**2136-S2 AMH COND H2645.3 - NOT FOR FLOOR USE**

**2SHB 2136** - H AMD **405**

By Representative Condotta

**WITHDRAWN 4/10/2015**

On page 43, after line 34, insert the following:

**"PART XII**

**Preemption and Public Vote**

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

(1) Except as provided in subsections (2) through (4) of this section and except under an ordinance passed pursuant to section 1202 of this act, the state of Washington fully occupies and preempts the entire field of regulating the production, processing, and retail sale of marijuana under this chapter and no city, town, or county may adopt or enforce any ordinance contradicting this chapter or state liquor control board rules adopted pursuant to this chapter.

(2) Except as provided otherwise by this section, cities, towns, and counties may exercise their zoning authority regarding the siting of licensed marijuana producers, processors, and retailers.

(3) No local comprehensive plan, development regulation, or ordinance may preclude the siting of licensed marijuana retailers, processors, or producers, except that:

(a) A city, town, or county that does not permit the commercial growing of plants anywhere in the jurisdiction is not required to accommodate the siting of licensed marijuana producers;

(b) A city, town, or county that does not permit the commercial processing of plants, plant-based material, or food products anywhere in the jurisdiction is not required to accommodate the siting of licensed marijuana processors; and

(c) A city, town, or county that does not permit retail uses within its jurisdiction is not required to accommodate the siting of licensed marijuana retailers.

(4) Nothing in this section may be construed to prevent any city, town, or county from applying ordinances of general application to marijuana producers, processors, or retailers that do not have the effect of precluding the siting or operation of any such business allowed under this chapter.

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

(1)(a) Any registered voter of a city, town, or county may submit a petition calling for the city, town, or county to prohibit the siting or operation of any business or facility to be used for the production, processing, researching, or retail sale of marijuana under this chapter. The petition must be signed by thirty percent or more of the voters of the city, town, or county and must be filed with the legislative authority of the applicable city, town, or county. 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, it must, within sixty days of a determination of sufficiency, hold a public hearing on the petition and an implementing ordinance. Following the public hearing, the legislative authority of the city, town, or county must submit the question of prohibiting the siting or operation of any business or facility to be used for the production, processing, researching, or retail sale of marijuana under this chapter to the voters of the jurisdiction at the 2015 general election.

(c) If a majority of the voters of the city, town, or county voting in the election approve the prohibition, the prohibition will take effect on the date specified in the petition. If no effective date is specified in the petition, the prohibition takes effect sixty days after the election.

(2) As an alternative to the petition process established in subsection (1) of this section, the legislative authority of any city, town, or county may initiate an ordinance provided for in subsection (1) of this section by submitting a ballot proposition at the 2015 general election prohibiting the siting or operation of any business or facility to be used for the production, processing, researching, or retail sale of marijuana under this chapter. If a majority of the voters of the city, town, or county voting in the election approve the prohibition, the 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 sixty days after the election.

(3) With respect to a county enacting an ordinance under this section, the ordinance may only apply 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.

(4) Elections conducted under this section must be held in accordance with general election law.

(5) Following the passage of an ordinance under subsection (1) or (2) of this section, the state liquor control board may not issue or renew any marijuana license under this chapter contradicting the adopted ordinance within an area subject to the ordinance.

(6) The legislative authority of a city, town, or county may, by ordinance, repeal a prohibition enacted under this section not less than two years after the prohibition's effective date. After a repeal under this subsection, the state liquor control board may issue and renew marijuana licenses under this chapter within the area that had been subject to the prohibition.

(7) Nothing in this section may be construed to extend powers to cities, towns, or counties beyond the authority to, pursuant to this section, prohibit the siting or operation of any business or facility to be used for the production, processing, researching, or retail sale of marijuana.

NEW SECTION. **Sec.**  Notwithstanding any other provision of law, counties also have the authority granted in section 1202 of this act to prohibit by ordinance the siting or operation of any business or facility to be used for the production, processing, researching, or retail sale of marijuana under chapter 69.50 RCW.

NEW SECTION. **Sec.**  Notwithstanding any other provision of law, cities and towns also have the authority granted in section 1202 of this act to prohibit by ordinance the siting or operation of any business or facility to be used for the production, processing, researching, or retail sale of marijuana under chapter 69.50 RCW.

NEW SECTION. **Sec.**  Notwithstanding any other provision of law, code cities also have the authority granted in section 1202 of this act to prohibit by ordinance the siting or operation of any business or facility to be used for the production, processing, researching, or retail sale of marijuana under chapter 69.50 RCW."

Renumber the remaining part and sections consecutively, correct any internal references accordingly, and correct the title.

On page 46, line 10, after "subsection" strike "(3)" and insert "(4)"

On page 46, line 11, after "act" insert "and sections 1202 through 1205 of this act"

On page 46, line 15, after "subsection" strike "(3)" and insert "(4)"

On page 46, line 17, after "(3)" insert "Subject to the contingency in subsection (4) of this section, section 1201 of this act takes effect January 1, 2016.

(4)"

On page 46, beginning on line 17, after "provided in" strike all material through "(2)" on line 18 and insert "subsections (1) through (3)"

On page 46, after line 19, insert the following:

"NEW SECTION. **Sec.**  Sections 1203 through 1205 of this act expire December 31, 2015."

Correct the title.

EFFECT: (1) Establishes that the state fully occupies and preempts the entire field of regulating the production, processing, researching, or retail sale of marijuana under the Controlled Substances Act. Provides that cities, towns, and counties may impose zoning and other generally applicable regulations that do not have the effect of precluding marijuana businesses in the jurisdiction. Makes preemption effective January 1, 2016.

(2) Establishes a process by which a city, town, or county can prohibit marijuana businesses by public vote. Requires the prohibition to be put to a vote at a general election upon submission of a petition signed by 30 percent of the registered voters in the jurisdiction or a proposition submitted by the jurisdiction's legislative authority. Makes the voting provisions effective July 1, 2015, and provides that they are not effective after December 31, 2015.

(3) Permits the legislative authority of a city, county, or town to repeal a prohibition no less than two years after the effective date of the prohibition.