

HOUSE BILL REPORT

ESHB 2472

As Passed House:
February 7, 2018

Title: An act relating to ensuring reasonable terms of payment are available to marijuana retailers when contracting with marijuana processors for the purchase of marijuana products.

Brief Description: Ensuring reasonable terms of payment are available to marijuana retailers, marijuana producers, and marijuana processors when contracting with other marijuana retailers, marijuana producers, and marijuana processors for the purchase of marijuana products.

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

Brief History:

Committee Activity:

Commerce & Gaming: 1/15/18, 1/18/18 [DPS].

Floor Activity:

Passed House: 2/7/18, 84-14.

Brief Summary of Engrossed Substitute Bill

- Authorizes a contract between licensed marijuana businesses for the purchase and sale of marijuana products to allow the purchaser to tender full or final payment to the seller on a date after delivery or receipt of the products, so long as the date is no more than five calendar days after the date of delivery or receipt of the products.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Sawyer, Chair; Kloba, Vice Chair; Condotta, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Blake, Jenkin, Kirby, Ryu and Young.

Staff: Peter Clodfelter (786-7127).

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.

Background:

The commercial marijuana licenses issued by the Liquor and Cannabis Board (LCB) include the following three licenses: (1) marijuana producer license; (2) marijuana processor license; and (3) marijuana retailer license.

A licensed marijuana producer may also be a licensed marijuana processor. However, neither a licensed marijuana producer nor a licensed marijuana processor may have a direct or indirect financial interest in a licensed marijuana retailer.

Licensed marijuana producers may produce marijuana for sale at wholesale to marijuana processors and other marijuana producers. Licensed marijuana processors may process, package, and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers.

Through rule-making, the LCB regulates what methods of payment may be made by a licensed marijuana producer, processor, or retailer when purchasing marijuana products. Pursuant to the LCB's rules, a marijuana licensee must pay cash for marijuana prior to or at the time of delivery.

The LCB recognizes the following forms of payment as cash payment, subject to certain requirements: (1) checks; (2) credit/debit cards; (3) electronic funds transfer; (4) prepaid accounts; and (5) transactions using a money transmitter.

The term "marijuana products" includes useable marijuana, marijuana concentrates, and marijuana-infused edible products in solid and liquid form.

Summary of Engrossed Substitute Bill:

It is specified that a contract between a licensed marijuana producer, marijuana processor, or marijuana retailer, and another licensed marijuana producer, marijuana processor, or marijuana retailer, for the purchase and sale of marijuana or marijuana products, may allow the licensee purchasing the marijuana or marijuana products to tender full or final payment to the licensee selling the marijuana or marijuana products on a date after the date the marijuana or marijuana products are delivered to or received by the licensee purchasing the marijuana or marijuana products.

However, the licensee purchasing the marijuana or marijuana products must tender full or final payment to the licensee selling the marijuana or marijuana products on a date not more than five calendar days after the date the marijuana or marijuana products are delivered to or received by the licensee purchasing the marijuana or marijuana products.

The authorization and requirement applicable to contracts for the purchase and sale of marijuana and marijuana products apply to contracts entered or renewed on or after the effective date of the act.

Appropriation: None.

Fiscal Note: Not requested.

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) It makes sense to give retailers some leeway on when they have to pay a bill for a product purchase. This is similar to legislation from the 2017 Legislative Session addressing this issue in the liquor industry in the context of credit card transactions and extensions of credit. It is important to note that this bill is not about allowing consignment sales of marijuana products, it just adds flexibility for marijuana businesses to use standard accounting practices that other business take for granted. As a cash-heavy business, it can present practical problems when there are hundreds of thousands of dollars involved in a transaction and there is a narrow window for when the payment is required. This will really benefit the industry. Expanding the bill to also cover sales from licensed marijuana producers to licensed processors would be beneficial to those businesses.

(Opposed) None.

(Other) The Liquor and Cannabis Board (LCB) recognizes the desire to reduce or eliminate cash sales because of public safety issues. However, the LCB has some concerns with the original bill in that the 15 day window may be a little too long. This may blur the lines of a consignment sale, which is not allowed. Perhaps the payment window could be reduced to five days or less. This may accommodate any concerns while still benefitting the licensed businesses.

Persons Testifying: (In support) Representative Vick, prime sponsor; Vicki Christofersen, Washington CannaBuisness Association; Philip Dawdy, Have A Heart; and Ezra Eickmeyer.

(Other) Justin Nordhorn, Liquor and Cannabis Board.

Persons Signed In To Testify But Not Testifying: None.