

# HOUSE BILL REPORT

## ESHB 2304

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### As Passed Legislature

**Title:** An act relating to marijuana processing and retail licenses.

**Brief Description:** Concerning marijuana processing and retail licenses.

**Sponsors:** House Committee on Government Accountability & Oversight (originally sponsored by Representative Moscoso; by request of Liquor Control Board).

**Brief History:**

**Committee Activity:**

Government Accountability & Oversight: 1/27/14, 2/3/14 [DPS].

**Floor Activity:**

Passed House: 3/13/14, 91-7.

Passed Senate: 3/13/14, 42-7.

Passed Legislature.

#### Brief Summary of Engrossed Substitute Bill

- Permits marijuana processors to sell marijuana concentrates in addition to useable marijuana and marijuana-infused products to retailers and other processors.
- Permits marijuana retailers to sell marijuana concentrates to consumers.
- Includes transactions involving marijuana concentrates in the existing excise tax framework.
- Exempts account information associated with marijuana producer, processor, and retailer licenses from disclosure under the Public Records Act.
- Defines the amount of marijuana concentrates any person over 21 years old is allowed to purchase at a marijuana retail outlet.

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### HOUSE COMMITTEE ON GOVERNMENT ACCOUNTABILITY & OVERSIGHT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass.  
Signed by 9 members: Representatives Hurst, Chair; Wylie, Vice Chair; Condotta, Ranking

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Minority Member; Holy, Assistant Ranking Minority Member; Blake, Kirby, Moscoso, Shea and Vick.

**Staff:** David Rubenstein (786-7153).

### **Background:**

#### Introduction to Initiative Measure No. 502.

Initiative Measure No. 502 (I-502 or initiative) was a ballot measure approved by Washington voters in November of 2012 that legalizes the production, processing, possession and personal use of marijuana on a limited scale, creates a framework for a regulatory scheme to be further developed by the Liquor Control Board (LCB) through its rule-making authority, and revises provisions in criminal statute to accommodate such legalization in accordance with the requirements of the initiative.

#### Licensing of Marijuana Producers, Processors, and Retailers.

The initiative creates three categories of marijuana marketing licenses to be issued by the LCB in implementing the statutory scheme outlined in the initiative: (1) the marijuana producer's license entitles the holder to produce marijuana for sale at wholesale to licensed marijuana processors or other producers; (2) the marijuana processor's license entitles the holder to process, package, and label marijuana for sale at wholesale to marijuana retailers; and (3) the marijuana retailer's license entitles the holder to sell marijuana products at retail prices in retail outlets. The initiative also created a tax framework, wherein sales from marijuana producers to processors, from processors to retailers, and retailers to consumers are each subject to an excise tax of 25 percent.

#### Restrictions on Licensed Marijuana Retailers.

Under I-502, licensed marijuana retailers are subject to specified restrictions. Among those restrictions are prohibitions on the following:

- the sale of products or services other than marijuana products or related paraphernalia;
- employment of persons under 21 years of age;
- allowing persons under 21 years of age to enter or remain on the premises; and
- allowing the opening or consumption of marijuana products on the premises.

A retail licensee who violates any of these advertising prohibitions is subject to a \$1,000 fine for each violation.

#### Varieties of Marijuana Products.

The initiative spelled out two different kinds of marijuana products: (1) "useable marijuana," defined as dried marijuana flowers; and (2) "marijuana-infused products," defined as products containing marijuana or marijuana extracts intended for human use. The two definitions are mutually exclusive.

The statutory definition of marijuana includes all parts of the Cannabis plant and the resin extracted from any part of it.

#### Restrictions on Sale.

Processors are permitted to sell useable marijuana and marijuana-infused products to retailers, and retailers are permitted to sell those items to consumers. However, processors and retailers are not currently permitted to sell marijuana extracts. Neither are processors permitted to sell marijuana in any form to other processors.

#### Allowable Quantities of Marijuana.

Under I-502, persons 21 years of age or older are permitted to possess:

- 1 ounce of useable marijuana;
- 16 ounces of marijuana-infused product in solid form; or
- 72 ounces of marijuana-infused product in liquid form.

Retailers are permitted to sell useable marijuana and marijuana-infused products in the same quantities and in any combination from the premises of a marijuana retail outlet.

#### **Summary of Engrossed Substitute Bill:**

"Marijuana concentrates" is defined as resin extracted from the Cannabis plant with a high THC concentration, in contrast to "marijuana," which includes the entire Cannabis plant. The definition of "marijuana-infused products" is refined to require inclusion of marijuana or marijuana extracts with between 0.3 percent and 60 percent THC concentration.

Licensed marijuana processors are permitted to sell marijuana, including marijuana concentrates, useable marijuana, and marijuana-infused products to other processors and to retailers. Similarly, licensed retailers are permitted to sell marijuana concentrates to the same consumers who are currently permitted to purchase useable marijuana and marijuana-infused products and subject to the same restrictions. Sales of marijuana between producers and processors and between retailers and consumers are included in the I-502 excise tax framework.

Marijuana retailers may sell up to 7 grams of marijuana concentrates product from the premises of a retail outlet, in any combination with allowable amounts of other kinds of marijuana products.

Account numbers and values provided to the LCB in connection with an application for a marijuana producer, processor, or retailer license is exempted from Public Records Act (PRA) disclosure.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

#### **Staff Summary of Public Testimony:**

(In support) This is a simple bill adding language to allow processors and retailers to sell marijuana extracts, and it amounts to a technical fix, though it requires an amendment.

The initiative does not allow processor-to-processor sales. There are licensees who extract oils and those who make marijuana-infused products, and those people are not always the same. This bill will help get those people together in the marketplace while clarifying how much marijuana extracts may be sold to a consumer. This bill broadens the base of what is allowed to be sold and matches federal statutes.

The bill could carry an amendment to prevent disclosure of account information of marijuana licensees and applicants as an exemption from the PRA. The LCB would not be opposed to this amendment. Additionally, there may be some need for amendatory language to clarify that there will not be a four-tier tax system. There will be specialties leading to the delivery of an end-product, and there may be control of interchanges within each tier, but they should not be additionally taxed. This might lead to corruption in the system and undermine efforts to defeat the black market.

(Opposed) This bill might lead to highly concentrated extracts that can result in immediate overconsumption. This would lead to more impaired driving, anxiety attacks, heart palpitations, unconsciousness, and hospital visits. Widespread availability of extracts will lead to new problems for law enforcement, which is not additionally funded under I-502. Further, extracts and hash oil could lead to an increase in use by youth. However, if extracts will be allowed, they should be limited to 1 gram per person.

This bill represents another violation of the right against self incrimination and against search and seizure. The change of cannabis to marijuana to fit federal statutes brings it under the purview of federal regulation. The cities and counties can prevent licensees from doing business, and many have already done so.

**Persons Testifying:** (In support) Representative Moscoso, prime sponsor; Randy Simmons, Washington Liquor Control Board; Phil Wayt, Northwest Producers & Processors Association; and Chris Keely, Washington Emerald Green Alliance.

(Opposed) Ramona Leber, Washington Association for Substance Abuse and Violence Prevention; and Jerry Dierker.

**Persons Signed In To Testify But Not Testifying:** None.