
Commerce & Gaming Committee

HB 2333

Brief Description: Requiring health safety warning signs for unregulated cannabinoid products.

Sponsors: Representatives Sawyer and Condotta.

Brief Summary of Bill

- Requires that drug paraphernalia retailers selling unregulated and untested products containing cannabinoids post a health safety warning sign informing the public of the potential health hazards of such products.
- Requires the Liquor and Cannabis Board and the Department of Health to establish administrative rules governing the textual content and design of the health safety warning sign, subject to specified requirements.
- Establishes that a retail business owner who fails to meet the health safety warning sign requirements is guilty of a class two civil infraction.

Hearing Date: 1/8/18

Staff: Thamas Osborn (786-7129).

Background:

Regulation of Medical Marijuana Products and Sales.

In 2015, legislation was enacted creating a comprehensive regulatory framework for the production, processing, and retail sale of medical marijuana products. Commerce in medical marijuana is jointly regulated by the Liquor and Cannabis Board (LCB) and the Department of Health (DOH). This regulatory system requires that medical marijuana products be sold only through licensed recreational marijuana retail outlets that have obtained a medical marijuana license endorsement through the LCB. Marijuana retailers with a medical marijuana endorsement must provide training to employees that includes verification methods to ensure that the patient is authorized to purchase medical marijuana products, as well as various identification procedures. In addition, medical marijuana retailers must have at least one employee who acts as a medical marijuana consultant following the completion of a training program administered by

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the DOH. These consultants are trained to assist and advise qualified patients in the selection of the types of marijuana products most appropriate for the treatment of a patient's medical issues.

The DOH is responsible for establishing the standards that medical marijuana products must meet in order to be sold by authorized marijuana retailers. The standards address tetrahydrocannabinol (THC) and cannabidiol (CBD) concentrations and ratios appropriate for qualifying patients, testing protocols, product labeling and handling, and retail employee training. Marijuana concentrates are subject to additional regulation by the LCB with respect to production, processing, packaging, standards for ingredients and quality, labeling, and advertising.

All medical marijuana products are subject to mandatory product safety testing by a state licensed laboratory for pesticides, fertilizer residues, and other potential toxins. Although recreational marijuana products are also required to go through a similar laboratory testing process, the standards for the testing of medical marijuana products are more detailed and rigorous.

Statutory Definition of Marijuana Under the Controlled Substances Act.

Under the Controlled Substances Act (CSA) chapter 69.50 RCW, "marijuana" is defined to include all parts of the cannabis plant with a THC content greater than 0.3 percent. Cannabis products with a THC content of 0.3 percent or less are not considered to be marijuana for law enforcement or regulatory purposes by the LCB or the DOH.

Cannabis-Based Health and Beauty Aids.

As of 2016, qualifying health and beauty products containing cannabis derivatives are exempted from all provisions of the CSA pertaining to marijuana, marijuana concentrates, and marijuana-infused products. These products are produced, processed, and sold outside of the regulatory system administered by the LCB and the DOH and, accordingly, may not be sold by recreational/medical marijuana retailers licensed by the LCB.

"Cannabis health and beauty aid" is defined to mean a product containing parts of the cannabis plant and which:

- is intended for use only as a topical application to enhance appearance;
- contains a THC concentration of no more than 0.3 percent;
- does not cross the blood-brain barrier (i.e., has no psychoactive effects); and
- is not intended for ingestion by humans or animals.

Retail Drug Paraphernalia Businesses and Cannabis-Based Health Products.

Washington has many retail businesses that sell a wide range of pipes, cigarette papers, and various other devices designed for the smoking of marijuana, tobacco, and/or other substances. Although many of these smoking devices meet the technical, statutory definition of illegal "drug paraphernalia", they are considered to be legal provided they are intended solely for the smoking of marijuana or tobacco. Unlike licensed marijuana retailers, these businesses do not require LCB licensing and are not subject to state agency regulation.

Many drug paraphernalia businesses also sell a variety of cannabis-based health and beauty products that meet the statutory definition of "cannabis health and beauty aid", insofar as such products have a THC content not exceeding the 0.3 percent threshold. The sale of such products

by drug paraphernalia retailers is, therefore, legal under state law provided the products are not intended for ingestion by humans or animals and do not exceed the 0.3 percent THC threshold.

In addition, such cannabis-based products are not subject to regulation by the LCB or the DOH since they are not categorized as medical marijuana products and ostensibly do not contain THC levels that meet the statutory standard for marijuana. And, unlike the medical marijuana products sold through LCB licensed marijuana retailers, these products are not subject to any product safety testing by qualified laboratories or other regulatory oversight regarding production standards or product content.

Cannabinoids and Cannabidiol.

The term "cannabinoid" encompasses a wide variety of organic compounds derived from the cannabis plant. Cannabidiol (CBD) is a type of cannabinoid that is believed to have potential health benefits and is the active ingredient in most regulated medical marijuana products produced by LCB licensed marijuana producer/processors and sold by LCB licensed marijuana retailers. Cannabidiol (CBD) is also commonly found in unregulated health care products sold by retailers not subject to licensing by the LCB, including drug paraphernalia retailers.

Summary of Bill:

A retail business not licensed under chapter 69.50 RCW and whose trade includes the sale of drug paraphernalia may not sell, or offer for sale, any product containing CBD or other cannabinoid compound intended for ingestion through the mouth, unless the retail business conspicuously posts a health safety warning sign in accordance with specified requirements.

The LCB, in consultation with the DOH, must adopt rules regarding the textual requirements and overall design of the required health safety warning sign. At minimum, the sign must include language expressly disclosing that the retailer's cannabinoid products:

- are neither regulated nor approved as a medical marijuana product by the LCB or the DOH;
- have not been subject to product safety testing by a qualified, state-licensed laboratory;
- may contain toxins or contaminants that may be injurious to health; and
- any other information or warnings deemed pertinent to informing the public of the potential health hazards posed by the ingestion of unregulated and untested products containing cannabinoids.

A retail business owner who fails to meet the health safety warning sign requirements of this section is guilty of a class two civil infraction under RCW 7.80.120.

Appropriation: None.

Fiscal Note: Available.

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