

HOUSE BILL REPORT

SHB 1126

As Passed House:
February 20, 2017

Title: An act relating to establishing a deadline for the use and implementation of a marijuana retail license by a licensee.

Brief Description: Establishing a deadline for the use and implementation of a marijuana retail license by a licensee.

Sponsors: House Committee on Commerce & Gaming (originally sponsored by Representatives Condotta, Sawyer and Vick).

Brief History:

Committee Activity:

Commerce & Gaming: 1/31/17, 2/9/17 [DPS].

Floor Activity:

Passed House: 2/20/17, 86-11.

Brief Summary of Substitute Bill

- Establishes that a marijuana retailer license is subject to forfeiture if the licensee does not become fully operational and open to the public within a specified period from the date of license issuance.
- Requires the Liquor and Cannabis Board (LCB) to adopt rules establishing the license forfeiture process and gives the LCB discretion in adopting the rules and establishing the forfeiture process.
- Prohibits a marijuana retailer license from being subject to forfeiture within the first nine months of license issuance.
- Provides that the LCB must generally require license forfeiture on or before 24 calendar months of license issuance if the licensee is not fully operational and open to the public, but gives the LCB discretion to extend that forfeiture period in the LCB's discretion when circumstances out of the licensee's control are stopping the licensee from becoming fully operational and open to the public.

HOUSE COMMITTEE ON COMMERCE & GAMING

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Sawyer, Chair; Kloba, Vice Chair; Condotta, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Barkis, Blake, Farrell, Jenkin, Kirby, Ryu and Young.

Staff: Peter Clodfelter (786-7127).

Background:

The Liquor and Cannabis Board (LCB) issues the following licenses to qualified individuals, business entities, and nonprofit entities, subject to requirements: (1) marijuana producer license; (2) marijuana processor license; (3) marijuana retailer license; (4) marijuana researcher license; and (5) marijuana transporter license. The Legislature requires the LCB to develop a competitive, merit-based application process that includes, at a minimum, the opportunity for an applicant to demonstrate experience and qualifications.

The LCB may inspect the premises of an applicant for a license, and may inquire into all matters in connection with the construction and operation of the premises. The LCB may consider any prior criminal conduct of the applicant, including an administrative violation history record with the LCB and a criminal history record information check. The LCB may submit the criminal history record information check to the Washington State Patrol (WSP) and the Federal Bureau of Investigation (FBI) for a search of their arrest and conviction records. The LCB must require fingerprinting of any applicant whose criminal history record information check is submitted to the FBI.

The LCB may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted to the LCB from the chief executive officer of the incorporated city or town that the applicant's premises is located in, or from the county legislative authority, if the applicant's premises is not located in an incorporated city or town. The LCB must give substantial weight to such objections. The LCB has discretion to suspend or cancel any license.

The LCB's action in denying an application for the reissuance of a license to produce, process, or sell marijuana, or as to any revocation, suspension, or modification of any such license, is an adjudicative proceeding subject to the Administrative Procedure Act. An opportunity for a hearing must be provided to a licensee prior to a revocation or modification of any license and, with limited exception, prior to suspension of a license. The LCB may summarily suspend a license for a period of up to 180 days without a prior hearing if the LCB finds that public health, safety, or welfare imperatively require emergency action, and the LCB incorporates a finding to that effect in the order.

The Legislature delegates authority to the LCB to determine, in consultation with the Office of Financial Management, the maximum number of retail outlets that may be licensed in each county, taking into consideration specific factors.

In addition to holding a marijuana license issued by the LCB, a licensee generally needs various authorizations from the city, county, or town in which the licensee's premises is located prior to conducting business.

Summary of Substitute Bill:

The LCB must adopt rules to establish a license forfeiture process for a licensed marijuana retailer that is not fully operational and open to the public within a specified period from the date of license issuance, as established by the LCB. However, no marijuana retailer license may be subject to forfeiture within the first nine months of license issuance. The LCB must require license forfeiture on or before 24 calendar months of license issuance if a marijuana retailer is not fully operational and open to the public, unless the LCB determines that circumstances out of the licensee's control are preventing the licensee from becoming fully operational and that, in the LCB's discretion, the circumstances warrant extending the forfeiture period beyond 24 calendar months. The LCB has discretion in adopting the required rules.

It is established that the license forfeiture process applies to marijuana retailer licenses issued before and after the effective date of the bill. However, no marijuana retailer's license may be subject to forfeiture within the first three months of the effective date of the bill.

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) People should not be able to hold a marijuana license if they are not taking steps to get their business fully operational and open to the public, because there are a limited number of marijuana licenses available. It is different if a marijuana retailer cannot become fully operational and open to the public through no fault of their own, such as through a local government's ban or moratorium, but that is not always the case. The bill will require holders of marijuana retailers licenses to use the license or lose the license, but does provide for one extension of the deadline.

(Opposed) None.

(Other) Stakeholders support the idea in this bill, but want to make sure the LCB has discretion in exercising the forfeiture provisions on a case-by-case basis. The LCB does not currently have authority to establish a license forfeiture process through rule. It could be made explicit that the bill applies retroactively.

Persons Testifying: (In support) Representative Condotta, prime sponsor.

(Other) Ezra Eickmeyer; and James Paribello, Liquor and Cannabis Board.

Persons Signed In To Testify But Not Testifying: None.