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**HOUSE BILL 2350**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Kirby, Blake, MacEwen, Davis, Jenkin, Young, Harris, and Wylie

Prefiled 01/09/20. Read first time 01/13/20. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to preventing youth marijuana consumption by  
2 updating marijuana advertising requirements; amending RCW 69.50.369  
3 and 69.50.345; reenacting and amending RCW 69.50.345; creating a new  
4 section; providing an effective date; and providing an expiration  
5 date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that there is  
8 evidence of a significant association between youth exposure to  
9 marijuana advertising and a higher probability of youth marijuana use  
10 and stronger intentions of youth to use marijuana. Studies showing  
11 this significant association are described in the following articles:

12 (a) Elizabeth J. D'Amico, et al., Gateway to curiosity: Medical  
13 marijuana ads and intention and use during middle school, 29  
14 Psychology of Addictive Behaviors 613 (2015); and

15 (b) Elizabeth J. D'Amico, et al., Planting the seed for marijuana  
16 use: Changes in exposure to medical marijuana advertising and  
17 subsequent marijuana use, cognitions, and consequences over seven  
18 years, 188 Drug & Alcohol Dependence 385 (2018).

19 (2) The legislature finds that the state has a substantial  
20 interest in preventing youth and persons under age twenty-one from  
21 consuming marijuana. This substantial interest was recognized by the

1 King county superior court in the final order granting petitioner's  
2 request for relief from agency action in the case Plausible Products,  
3 LLC d/b/a Hashtag Cannabis v. Washington State Liquor and Cannabis  
4 Board, Case #19-2-03293-6 SEA (Order Filed November 18, 2019).  
5 Despite recognizing this substantial state interest, the court ruled  
6 that several specific provisions of the marijuana advertising  
7 restrictions for on-premises signs are unconstitutional in light of  
8 other permissible forms of marijuana advertising under the regulatory  
9 framework, such as billboards, which expose potential underage  
10 consumers to marijuana advertising. The court also declined to  
11 recognize a substantial state interest in maintaining an orderly  
12 marketplace to avoid federal intervention, as a justification for the  
13 advertising restrictions.

14 (3) Therefore, the legislature intends to enact provisions  
15 reducing youth exposure to marijuana advertising by prohibiting the  
16 use of billboards for advertising marijuana. While doing so, the  
17 legislature also intends to provide more flexibility for the use of  
18 signs and advertisements by marijuana licensees at their licensed  
19 premises.

20 **Sec. 2.** RCW 69.50.369 and 2017 c 317 s 14 are each amended to  
21 read as follows:

22 (1) No licensed marijuana producer, processor, researcher, or  
23 retailer may place or maintain, or cause to be placed or maintained,  
24 any sign or other advertisement for a marijuana business or marijuana  
25 product, including useable marijuana, marijuana concentrates, or  
26 marijuana-infused product, in any form or through any medium  
27 whatsoever within one thousand feet of the perimeter of a school  
28 grounds, playground, recreation center or facility, child care  
29 center, public park, or library, or any game arcade admission to  
30 which is not restricted to persons aged twenty-one years or older.

31 ~~(2) ((Except for the use of billboards as authorized under this~~  
32 ~~section, licensed)) Licensed marijuana retailers may not display any~~  
33 ~~signage outside of the licensed premises ((, other than two signs~~  
34 ~~identifying the retail outlet by the licensee's business or trade~~  
35 ~~name, stating the location of the business, and identifying the~~  
36 ~~nature of the business. Each sign must be no larger than one thousand~~  
37 ~~six hundred square inches and be permanently affixed to a building or~~  
38 ~~other structure)) that is appealing to youth or violates requirements~~  
39 ~~of this section or board rules adopted under this section.~~ The

1 location and content of (~~the~~) retail marijuana signs (~~authorized~~  
2 ~~under this subsection~~) are subject to all other requirements and  
3 restrictions established in this section for indoor signs, outdoor  
4 signs, and other marijuana-related advertising methods.

5 (3) A marijuana licensee may not utilize transit advertisements  
6 for the purpose of advertising its business or product line. "Transit  
7 advertisements" means advertising on or within private or public  
8 vehicles and all advertisements placed at, on, or within any bus  
9 stop, taxi stand, transportation waiting area, train station,  
10 airport, or any similar transit-related location.

11 (4) A marijuana licensee may not engage in advertising or other  
12 marketing practice that specifically targets persons residing outside  
13 of the state of Washington.

14 (5) All signs(~~, billboards,~~) or other print advertising for  
15 marijuana businesses or marijuana products must contain text stating  
16 that marijuana products may be purchased or possessed only by persons  
17 twenty-one years of age or older.

18 (6) A marijuana licensee may not:

19 (a) Take any action, directly or indirectly, to target youth in  
20 the advertising, promotion, or marketing of marijuana and marijuana  
21 products, or take any action the primary purpose of which is to  
22 initiate, maintain, or increase the incidence of youth use of  
23 marijuana or marijuana products;

24 (b) Use objects such as toys or inflatables, movie or cartoon  
25 characters, or any other depiction or image likely to be appealing to  
26 youth, where such objects, images, or depictions indicate an intent  
27 to cause youth to become interested in the purchase or consumption of  
28 marijuana products; or

29 (c) Use or employ a commercial mascot outside of, and in  
30 proximity to, a licensed marijuana business. A "commercial mascot"  
31 means live human being, animal, or mechanical device used for  
32 attracting the attention of motorists and passersby so as to make  
33 them aware of marijuana products or the presence of a marijuana  
34 business. Commercial mascots include, but are not limited to,  
35 inflatable tube displays, persons in costume, or wearing, holding, or  
36 spinning a sign with a marijuana-related commercial message or image,  
37 where the intent is to draw attention to a marijuana business or its  
38 products.

1 (7) A marijuana licensee that engages in outdoor advertising is  
2 subject to the advertising requirements and restrictions set forth in  
3 this subsection (7) and elsewhere in this chapter.

4 (a) ~~((All outdoor))~~ Outdoor advertising signs ~~((, including~~  
5 ~~billboards, are limited to text that identifies the retail outlet by~~  
6 ~~the licensee's business or trade name, states the location of the~~  
7 ~~business, and identifies the type or nature of the business. Such~~  
8 ~~signs))~~ may not contain any depictions ~~((of marijuana plants,~~  
9 ~~marijuana products,))~~ or images that might be appealing to children.  
10 The ~~((state liquor and cannabis))~~ board is granted rule-making  
11 authority subject to subsection (10)(c) of this section to regulate  
12 the text and images that are permissible on outdoor advertising to  
13 ensure the text and images of signs and other outdoor advertisements  
14 are not appealing to children or persons under twenty-one years of  
15 age. Such rule making must be consistent with other administrative  
16 rules generally applicable to the advertising of marijuana businesses  
17 and products.

18 (b) Outdoor advertising is prohibited:

19 (i) On signs and placards in arenas, stadiums, shopping malls,  
20 fairs that receive state allocations, farmers markets, and video game  
21 arcades, whether any of the foregoing are open air or enclosed, but  
22 not including any such sign or placard located in an adult only  
23 facility; and

24 (ii) ~~((Billboards that are visible from any street, road,~~  
25 ~~highway, right-of-way, or public parking area are prohibited, except~~  
26 ~~as provided in (c) of this subsection.))~~ On any billboard in this  
27 state.

28 (c) ~~((Licensed retail outlets may use a billboard or outdoor sign~~  
29 ~~solely for the purpose of identifying the name of the business, the~~  
30 ~~nature of the business, and providing the public with directional~~  
31 ~~information to the licensed retail outlet. Billboard advertising is~~  
32 ~~subject to the same requirements and restrictions as set forth in (a)~~  
33 ~~of this subsection.~~

34 ~~(d))~~ Advertising signs within the premises of a retail marijuana  
35 business outlet that are visible to the public from outside the  
36 premises must meet the signage regulations and requirements  
37 applicable to outdoor signs as set forth in this section.

38 ~~((e))~~ (d) The restrictions and regulations applicable to  
39 outdoor advertising under this section are not applicable to:

1 (i) An advertisement inside a licensed retail establishment that  
2 sells marijuana products that is not placed on the inside surface of  
3 a window facing outward; or

4 (ii) An outdoor advertisement at the site of an event to be held  
5 at an adult only facility that is placed at such site during the  
6 period the facility or enclosed area constitutes an adult only  
7 facility, but in no event more than fourteen days before the event,  
8 and that does not advertise any marijuana product other than by using  
9 a brand name to identify the event.

10 (8) Merchandising within a retail outlet is not advertising for  
11 the purposes of this section.

12 (9) This section does not apply to a noncommercial message.

13 (10)(a) The (~~state liquor and cannabis~~) board must:

14 (i) Adopt rules implementing this section and specifically  
15 including provisions regulating the (~~billboards and~~) outdoor signs  
16 authorized under this section to ensure signs are not appealing to  
17 children or persons under twenty-one years of age; and

18 (ii) Fine a licensee one thousand dollars for each violation of  
19 this section until the (~~state liquor and cannabis~~) board adopts  
20 rules prescribing penalties for violations of this section. The rules  
21 must establish escalating penalties including fines and up to  
22 suspension or revocation of a marijuana license for subsequent  
23 violations.

24 (b) Fines collected under this subsection must be deposited into  
25 the dedicated marijuana account created under RCW 69.50.530.

26 (c) The rule-making authority of the board related to regulating  
27 on-premises signs and on-premises advertisements of marijuana  
28 licensees is limited to rules designed to prevent such signs and  
29 advertisements from being appealing to children and persons under  
30 twenty-one years of age. Nothing in this section or chapter  
31 authorizes the board to limit the number or size of on-premises signs  
32 or advertisements used by a marijuana licensee at their licensed  
33 location.

34 (11) A city, town, or county may adopt rules of outdoor  
35 advertising by licensed marijuana retailers that are more restrictive  
36 than the advertising restrictions imposed under this chapter.  
37 Enforcement of restrictions to advertising by a city, town, or county  
38 is the responsibility of the city, town, or county.

1       **Sec. 3.** RCW 69.50.345 and 2019 c 393 s 2 are each amended to  
2 read as follows:

3       The (~~state liquor and cannabis~~) board, subject to the  
4 provisions of this chapter, must adopt rules that establish the  
5 procedures and criteria necessary to implement the following:

6       (1) Licensing of marijuana producers, marijuana processors, and  
7 marijuana retailers, including prescribing forms and establishing  
8 application, reinstatement, and renewal fees.

9       (a) Application forms for marijuana producers must request the  
10 applicant to state whether the applicant intends to produce marijuana  
11 for sale by marijuana retailers holding medical marijuana  
12 endorsements and the amount of or percentage of canopy the applicant  
13 intends to commit to growing plants determined by the department  
14 under RCW 69.50.375 to be of a THC concentration, CBD concentration,  
15 or THC to CBD ratio appropriate for marijuana concentrates, useable  
16 marijuana, or marijuana-infused products sold to qualifying patients.

17       (b) The (~~state liquor and cannabis~~) board must reconsider and  
18 increase limits on the amount of square feet permitted to be in  
19 production on July 24, 2015, and increase the percentage of  
20 production space for those marijuana producers who intend to grow  
21 plants for marijuana retailers holding medical marijuana endorsements  
22 if the marijuana producer designates the increased production space  
23 to plants determined by the department under RCW 69.50.375 to be of a  
24 THC concentration, CBD concentration, or THC to CBD ratio appropriate  
25 for marijuana concentrates, useable marijuana, or marijuana-infused  
26 products to be sold to qualifying patients. If current marijuana  
27 producers do not use all the increased production space, the (~~state  
28 liquor and cannabis~~) board may reopen the license period for new  
29 marijuana producer license applicants but only to those marijuana  
30 producers who agree to grow plants for marijuana retailers holding  
31 medical marijuana endorsements. Priority in licensing must be given  
32 to marijuana producer license applicants who have an application  
33 pending on July 24, 2015, but who are not yet licensed and then to  
34 new marijuana producer license applicants. After January 1, 2017, any  
35 reconsideration of the limits on the amount of square feet permitted  
36 to be in production to meet the medical needs of qualifying patients  
37 must consider information contained in the medical marijuana  
38 authorization database established in RCW 69.51A.230;

1 (2) Determining, in consultation with the office of financial  
2 management, the maximum number of retail outlets that may be licensed  
3 in each county, taking into consideration:

4 (a) Population distribution;

5 (b) Security and safety issues;

6 (c) The provision of adequate access to licensed sources of  
7 marijuana concentrates, useable marijuana, and marijuana-infused  
8 products to discourage purchases from the illegal market; and

9 (d) The number of retail outlets holding medical marijuana  
10 endorsements necessary to meet the medical needs of qualifying  
11 patients. The (~~state liquor and cannabis~~) board must reconsider and  
12 increase the maximum number of retail outlets it established before  
13 July 24, 2015, and allow for a new license application period and a  
14 greater number of retail outlets to be permitted in order to  
15 accommodate the medical needs of qualifying patients and designated  
16 providers. After January 1, 2017, any reconsideration of the maximum  
17 number of retail outlets needed to meet the medical needs of  
18 qualifying patients must consider information contained in the  
19 medical marijuana authorization database established in RCW  
20 69.51A.230;

21 (3) Determining the maximum quantity of marijuana a marijuana  
22 producer may have on the premises of a licensed location at any time  
23 without violating Washington state law;

24 (4) Determining the maximum quantities of marijuana, marijuana  
25 concentrates, useable marijuana, and marijuana-infused products a  
26 marijuana processor may have on the premises of a licensed location  
27 at any time without violating Washington state law;

28 (5) Determining the maximum quantities of marijuana concentrates,  
29 useable marijuana, and marijuana-infused products a marijuana  
30 retailer may have on the premises of a retail outlet at any time  
31 without violating Washington state law;

32 (6) In making the determinations required by this section, the  
33 (~~state liquor and cannabis~~) board shall take into consideration:

34 (a) Security and safety issues;

35 (b) The provision of adequate access to licensed sources of  
36 marijuana, marijuana concentrates, useable marijuana, and marijuana-  
37 infused products to discourage purchases from the illegal market; and

38 (c) Economies of scale, and their impact on licensees' ability to  
39 both comply with regulatory requirements and undercut illegal market  
40 prices;

1 (7) Determining the nature, form, and capacity of all containers  
2 to be used by licensees to contain marijuana, marijuana concentrates,  
3 useable marijuana, and marijuana-infused products, and their labeling  
4 requirements;

5 (8) In consultation with the department of agriculture and the  
6 department, establishing classes of marijuana, marijuana  
7 concentrates, useable marijuana, and marijuana-infused products  
8 according to grade, condition, cannabinoid profile, THC  
9 concentration, CBD concentration, or other qualitative measurements  
10 deemed appropriate by the (~~state liquor and cannabis~~) board;

11 (9) Establishing reasonable time, place, and manner restrictions  
12 and requirements regarding advertising of marijuana, marijuana  
13 concentrates, useable marijuana, and marijuana-infused products that  
14 are not inconsistent with the provisions of this chapter, taking into  
15 consideration:

16 (a) (~~Federal laws relating to marijuana that are applicable~~  
17 ~~within Washington state;~~

18 ~~(b)~~) Minimizing exposure of people under twenty-one years of age  
19 to the advertising;

20 (~~(c)~~) (b) The inclusion of medically and scientifically  
21 accurate information about the health and safety risks posed by  
22 marijuana use in the advertising; and

23 (~~(d)~~) (c) Ensuring that retail outlets with medical marijuana  
24 endorsements may advertise themselves as medical retail outlets;

25 (10) Specifying and regulating the time and periods when, and the  
26 manner, methods, and means by which, licensees shall transport and  
27 deliver marijuana, marijuana concentrates, useable marijuana, and  
28 marijuana-infused products within the state;

29 (11) In consultation with the department and the department of  
30 agriculture, establishing accreditation requirements for testing  
31 laboratories used by licensees to demonstrate compliance with  
32 standards adopted by the (~~state liquor and cannabis~~) board, and  
33 prescribing methods of producing, processing, and packaging  
34 marijuana, marijuana concentrates, useable marijuana, and marijuana-  
35 infused products; conditions of sanitation; and standards of  
36 ingredients, quality, and identity of marijuana, marijuana  
37 concentrates, useable marijuana, and marijuana-infused products  
38 produced, processed, packaged, or sold by licensees;

39 (12) Specifying procedures for identifying, seizing,  
40 confiscating, destroying, and donating to law enforcement for

1 training purposes all marijuana, marijuana concentrates, useable  
2 marijuana, and marijuana-infused products produced, processed,  
3 packaged, labeled, or offered for sale in this state that do not  
4 conform in all respects to the standards prescribed by this chapter  
5 or the rules of the ((~~state liquor and cannabis~~)) board.

6 **Sec. 4.** RCW 69.50.345 and 2019 c 393 s 2 and 2019 c 277 s 6 are  
7 each reenacted and amended to read as follows:

8 The ((~~state liquor and cannabis~~)) board, subject to the  
9 provisions of this chapter, must adopt rules that establish the  
10 procedures and criteria necessary to implement the following:

11 (1) Licensing of marijuana producers, marijuana processors, and  
12 marijuana retailers, including prescribing forms and establishing  
13 application, reinstatement, and renewal fees.

14 (a) Application forms for marijuana producers must request the  
15 applicant to state whether the applicant intends to produce marijuana  
16 for sale by marijuana retailers holding medical marijuana  
17 endorsements and the amount of or percentage of canopy the applicant  
18 intends to commit to growing plants determined by the department  
19 under RCW 69.50.375 to be of a THC concentration, CBD concentration,  
20 or THC to CBD ratio appropriate for marijuana concentrates, useable  
21 marijuana, or marijuana-infused products sold to qualifying patients.

22 (b) The ((~~state liquor and cannabis~~)) board must reconsider and  
23 increase limits on the amount of square feet permitted to be in  
24 production on July 24, 2015, and increase the percentage of  
25 production space for those marijuana producers who intend to grow  
26 plants for marijuana retailers holding medical marijuana endorsements  
27 if the marijuana producer designates the increased production space  
28 to plants determined by the department under RCW 69.50.375 to be of a  
29 THC concentration, CBD concentration, or THC to CBD ratio appropriate  
30 for marijuana concentrates, useable marijuana, or marijuana-infused  
31 products to be sold to qualifying patients. If current marijuana  
32 producers do not use all the increased production space, the ((~~state  
33 liquor and cannabis~~)) board may reopen the license period for new  
34 marijuana producer license applicants but only to those marijuana  
35 producers who agree to grow plants for marijuana retailers holding  
36 medical marijuana endorsements. Priority in licensing must be given  
37 to marijuana producer license applicants who have an application  
38 pending on July 24, 2015, but who are not yet licensed and then to  
39 new marijuana producer license applicants. After January 1, 2017, any

1 reconsideration of the limits on the amount of square feet permitted  
2 to be in production to meet the medical needs of qualifying patients  
3 must consider information contained in the medical marijuana  
4 authorization database established in RCW 69.51A.230;

5 (2) Determining, in consultation with the office of financial  
6 management, the maximum number of retail outlets that may be licensed  
7 in each county, taking into consideration:

8 (a) Population distribution;

9 (b) Security and safety issues;

10 (c) The provision of adequate access to licensed sources of  
11 marijuana concentrates, useable marijuana, and marijuana-infused  
12 products to discourage purchases from the illegal market; and

13 (d) The number of retail outlets holding medical marijuana  
14 endorsements necessary to meet the medical needs of qualifying  
15 patients. The (~~state liquor and cannabis~~) board must reconsider and  
16 increase the maximum number of retail outlets it established before  
17 July 24, 2015, and allow for a new license application period and a  
18 greater number of retail outlets to be permitted in order to  
19 accommodate the medical needs of qualifying patients and designated  
20 providers. After January 1, 2017, any reconsideration of the maximum  
21 number of retail outlets needed to meet the medical needs of  
22 qualifying patients must consider information contained in the  
23 medical marijuana authorization database established in RCW  
24 69.51A.230;

25 (3) Determining the maximum quantity of marijuana a marijuana  
26 producer may have on the premises of a licensed location at any time  
27 without violating Washington state law;

28 (4) Determining the maximum quantities of marijuana, marijuana  
29 concentrates, useable marijuana, and marijuana-infused products a  
30 marijuana processor may have on the premises of a licensed location  
31 at any time without violating Washington state law;

32 (5) Determining the maximum quantities of marijuana concentrates,  
33 useable marijuana, and marijuana-infused products a marijuana  
34 retailer may have on the premises of a retail outlet at any time  
35 without violating Washington state law;

36 (6) In making the determinations required by this section, the  
37 (~~state liquor and cannabis~~) board shall take into consideration:

38 (a) Security and safety issues;

1 (b) The provision of adequate access to licensed sources of  
2 marijuana, marijuana concentrates, useable marijuana, and marijuana-  
3 infused products to discourage purchases from the illegal market; and

4 (c) Economies of scale, and their impact on licensees' ability to  
5 both comply with regulatory requirements and undercut illegal market  
6 prices;

7 (7) Determining the nature, form, and capacity of all containers  
8 to be used by licensees to contain marijuana, marijuana concentrates,  
9 useable marijuana, and marijuana-infused products, and their labeling  
10 requirements;

11 (8) In consultation with the department of agriculture and the  
12 department, establishing classes of marijuana, marijuana  
13 concentrates, useable marijuana, and marijuana-infused products  
14 according to grade, condition, cannabinoid profile, THC  
15 concentration, CBD concentration, or other qualitative measurements  
16 deemed appropriate by the (~~state liquor and cannabis~~) board;

17 (9) Establishing reasonable time, place, and manner restrictions  
18 and requirements regarding advertising of marijuana, marijuana  
19 concentrates, useable marijuana, and marijuana-infused products that  
20 are not inconsistent with the provisions of this chapter, taking into  
21 consideration:

22 (a) (~~Federal laws relating to marijuana that are applicable~~  
23 ~~within Washington state;~~

24 ~~(b)~~) Minimizing exposure of people under twenty-one years of age  
25 to the advertising;

26 (~~(c)~~) (b) The inclusion of medically and scientifically  
27 accurate information about the health and safety risks posed by  
28 marijuana use in the advertising; and

29 (~~(d)~~) (c) Ensuring that retail outlets with medical marijuana  
30 endorsements may advertise themselves as medical retail outlets;

31 (10) Specifying and regulating the time and periods when, and the  
32 manner, methods, and means by which, licensees shall transport and  
33 deliver marijuana, marijuana concentrates, useable marijuana, and  
34 marijuana-infused products within the state;

35 (11) In consultation with the department and the department of  
36 agriculture, prescribing methods of producing, processing, and  
37 packaging marijuana, marijuana concentrates, useable marijuana, and  
38 marijuana-infused products; conditions of sanitation; and standards  
39 of ingredients, quality, and identity of marijuana, marijuana

1 concentrates, useable marijuana, and marijuana-infused products  
2 produced, processed, packaged, or sold by licensees;

3 (12) Specifying procedures for identifying, seizing,  
4 confiscating, destroying, and donating to law enforcement for  
5 training purposes all marijuana, marijuana concentrates, useable  
6 marijuana, and marijuana-infused products produced, processed,  
7 packaged, labeled, or offered for sale in this state that do not  
8 conform in all respects to the standards prescribed by this chapter  
9 or the rules of the (~~state liquor and cannabis~~) board.

10 NEW SECTION. **Sec. 5.** Section 3 of this act expires July 1,  
11 2024.

12 NEW SECTION. **Sec. 6.** Section 4 of this act takes effect July 1,  
13 2024.

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