

2SHB 2136 - H AMD 405

By Representative Condotta

WITHDRAWN 4/10/2015

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

2 "PART XII

3 Preemption and Public Vote

4 NEW SECTION. **Sec. 1201.** A new section is added to chapter 69.50
5 RCW to read as follows:

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

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

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

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

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

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

29 (4) Nothing in this section may be construed to prevent any city,
30 town, or county from applying ordinances of general application to
31 marijuana producers, processors, or retailers that do not have the

1 effect of precluding the siting or operation of any such business
2 allowed under this chapter.

3 NEW SECTION. **Sec. 1202.** A new section is added to chapter 69.50
4 RCW to read as follows:

5 (1)(a) Any registered voter of a city, town, or county may submit
6 a petition calling for the city, town, or county to prohibit the
7 siting or operation of any business or facility to be used for the
8 production, processing, researching, or retail sale of marijuana
9 under this chapter. The petition must be signed by thirty percent or
10 more of the voters of the city, town, or county and must be filed
11 with the legislative authority of the applicable city, town, or
12 county. With respect to petitions to be filed with a county under
13 this subsection, only registered voters in the unincorporated area of
14 the county may initiate and sign the petition.

15 (b) If the legislative authority determines the petition to be
16 sufficient, it must, within sixty days of a determination of
17 sufficiency, hold a public hearing on the petition and an
18 implementing ordinance. Following the public hearing, the legislative
19 authority of the city, town, or county must submit the question of
20 prohibiting the siting or operation of any business or facility to be
21 used for the production, processing, researching, or retail sale of
22 marijuana under this chapter to the voters of the jurisdiction at the
23 2015 general election.

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

29 (2) As an alternative to the petition process established in
30 subsection (1) of this section, the legislative authority of any
31 city, town, or county may initiate an ordinance provided for in
32 subsection (1) of this section by submitting a ballot proposition at
33 the 2015 general election prohibiting the siting or operation of any
34 business or facility to be used for the production, processing,
35 researching, or retail sale of marijuana under this chapter. If a
36 majority of the voters of the city, town, or county voting in the
37 election approve the prohibition, the prohibition takes effect on the
38 date specified in the ballot proposition. If no effective date is

1 specified in the ballot proposition, the prohibition takes effect
2 sixty days after the election.

3 (3) With respect to a county enacting an ordinance under this
4 section, the ordinance may only apply to unincorporated areas of the
5 county. No voters within the boundaries of an incorporated city or
6 town may participate in a county election under this section.

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

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

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

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

24 NEW SECTION. **Sec. 1203.** Notwithstanding any other provision of
25 law, counties also have the authority granted in section 1202 of this
26 act to prohibit by ordinance the siting or operation of any business
27 or facility to be used for the production, processing, researching,
28 or retail sale of marijuana under chapter 69.50 RCW.

29 NEW SECTION. **Sec. 1204.** Notwithstanding any other provision of
30 law, cities and towns also have the authority granted in section 1202
31 of this act to prohibit by ordinance the siting or operation of any
32 business or facility to be used for the production, processing,
33 researching, or retail sale of marijuana under chapter 69.50 RCW.

34 NEW SECTION. **Sec. 1205.** Notwithstanding any other provision of
35 law, code cities also have the authority granted in section 1202 of
36 this act to prohibit by ordinance the siting or operation of any

1 business or facility to be used for the production, processing,
2 researching, or retail sale of marijuana under chapter 69.50 RCW."

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

5 On page 46, line 10, after "subsection" strike "(3)" and insert
6 "(4)"

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

9 On page 46, line 15, after "subsection" strike "(3)" and insert
10 "(4)"

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

14 (4)"

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

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

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

21 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.

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