

2SHB 2136 - H AMD 386

By Representative Hurst

ADOPTED 4/10/2015

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

2 "PART XII

3 **Agreements between the Governor and Indian Tribes**

4 NEW SECTION. **Sec. 1201.** A new section is added to chapter 43.06
5 RCW to read as follows:

6 The legislature intends to further the government-to-government
7 relationship between the state of Washington and federally recognized
8 Indian tribes in the state of Washington by authorizing the governor
9 to enter into agreements concerning the regulation of marijuana. Such
10 agreements may include provisions pertaining to: The lawful
11 commercial production, processing, sale, and possession of marijuana
12 for both recreational and medical purposes; marijuana-related
13 research activities; law enforcement, both criminal and civil; and
14 taxation. The legislature finds that these agreements will facilitate
15 and promote a cooperative and mutually beneficial relationship
16 between the state and the tribes regarding matters relating to the
17 legalization of marijuana, particularly in light of the fact that
18 federal Indian law precludes the state from enforcing its civil
19 regulatory laws in Indian country. Such cooperative agreements will
20 enhance public health and safety, ensure a lawful and well-regulated
21 marijuana market, encourage economic development, and provide fiscal
22 benefits to both the tribes and the state.

23 NEW SECTION. **Sec. 1202.** A new section is added to chapter 43.06
24 RCW to read as follows:

25 (1) The governor may enter into agreements with federally
26 recognized Indian tribes concerning marijuana. Marijuana agreements
27 may address any marijuana-related issue that involves both state and
28 tribal interests or otherwise has an impact on tribal-state
29 relations. Such agreements may include, but are not limited to, the
30 following provisions and subject matter:

31 (a) Criminal and civil law enforcement;

1 (b) Regulatory issues related to the commercial production,
2 processing, sale, and possession of marijuana, and processed
3 marijuana products, for both recreational and medical purposes;

4 (c) Medical and pharmaceutical research involving marijuana;

5 (d) Taxation;

6 (e) Any tribal immunities or preemption of state law regarding
7 the production, processing, or marketing of marijuana; and

8 (f) Dispute resolution, including the use of mediation or other
9 nonjudicial process.

10 (2) Any marijuana agreement relating to the production,
11 processing, and sale of marijuana in Indian country, whether for
12 recreational or medical purposes, must address the following issues:

13 (a) Preservation of public health and safety;

14 (b) Ensuring the security of production, processing, retail, and
15 research facilities; and

16 (c) Cross-border commerce in marijuana.

17 (3) The governor may delegate the power to negotiate marijuana
18 agreements to the state liquor control board. In conducting such
19 negotiations, the state liquor control board must, when necessary,
20 consult with the governor and/or the department of revenue.

21 (4) The definitions in this subsection apply throughout this
22 section unless the context clearly requires otherwise.

23 (a) "Indian country" has the same meaning as in RCW 82.24.010.

24 (b) "Indian tribe" or "tribe" means a federally recognized Indian
25 tribe located within the geographical boundaries of the state of
26 Washington.

27 (c) "Marijuana" means "marijuana," "marijuana concentrates,"
28 "marijuana-infused products," and "useable marijuana," as those terms
29 are defined in RCW 69.50.101.

30 NEW SECTION. **Sec. 1203.** A new section is added to chapter 69.50
31 RCW to read as follows:

32 The taxes, fees, assessments, and other charges imposed by this
33 chapter do not apply to commercial activities related to the
34 production, processing, sale, and possession of marijuana, useable
35 marijuana, marijuana concentrates, and marijuana-infused products
36 covered by an agreement entered into under section 1202 of this act.

37 NEW SECTION. **Sec. 1204.** A new section is added to chapter 82.08
38 RCW to read as follows:

1 The taxes imposed by this chapter do not apply to the retail sale
2 of marijuana, useable marijuana, marijuana concentrates, and
3 marijuana-infused products covered by an agreement entered into under
4 section 1202 of this act. "Marijuana," "useable marijuana,"
5 "marijuana concentrates," and "marijuana-infused products" have the
6 same meaning as defined in RCW 69.50.101.

7 NEW SECTION. **Sec. 1205.** A new section is added to chapter 82.12
8 RCW to read as follows:

9 The taxes imposed by this chapter do not apply to the use of
10 marijuana, useable marijuana, marijuana concentrates, and marijuana-
11 infused products covered by an agreement entered into under section
12 1202 of this act. "Marijuana," "useable marijuana," "marijuana
13 concentrates," and "marijuana-infused products" have the same meaning
14 as defined in RCW 69.50.101.

15 **Sec. 1206.** RCW 69.50.360 and 2014 c 192 s 5 are each amended to
16 read as follows:

17 The following acts, when performed by a validly licensed
18 marijuana retailer or employee of a validly licensed retail outlet in
19 compliance with rules adopted by the state liquor control board to
20 implement and enforce chapter 3, Laws of 2013, (~~shall~~) do not
21 constitute criminal or civil offenses under Washington state law:

22 (1) Purchase and receipt of marijuana concentrates, useable
23 marijuana, or marijuana-infused products that have been properly
24 packaged and labeled from a marijuana processor validly licensed
25 under chapter 3, Laws of 2013;

26 (2) Possession of quantities of marijuana concentrates, useable
27 marijuana, or marijuana-infused products that do not exceed the
28 maximum amounts established by the state liquor control board under
29 RCW 69.50.345(5); (~~and~~)

30 (3) Delivery, distribution, and sale, on the premises of the
31 retail outlet, of any combination of the following amounts of
32 marijuana concentrates, useable marijuana, or marijuana-infused
33 product to any person twenty-one years of age or older:

34 (a) One ounce of useable marijuana;

35 (b) Sixteen ounces of marijuana-infused product in solid form;

36 (c) Seventy-two ounces of marijuana-infused product in liquid
37 form; or

38 (d) Seven grams of marijuana concentrate; and

1 (4) Purchase and receipt of marijuana concentrates, useable
2 marijuana, or marijuana-infused products that have been properly
3 packaged and labeled from a federally recognized Indian tribe as
4 permitted under an agreement between the state and the tribe entered
5 into under section 1202 of this act.

6 **Sec. 1207.** RCW 69.50.363 and 2013 c 3 s 16 are each amended to
7 read as follows:

8 The following acts, when performed by a validly licensed
9 marijuana processor or employee of a validly licensed marijuana
10 processor in compliance with rules adopted by the state liquor
11 control board to implement and enforce chapter 3, Laws of 2013,
12 (~~shall~~) do not constitute criminal or civil offenses under
13 Washington state law:

14 (1) Purchase and receipt of marijuana that has been properly
15 packaged and labeled from a marijuana producer validly licensed under
16 chapter 3, Laws of 2013;

17 (2) Possession, processing, packaging, and labeling of quantities
18 of marijuana, useable marijuana, and marijuana-infused products that
19 do not exceed the maximum amounts established by the state liquor
20 control board under RCW 69.50.345(4); (~~and~~)

21 (3) Delivery, distribution, and sale of useable marijuana or
22 marijuana-infused products to a marijuana retailer validly licensed
23 under chapter 3, Laws of 2013; and

24 (4) Delivery, distribution, and sale of useable marijuana,
25 marijuana concentrates, or marijuana-infused products to a federally
26 recognized Indian tribe as permitted under an agreement between the
27 state and the tribe entered into under section 1202 of this act.

28 **Sec. 1208.** RCW 69.50.366 and 2013 c 3 s 17 are each amended to
29 read as follows:

30 The following acts, when performed by a validly licensed
31 marijuana producer or employee of a validly licensed marijuana
32 producer in compliance with rules adopted by the state liquor control
33 board to implement and enforce chapter 3, Laws of 2013, (~~shall~~) do
34 not constitute criminal or civil offenses under Washington state law:

35 (1) Production or possession of quantities of marijuana that do
36 not exceed the maximum amounts established by the state liquor
37 control board under RCW 69.50.345(3); (~~and~~)

1 (2) Delivery, distribution, and sale of marijuana to a marijuana
2 processor or another marijuana producer validly licensed under
3 chapter 3, Laws of 2013; and

4 (3) Delivery, distribution, and sale of marijuana or useable
5 marijuana to a federally recognized Indian tribe as permitted under
6 an agreement between the state and the tribe entered into under
7 section 1202 of this act."

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

EFFECT: (1) Authorizes the Governor to enter into agreements with federally recognized Indian tribes regarding any marijuana-related issue that involves both state and tribal interests or otherwise has an impact on tribal-state relations.

(2) Exempts tribes from state sales, excise, and use taxes with respect to tribal commercial activities involving marijuana, but only where such an exemption is covered by a tribal-state agreement.

(3) Authorizes licensed marijuana retailers to purchase and receive marijuana and processed marijuana products from a federally recognized Indian tribe as permitted by a tribal-state agreement.

(4) Authorizes state licensed marijuana producers and processors to sell and distribute marijuana and processed marijuana products to a federally recognized Indian tribe as permitted by a tribal-state agreement.

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