

FINAL BILL REPORT

SHB 1462

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Synopsis as Enacted

Brief Description: Adding authority to the department of agriculture to regulate sanitary processing of marijuana-infused edibles.

Sponsors: House Committee on Commerce & Gaming (originally sponsored by Representatives Kloba, Condotta, Sawyer, Appleton and Ormsby; by request of Department of Agriculture).

House Committee on Commerce & Gaming
House Committee on Appropriations
Senate Committee on Agriculture, Water, Trade & Economic Development

Background:

Regulation of Marijuana-Infused Edible Products by the Liquor and Cannabis Board.

The Liquor and Cannabis Board (LCB) issues 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.

A marijuana processor's license authorizes the holder to process, package, and label useable marijuana, marijuana-infused products, and marijuana concentrates (collectively referred to as "marijuana products") for sale at wholesale to other marijuana processors and marijuana retailers. Marijuana-infused products include a wide variety of edible products, such as cookies, cakes, candies, lozenges, and chocolates. The Legislature delegates authority to the LCB to adopt rules regarding methods of packaging and labeling marijuana products.

The LCB's administrative rules require any container or package containing a marijuana product to protect the product from contamination and to not impart any toxic or harmful substance to the contents.

All marijuana products sold at retail must include textual material that is attached to the package, or provided separately to the consumer, containing specific warnings and a statement disclosing all pesticides used during production and processing. In addition, labels affixed to the container or package containing marijuana products must include information

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about the businesses that produced, processed, and sold the marijuana product, the product weight, and, if solvents were used, a statement disclosing the extraction method. For marijuana-infused products meant to be eaten or swallowed, labels affixed to the container or package must additionally include information about the manufacture date, the best buy date, the serving size, number of servings contained within the unit, potency, and other information.

The LCB is the only state agency with regulatory authority over the production, processing, storage, and sale of marijuana-infused food products by LCB licensees. However, the LCB does enter into contracts with the Washington State Department of Agriculture (Department) to provide food safety inspection services regarding marijuana-infused edibles. However, the entities subject to such contractually based inspections by the Department are not subject to licensure or direct regulation by the Department itself.

Regulation of Marijuana-Infused Edible Products by the Washington State Department of Agriculture.

The Department administers a Food Safety Program that authorizes it to license and regulate any business entity that processes, manufactures, stores, or handles any food product that is subject to wholesale or retail distribution within the state. This regulatory authority includes the authority to inspect and analyze food products, and to regulate food processing, handling, and storage.

However, the Department has no direct regulatory authority regarding the safe production, processing, or storage of marijuana-infused edibles, except by contract with the LCB. Furthermore, there is no current statutory authority allowing a Department licensed food processor to produce marijuana-infused food products within a facility licensed by the Department.

Summary:

Regulatory Authority of the Washington State Department of Agriculture over Marijuana-Infused Edibles.

The Department is authorized to participate in the regulation of the production and processing of marijuana-infused edibles pursuant to its Food Safety Program. The regulatory authority granted to the Department is in addition to the authority of the LCB regarding marijuana-infused edibles. The Department's regulatory authority is subject to the following provisions and requirements:

- The LCB and the Department have joint authority to regulate the production and processing of marijuana-infused edibles under their respective regulatory frameworks.
- The Department must adopt a penalty schedule specific to marijuana processors that are in addition to any penalties imposed under the penalty schedule adopted by the LCB.
- The Department must notify the LCB of regulatory violations by marijuana processors.
- The Department may deny, suspend, or revoke a marijuana-infused edible license endorsement on the same grounds as the Department may deny, suspend, or revoke any food processor's license.

Requirements Imposed on Marijuana Processors Subject to Regulation and Licensing by the Department.

Marijuana processors involved in the production and processing of marijuana-infused edibles are subject to the following provisions and requirements:

- A marijuana processor that processes, packages, or makes marijuana-infused edibles must obtain an annual marijuana-infused edible license endorsement from the Department.
- The marijuana processor must have a valid marijuana processor's license issued by the LCB before submitting an application for initial endorsement by the Department.
- The application and initial endorsement fees total \$895. The annual renewal fee is the same.
- Applicants for the endorsement must meet the same requirements as other applicants for a Department-issued food processing license.
- A marijuana processor must obtain a separate license endorsement for each location at which the marijuana processor intends to process marijuana-infused edibles.

A marijuana processor subject to regulation by the Department is authorized to produce edible products containing no marijuana provided such marijuana-free products are produced solely for tasting samples or internal product testing.

Rule-Making Authority of the Washington State Department of Agriculture.

The Department is granted the authority to adopt rules necessary to implement the provisions of the act. Such rules must be consistent with those promulgated by the LCB and the Department of Health.

Votes on Final Passage:

House	98	0
Senate	47	2

Effective: July 23, 2017
April 1, 2018 (Section 1)