

HOUSE BILL REPORT

HB 1466

As Reported by House Committee On:
Commerce & Gaming

Title: An act relating to banning marijuana billboards.

Brief Description: Banning marijuana billboards.

Sponsors: Representatives Klippert, Kirby, Jenkins, Davis and Kilduff.

Brief History:

Committee Activity:

Commerce & Gaming: 2/5/19, 2/21/19 [DP].

Brief Summary of Bill

- Prohibits licensed marijuana businesses from placing or maintaining any billboard in Washington advertising the licensee's business, marijuana, or any marijuana product.
- Removes existing references to marijuana billboard requirements.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: Do pass. Signed by 6 members: Representatives Stanford, Chair; Blake, Jenkin, Kirby, Kloba and Young.

Minority Report: Do not pass. Signed by 3 members: Representatives Reeves, Vice Chair; Chambers, Assistant Ranking Minority Member; Vick.

Minority Report: Without recommendation. Signed by 2 members: Representatives MacEwen, Ranking Minority Member; Morgan.

Staff: Peter Clodfelter (786-7127).

Background:

Advertising by licensed marijuana businesses is regulated in state law and rules, with enforcement by the Washington State Liquor and Cannabis Board (LCB). No licensed

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marijuana producer, processor, researcher, or retailer may place or maintain, or cause to be placed or maintained, any sign or other advertisement for a marijuana business or marijuana product in any form or through any medium within 1,000 feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged 21 and older.

Additionally, except for the use of billboards, licensed marijuana retailers may not display any signage outside of the licensed premises, other than two signs that are no larger than 1,600 square inches and permanently affixed to a building or other structure. These two authorized signs are limited to text that identifies the retail outlet by the licensee's business or trade name, states the location of the business, and identifies the type or nature of the business. Such signs may not contain any depictions of marijuana plants, marijuana products, or images that might be appealing to children. The LCB is granted rulemaking authority to regulate the text and images that are permissible on outdoor advertising. Such rulemaking must be consistent with other rules generally applicable to the advertising of marijuana businesses and products.

Outdoor advertising is prohibited on signs and placards in arenas, stadiums, shopping malls, fairs that receive state allocations, farmers markets, and video game arcades, whether any of these locations are open air or enclosed, but not including any sign or placard located in an adult-only facility. Generally, billboards that are visible from any street, road, highway, right-of-way, or public parking area are prohibited. However, licensed marijuana retail outlets may use a billboard or outdoor sign solely for the purpose of identifying the name of the business, the nature of the business, and providing the public with directional information to the retail outlet.

All signs, billboards, or other print advertising for marijuana businesses or marijuana products must contain text stating marijuana products may be purchased or possessed only by persons age 21 or older. Marijuana licensees may not engage in advertising or other marketing practices that specifically target persons residing outside of Washington. Additionally, all transit advertising by marijuana licensees is prohibited. Transit advertising is defined to include advertising on or within private or public vehicles and all advertisements placed at, on, or within any bus stop, taxi stand, transportation waiting area, train station, airport, or any similar transit-related location.

A marijuana licensee may not take any action, directly or indirectly, to do any of the following:

- target youth in the advertising, promotion, or marketing of marijuana and marijuana products, or take any action the primary purpose of which is to initiate, maintain, or increase the incidence of youth use of marijuana or marijuana products;
- use objects such as toys or inflatables, movie or cartoon characters, or any other depiction or image likely to be appealing to youth, where objects, images, or depictions indicate an intent to cause youth to become interested in the purchase or consumption of marijuana products; or
- use or employ a commercial mascot outside of, and in proximity to, a licensed marijuana business.

A commercial mascot is defined as a live human being, animal, or mechanical device used for attracting the attention of motorists and passersby so as to make them aware of marijuana products or the presence of a marijuana business. Commercial mascots include, but are not limited to, inflatable tube displays, persons in costume, or wearing, holding, or spinning a sign with a marijuana-related commercial message or image, where the intent is to draw attention to a marijuana business or its products.

Advertising signs within a marijuana retail outlet visible from outside the premises must meet the requirements applicable to outdoor signs. However, the requirements for outdoor advertising are not applicable to an advertisement inside a licensed retail establishment that is not placed on the inside surface of the window facing outward, or an outdoor advertisement at the site of an event to be held at an adult-only facility that is placed at the site during the period the facility or enclosed area constitutes an adult-only facility.

The LCB adopted rules implementing the advertising requirements with provisions regulating billboards and outdoor signs. The LCB was required to fine licensees \$1,000 for each advertising violation until the LCB developed rules prescribing penalties for violations. The LCB's rules include escalating penalties including fines and up to suspension or revocation of a marijuana license for subsequent violations. Local governments may adopt rules on outdoor advertising by licensed marijuana retailers that are more restrictive than the advertising restrictions in state law.

Summary of Bill:

Licensed marijuana businesses are prohibited from placing or maintaining, or causing the placement or maintenance of, any billboard in Washington advertising the licensee's business, marijuana, or any marijuana product. Outdoor advertising by marijuana licensees is prohibited on any billboard in Washington. References to existing marijuana billboard advertising regulations, restrictions, and LCB rulemaking authority related to billboards, are all eliminated.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) It is reported that marijuana smoke contains 50 to 70 percent more cancer causing substances than tobacco smoke. In 1998 Washington, along with other states, reached a settlement agreement with the tobacco industry, which banned cigarette billboard advertising. Because of the nature and danger of tobacco smoke, a billboard ban was

justified. The same rationale for why cigarettes should not be advertised on billboards applies to marijuana. This bill helps protect citizens against the dangers of marijuana smoke. Marijuana billboards are currently visible to children. There is ample demand for marijuana without billboards. People do not need a billboard to find a marijuana store. There are many resources available to find out where stores are located within a given area, and people will have no problem finding marijuana stores without billboards, just as they find all types of other stores without billboards.

(Opposed) Voters spoke when they enacted Initiative 502 (2012) legalizing adult recreational marijuana, and these issues should not be relitigated. Voters wanted marijuana to be out of the shadows. Marijuana businesses have a legal right to promote their business and educate the public. Even the existing restrictions on marijuana billboards, just enacted in 2017, arguably infringe on free speech rights. This bill goes farther, is not content neutral, and certainly violates free speech rights. The state needs to have a substantial interest directly advanced by the legislation. This test cannot be met here. There is no study showing the recently enacted restrictions on billboard speech are inadequate. Before banning billboards, wait and see how the new restrictions in the 2017 law and the LCB implementing rules work. If this bill passes, all the time and effort related to implementing the previous law will be wasted. There is evidence the current billboard restrictions are working, as there have been less complaints to the LCB regarding billboards than initially when the 2017 law first became effective. The 2017 law also heavily restricted the type of information that may be included on a marijuana billboard. This bill will lead to litigation and represents a slippery slope in prohibiting certain speech based on the content of the speech. Additionally, remember that local governments may currently more heavily restrict marijuana billboard advertising within their jurisdictions by enacting an ordinance. Current law allows this, and local governments should have a say on this issue. Marijuana businesses provide numerous jobs and substantial tax revenue to Washington, and this bill will hurt the marijuana industry. It will also lead to job losses in the construction industry. There has been a resurgence of construction crews who construct billboard signs, and this bill hurts them by eliminating good paying jobs.

(Other) Before the 2017 law restricting marijuana billboards was enacted, it is true there was content on marijuana billboards that went too far and needed to be dialed back. Although the 2017 law did dial back the content of marijuana signs and billboards, which at the time was a serious issue, the law also has not worked out as well as intended in all parts of Washington. Stakeholders have much respect for free speech rights, and this is a very complicated issue. Some marijuana retailers have already voluntarily stopped using billboards, finding billboards are no longer impactful.

Persons Testifying: (In support) Representative Klippert, prime sponsor; and Seth Dawson, Washington Association for Substance Abuse and Violence Prevention.

(Opposed) Mike Luinstra, James Wohrle, and Korbe Palmer, Lamar Outdoor Advertising; and Dale Bright, Laborers Local 242.

(Other) Philip Dawdy, Have A Heart.

Persons Signed In To Testify But Not Testifying: None.