

Update on Recreational Marijuana Issues



City Council Study Session

February 11, 2014

BACKGROUND

- In November, 2012, voters approved I-502 which (RCW 69.50) legalized the manufacture, distribution and dispensing of marijuana for recreational use.
- The City Council amended SeaTac Municipal Code (SMC) 15.05.060 in January, 2013.
- SMC 15.05.060 reads as follows:
“This Title does not allow any use which is in violation of any local, State, or Federal laws, regulations, codes and/or ordinances.”

BACKGROUND (Cont.)

- Production, Distribution and Sale of Marijuana remains illegal under federal law (Controlled Substance Act) .
- In accordance with the Municipal Code, **no permits** can be issued to allow marijuana retailers, producers or processors within the City.

Recent Developments

- August, 2013, the U.S. Department of Justice (DOJ), under Deputy Attorney General Cole, issued a memorandum titled “Guidance Regarding Marijuana Enforcement”.
- DOJ will exercise federal prosecutorial discretion with regards to enforcement of federal law within states that have legalized marijuana.
- DOJ opinion is that local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity.
- This memorandum did not change federal law.

Recent Developments (Cont.)

- January, 2014, Washington State Attorney General Ferguson issued an opinion regarding marijuana businesses under local ordinances.
 1. Are local ordinances preempted by state law from banning the location of state licensed marijuana producers, processors, or retailers?

No, local ordinances are not preempted by state law.

Recent Developments (Cont.)

2. May local government establish land use regulations, in excess of Liquor Control Board (LCB) regulations or business license requirements in a fashion that makes it impractical to locate within their jurisdictions?

Yes, local governments can create land use regulations that are greater than state regulations established by the state LCB. Yes, business license requirements can be strengthened regarding marijuana businesses.

Recent Developments (Cont.)

- January, 2014, HB 2144 was introduced. This bill proposes to create a local jurisdiction marijuana fund which consists of marijuana excise taxes that would be collected and distributed.
- As currently amended, the proposed bill also includes a preemption on the prohibition and regulation of marijuana businesses by local jurisdictions.
- Other Senate and House Bills have been introduced and are being vetted in committee hearings.

Marijuana Business Interest

- December, 2013, the City received two applications for Tier 2 producers and processors looking to locate within an industrial zone.
- The City formally objected to both applications in a letter written to the state LCB.
- Prior to the state's application cut-off date in late 2013, the City averaged 3 to 4 calls per week inquiring about the City's regulations on marijuana establishments.

Unresolved Issues

- Federal law vs. State law
 - RCW 69.50 conflicts with federal law, mainly the Controlled Substance Act of 1970.
 - Can the State force local jurisdictions to comply with RCW 69.50 even though it violates federal law?

Questions & Answers