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Cities and Counties Can Ban Marijuana Use that is Legal Under State Law, AG Says.

Cities and counties can ban marijuana use that is legal under state law, AG says

Adding more complexity to a new Washington law legalizing the possession and sale of recreational marijuana, the state attorney general is supporting the rights of cities and counties to ban pot within their precincts.

In a Thursday opinion (PDF), Attorney General Bob Ferguson says the voter initiative authorizing recreational use of the drug does not pre-empt local entities from adopting stricter laws, according to the Associated Press and the Seattle PI's Pot Blog.

"Under Washington law, there is a strong presumption against finding that state law pre-empts local ordinances," writes Ferguson in the opinion. "Although Initiative 502 establishes a licensing and regulatory system for marijuana producers, processors, and retailers in Washington state, it includes no clear indication that it was intended to preempt local authority to regulate such businesses. We therefore conclude that I-502 left in place the normal powers of local governments to regulate within their jurisdictions."

Those who drafted the ballot measure "could have in a single sentence addressed this issue" but didn't, the AG said in a conference call with the media.

Dozens of localities within the state restrict the use of marijuana, often by imposing a moratorium of up to one year on allowing marijuana businesses or, indirectly, by requiring businesses to comply with federal law.

Under federal law, marijuana is illegal, but the feds have said they will take a laissez-faire approach to enforcement in states that permit pot.

Read the opinion at:

<http://atg.wa.gov/uploadedFiles/FosterAGO2014No02.pdf>

Posted Jan 16, 2014 3:25 PM CST

By Martha Neil

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