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HOUSE BILL 2000

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State of Washington

63rd Legislature

2013 Regular Session

By Representative Hurst

Read first time 03/13/13. Referred to Committee on Government  
Accountability & Oversight.

1 AN ACT Relating to facilitating the efforts of the liquor control  
2 board to ensure the timely implementation of a well-designed,  
3 commercially viable regulatory scheme for the development of a legal  
4 marketplace for marijuana as required by Initiative Measure No. 502;  
5 amending RCW 69.50.331, 69.50.342, 69.50.325, 69.50.357, and 69.50.369;  
6 adding a new section to chapter 69.50 RCW; and creating a new section.

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

8 NEW SECTION. **Sec. 1.** For decades, the citizens of Washington  
9 state have been plagued with the unwanted social and fiscal  
10 consequences of an illicit, yet flourishing marketplace involving the  
11 unlawful sale of marijuana. Despite the best efforts of law  
12 enforcement and the expenditure of countless millions of tax dollars to  
13 eliminate this illicit, underground market, it has continued to operate  
14 almost unchecked, while at the same time continuing to absorb scarce  
15 financial and criminal justice resources in an apparently endless  
16 effort to eliminate the unlawful sale and use of marijuana.

17 Weary of the crime and wasted resources associated with the  
18 unsuccessful effort to bring the marijuana market under control, the  
19 citizens of this state, through the passage of Initiative Measure No.

1 502, have given voice to their desire for an altogether different  
2 approach to regulating marijuana and eliminating the illicit market.  
3 In passing Initiative Measure No. 502, our citizens have clearly  
4 expressed their wish to eliminate the underground marketplace and  
5 implement a regulatory system by which marijuana production,  
6 processing, and sales can finally be monitored, controlled, and tightly  
7 regulated, while at the same time creating opportunities for raising  
8 much needed public revenue through the imposition of fees and taxes on  
9 those that participate in the marketplace.

10 The legislature recognizes that implementing a regulatory scheme  
11 for the creation of a regulated market for the legal sale of marijuana  
12 is a very complex process involving uncharted legal territory; a task  
13 that is made all the more challenging by the fact that historically no  
14 state has yet created such a market. Accordingly, it is important that  
15 the legislature very carefully analyze and consider the requirements  
16 set forth in Initiative Measure No. 502 in order to determine those  
17 technical changes necessary to create a viable regulatory system that  
18 will ensure the intent of the voters is implemented in a timely and  
19 efficient manner.

20 Therefore, in making the technical changes embodied in this act, it  
21 is the intent of the legislature to make them as minimal as possible  
22 and to ensure that such changes serve to better enable the timely  
23 development of a practical, viable regulatory scheme that continues to  
24 reflect the will of the voters. Furthermore, by virtue of this act,  
25 the legislature intends to facilitate the successful creation of a  
26 carefully regulated and taxed marijuana market and in so doing mark the  
27 end of the violent and lawless criminal element that has dominated the  
28 market for so many years.

29 **Sec. 2.** RCW 69.50.331 and 2013 c 3 s 6 (Initiative Measure No.  
30 502) are each amended to read as follows:

31 (1) For the purpose of considering any application for a license to  
32 produce, process, or sell marijuana, or for the renewal of a license to  
33 produce, process, or sell marijuana, the state liquor control board may  
34 cause an inspection of the premises to be made, and may inquire into  
35 all matters in connection with the construction and operation of the  
36 premises. For the purpose of reviewing any application for a license  
37 and for considering the denial, suspension, revocation, or renewal or

1 denial thereof, of any license, the state liquor control board may  
2 consider any prior criminal conduct of the applicant including an  
3 administrative violation history record with the state liquor control  
4 board and a criminal history record information check. The state  
5 liquor control board may submit the criminal history record information  
6 check to the Washington state patrol and to the identification division  
7 of the federal bureau of investigation in order that these agencies may  
8 search their records for prior arrests and convictions of the  
9 individual or individuals who filled out the forms. The state liquor  
10 control board shall require fingerprinting of any applicant whose  
11 criminal history record information check is submitted to the federal  
12 bureau of investigation. The provisions of RCW 9.95.240 and of chapter  
13 9.96A RCW shall not apply to these cases. Subject to the provisions of  
14 this section, the state liquor control board may, in its discretion,  
15 grant or deny the renewal or license applied for. Denial may be based  
16 on, without limitation, the existence of chronic illegal activity  
17 documented in objections submitted pursuant to subsections (7)(c) and  
18 (9) of this section. Authority to approve an uncontested or unopposed  
19 license may be granted by the state liquor control board to any staff  
20 member the board designates in writing. Conditions for granting this  
21 authority shall be adopted by rule. No license of any kind may be  
22 issued to:

23 (a) A person under the age of twenty-one years;

24 (b) A person doing business as a sole proprietor who has not  
25 lawfully resided in the state for at least three months prior to  
26 applying to receive a license;

27 (c) A partnership, employee cooperative, association, nonprofit  
28 corporation, or corporation unless formed under the laws of this state,  
29 and unless all of the members thereof are qualified to obtain a license  
30 as provided in this section; or

31 (d) A person whose place of business is conducted by a manager or  
32 agent, unless the manager or agent possesses the same qualifications  
33 required of the licensee.

34 (2)(a) The state liquor control board may, in its discretion,  
35 subject to the provisions of RCW 69.50.334, suspend or cancel any  
36 license; and all protections of the licensee from criminal or civil  
37 sanctions under state law for producing, processing, or selling

1 marijuana, useable marijuana, or marijuana-infused products thereunder  
2 shall be suspended or terminated, as the case may be.

3 (b) The state liquor control board shall immediately suspend the  
4 license of a person who has been certified pursuant to RCW 74.20A.320  
5 by the department of social and health services as a person who is not  
6 in compliance with a support order. If the person has continued to  
7 meet all other requirements for reinstatement during the suspension,  
8 reissuance of the license shall be automatic upon the state liquor  
9 control board's receipt of a release issued by the department of social  
10 and health services stating that the licensee is in compliance with the  
11 order.

12 (c) The state liquor control board may request the appointment of  
13 administrative law judges under chapter 34.12 RCW who shall have power  
14 to administer oaths, issue subpoenas for the attendance of witnesses  
15 and the production of papers, books, accounts, documents, and  
16 testimony, examine witnesses, and to receive testimony in any inquiry,  
17 investigation, hearing, or proceeding in any part of the state, under  
18 rules and regulations the state liquor control board may adopt.

19 (d) Witnesses shall be allowed fees and mileage each way to and  
20 from any inquiry, investigation, hearing, or proceeding at the rate  
21 authorized by RCW 34.05.446. Fees need not be paid in advance of  
22 appearance of witnesses to testify or to produce books, records, or  
23 other legal evidence.

24 (e) In case of disobedience of any person to comply with the order  
25 of the state liquor control board or a subpoena issued by the state  
26 liquor control board, or any of its members, or administrative law  
27 judges, or on the refusal of a witness to testify to any matter  
28 regarding which he or she may be lawfully interrogated, the judge of  
29 the superior court of the county in which the person resides, on  
30 application of any member of the board or administrative law judge,  
31 shall compel obedience by contempt proceedings, as in the case of  
32 disobedience of the requirements of a subpoena issued from said court  
33 or a refusal to testify therein.

34 (3) Upon receipt of notice of the suspension or cancellation of a  
35 license, the licensee shall forthwith deliver up the license to the  
36 state liquor control board. Where the license has been suspended only,  
37 the state liquor control board shall return the license to the licensee  
38 at the expiration or termination of the period of suspension. The

1 state liquor control board shall notify all other licensees in the  
2 county where the subject licensee has its premises of the suspension or  
3 cancellation of the license; and no other licensee or employee of  
4 another licensee may allow or cause any marijuana, useable marijuana,  
5 or marijuana-infused products to be delivered to or for any person at  
6 the premises of the subject licensee.

7 (4) Every license issued under chapter 3, Laws of 2013 shall be  
8 subject to all conditions and restrictions imposed by chapter 3, Laws  
9 of 2013 or by rules adopted by the state liquor control board to  
10 implement and enforce chapter 3, Laws of 2013. All conditions and  
11 restrictions imposed by the state liquor control board in the issuance  
12 of an individual license shall be listed on the face of the individual  
13 license along with the trade name, address, and expiration date.

14 (5) Every licensee shall post and keep posted its license, or  
15 licenses, in a conspicuous place on the premises.

16 (6) No licensee shall employ any person under the age of twenty-one  
17 years.

18 (7)(a) Before the state liquor control board issues a new or  
19 renewed license to an applicant it shall give notice of the application  
20 to the chief executive officer of the incorporated city or town, if the  
21 application is for a license within an incorporated city or town, or to  
22 the county legislative authority, if the application is for a license  
23 outside the boundaries of incorporated cities or towns.

24 (b) The incorporated city or town through the official or employee  
25 selected by it, or the county legislative authority or the official or  
26 employee selected by it, shall have the right to file with the state  
27 liquor control board within twenty days after the date of transmittal  
28 of the notice for applications, or at least thirty days prior to the  
29 expiration date for renewals, written objections against the applicant  
30 or against the premises for which the new or renewed license is asked.  
31 The state liquor control board may extend the time period for  
32 submitting written objections.

33 (c) The written objections shall include a statement of all facts  
34 upon which the objections are based, and in case written objections are  
35 filed, the city or town or county legislative authority may request,  
36 and the state liquor control board may in its discretion hold, a  
37 hearing subject to the applicable provisions of Title 34 RCW. If the  
38 state liquor control board makes an initial decision to deny a license

1 or renewal based on the written objections of an incorporated city or  
2 town or county legislative authority, the applicant may request a  
3 hearing subject to the applicable provisions of Title 34 RCW. If a  
4 hearing is held at the request of the applicant, state liquor control  
5 board representatives shall present and defend the state liquor control  
6 board's initial decision to deny a license or renewal.

7 (d) Upon the granting of a license under this title the state  
8 liquor control board shall send written notification to the chief  
9 executive officer of the incorporated city or town in which the license  
10 is granted, or to the county legislative authority if the license is  
11 granted outside the boundaries of incorporated cities or towns.

12 (8) The state liquor control board shall not issue a license for  
13 any premises within (~~one thousand~~) five hundred feet of the perimeter  
14 of the grounds of any elementary or secondary school, playground,  
15 recreation center or facility, child care center, public park, public  
16 transit center, or library, or any game arcade admission to which is  
17 not restricted to persons aged twenty-one years or older. This  
18 distance shall be measured by the shortest straight line distance from  
19 the main entrance of the building of the elementary or secondary  
20 school, playground, recreation center or facility, child care center,  
21 public park, public transit center, library, or any game arcade  
22 admission to which is not restricted to persons under twenty-one years  
23 of age, to the main entrance of the proposed licensed location.

24 (9) In determining whether to grant or deny a license or renewal of  
25 any license, the state liquor control board shall give substantial  
26 weight to objections from an incorporated city or town or county  
27 legislative authority based upon chronic illegal activity associated  
28 with the applicant's operations of the premises proposed to be licensed  
29 or the applicant's operation of any other licensed premises, or the  
30 conduct of the applicant's patrons inside or outside the licensed  
31 premises. "Chronic illegal activity" means (a) a pervasive pattern of  
32 activity that threatens the public health, safety, and welfare of the  
33 city, town, or county including, but not limited to, open container  
34 violations, assaults, disturbances, disorderly conduct, or other  
35 criminal law violations, or as documented in crime statistics, police  
36 reports, emergency medical response data, calls for service, field  
37 data, or similar records of a law enforcement agency for the city,  
38 town, county, or any other municipal corporation or any state agency;

1 or (b) an unreasonably high number of citations for violations of RCW  
2 46.61.502 associated with the applicant's or licensee's operation of  
3 any licensed premises as indicated by the reported statements given to  
4 law enforcement upon arrest.

5 **Sec. 3.** RCW 69.50.342 and 2013 c 3 s 9 (Initiative Measure No.  
6 502) are each amended to read as follows:

7 For the purpose of carrying into effect the provisions of chapter  
8 3, Laws of 2013 according to their true intent or of supplying any  
9 deficiency therein, the state liquor control board may adopt rules not  
10 inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed  
11 necessary or advisable. Without limiting the generality of the  
12 preceding sentence, the state liquor control board is empowered to  
13 adopt rules regarding the following:

14 (1) The equipment and management of retail outlets and premises  
15 where marijuana is produced or processed, and inspection of the retail  
16 outlets and premises;

17 (2) The books and records to be created and maintained by  
18 licensees, the reports to be made thereon to the state liquor control  
19 board, and inspection of the books and records;

20 (3) Methods of producing, processing, and packaging marijuana,  
21 useable marijuana, and marijuana-infused products; conditions of  
22 sanitation; and standards of ingredients, quality, and identity of  
23 marijuana, useable marijuana, and marijuana-infused products produced,  
24 processed, packaged, or sold by licensees;

25 (4) Security requirements for retail outlets and premises where  
26 marijuana is produced or processed, and safety protocols for licensees  
27 and their employees;

28 (5) Screening, hiring, training, and supervising employees of  
29 licensees;

30 (6) Retail outlet locations and hours of operation;

31 (7) Labeling requirements and restrictions on advertisement of  
32 marijuana, useable marijuana, and marijuana-infused products;

33 (8) Forms to be used for purposes of chapter 3, Laws of 2013 or the  
34 rules adopted to implement and enforce it, the terms and conditions to  
35 be contained in licenses issued under chapter 3, Laws of 2013, and the  
36 qualifications for receiving a license issued under chapter 3, Laws of  
37 2013, including a criminal history record information check. The state

1 liquor control board may submit any criminal history record information  
2 check to the Washington state patrol and to the identification division  
3 of the federal bureau of investigation in order that these agencies may  
4 search their records for prior arrests and convictions of the  
5 individual or individuals who filled out the forms. The state liquor  
6 control board shall require fingerprinting of any applicant whose  
7 criminal history record information check is submitted to the federal  
8 bureau of investigation;

9 (9) Application, reinstatement, and renewal fees for licenses  
10 issued under chapter 3, Laws of 2013, and fees for anything done or  
11 permitted to be done under the rules adopted to implement and enforce  
12 chapter 3, Laws of 2013. The fees shall cover the cost of  
13 administration and enforcement of the license;

14 (10) The authority to suspend a license. In suspending any  
15 license, the board may further provide in the order of suspension that  
16 such suspension shall be vacated upon payment to the board by the  
17 licensee of a monetary penalty in an amount to be fixed by the board;

18 (11) The manner of giving and serving notices required by chapter  
19 3, Laws of 2013 or rules adopted to implement or enforce it;

20 ((+11+)) (12) Times and periods when, and the manner, methods, and  
21 means by which, licensees shall transport and deliver marijuana,  
22 useable marijuana, and marijuana-infused products within the state;

23 ((+12+)) (13) Identification, seizure, confiscation, destruction,  
24 or donation to law enforcement for training purposes of all marijuana,  
25 useable marijuana, and marijuana-infused products produced, processed,  
26 sold, or offered for sale within this state which do not conform in all  
27 respects to the standards prescribed by chapter 3, Laws of 2013 or the  
28 rules adopted to implement and enforce it: PROVIDED, That nothing in  
29 chapter 3, Laws of 2013 shall be construed as authorizing the state  
30 liquor control board to seize, confiscate, destroy, or donate to law  
31 enforcement marijuana, useable marijuana, or marijuana-infused products  
32 produced, processed, sold, offered for sale, or possessed in compliance  
33 with the Washington state medical use of cannabis act, chapter 69.51A  
34 RCW.

35 NEW SECTION. Sec. 4. A new section is added to chapter 69.50 RCW  
36 to read as follows:

37 (1)(a) The eligibility of any person or entity seeking to legally

1 participate in the marketing of marijuana or marijuana-based products  
2 in this state, as authorized under this act, requires that the state  
3 liquor control board formally approve market participation by the  
4 person or entity seeking such eligibility. The board shall develop  
5 rules establishing the criteria and processes by which market  
6 participation of an applicant may be authorized. Once the board has  
7 approved an applicant for participation in the market, the board shall  
8 issue a certificate to the applicant formally establishing such  
9 authorization. The certificate providing authorization for a person or  
10 entity to participate in the market shall be officially designated as  
11 a "502 marketing certificate." The ownership of a 502 marketing  
12 certificate makes the owner eligible to apply for a license as provided  
13 in RCW 69.50.325, but does not in itself authorize such owner to engage  
14 in the production, processing, or sale of marijuana or marijuana-based  
15 products absent the requisite license. For the purposes of this  
16 section, the following definitions apply:

17 (i) "Certificate" means the 502 marketing certificate as  
18 established under this subsection (1)(a); and

19 (ii) "Marketing" means either the production, processing, or retail  
20 sales of marijuana or marijuana-based products as authorized under RCW  
21 69.50.325.

22 (b) Before an entity or person may be eligible to obtain a license  
23 to produce, process, or engage in the retail sale of marijuana under  
24 RCW 69.50.325, the entity or person must first be the owner of a  
25 certificate issued under this section. A separate certificate is  
26 required for each license for which the entity or person applies under  
27 RCW 69.50.325.

28 (2) The 502 marketing certificate established under this section  
29 provides the owner with a commercial property right that is separate  
30 and distinct from the marketing licenses authorized under RCW  
31 69.50.325. This certificate remains the property of the owner  
32 regardless of whether the state liquor control board subsequently  
33 determines that the owner is ineligible for a license or the owner  
34 subsequently chooses not to operate in the market. The owner of a  
35 certificate may resell the certificate to a subsequent purchaser  
36 subject to board approval, or to the board itself. The board may  
37 reissue a previously owned certificate to a qualified purchaser.

1 (3) The issuance of a certificate by the state liquor control board  
2 must be by public sale and by a means that results in a selling price  
3 that yields no less than the fair market value of the certificate, as  
4 determined by the board. In obtaining fair market value, the board  
5 shall utilize a process that will yield the greatest financial return  
6 from the sale of the certificate.

7 (4) Within one hundred eighty days of a certificate being issued,  
8 the owner of the certificate must apply for a license under RCW  
9 69.50.325 and in accordance with the provisions of this chapter. If an  
10 owner of a certificate fails to qualify for a license, such owner must  
11 return the certificate to the state liquor control board and fully  
12 relinquish his or her property rights in the certificate. Upon doing  
13 so, the former owner of the certificate is entitled to a refund from  
14 the board of the certificate's purchase price, minus reasonable  
15 administrative costs incurred by the board in processing the ownership  
16 transfer.

17 **Sec. 5.** RCW 69.50.325 and 2013 c 3 s 4 (Initiative Measure No.  
18 502) are each amended to read as follows:

19 (1) There shall be a marijuana producer's license to produce  
20 marijuana for sale at wholesale to marijuana processors and other  
21 marijuana producers, regulated by the state liquor control board and  
22 subject to annual renewal. The production, possession, delivery,  
23 distribution, and sale of marijuana in accordance with the provisions  
24 of chapter 3, Laws of 2013 and the rules adopted to implement and  
25 enforce it, by a validly licensed marijuana producer, shall not be a  
26 criminal or civil offense under Washington state law. Every marijuana  
27 producer's license shall be issued in the name of the applicant, shall  
28 specify the location at which the marijuana producer intends to  
29 operate, which must be within the state of Washington, and the holder  
30 thereof shall not allow any other person to use the license. (~~The  
31 application fee for a marijuana producer's license shall be two hundred  
32 fifty dollars. The annual fee for issuance and renewal of a marijuana  
33 producer's license shall be one thousand dollars.~~) A separate license  
34 shall be required for each location at which a marijuana producer  
35 intends to produce marijuana.

36 (2) There shall be a marijuana processor's license to process,  
37 package, and label useable marijuana and marijuana-infused products for

1 sale at wholesale to marijuana retailers, regulated by the state liquor  
2 control board and subject to annual renewal. The processing,  
3 packaging, possession, delivery, distribution, and sale of marijuana,  
4 useable marijuana, and marijuana-infused products in accordance with  
5 the provisions of chapter 3, Laws of 2013 and the rules adopted to  
6 implement and enforce it, by a validly licensed marijuana processor,  
7 shall not be a criminal or civil offense under Washington state law.  
8 Every marijuana processor's license shall be issued in the name of the  
9 applicant, shall specify the location at which the licensee intends to  
10 operate, which must be within the state of Washington, and the holder  
11 thereof shall not allow any other person to use the license. (~~The~~  
12 ~~application fee for a marijuana processor's license shall be two~~  
13 ~~hundred fifty dollars. The annual fee for issuance and renewal of a~~  
14 ~~marijuana processor's license shall be one thousand dollars.)) A  
15 separate license shall be required for each location at which a  
16 marijuana processor intends to process marijuana.~~

17 (3) There shall be a marijuana retailer's license to sell useable  
18 marijuana and marijuana-infused products at retail in retail outlets,  
19 regulated by the state liquor control board and subject to annual  
20 renewal. The possession, delivery, distribution, and sale of useable  
21 marijuana and marijuana-infused products in accordance with the  
22 provisions of chapter 3, Laws of 2013 and the rules adopted to  
23 implement and enforce it, by a validly licensed marijuana retailer,  
24 shall not be a criminal or civil offense under Washington state law.  
25 Every marijuana retailer's license shall be issued in the name of the  
26 applicant, shall specify the location of the retail outlet the licensee  
27 intends to operate, which must be within the state of Washington, and  
28 the holder thereof shall not allow any other person to use the license.  
29 (~~The application fee for a marijuana retailer's license shall be two~~  
30 ~~hundred fifty dollars. The annual fee for issuance and renewal of a~~  
31 ~~marijuana retailer's license shall be one thousand dollars.)) A  
32 separate license shall be required for each location at which a  
33 marijuana retailer intends to sell useable marijuana and marijuana-  
34 infused products.~~

35 **Sec. 6.** RCW 69.50.357 and 2013 c 3 s 14 (Initiative Measure No.  
36 502) are each amended to read as follows:

37 (1) Retail outlets shall sell no products or services other than

1 useable marijuana, marijuana-infused products, or paraphernalia  
2 intended for the storage or use of useable marijuana or marijuana-  
3 infused products.

4 (2) Licensed marijuana retailers shall not employ persons under  
5 twenty-one years of age or allow persons under twenty-one years of age  
6 to enter or remain on the premises of a retail outlet.

7 (3) Licensed marijuana retailers shall not display any signage in  
8 a window, on a door, or on the outside of the premises of a retail  
9 outlet that is visible to the general public from a public right-of-  
10 way, other than a single sign no larger than one thousand six hundred  
11 square inches identifying the retail outlet by the licensee's business  
12 or trade name.

13 (4) Licensed marijuana retailers shall not display useable  
14 marijuana or marijuana-infused products in a manner that is visible to  
15 the general public from a public right-of-way.

16 (5) No licensed marijuana retailer or employee of a retail outlet  
17 shall open or consume, or allow to be opened or consumed, any useable  
18 marijuana or marijuana-infused product on the outlet premises.

19 ~~((6) The state liquor control board shall fine a licensee one  
20 thousand dollars for each violation of any subsection of this section.  
21 Fines collected under this section must be deposited into the dedicated  
22 marijuana fund created under RCW 69.50.530.))~~

23 **Sec. 7.** RCW 69.50.369 and 2013 c 3 s 18 (Initiative Measure No.  
24 502) are each amended to read as follows:

25 (1) No licensed marijuana producer, processor, or retailer shall  
26 place or maintain, or cause to be placed or maintained, an  
27 advertisement of marijuana, useable marijuana, or a marijuana-infused  
28 product in any form or through any medium whatsoever:

29 (a) Within one thousand feet of the perimeter of a school grounds,  
30 playground, recreation center or facility, child care center, public  
31 park, or library, or any game arcade admission to which is not  
32 restricted to persons aged twenty-one years or older;

33 (b) On or in a public transit vehicle or public transit shelter; or

34 (c) On or in a publicly owned or operated property.

35 (2) Merchandising within a retail outlet is not advertising for the  
36 purposes of this section.

37 (3) This section does not apply to a noncommercial message.

1           (~~(4) The state liquor control board shall fine a licensee one~~  
2 ~~thousand dollars for each violation of subsection (1) of this section.~~  
3 ~~Fines collected under this subsection must be deposited into the~~  
4 ~~dedicated marijuana fund created under RCW 69.50.530.)~~)

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