
Commerce & Gaming Committee

HB 2471

Brief Description: Preempting local government regulation of medical marijuana cooperatives.

Sponsors: Representatives Kirby, Sawyer, Condotta and Macri.

Brief Summary of Bill

- The State of Washington has sole authority to regulate medical marijuana cooperatives authorized under chapter 69.51A RCW.
- Counties, cities, and towns are prohibited from enacting any regulations pertaining to medical marijuana cooperatives absent an express grant of authority from the state.

Hearing Date: 1/15/18

Staff: Thamas Osborn (786-7129).

Background:

State Preemption and Regulation of Marijuana Businesses by Local Governments.

Under the Washington state Constitution, local governments are empowered to adopt "all such local, police, sanitary, and other regulations as are not in conflict with the general laws" (Article XI, section 11). As the result of this constitutional principal, Washington law has developed a strong presumption against finding that state law preempts local ordinances. As a general rule, therefore, local governments may enact ordinances regulating the same subject matter as state laws, provided they do not conflict.

The text of Initiative 502 (I-502) does not address the issue of state preemption of local ordinances or regulations pertaining to the regulation of marijuana-related commerce. Because I-502 is silent regarding the preemption issue, many cities and counties throughout the state have enacted ordinances that either prohibit or impose a moratorium on the siting of licensed marijuana producers, processors, and retailers within their borders. The most recent statistics compiled by the Municipal Research and Service Center indicate that, at present, a total of

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approximately 77 cities and three counties have enacted such a prohibition or moratorium. Many other cities and counties have enacted special zoning ordinances limiting the location of recreational marijuana businesses to certain areas or have proposed special licensing requirements.

Medical Marijuana Cooperatives.

Qualifying medical marijuana patients or designated providers may form a cooperative for the purpose of growing marijuana plants for personal medical purposes. Members of a medical marijuana cooperative may share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative. No more than four qualifying patients or designated providers may become members of a cooperative and all members must hold valid recognition cards verifying that they are registered in the state medical marijuana database. The recognition card of each cooperative member must be displayed at the premises occupied by the cooperative. All members of the cooperative must be at least age 21. The designated provider of a qualifying patient who is under age 21 may be a member of a cooperative on the qualifying patient's behalf.

All plants grown in the cooperative must be purchased or cloned from a plant purchased from a licensed marijuana producer. In addition, participants may not grow additional plants at their residence, may not divert marijuana out of the cooperative, and must participate in a seed-to-sale traceability system monitored by the Liquor and Cannabis Board (LCB).

Additional requirements include that the cooperative's location:

- must be registered with the LCB;
- must be within a participant's domicile; and
- may not be within one mile of a marijuana retail outlet or within 1,000 feet of specified locations including an elementary or secondary school, playground, recreation center or facility, child care center, or public park, subject to specified exceptions.

Local Government Zoning Prohibitions Pertaining to Medical Marijuana Cooperatives.

A county, city, or town may prohibit marijuana cooperatives from locating within its jurisdictional boundaries through the enactment of an ordinance establishing such prohibition.

Summary of Bill:

The State of Washington has sole authority to regulate medical marijuana cooperatives authorized under chapter 69.51A RCW. Counties, cities, and towns are prohibited from enacting any regulation pertaining to medical marijuana cooperatives absent an express grant of authority from the state.

Appropriation: None.

Fiscal Note: Not requested.

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