ENGROSSED HOUSE BILL 2294

State of Washington 69th Legislature 2026 Regular Session

By Representatives Farivar, Zahn, Berry, Parshley, Ryu, Tharinger, Reeves, Reed, Ramel, Obras, Cortes, Nance, Street, Duerr, Kloba, Taylor, Doglio, Gregerson, Scott, Goodman, Macri, Fosse, Thai, Pollet, Bernbaum, and Salahuddin

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AN ACT Relating to prohibiting negative use restrictions on real property that have the effect of limiting consumer access to food and medicine; and adding a new chapter to Title 19 RCW.

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

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Drug store" means a retail establishment or portion of a retail establishment that sells nonprescription medication and may also sell a wide range of consumer products for health, beauty, personal care, and household use, and that includes a pharmacy within the establishment.

(2) "Force majeure" has the same meaning as in RCW 19.122.020.

(3) "Grocery store" means a retail establishment or portion of a retail establishment that sells a wide range of groceries intended primarily for home preparation and consumption, including fresh, packaged, canned, dry, prepared or frozen food, beverage products, and similar items.

(4) "Pharmacy" means an establishment that securely stores and sells prescription medications.

(5) "Retail center" means a retail development with multiple owners or tenants and that has at least one shared common area and is subject to common management or common control through one or more restrictive covenants or easements.

NEW SECTION. **Sec. 2.** (1) Except as provided in subsection (3) of this section, a private agreement that imposes a negative use restriction upon real property in this state so as to prohibit or restrict the use of such real property for a grocery store or pharmacy when the use would otherwise be permitted under applicable land use ordinances, including as a conditional use, is against public policy, is prohibited, and is void and unenforceable. It is unlawful for any person to enter an agreement that is prohibited by this section or for any person who is the beneficiary of a negative use restriction imposed by such an agreement to allow such a restriction agreed to on or after the effective date of this section to remain or to refuse to release it.

(2) Except as provided in subsection (3) of this section, the prohibition in subsection (1) of this section:

(a) Applies to any private agreement incorporated into a contract, deed restriction, restrictive covenant, lease, memorandum of lease, or any other recorded or unrecorded instrument;

(b) Includes a private agreement limiting the size of a grocery store or pharmacy; and

(c) Applies to negative use restrictions that prohibit or restrict the use of real property for a pharmacy alone and to negative use restrictions that prohibit or restrict the use of real property for a drug store.

(3) This section does not apply to:

(a) An agreement imposing a negative use restriction that became effective prior to the effective date of this section;

(b) An agreement that imposes a negative use restriction to prohibit or restrict use of real property for a grocery store or pharmacy after an owner or operator of a grocery store or pharmacy discontinues operations of the grocery store or pharmacy on the property for the purpose of relocating the grocery store or pharmacy, if the following conditions are met:

(i) When compared to the discontinued store, the relocated store or pharmacy is similar in size or larger and similar in the scope of products sold;

(ii) The relocated grocery store or pharmacy is located within two miles of the discontinued site, except as provided in section 3 of this act;

(iii) Relocation and the commencement of operations at the new site occurs within two years, subject to force majeure, following the discontinued store's or pharmacy's closure, except as provided in section 3 of this act; and

(iv) The negative use restriction imposed on the prior site does not have a term in excess of five years from the date of the closure, except as provided in section 3 of this act; or

(c)(i) Except as provided in (c)(ii) of this subsection, an agreement that imposes a negative use restriction to prohibit or restrict use of real property for a grocery store or pharmacy in order to limit competition or conflicting uses within the confines of a retail center by allowing only a limited number of grocery stores or pharmacies within the retail center.

(ii) Except as provided in (b) of this subsection, it remains unlawful for any owner or operator who discontinues grocery store or pharmacy use at a site within a retail center for a period exceeding one year, or the time period under section 3 of this act, to seek to enforce a negative use restriction prohibiting or restricting grocery store or pharmacy uses within the retail center.

NEW SECTION. **Sec. 3.** (1) A city, town, or county may establish that upon the written request of an owner or operator and the requestor's presentation of evidence establishing extenuating circumstances that demonstrate good cause for the extension, the city, town, or county may, by written determination, extend the following as they apply to the requestor:

(a) The distance limit in section 2(b)(ii) of this act to no more than five miles;

(b) The time requirement in section 2(b)(iii) of this act;

(c) The term limit in section 2(b)(iv) of this act; and

(d) The time period in section 2(c)(ii) of this act.

(2) Factors for considering good cause include but are not limited to:

(a) Maintaining or increasing food and medicine access in the surrounding area, including the area around the discontinued site;

(b) Needs related to financing and construction for the new location; and

(c) Promoting private investment in the surrounding area.

NEW SECTION. **Sec. 4.** A party who enters a private agreement that imposes a negative use restriction upon real property in this state so as to prohibit or restrict the use of such real property for a grocery store or pharmacy when the use would otherwise be permitted under applicable land use ordinances, including as a conditional use, shall within 10 days of entering the private agreement, notify the attorney general and the appropriate local jurisdiction, as follows, of the negative use restriction:

(1) The city or town, if the real property is located within an incorporated city or town; or

(2) The county legislative authority, if the real property is located in an unincorporated area of the county.

NEW SECTION. **Sec. 5.** (1) The attorney general or a city, town, or county may enforce this chapter through a cause of action in a court of competent jurisdiction including declaratory relief, injunctive relief, or other legal or equitable remedy as appropriate to carry out the purpose and intent of this chapter.

(2) A city or town may enforce this chapter with respect to real property located in the city or town. A county may only enforce this chapter with respect to real property located in an unincorporated area of the county.

(3) Nothing in this chapter prevents a city, town, or county from enacting or enforcing an ordinance imposing a civil penalty, or authorizing other relief, for a violation of a local ordinance that is similar to the prohibition in section 2 of this act.

NEW SECTION. **Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act constitute a new chapter in Title 19 RCW.

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