

HOUSE BILL REPORT

SHB 2584

As Passed House:
February 15, 2016

Title: An act relating to public disclosure of information submitted to the liquor and cannabis board regarding marijuana product traceability and operations.

Brief Description: Concerning public disclosure of information submitted to the liquor and cannabis board regarding marijuana product traceability and operations.

Sponsors: House Committee on Commerce & Gaming (originally sponsored by Representatives Vick, Van De Wege, Blake, Harris and Tarleton).

Brief History:

Committee Activity:

Commerce & Gaming: 1/25/16, 2/1/16 [DPS].

Floor Activity:

Passed House: 2/15/16, 89-8.

Brief Summary of Substitute Bill

- Exempts from disclosure under the Public Records Act specified categories of information obtained by the Liquor and Cannabis Board from commercial marijuana licensees and license applicants.

HOUSE COMMITTEE ON COMMERCE & GAMING

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 Minority Member; Holy, Assistant Ranking Minority Member; Blake, Kirby, Scott, Van De Wege and Vick.

Staff: Thamas Osborn (786-7129).

Background:

Public Records Act.

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.

The Public Records Act (PRA) requires state and local agencies to make their written records available to the public for inspection and copying upon request, unless the information fits into one of the various specified exemptions in the PRA or as otherwise provided in state law. The stated policy of the PRA favors disclosure and requires narrow application of the listed exemptions. The statutory exemptions from the disclosures required under the PRA include: (1) commercial and proprietary information regarding formulas, designs, computer source code, and research data if disclosure of such information would cause private gain and public loss; and (2) specified types of private financial, technical, and commercial information obtained by state agencies in the course of regulating the activities of private entities or persons.

Liquor and Cannabis Board: Regulation of Commerce in Marijuana Products.

Initiative 502 was a ballot measure approved by Washington voters in November 2012 that: (1) legalized the production, processing, possession, and personal use of marijuana; (2) created a framework for a regulatory scheme to be further developed by the Liquor and Cannabis Board (LCB) through its rule-making authority; and (3) revised criminal laws to accommodate such legalization.

Initiative 502 designated the LCB as the state regulatory entity responsible for the implementation of the initiative, including continuing oversight over the commercial practices and conduct of licensed marijuana producers, processors, and retailers. The regulatory powers of the LCB include very broad rule-making authority with respect to licensing and general oversight of the legal marijuana marketplace.

The LCB is authorized to issue three categories of commercial marijuana licenses: (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 other processors; and (3) the marijuana retailer's license entitles the holder to sell marijuana products at retail prices in retail outlets.

Pursuant to statute and administrative rule, the LCB requires commercial marijuana licensees and license applicants to provide a wide range of information, including information regarding:

- business operations and practices;
- financial records;
- methods of producing, processing, and packaging marijuana products;
- the design and characteristics of commercial facilities;
- the security of commercial marijuana facilities and transportation methods; and
- practices regarding monitoring product inventories and the flow of marijuana products, from initial production to retail sale.

Summary of Substitute Bill:

Specified categories of information obtained by the LCB in regulating marijuana commerce are exempted from disclosure under the PRA. The information subject to the exemption includes information pertaining to financial institutions, retirement accounts, building

security plans, marijuana transportation, vehicle and driver identification data, and account numbers or unique access identifiers issued to private entities for traceability system access.

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 bill is necessary in order to address legitimate security and privacy concerns with respect to information and data gathered by the LCB in course of regulating commerce in marijuana and issuing licenses to producers, processors, and retailers. The information gathered by the LCB includes personal, financial, and banking information that should remain private, as well as information related to the security of commercial marijuana facilities and commercial marijuana shipments. Concerns about security are well founded, insofar as marijuana is a valuable product and the security of commercial facilities and shipments is a legitimate concern. There have already been robberies at commercial facilities under circumstances suggesting that the perpetrators had access to sensitive security information. Accordingly, information that would negatively impact security and public safety should be kept confidential. The bill would still allow public access to the LCB information and data that is needed in order to monitor and evaluate market activities.

(Opposed) The exemptions in the bill are far too broad and would encompass information that the public needs to know. The statutory language needs to be narrowly tailored to apply only to very specific categories of information related to true security and privacy concerns.

(Other) The bill has many issues that need to be addressed and needs to be rewritten. The conduct and regulation of the marijuana industry should be transparent, and information relevant to public policy concerns should be readily available. The bill, as currently written, would prevent public access to such information. In addition, the LCB gathers a lot of data that is very useful to industry members, and the bill would prevent the release of this data. The bill needs to be rewritten so that the exemptions are narrowly drawn and exempted information is specifically identified.

Persons Testifying: (In support) Representative Vick, prime sponsor; K.C. Franks, Stash Pot Shop; James Paribello and Bob Schroeter, Washington State Liquor and Cannabis Board; Ezra Eickmeyer, E&A Strategic Consulting; Sara Stewart, Washington CannaBusiness Association; and Jeremy Larson, Washington Marijuana Association.

(Opposed) Arthur West.

(Other) Lew McMurrin, Cannabis Organization of Retail Establishments; Logan Bowers, Hashtag; and Rowland Thompson, Allied Daily Newspapers of Washington.

Persons Signed In To Testify But Not Testifying: None.