



TO: Elizabeth Pauli, City Manager
FROM: William C. Fosbre, City Attorney, City Attorney’s Office; Keith A. Echterling, Deputy City Attorney, City Attorney’s Office.
COPY: City Council and City Clerk.
SUBJECT: Ordinance to adopt applicable sections of 2E2SSB 5536 (Chap. 1. Laws of 2023 1st Special Session) related to state drug laws
DATE: May 24, 2023

SUMMARY AND PURPOSE:

On May 16, 2023, the Washington State Legislature adopted 2E2SSB 5536 (Chap. 1 Laws of 2023 1st Special Session) Amending Chapters 69.50 and 69.41 RCW related to state drug laws. The State Legislature has preempted local jurisdictions (cities and counties) from enacting local laws that differ from state laws related to controlled substances, counterfeit drugs, legend drugs, and drug paraphernalia. Consequently, the City must adopt by reference these updated state laws to ensure drug-related misdemeanor offenses occurring within the City of Tacoma can be appropriately addressed through the Tacoma Municipal Court and prosecuted by the City Attorney’s Office.

BACKGROUND:

This Department’s Recommendation is Based On: The Washington State Legislature has enacted new laws related to drug use, possession, and drug paraphernalia. These laws make it a gross misdemeanor to knowingly possess or knowingly use in a public place, controlled substances, and counterfeit substances; they also make it a misdemeanor offense to knowingly possess or knowingly use in a public place a legend drug without an order or prescription from a designated professional. The State of Washington now also preempts the entire field of regulating drug paraphernalia and local jurisdictions can only enact laws consistent with state law relating to drug paraphernalia. To align with the new state laws the City will need to adopt these state laws by reference related to knowing public use, and knowing possession, and adopt by reference the state laws related to regulation of drug paraphernalia. These changes will go into effect August 14, 2023, to coincide with end of the state requirement that an individual be referred twice by law enforcement for treatment prior to arrest.

COMMUNITY ENGAGEMENT/ CUSTOMER RESEARCH:

The proposed adoption of 2E2SSB 5536 (Chap. 1 Laws of 2023 1st Special Session) and the amendments to Chapters 69.50 and 69.41 RCW apply to all conduct within the City of Tacoma.

2025 STRATEGIC PRIORITIES:

Equity and Accessibility: *(Mandatory)*

This legislation would equally apply throughout the City of Tacoma.



Livability: Equity Index Score: Moderate Opportunity
 Increase positive public perception of safety and overall quality of life.

Explain how your legislation will affect the selected indicator(s).

The legislation will allow the city to enforce state drug laws locally through its law enforcement, City Attorney’s Office, and City Municipal Court.

ALTERNATIVES:

Presumably, your recommendation is not the only potential course of action; please discuss other alternatives or actions that City Council or staff could take. Please use table below.

Alternative(s)	Positive Impact(s)	Negative Impact(s)
1. Not adopt state code		City would lose local control and incur substantially more costs. City would have to contract with Pierce County to prosecute, adjudicate, treat, jail, and provide rehabilitation and probation services for anyone arrested by Tacoma Police for these offenses.
2.		
3.		

EVALUATION AND FOLLOW UP:

If directed, Staff could provide statistics regarding how many offenders are prosecuted pursuant to this proposal on a yearly basis or as otherwise requested.

STAFF/SPONSOR RECOMMENDATION:

Staff recommends adopting applicable parts of 2E2SSB 5336 (Chap. 1 Laws of 2023 1st Special Session) by reference.

FISCAL IMPACT:

There is no/minimal fiscal impact to adopt the state code.

Fund Number & Name	Cost Object (cc/wbs/order)	Cost Element	Total Amount
1. N/A			
2.			
TOTAL			



City of Tacoma

City Council Action Memorandum

What Funding is being used to support the expense?

N/A

Are the expenditures and revenues planned and budgeted in this biennium's current budget?

N/A

Are there financial costs or other impacts of not implementing the legislation?

Yes – a contract would have to be agreed upon with Pierce County and would incur more expenses for the City. The exact dollar amount would be dependent upon the aforementioned contract.

Will the legislation have an ongoing/recurring fiscal impact?

N/A

Will the legislation change the City's FTE/personnel counts?

No.

ATTACHMENTS:

List attachments using bullet points.

- Agreement