electorate and officials in jurisdictions with bans. The bill preserves and enhances the substance use disorder resources and cannabis research. The bill strikes a balance between local decision making and state regulation. It empowers communities to make informed decisions about the sale of cannabis while maintaining the integrity of the state regulatory framework. It is a step towards responsible and community driven cannabis policies.

(Opposed) County commissions, county councils, and city and town councils are best positioned to make local land use plans and decisions. Local control is a core aspect of the larger statewide planning framework for land use decisions. People elect officials intending that the elected officials will make policy decisions on behalf of the community. Public input is part of that process. The framework should stay that way. There are very few places where what is essentially a zoning decision can be put to the voters. Zoning decisions frequently arise, and if more of these decisions are put to voters it could be an expensive process for local governments. Maintain authority of local elected officials to make this decision for their communities. There are about 600 cannabis retailers in the state and concerns over access and impacts to the illicit market are overstated. An hour and fifteen minutes is the farthest distance from a city or town to a cannabis retailer that was determinable in one analysis looking statewide, and that community also has to drive about an hour to the nearest large grocery store. A 2023 study by the Joint Legislative Audit and Review Committee found that, on average, cannabis revenue sharing to local governments from the state amounted to less than one-third of 1 percent of a local government's general fund revenue. Local governments are grateful for all revenue, but this amount is not significant. Additionally, more cannabis retailers does not guarantee more revenue to the state or local governments. As of 2023, Washington and Colorado each generated the highest per capita state cannabis tax revenue, yet Colorado has double the amount of cannabis retailers per capita, meaning Colorado generates about the same amount of revenue per capita in cannabis revenue as Washington, yet has twice the number of stores.

Election costs vary widely and can be significant, costing tens of thousands of dollars. In the context of an average city budget, this cost is equivalent in terms of scale to the state spending about \$13 million. With significant costs and insignificant benefits, the bill should not move forward. Substance abuse and addiction are the biggest problems facing some counties, and cannabis contributes. The provision in the bill is good that prevents the Liquor and Cannabis Board from issuing a license when the local government prohibits cannabis businesses, because that is currently not the process. If the bill moves forward requiring voter approval, at least allow previous votes to count and do not require a new vote. Yakima County has held two votes and has twice rejected allowing cannabis businesses.

**Persons Testifying:** (In support) Representative Sharon Wylie, prime sponsor; and Caitlein Ryan, The Cannabis Alliance.

(Opposed) Lindsey Hueer, Association of Washington Cities; Paul Jewell, Washington State Association of Counties; and LaDon Linde, Yakima County District 3.

**Persons Signed In To Testify But Not Testifying:** None.