

HOUSE BILL REPORT

ESSB 5131

As Passed House - Amended:

April 11, 2017

Title: An act relating to marijuana with respect to privileges for research licenses, local authority notifications, the retail licensing merit-based application process, processor wholesale events, certain transfers of plants and seeds, licensing agreements and contracts, residency requirements, and jurisdictional requirements.

Brief Description: Concerning marijuana with respect to privileges for research licenses, local authority notifications, the retail licensing merit-based application process, certain transfers of plants and seeds, licensing agreements and contracts, advertising, and jurisdictional requirements.

Sponsors: Senate Committee on Commerce, Labor & Sports (originally sponsored by Senators Rivers and Conway; by request of Liquor and Cannabis Board).

Brief History:

Committee Activity:

Commerce & Gaming: 3/20/17, 3/21/17 [DPA];

Appropriations: 4/1/17, 4/4/17 [DPA(APP w/o COG)].

Floor Activity:

Passed House - Amended: 4/11/17, 74-24.

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Revises and clarifies regulations pertaining to the advertising of marijuana businesses and products.
- Prohibits marijuana licensees from using advertising that is targeted to youth and from using objects or characters that are appealing to children.
- Allows marijuana-related billboards for the sole purpose of identifying the name of a marijuana retailer's business, the nature of the business, and providing directional information to the retailer's store.
- Prohibits the use of a billboard for the advertising or promotion of a retail marijuana business or any marijuana-related product after July 1, 2018.

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.

- Reinstates limitations regarding the size and number of outside signs affixed to the building or structure of a retail marijuana outlet; the size is limited to 1,600 square inches, and the number is limited to two.
- Requires that all signs or other print advertising for marijuana businesses or marijuana products contain text stating that marijuana products may only be purchased or possessed by persons 21 years of age or older.
- Grants rule-making authority to the Liquor and Cannabis Board (LCB) to regulate the text and images that are permissible on marijuana-related outdoor advertising.
- Prohibits a marijuana licensee from engaging in any advertising or marketing practice that specifically targets persons residing outside of the State of Washington.
- Authorizes a city, town, or county to adopt rules for outdoor advertising by licensed marijuana retailers that are more restrictive than the advertising restrictions imposed under state law.
- Authorizes licensed marijuana producers to sell immature marijuana plants or clones, and seeds to medical marijuana cooperatives and licensed researchers.
- Requires that the LCB provide tribes and port authorities with the same legal notices regarding pending marijuana business applications as are given to cities, towns, and counties.
- Eliminates the competitive, merit-based application process for retail marijuana licenses.
- Limits a marijuana retailer, and its partners, to holding a collective total of not more than five retail marijuana licenses.
- Requires that a retail marijuana licensee forfeit its license if it fails to open a retail store within a specified time-period following the issuance of the license, subject to specified conditions and limitations.
- Prohibits the LCB from issuing a marijuana business license for premises located within Indian country without the consent of the federally recognized Indian tribe associated with the reservation or Indian country.
- Authorizes and regulates the processing of industrial hemp under the industrial hemp research program administered by the Washington State Department of Agriculture (WSDA) in accordance with specified conditions and requirements.
- Authorizes an industrial hemp licensee to sell or transfer industrial hemp to a licensed marijuana processor in accordance with specified requirements.
- Authorizes an adult to share limited quantities of marijuana products with other adults, provided such sharing is done for a noncommercial purpose and is not conditioned upon or done in connection with financial consideration of any kind.

- Creates a regulatory and licensing system, administered by the WSDA and the LCB, for the regulation of the production and processing of marijuana-infused edibles.
- Creates a voluntary program for the certification and regulation of organic marijuana products that is administered by the WSDA.
- Requires the LCB to review and report demographic data regarding the race, ethnic background, and gender provided by applicants for marijuana business licenses and those seeking renewal of such licenses.
- Authorizes a marijuana business licensee to enter into specified types of business contracts or agreements relating to trademarks, trade names, trade secrets, technology, or proprietary information.
- Exempts specified types of marijuana-related business information from disclosure under the Public Records Act.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: Do pass as amended. 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: Thamas Osborn (786-7129).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Commerce & Gaming. Signed by 21 members: Representatives Ormsby, Chair; Robinson, Vice Chair; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Cody, Condotta, Fitzgibbon, Hansen, Harris, Jenkins, Lytton, Nealey, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan, Tharinger, Vick and Volz.

Minority Report: Do not pass. Signed by 10 members: Representatives Chandler, Ranking Minority Member; Bergquist, Buys, Haler, Hudgins, Kagi, Manweller, Schmick, Taylor and Wilcox.

Minority Report: Without recommendation. Signed by 1 member: Representative Pettigrew.

Staff: Linda Merelle (786-7092).

Background:

Sale of Marijuana Plants by Licensed Marijuana Producers.

Licensed marijuana producers are authorized to sell marijuana at wholesale to other producers and licensed processors, and may also sell live plants to medical marijuana

cooperatives. Medical marijuana patients who are not members of a cooperative have no legal means of purchasing marijuana plants from a producer.

Competitive Application Process for the Issuance of Marijuana Licenses.

During the 2015 Legislative Session, legislation was enacted to merge the recreational and medical marijuana systems. This merger required the closure of all unlicensed medical marijuana dispensaries/collective gardens and created a new system in which retail recreational marijuana businesses could obtain an additional license authorizing the retail sale of medical marijuana products. In anticipation of the need for additional retail licensees in order to meet the demand created by the closure of the unlicensed dispensaries, the Legislature created a competitive, merit-based application process for those applying for retail licenses. This application process is administered by the Liquor and Cannabis Board (LCB) and requires it to follow specified guidelines and requirements in implementing the new license approval process. Now that the merger of the recreational and medical marijuana systems is complete and the additional retail outlets have been licensed, the LCB is no longer accepting applications for retail licenses.

Limitations on the Number of Retail Marijuana Licenses that May be Held by any Individual or Entity.

The LCB issues four categories of marijuana-related business licenses: (1) the marijuana producer's license; (2) the marijuana processor's license; (3) the marijuana retailer's license; and (4) the marijuana research license. There are no statutory restrictions on the number of marijuana business licenses that may be issued to individuals, partnerships, or corporations.

Notice to Local Governments of Pending Applications for Marijuana Licenses.

Before the LCB issues a new or renewed license to a marijuana license applicant, it must give notice of the application to the municipality where the business will be located. The municipality may file a written objection regarding the applicant or the location of the business for both new licenses or renewals. The LCB may extend the time period during which written objections will be considered.

Possession and Delivery of Marijuana Products.

As the result of the passage of Initiative 502, a person 21 years of age or older may lawfully possess any combination of the following amounts of marijuana products:

- 1 ounce of useable marijuana;
- 16 ounces of marijuana-infused product in solid form;
- 72 ounces of marijuana-infused product in liquid form; and
- 7 grams of marijuana concentrates.

However, the delivery or transfer of any quantity of a marijuana product is unlawful unless done by a licensed marijuana producer, processor, retailer, researcher, or transporter. Under the state Controlled Substances Act, "delivery" means the actual or constructive transfer from one person to another of marijuana or any other controlled substance, and does not require an exchange of money or other consideration. A person who unlawfully delivers marijuana or possesses marijuana products in any amount with the intent to deliver is guilty of a class C felony.

Rule-Making Authority of the Liquor and Cannabis Board Regarding Marijuana Research Licensees.

The LCB is authorized to adopt rules concerning the conditions under which a marijuana research licensee may receive donated marijuana that is grown by a licensed marijuana producer. This authority does not include the enactment of rules regarding the conditions under which various other types of marijuana products (i.e., useable marijuana, marijuana concentrates, or marijuana-infused products) may be donated by a licensed marijuana processor.

Exemption from Criminal or Civil Liability for Marijuana Research Licensees.

Marijuana research licensees are immune from criminal or civil liability with respect to the production, processing, delivery, donation, and sale of marijuana provided such activities are conducted in accordance with chapter 69.50 RCW.

Transport and Delivery of Marijuana by Licensed Third-Party Carriers.

A licensed marijuana producer, processor, researcher, or retailer may use the services of a third-party common carrier to physically transport or deliver marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products between LCB-licensed entities within the state. The common carrier must be licensed by the LCB and may only transport marijuana products among licensed marijuana businesses.

The Registration and Use of Trademarks and Other Proprietary Product Identifiers.

Registration of a trademark provides the registered user with exclusive use of that trademark and protects against infringements upon the owner's rights. A trademark may be registered with the United States Trademark and Patent Office or the Washington Secretary of State's Office. Because of the federal prohibition on marijuana, it is not possible for marijuana businesses to receive federal trademark protection.

Unregistered trademarks which are used to distinguish a product or service have a more limited protection than registered trademarks, and are usually enforceable only in the area where the business is located.

Trade dress refers to a product's physical appearance, including its size, shape, color, design, and texture. Trade dress may also refer to the manner in which a product is packaged, promoted, or advertised. There is no formal registration requirement for trade dress. Trade dress may become proprietary, and thus subject to legal protection, by virtue of having a distinctive and recognizable design associated with particular business entity.

Exemptions from Public Records Act for Licensed Marijuana Businesses.

The Public Records Act (PRA) generally requires that, upon request by a member of the public, any state or local government agency must make available any public record maintained by the state or local government agency. The term "public record" is broadly defined. Among the various exceptions to the general rule requiring disclosure of public records are several exceptions related to information submitted to, or obtained by, the LCB during the licensing or regulatory process with respect to marijuana businesses.

Exemptions from disclosure under the PRA exist for the following information, either submitted to, or obtained by, the LCB, related to marijuana businesses:

- financial institution and retirement account information, and building security plan information;
- marijuana transport information, vehicle and driver identification data, and account numbers or unique access identifiers issued to private entities for traceability system access; and
- proprietary financial, commercial, operations, and technical and research information and data from applications from marijuana research licensees applications or reports.

Marijuana Plant Cultivation and Purchase by Medical Marijuana Cooperatives and Qualifying Patients.

In order to purchase marijuana plants from a licensed producer, a medical marijuana patient must be a member of a medical marijuana cooperative registered with the LCB. All members of the cooperative must hold medical marijuana recognition cards and be registered in the state database. Patients who are not members of a cooperative have no lawful means of acquiring plants from licensed marijuana producers.

Industrial Hemp Research Program Administered by the Washington State Department of Agriculture.

Industrial hemp is designated as an agricultural product that may be grown, produced, processed, possessed, and exchanged in Washington solely as part of the industrial hemp research program supervised by the Washington State Department of Agriculture (WSDA). The WSDA is required to establish an industrial hemp research program that authorizes WSDA-licensed entities to cultivate industrial hemp for the purpose of researching the feasibility of industrial hemp production in Washington. The WSDA must supervise the program through licensure and seed certification, but may not fund growing operations.

Restrictions on Advertising by Licensed Marijuana Producers, Processors, Retailers, and Researchers.

A marijuana retailer may display only two signs for the purpose of identifying the retail outlet by its business or trade name. Signs must be permanently attached to a building or other structure and must be no larger than 1,600 square inches. No sign may be posted within 1,000 feet of an elementary or secondary school, or a playground.

Licensed producers, processors, retailers, and researchers are prohibited from advertising any marijuana product in a public transit vehicle, public transit shelter, or on any publicly owned or operated property. In addition, marijuana businesses are prohibited from advertising marijuana products within 1,000 feet of the perimeter of a:

- school;
- playground;
- recreation center or facility;
- child care center;
- public park;
- library; or
- arcade game facility that allows admission to patrons under 21 years of age.

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

A marijuana processor license issued by the LCB 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 LCB is authorized to adopt rules regarding methods of packaging and labeling marijuana-infused edibles and other marijuana products.

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 WSDA to provide food safety inspection services regarding marijuana-infused edibles. The WSDA has no direct regulatory authority regarding the safe production, processing, or storage of marijuana-infused edibles, except by contract with the LCB.

The WSDA administers a Food Safety Program that authorizes it to license and regulate any business entity that processes, manufactures, stores, or handles any food product, other than marijuana-infused edibles, 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 establishments and practices.

The Department of Agriculture's Organic Certification Program and Marijuana Products. Many marijuana producers and processors are producing a variety of marijuana products through methods that endeavor to comply with state and federal standards required for official designation as "organic" agricultural products. However, neither state nor federal law provides organic certification standards that are applicable to marijuana products, insofar as such certification cannot be provided to products that are illegal under federal law, which continues to be the case with marijuana products.

The WSDA administers an organic product certification program (WSDA Organic Program) that is accredited as an organic certification agent by the United States Department of Agriculture. As a certification agent of the federal program, the WSDA Organic Program's role is to inspect and certify organic operations, verifying that they are meeting all of the requirements of USDA organic standards. The organic certification authority of the WSDA does not include marijuana products.

Summary of Amended Bill:

Marketing and Advertising Regulations Applicable to Licensed Marijuana Businesses.

Marijuana licensees are prohibited from engaging in marketing or advertising activities that involve any of the following:

- any advertising practice that has the potential of encouraging marijuana use by youth or that otherwise targets a youth audience;
- use of objects, images, or characters that are likely to appeal to children or minors;
- advertising methods that involve the outdoor use of "commercial mascots," including costumed employees, animals, inflatable tube displays, and sandwich board signs;
- advertising in or on transit facilities or vehicles, whether public or private, including bus stops, airports, taxi stands, train stations, transit waiting areas, etc.; or

- engaging in any advertising or marketing practice that specifically targets persons residing outside of the State of Washington.

Specified types of outdoor advertising are prohibited, including:

- signs and placards in facilities that receive public allocations such as arenas, stadiums, fairs, and shopping malls, regardless of whether such facilities are open-air or enclosed; and
- billboards that are visible to the public from roads, highways, parking areas, or rights-of-way, unless they meet specified requirements and are otherwise permitted by statute.

Subject to specified requirements, certain forms of marijuana-related advertising are explicitly permitted, including:

- billboards limited solely to providing the public with notice of the name of the business, the nature of the business, and the location of the business, but which do not contain any depictions of marijuana plants or products;
- two outdoor advertising signs not larger than 1,600 square inches; and
- outdoor advertisements at the site of an event to be held at an adults-only facility and that do not advertise any marijuana product other than a brand name necessary to identify the event.

The use of a billboard for the advertising or promotion of a retail marijuana business or any marijuana-related product is prohibited after July 1, 2018.

All outdoor advertising signs, including billboards, are limited to text that identifies the retail outlet by the licensee's business or trade name, states the location of the business, and identifies the type or nature of the business. Such signs may not contain any depictions of marijuana plants, marijuana products, or images that might be appealing to children. The state LCB is granted rule-making authority to regulate the text and images that are permissible on outdoor advertising. Such rule-making must be consistent with other administrative rules generally applicable to the advertising of marijuana businesses and products.

All signs, billboards, or other print advertising for marijuana businesses or marijuana products must contain text stating that marijuana products may be purchased or possessed only by persons 21 years of age or older.

The LCB must adopt rules implementing advertising requirements applicable to marijuana business licensees. The rules must establish escalating penalties including fines and possible suspension or revocation of a marijuana license for repeat violations.

A city, town, or county may adopt rules for outdoor advertising by licensed marijuana retailers that are more restrictive than the advertising restrictions imposed by statute. Enforcement of local government restrictions on marijuana-related advertising by a city, town, or county is the responsibility of the local government.

Sale of Plants, Clones, and Seeds to Medical Marijuana Cooperatives.

Marijuana plants sold to medical marijuana cooperatives by licensed marijuana producers must be "immature" marijuana plants. In addition to the sale of immature plants, marijuana producers are authorized to sell immature clones and seeds to medical marijuana cooperatives. "Immature plant or clone" is defined to mean a plant or clone that has no flowers, is less than 12 inches in height, and less than 12 inches in diameter.

Transfers of Marijuana Plants, Clones, and Seeds Between Licensed Producers and Researchers.

A licensed marijuana producer is authorized to engage in the delivery, distribution, and sale of immature plants or clones, and marijuana seeds, to a licensed marijuana researcher, and to receive or purchase the same from a licensed marijuana researcher.

Competitive Application Process for the Issuance of Marijuana Licenses.

The competitive, merit-based application process for retail marijuana licenses is eliminated from statute.

Statutory Restrictions on the Number of Marijuana Business Licenses that May be Issued to Individuals, Partnerships, or Corporations.

The number of retail marijuana business licenses that may be held by an individual, partnership, or corporation are made subject to limitations. Specifically, an individual retail licensee and all other persons or entities with a financial or other ownership interest in the business operating under the license are limited, in the aggregate, to holding a collective total of not more than five retail marijuana licenses.

License Forfeiture for Failure to Open Marijuana Business in Timely Manner.

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. No marijuana retailer license may be subject to forfeiture within the first nine months of license issuance. However, the LCB must require license forfeiture within 24 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.
- The LCB determines that the circumstances warrant extending the forfeiture period beyond 24 calendar months.

The board may not require the forfeiture of a retail marijuana license if the reason for the licensee's failure to open a fully operational business is the result of legal or regulatory actions by the city, town, or county that have the effect of preventing the licensee from opening the business.

Sharing of Marijuana Products for Noncommercial Purposes and Without Financial Compensation.

The delivery by a person 21 years of age or older to one or more persons 21 years of age or older, during a 24-hour period, for noncommercial purposes and not conditioned upon or done in connection with the provision or receipt of financial consideration, of any of the following marijuana products, is not a violation of Washington law:

- 0.5 ounce of useable marijuana;

- 8 ounces of marijuana-infused product in solid form;
- 36 ounces of marijuana-infused product in liquid form; or
- 3.5 grams of marijuana concentrates.

Notice to Local Governments of Pending Applications for Marijuana Licenses.

The requirement that local governments be given notice of pending applications or renewals of marijuana licenses is extended to include tribal governments and port authorities. A decision by the LCB to extend the time period during which written objections may be considered must be based upon a request from the local governmental entity.

Issuance of Marijuana Business Licenses Within Indian Country.

The LCB is prohibited from issuing a marijuana business license for premises located within Indian country, including fee patent lands within the perimeter of a tribal reservation, without the consent of the federally recognized Indian tribe associated with the reservation or Indian country.

Limitations on the Number of Retail Marijuana Licenses That May be Held by Any Individual or Entity.

The number of retail marijuana business licenses that may be held by an individual, partnership, or corporation is made subject to limitations. Specifically, an individual retail licensee and all other persons or entities with a financial or other ownership interest in the business operating under the license are limited, in the aggregate, to holding a collective total of not more than five retail marijuana licenses.

Rule-Making Authority of the Liquor and Cannabis Board Regarding Marijuana Research Licensees.

The LCB's rule-making authority is extended to include the setting of conditions under which a marijuana researcher may receive donated marijuana from a licensed marijuana producer.

Immunity from Criminal or Civil Liability for Marijuana Research Licensees.

The immunity for marijuana research licensees from criminal or civil liability with respect to the production, processing, delivery, donation, and sale of marijuana is extended to include such activities involving immature plants or clones, and seeds.

Authority of Marijuana Businesses to Enter into Consulting Contracts or Licensing Agreements.

Licensed marijuana businesses are authorized to enter into licensing agreements or consulting contracts with any person or entity for goods or services involving registered trademarks, unregistered trademarks, trade names, or trade dress. This authority also extends to trade secrets, technology, or proprietary information related to the manufacturing of a marijuana product or used to provide a service related to a marijuana business. All such agreements or contracts entered into by a licensed marijuana business must be disclosed to the LCB.

Exemptions from Public Records Act for Licensed Marijuana Businesses.

Trade secrets, technology, proprietary information, and financial considerations contained in any agreement or contract entered into by a licensed marijuana business, and which may be submitted to or obtained by the LCB, are exempt from disclosure under the PRA.

Transport and Delivery of Marijuana Products by Licensed Third-Party Carriers.

Immature plants or clones, and marijuana seeds, are added to the list of marijuana products that may be lawfully transported by licensed third-party common carriers within the state.

Immunity from Criminal or Civil Liability for Licensed Marijuana Producers.

The criminal and civil immunity applicable to marijuana producers is extended to include commercial activities with licensed marijuana researchers involving the delivery, distribution, and sale of immature plants or clones, and marijuana seeds.

Marijuana Processors and Industrial Hemp Research Programs.

The WSDA is authorized to allow an industrial hemp licensee to sell or transfer industrial hemp to a licensed marijuana processor for use by the marijuana processor. The marijuana processor may lawfully possess and process the industrial hemp provided such use and possession complies with the requirements of chapter 69.50 RCW and the applicable administrative rules established by the WSDA and the LCB.

The rules adopted by the LCB or the WSDA may not prohibit the processing or sale of any specific type of marijuana product because such specific type of marijuana product is derived, in whole or in part, from industrial hemp.

A licensed marijuana processor must obtain an industrial hemp license from the WSDA in order to possess or process industrial hemp provided by an industrial hemp licensee.

Processing of Industrial Hemp by Industrial Hemp Licensees.

The processing of industrial hemp by a WSDA industrial hemp licensee for topical use, oral consumption, or inhalation by humans is authorized only to the extent that such processing is in compliance with the provisions of the federal Agricultural Act of 2014 that authorize state agricultural pilot programs for industrial hemp research.

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

The WSDA is authorized to participate in the regulation of the production and processing of marijuana-infused edible products pursuant to the Washington Food Processing Act. The regulatory authority granted to the WSDA is in addition to the authority of the LCB regarding marijuana-infused edibles. The WSDA's regulatory authority is subject to the following provisions and requirements:

- The LCB and the WSDA have joint authority to regulate the production and processing of marijuana-infused edibles under their respective regulatory frameworks.
- The WSDA must notify the LCB of regulatory violations by marijuana processors.
- The WSDA may deny, suspend, or revoke a marijuana-infused edible license endorsement on the same grounds as it may deny, suspend, or revoke any other food processor's license.

Marijuana processors involved in the production and processing of marijuana-infused edibles must:

- obtain an annual marijuana-infused edible license endorsement from the WSDA; and

- have a valid marijuana processor's license issued by the LCB before submitting an application for initial endorsement by the WSDA.

The application and initial endorsement fees total \$895. The annual renewal fee is the same.

Washington State Department of Agriculture Organic Standards Certification Program for Marijuana Products.

A voluntary marijuana production standard and organic certification program is created within the WSDA, and is applicable to marijuana producers and processors endeavoring to meet state and federal organic product standards. No marijuana product may be marketed as meeting these organic product standards unless covered by a WSDA-issued certification. The WSDA is granted inspection and enforcement authority with respect to those LCB licensees who opt to participate in the certification program.

The WSDA is granted the rule-making authority necessary to establish and administer the Organic Certification Program for marijuana products.

The WSDA may also adopt rules establishing a fee schedule that provides revenues sufficient to fully fund the program and make it self-sustaining. All fees collected from participants in the Organic Certification Program must be deposited in an account within the Agricultural Local Fund. The revenue from such fees must be used solely for funding the activities of the WSDA in regulating the program, and no appropriation is required for disbursement from the fund.

Prospective Application of the Act.

This Act applies prospectively only and not retroactively. For causes of action of a substantive nature, the Act applies only to legal issues that arise on, or after, the effective date of this Act. For causes of action of a procedural nature, the Act applies only to legal actions that commence on, or after, the effective date of this Act.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section section 20, relating to addressing the regulation of marijuana-infused edibles, which takes effect April 1, 2018.

Staff Summary of Public Testimony (Commerce & Gaming):

(In support) This bill originated as request legislation from the LCB, and its provisions address issues arising from the "big experiment" initiated with the passage of Initiative 502. Presently, no one is sure what direction the federal government will take regarding marijuana legalization by the various states, but this bill will make state law more consistent with the requirements of the Cole Memorandum. A key issue addressed in the bill is the proliferation of billboards advertising marijuana businesses and products. The advertising limitations established in the bill are important. Children should not be exposed to marijuana advertising and advertising is becoming a big problem as the industry grows. Recent studies

have shown that eighth graders increasingly view the use of marijuana as not being harmful. The LCB receives more complaints about marijuana advertising than any other aspect of the marijuana industry. A complete ban on marijuana-related billboard advertising would be a good thing. The bill provisions regarding business contracts involving trademarks and licensing are necessary and will make the activities of marijuana businesses more transparent. The exemption of certain marijuana-related business information from disclosure under the Public Records Act is very limited and not controversial. The provisions in the bill regarding hemp would allow marijuana processors to extract healthful cannabinoids from industrial hemp plants.

(Opposed) Limiting marijuana advertising limits public education and placing additional limits on education will contribute to the development of the illicit market. The advertising provisions in the bill will make it difficult to reach new customers and make it especially difficult for tourists to locate businesses. The myriad marijuana regulations in the bill merely create more complexity and red tape, which, in turn, overburdens the LCB. The changes to the licensing application process proposed in the bill are a mistake insofar that there is a need to issue new retail licenses. Unregistered marijuana patients should be allowed to purchase plants, clones, and seeds from licensed producers, but the bill does not allow this. It is an invasion of privacy to require patients to register in the state medical marijuana database in order to purchase plants.

(Other) The advertising restrictions in the bill conflate marijuana with tobacco with respect to the known health risks posed by each. The restrictions on tobacco advertising are related to the public health risks posed by tobacco and to the fact that tobacco companies used advertising to deliberately mislead the public for decades. Such advertising restrictions are simply not warranted with respect to marijuana. All references to advertising standards related to those applicable to tobacco products and cigarettes should be stricken from the bill. The advertising restrictions will hurt many marijuana businesses. The prohibition of business logos showing marijuana leaves or similar symbols will force many businesses to change their logos and signs, and to alter their marketing strategies. To change the rules of the game now is unfair to existing businesses and will create major financial problems for many. The advertising restrictions in current law already make it difficult for many marijuana businesses to be seen by the public. Many businesses rely on billboard advertising as a means of alerting the public to their existence. The current merit-based license application provisions should remain in place until next year.

Staff Summary of Public Testimony (Appropriations):

(In support) Medical cannabis patients can no longer get plants from dispensaries. If a patient using medical cannabis wants to obtain plants and seeds, that patient must go to the black market or to other patients. The provisions of this legislation that allows patients to obtain plants even though they are not on the registry alleviates this problem. Some patients have compromised immune systems, and they would like to grow the plants organically. It is important to track seeds whether or not patients are registered. The rules regarding billboards are clarified, but if the advertising provisions are too restrictive, the industry will not be able to capture illicit market sales. The removal of the merit-based application process causes concern, but that process was being abused and held some good players back. Others, who did not have a tradition of helping patients, were able to gain entry into the market. There is

some concern regarding immunity for the LCB staff in the course of their regulatory activities.

(Opposed) None.

Persons Testifying (Commerce & Gaming): (In support) Senator Rivers, prime sponsor; Seth Dawson, Washington Association for Substance Abuse Prevention; Vicki Christophersen, Washington CannaBusiness Association; and James Paribello, Liquor and Cannabis Board.

(Opposed) Chase Nobles and Michael Gordon, Guide Resource Services; and Kirk Ludden and John Novak, VIPER PAC.

(Other) Eric Gaston, Alden Linn, K.C. Franks, and Sharon Jacobson, Cannabis Organization for Retail Establishments; Bailey M. Hirschburg, Washington National Organization for the Reform of Marijuana Laws; Ezra Eickmeyer; and Philip Dawdy, Have A Heart.

Persons Testifying (Appropriations): Lori Jackson, People for Medical Cannabis in Washington State; Ezra Eickmeyer; Philip Dawdy, Have a Heart; and M. Bailey Hirschburg, Washington National Organization for the Reform of Marijuana Laws.

Persons Signed In To Testify But Not Testifying (Commerce & Gaming): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.