

HOUSE BILL REPORT

SB 5363

As Reported by House Committee On:
Regulated Substances & Gaming

Title: An act relating to cannabis retailer advertising.

Brief Description: Concerning cannabis retailer advertising.

Sponsors: Senators MacEwen and Stanford.

Brief History:

Committee Activity:

Regulated Substances & Gaming: 3/21/23, 3/28/23 [DPA].

Brief Summary of Bill
(As Amended By Committee)

- Removes the restriction in law on the size of certain licensed cannabis retailer signs.
- Restricts the Liquor and Cannabis Board from regulating the size of certain licensed cannabis retailer signs and billboards and places the regulation under the authority of local jurisdictions.

HOUSE COMMITTEE ON REGULATED SUBSTANCES & GAMING

Majority Report: Do pass as amended. Signed by 10 members: Representatives Kloba, Co-Chair; Wylie, Co-Chair; Stearns, Vice Chair; Chambers, Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Cheney, Orwall, Reeves, Walsh and Waters.

Staff: Matt Sterling (786-7289).

Background:

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.

Cannabis Retailer Signage.

The Liquor and Cannabis Board (LCB) regulates the adult-use, recreational cannabis system in Washington. State statutes and rules adopted by the LCB specify requirements of cannabis signage and advertising.

Except for the use of billboards authorized under state law, licensed cannabis retailers may not display any signage outside of the licensed premises, other than two signs identifying the retail outlet by the business or trade name that state the location and identify the nature of the business. Each sign must be no larger than 1,600 square inches, be permanently affixed to a building or other structure, and is subject to other requirements and restrictions established in law, including restrictions on depicting cannabis plants or products or images that might be appealing to children.

The LCB rules specify the text and images permissible on outdoor advertising. Outdoor advertising and billboards are prohibited in specified locations, such as arenas, stadiums, and shopping malls. Advertising signs within the premises of a retail cannabis business that are visible to the public from outside the premises are subject to the same requirements applicable to outdoor signs, with certain exceptions.

A city, town, or county may adopt rules of outdoor advertising by licensed cannabis retailers that are more restrictive, and must enforce its own restrictions.

In 2019 the King County Superior Court held in *Plausible Products, LLC d/b/a Hashtag Cannabis v. Washington State Liquor and Cannabis Board*, that certain restrictions on signs for cannabis retailers were unconstitutional.

Summary of Amended Bill:

The restriction on cannabis retailers for signs to not exceed 1,600 square inches is removed. The Liquor and Cannabis Board (LCB) may not regulate the size of retail signs, whether indoor or outdoor, and billboards for licensed cannabis retailers. Licensed cannabis retailers are subject to any size requirements for retail signs and billboards of the city, town, or county in which the retailer is located. The LCB's rulemaking authority regarding any other advertising requirements is not affected.

Amended Bill Compared to Original Bill:

The amended bill clarifies that the exception for licensed cannabis retailers to advertise within 1,000 feet of certain locations including a recreation center or facility, child care center, public park, public transit center, library, or a game arcade only applies to retailers that are permitted by a local ordinance pursuant to existing law.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended 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) The bill addresses some inconsistent enforcement on cannabis advertising that has occurred across the state. Legalized cannabis has existed long enough in Washington for these issues to be handled at the local level and this bill gives regulation and enforcement of cannabis advertising to local jurisdictions. Signage for retailers should be a local issue, and this bill allows retail stores to have their signs regulated based on how signs are regulated for other businesses in their community. Local municipalities can choose to be more or less restrictive as they determine what is appropriate for their community. The bill does nothing to change the authority of the Liquor and Cannabis Board (LCB) to regulate the content of signs, but just takes the regulation of the size of signs and the number of signs and transfers that authority to the local jurisdictions. The regulation of everything else pertaining to content and information that could be appealing to children remains with the LCB.

(Opposed) Initiative 502 created a state responsibility for regulating cannabis advertising to minimize exposure to individuals under 21 years of age. Research has shown that some of the most powerful predictors of youth initiating substance abuse are the community normalization they experience. This includes the size, frequency, and appeal of signage for products like alcohol and cannabis. Most local municipalities have ordinances that regulate how signage for local businesses gets approved. However, there is a difference between what is sold in a sewing shop and what is sold in a cannabis shop and different signage rules are needed to address these various businesses.

Persons Testifying: (In support) Senator Drew MacEwen, prime sponsor; Vicki Christophersen, Washington CannaBusiness Association; and Burl Bryson, The Cannabis Alliance.

(Opposed) Scott Waller, Washington Association for Substance Abuse and Violence Prevention—Prevention First! for Safe and Healthy Communities.

Persons Signed In To Testify But Not Testifying: None.