

SENATE BILL REPORT

ESB 5363

As Passed Senate, February 6, 2024

Title: An act relating to cannabis retailer advertising.

Brief Description: Concerning cannabis retailer advertising.

Sponsors: Senators MacEwen and Stanford.

Brief History:

Committee Activity: Labor & Commerce: 1/30/23, 2/13/23 [DP].

Floor Activity: Passed Senate: 3/8/23, 49-0; 2/6/24, 48-1.

Brief Summary of Engrossed Bill

- Modifies signage laws for licensed cannabis retailers.
- Places the regulation of trade name signs for licensed cannabis retailers under the authority of local jurisdictions.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Braun, MacEwen, Robinson, Schoesler and Stanford.

Staff: Susan Jones (786-7404)

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

Cannabis Retailer Signage. *Outdoor Signage.* Except for the use of billboards authorized under state law, licensed cannabis retailers may not display any signage outside of the

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licensed premises, other than two signs identifying the retail outlet by the business or trade name, stating the location of the business, and identifying the nature of the business. Each sign must be no larger than 1600 square inches, be permanently affixed to a building or other structure, and is subject to other requirements and restrictions established in law, including, without limitation, restrictions on depicting cannabis plants or products, or images that might be appealing to children. 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.

Indoor Signage. Advertising signs within the premises of a retail cannabis business visible to the public from outside the premises are subject to the same requirements applicable to outdoor signs, with certain exceptions.

Local Jurisdictions. 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.

Summary of Engrossed Bill: Except for the use of trade name signs and billboards, the number of advertising signs outside a cannabis retailer's licenses premises is increased to four signs. The allowable sign locations are affixed to the building or hanging in the windows of the licensed location. Signs less than 512 square inches are not considered advertising if they only include limited information, such as the hours of operation. Advertisements indicating that only persons 21 years and older may purchase the products must be in text of a reasonable size to consumers. Advertisements may not offer cannabis at less than the acquisition costs.

Separate trade names only signs are allowed provided they comply with local regulations. Enforcement of those signs is the responsibility of the local government. Trade name signs may only reflect the trade name of the licensed business and may not contain cannabis products or product brand names.

Signs and advertising content may not relate to alcohol, tobacco, or motor vehicles. Cannabis advertising is prohibited in liquor licensees, vapor product licensees, or cigarette or tobacco licensees businesses.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This seeks to return signage to local control and allow them to regulate this more or less robustly as they see fit. This is a narrow issue

and is limited to allowing local jurisdictions to oversee signage. Under current law, a cannabis store in a strip mall cannot put a sign on the totem. This bill would modernize regulating signage. This bill would put state law in line with a 2019 King County Superior Court decision, holding that LCB's strict signage rules violated the First Amendment. This is about normalization of cannabis.

CON: Many cannabis signs appeal to youth and we want to make sure the regulations stay in place.

OTHER: Advertising to youth is a high priority of the prevention community, and this bill goes against that.

Persons Testifying: PRO: Senator Drew MacEwen, Prime Sponsor; Vicki Christophersen, Washington CannaBusiness Association; Adan Espino Jr, Craft Cannabis Coalition; Burl Bryson, The Cannabis Alliance.

CON: Linda Thompson, Washington Association for Substance Misuse and Violence Prevention (WASAVP).

OTHER: Hailey Croci.

Persons Signed In To Testify But Not Testifying: No one.