

# HOUSE BILL REPORT

## ESB 5363

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**As Reported by House Committee On:**  
Regulated Substances & Gaming

**Title:** An act relating to cannabis retailer advertising.

**Brief Description:** Concerning cannabis retailer advertising.

**Sponsors:** Senators MacEwen and Stanford.

**Brief History:**

**Committee Activity:**

Regulated Substances & Gaming: 3/21/23, 3/28/23 [DPA], 2/15/24, 2/20/24 [DP].

**Brief Summary of Engrossed Bill**

- Modifies restrictions and requirements for advertising signs for licensed cannabis retailers.
- Places the regulation of trade name signs for licensed cannabis retailers under the authority of local jurisdictions.

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### HOUSE COMMITTEE ON REGULATED SUBSTANCES & GAMING

**Majority Report:** Do pass. Signed by 7 members: Representatives Kloba, Co-Chair; Wylie, Co-Chair; Stearns, Vice Chair; Robertson, Assistant Ranking Minority Member; Cheney, Reeves and Waters.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives Chambers, Ranking Minority Member; Caldier and Orwall.

**Staff:** Matt Sterling (786-7289).

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

### Cannabis Retailer Signage.

The Liquor and Cannabis Board (LCB) regulates the adult-use, recreational cannabis system in Washington. State statutes and rules adopted by the LCB specify requirements of cannabis signage and advertising.

Except for the use of billboards authorized under state law, licensed cannabis retailers may not display any signage outside of the licensed premises, other than two signs identifying the retail outlet by the business or trade name that state the location and identify the nature of the business. Each sign must be no larger than 1,600 square inches, be permanently affixed to a building or other structure, and is subject to other requirements and restrictions established in law, including restrictions on depicting cannabis plants or products, images that might be appealing to children, or the use of commercial mascots in proximity to the licensed premises.

The LCB rules specify the text and images permissible on outdoor advertising. Outdoor advertising and billboards are prohibited in specified locations, such as arenas, stadiums, and shopping malls. Cannabis licensees may not utilize transit advertisements for the purpose of advertising the business or product line. Advertising signs within the premises of a retail cannabis business that are visible to the public from outside the premises are subject to the same requirements applicable to outdoor signs, with certain exceptions.

A city, town, or county may adopt rules of outdoor advertising by licensed cannabis retailers that are more restrictive, and must enforce its own restrictions.

In 2019 the King County Superior Court held in *Plausible Products, LLC d/b/a Hashtag Cannabis v. Washington State Liquor and Cannabis Board*, that certain restrictions on signs for cannabis retailers were unconstitutional.

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### **Summary of Bill:**

#### Advertising Signage.

The number of advertising signs permitted outside a cannabis retailer's licensed premises is increased to four signs and does not include trade name signs or billboards. Advertising signs are permitted to be affixed to the building or hanging in the windows of the licensed premises. Signs less than 512 square inches are not considered advertising signs if the signs do not include any brand names, trade names, or images of any cannabis product and only include limited information, such as the hours of operation. The use of other signage that does not represent cannabis or cannabis products, the business trade name, nature of the business, or contains only general information not related to the products or services of the cannabis business is not restricted.

#### Trade Name Signage.

Separate trade name signs that display the business name as it appears on the license issued

to the licensee are allowed provided they comply with local regulations related to the size and number of signs. The enforcement of trade name sign requirements is the responsibility of the local government. Trade name signs may only reflect the trade name of the licensed business and may not contain cannabis products or product brand names.

Advertising Restrictions and Requirements.

Signs and advertising content may not relate to alcohol, tobacco, or motor vehicles. Cannabis advertising is prohibited in the businesses of liquor licensees, vapor product licensees, or cigarette or tobacco licensees. Advertisements indicating that only persons 21 years and older may purchase the products must be in text of a reasonable size to consumers. The advertisement requirements and restrictions for licensed cannabis retailers do not apply to adopt-a-highway signs erected by the Washington State Department of Transportation (Department) under a valid sponsorship with the Department.

Except for any sales made for a product designated for medical cannabis use by qualifying patients, cannabis licensees may not advertise, offer for sale, or sell cannabis for less than the acquisition cost.

Definitions are provided for "commercial mascot," "trade name," and "transit advertisements."

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**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) The industry worked with the LCB to develop this legislation. The current law prescribes the content of trade name signs and the bill does not change that regulation. However, there is also currently a restriction on the size of a trade name sign and the bill focuses on drawing a clear distinction between advertising and trade name signs. Advertising will continue to be tightly regulated, but it is not a good use of the LCB's time to regulate the size of trade name signs. Nothing in this bill will entice the sale of cannabis to minors. Rather, the bill provides clear prohibitions on certain marketing that might be aimed at minors. This bill will correct the unequal enforcement of signage requirements across the state. Ensuring equal treatment of licensees is particularly important from an equity standpoint as new licensees enter the marketplace. This bill will protect public safety and promote a positive image of the cannabis industry.

(Opposed) This bill will result in an expansion of advertising in our communities. Research

has shown that advertising for regulated substances has been targeted at socio-economically depressed areas of the state in a way that has affected the equity of advertising in all communities. The advertising of substances like cannabis impacts the perspectives of minors in the community on cannabis and any expansion of advertising of cannabis normalizes cannabis use in the community. There is concern on how this advertising will be regulated, the disparity between communities, and what can be advertised. Although there is support for the regulated system and opponents believe advertising should not be expanded in any communities.

**Persons Testifying:** (In support) Vicki Christophersen, Washington CannaBusiness Association; and Paula Sardinias, FMS Global Strategies.

(Opposed) Linda Thompson, Washington Association for Substance Misuse and Violence Prevention.

**Persons Signed In To Testify But Not Testifying:** None.