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HOUSE BILL 2322

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State of Washington

63rd Legislature

2014 Regular Session

By Representatives Sawyer, Condotta, Appleton, Kirby, Fey, Farrell, Fitzgibbon, Hunt, Reykdal, Springer, and Ryu

Read first time 01/15/14. Referred to Committee on Government Accountability & Oversight.

1 AN ACT Relating to prohibiting local governments from taking  
2 actions preventing or impeding the creation or operation of commercial  
3 marijuana businesses licensed by the liquor control board; amending RCW  
4 66.08.170, 82.08.170, and 66.08.050; adding a new section to chapter  
5 69.50 RCW; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 69.50 RCW  
8 to read as follows:

9 (1) Cities, counties, and towns must cooperate with the liquor  
10 control board with respect to the establishment within their  
11 jurisdictional boundaries of businesses involved in the production,  
12 processing, or sale of recreational marijuana where such businesses are  
13 licensed under RCW 69.50.325. Subject to the regulatory requirements  
14 of this chapter, licensed marijuana businesses attempting to locate  
15 within the jurisdictional boundaries of a municipality must be treated  
16 the same as other businesses within that jurisdiction with respect to  
17 ordinances or regulations that include, but are not limited to, those  
18 pertaining to local business licensing, zoning, and land use.

1 (2) Cities, counties, and towns are prohibited from enacting any  
2 ordinance or other regulation pertaining to business licensing, zoning,  
3 or land use that has the effect of preventing or impeding the  
4 establishment of a recreational marijuana business licensed under RCW  
5 69.50.325. In the event the liquor control board determines that a  
6 municipality has engaged in regulatory practices that impede the  
7 establishment of such businesses in violation of this section, the  
8 liquor control board may:

9 (a) Penalize the offending municipality by making it ineligible to  
10 receive any funds from the liquor revolving fund established in RCW  
11 66.08.170 and the liquor excise tax fund established under RCW  
12 82.08.170. Upon the determination that a municipality is ineligible to  
13 receive moneys from such funds under this section, the liquor control  
14 board may direct the state treasurer to withhold the revenues to which  
15 a county, city, or town would otherwise be entitled from the liquor  
16 revolving fund and the liquor excise tax fund. In the event the liquor  
17 control board later determines that the offending municipality has  
18 become compliant with the requirements of this section, it shall direct  
19 the state treasurer to resume distributing revenues from these funds to  
20 the municipality; and

21 (b) Bring legal action in superior court against the offending  
22 municipality for injunctive relief for violations of this section. The  
23 municipality shall pay all court costs and other litigation-related  
24 expenses for legal actions brought under this section.

25 **Sec. 2.** RCW 66.08.170 and 2011 1st sp.s. c 50 s 959 are each  
26 amended to read as follows:

27 (1) There shall be a fund, known as the "liquor revolving fund",  
28 which shall consist of all license fees, permit fees, penalties,  
29 forfeitures, and all other moneys, income, or revenue received by the  
30 board. The state treasurer shall be custodian of the fund. All moneys  
31 received by the board or any employee thereof, except for change funds  
32 and an amount of petty cash as fixed by the board within the authority  
33 of law shall be deposited each day in a depository approved by the  
34 state treasurer and transferred to the state treasurer to be credited  
35 to the liquor revolving fund. During the 2009-2011 fiscal biennium,  
36 the legislature may transfer funds from the liquor revolving (~~account~~  
37 ~~fund~~) fund to the state general fund and may direct an additional

1 amount of liquor profits to be distributed to local governments.  
2 Neither the transfer of funds nor the additional distribution of liquor  
3 profits to local governments during the 2009-2011 fiscal biennium may  
4 reduce the excess fund distributions that otherwise would occur under  
5 RCW 66.08.190. During the 2011-2013 fiscal biennium, the state  
6 treasurer shall transfer from the liquor revolving fund to the state  
7 general fund forty-two million five hundred thousand dollars for fiscal  
8 year 2012 and forty-two million five hundred thousand dollars for  
9 fiscal year 2013. The transfer during the 2011-2013 fiscal biennium  
10 may not reduce the excess fund distributions that otherwise would occur  
11 under RCW 66.08.190. Sales to licensees are exempt from any liquor  
12 price increases that may result from the transfer of funds from the  
13 liquor revolving fund to the state general fund during the 2011-2013  
14 fiscal biennium. Disbursements from the revolving fund shall be on  
15 authorization of the board or a duly authorized representative thereof.  
16 In order to maintain an effective expenditure and revenue control the  
17 liquor revolving fund shall be subject in all respects to chapter 43.88  
18 RCW but no appropriation shall be required to permit expenditures and  
19 payment of obligations from such fund.

20 (2) Transfers of funds to local governments from the liquor  
21 revolving fund are subject to the provisions of section 1 of this act.  
22 Local governments are ineligible to receive such funding if the liquor  
23 control board determines that the local government is noncompliant with  
24 the requirements of section 1 of this act.

25 **Sec. 3.** RCW 82.08.170 and 2012 2nd sp.s. c 5 s 4 are each amended  
26 to read as follows:

27 (1) Except as provided in subsection (4) of this section, during  
28 the months of January, April, July, and October of each year, the state  
29 treasurer must make the transfers required under subsections (2) and  
30 (3) of this section from the liquor excise tax fund and then the  
31 apportionment and distribution of all remaining moneys in the liquor  
32 excise tax fund to the counties, cities, and towns in the following  
33 proportions: (a) Twenty percent of the moneys in the liquor excise tax  
34 fund must be divided among and distributed to the counties of the state  
35 in accordance with the provisions of RCW 66.08.200; and (b) eighty  
36 percent of the moneys in the liquor excise tax fund must be divided

1 among and distributed to the cities and towns of the state in  
2 accordance with the provisions of RCW 66.08.210.

3 (2) Each fiscal quarter and prior to making the twenty percent  
4 distribution to counties under subsection (1)(a) of this section, the  
5 treasurer shall transfer to the liquor revolving fund created in RCW  
6 66.08.170 sufficient moneys to fund the allotments from any legislative  
7 appropriations for county research and services as provided under  
8 chapter 43.110 RCW.

9 (3) During the months of January, April, July, and October of each  
10 year, the state treasurer must transfer two million five hundred  
11 thousand dollars from the liquor excise tax fund to the state general  
12 fund.

13 (4) During calendar year 2012, the October distribution under  
14 subsection (1) of this section and the July and October transfers under  
15 subsections (2) and (3) of this section must not be made. During  
16 calendar year 2013, the January, April, and July distributions under  
17 subsection (1) of this section and transfers under subsections (2) and  
18 (3) of this section must not be made.

19 (5) All transfers of funds to local governments from the liquor  
20 excise tax fund are subject to the provisions of section 1 of this act.  
21 Local governments are ineligible to receive such funding if the liquor  
22 control board determines that the local government is noncompliant with  
23 the requirements of section 1 of this act.

24 **Sec. 4.** RCW 66.08.050 and 2012 c 2 s 107 are each amended to read  
25 as follows:

26 The board, subject to the provisions of this title and the rules,  
27 must:

28 (1) Determine the nature, form and capacity of all packages to be  
29 used for containing liquor kept for sale under this title;

30 (2) Execute or cause to be executed, all contracts, papers, and  
31 documents in the name of the board, under such regulations as the board  
32 may fix;

33 (3) Pay all customs, duties, excises, charges and obligations  
34 whatsoever relating to the business of the board;

35 (4) Require bonds from all employees in the discretion of the  
36 board, and to determine the amount of fidelity bond of each such  
37 employee;

1 (5) Perform services for the state lottery commission to such  
2 extent, and for such compensation, as may be mutually agreed upon  
3 between the board and the commission;

4 (6) Accept and deposit into the general fund-local account and  
5 disburse, subject to appropriation, federal grants or other funds or  
6 donations from any source for the purpose of improving public awareness  
7 of the health risks associated with alcohol consumption by youth and  
8 the abuse of alcohol by adults in Washington state. The board's  
9 alcohol awareness program must cooperate with federal and state  
10 agencies, interested organizations, and individuals to effect an active  
11 public beverage alcohol awareness program;

12 (7) Perform all other matters and things, whether similar to the  
13 foregoing or not, to carry out the provisions of this title and chapter  
14 69.50 RCW regarding the production, processing, and sale of  
15 recreational marijuana, and has full power to do each and every act  
16 necessary to the conduct of its regulatory functions, including all  
17 supplies procurement, preparation and approval of forms, and every  
18 other undertaking necessary to perform its regulatory functions  
19 whatsoever, subject only to audit by the state auditor. However, the  
20 board has no authority to regulate the content of spoken language on  
21 licensed premises where wine and other liquors are served and where  
22 there is not a clear and present danger of disorderly conduct being  
23 provoked by such language or to restrict advertising of lawful prices.

24 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
25 preservation of the public peace, health, or safety, or support of the  
26 state government and its existing public institutions, and takes effect  
27 immediately.

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