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HOUSE BILL NO. 43

Offered January 12, 2022

Prefiled December 31, 2021

A BILL to prohibit the operation of retail marijuana stores in a locality absent approval by local referendum.

Patron—Ware

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. § 1. *That, notwithstanding any other provision of law, if an act of assembly is passed by the 2022 Session of the General Assembly that authorizes the operation of retail marijuana stores in the Commonwealth, such retail marijuana stores may be located only in localities that have approved the operation of retail marijuana stores through a referendum held in accordance with the following provisions:*

The governing body of a locality may, by resolution, petition the circuit court for the locality for a referendum on the question of whether retail marijuana stores should be permitted in the locality. Upon the filing of a petition, the circuit court shall order the election officials to conduct a referendum on the question on the date fixed in the order. The date set by the order shall comply with the provisions of § 24.2-682 of the Code of Virginia, but in no event shall such date be more than 90 days from the date the order is issued. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the locality once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the operation of retail marijuana stores be permitted in _____ (name of county, city, or town)?" The referendum shall be held and the results certified as provided in § 24.2-684 of the Code of Virginia. In addition to the certifications required by such section, the secretary of the local electoral board shall certify the results of the referendum to the Board of Directors of the Virginia Cannabis Control Authority and to the governing body of the locality.

If a majority of the qualified voters voting in such referendum vote "No" on the question of whether retail marijuana stores shall be permitted in the locality, retail marijuana stores shall be remain prohibited in the locality. A referendum on the same question may be held subsequent to a vote to prohibit retail marijuana stores but not earlier than four years following the date of the previous referendum. Any subsequent referendum shall be held pursuant to the provisions of this act.

If a majority of the qualified voters voting in such referendum vote "Yes" on the question of whether retail marijuana stores shall be permitted in the locality, retail marijuana stores shall be permitted to operate within the locality 60 days after the results are certified or on January 1, 2024, whichever is later, and no subsequent referendum may be held pursuant to this act within such locality.

When any referendum is held pursuant to this act in a town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county. When any referendum is held pursuant to this act in a county, any town located within such county, shall be treated as being part of such county.

The legality of any referendum held pursuant to this act shall be subject to the inquiry, determination, and judgment of the circuit court that ordered the referendum. The court shall proceed upon the complaint of 15 or more qualified voters of the county, city, or town, filed within 30 days after the date the results of the referendum are certified and setting out fully the grounds of contest. The complaint and the proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654 of the Code of Virginia, and the judgment of the court entered of record shall be a final determination of the legality of the referendum.

INTRODUCED

HB43