

SENATE BILL REPORT

SHB 1462

As Passed Senate, April 12, 2017

Title: An act relating to adding authority to the department of agriculture to regulate sanitary processing of marijuana-infused edibles.

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).

Brief History: Passed House: 3/02/17, 98-0.

Committee Activity: Agriculture, Water, Trade & Economic Development: 3/16/17, 3/16/17 [DP, w/oRec].

Floor Activity:

Passed Senate: 4/12/17, 47-2.

Brief Summary of Bill

- Authorizes the Department of Agriculture to regulate sanitary processing of marijuana-infused edibles.
- Requires a marijuana processor that processes, packages, or makes marijuana-infused edibles to obtain an annual marijuana-infused edible endorsement.

SENATE COMMITTEE ON AGRICULTURE, WATER, TRADE & ECONOMIC DEVELOPMENT

Majority Report: Do pass.

Signed by Senators Warnick, Chair; Hawkins, Vice Chair; Wellman, Assistant Ranking Minority Member; Brown, Honeyford, McCoy, Takko and Van De Wege.

Minority Report: That it be referred without recommendation.

Signed by Senators Pearson and Short.

Staff: Greg Vogel (786-7413)

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: Initiative Measure No. 502. Initiative Measure No. 502 (I-502) was a ballot measure approved by Washington voters in November 2012 that: (1) legalized the production, processing, possession, and personal use of marijuana, (2) created a framework for a regulatory scheme to be further developed by the Liquor and Cannabis Board (LCB) through its rulemaking authority, and (3) revised provisions in criminal statute to accommodate such legalization in accordance with the requirements of the initiative.

Liquor and Cannabis Board. LCB carries out Washington's cannabis laws and regulations and issues licenses for businesses to produce, process, and sell marijuana.

Marijuana-infused Edibles. Marijuana-infused edibles are products that contain marijuana or marijuana extracts, are intended for oral consumption, are derived from marijuana, and have a tetrahydrocannabinol (THC) concentration no greater than 10 percent. The term marijuana-infused edibles does not include either useable marijuana or marijuana concentrates. Marijuana-infused edibles must be homogenized to ensure uniform disbursement of cannabinoids throughout the product. With the exception of the marijuana, each ingredient used in making marijuana-infused edibles must be a commercially manufactured food as defined by the Food and Drug Administration.

Labeling and Packaging. A marijuana processor must obtain label and packaging approval from LCB before offering marijuana-infused edibles for sale to a marijuana retailer. Labels must include the date manufactured, best by date, serving size and the number of servings contained within the unit, total milligrams of active THC, or Delta 9 and total milligrams of active cannabidiol (CBD), a list of all ingredients and major food allergens, and a warning that reads "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours." Packaging must be child resistant, and as of February 14, 2017, must have the "Not for Kids" warning symbol, developed by the Washington Poison Center, placed on it.

Inspection. A marijuana processor producing marijuana-infused edibles must pass a processing facility inspection and ongoing annual inspections may be required. LCB contracts with the Department of Agriculture (Department) to conduct these required inspections.

Food Processing. Food processing is the handling or processing of any food in any manner of preparation for sale for human consumption. Under the Washington Food Processing Act, the Department is charged with the regulation of food processing.

Summary of Bill: The Department is authorized to regulate sanitary processing of marijuana-infused edibles. A marijuana processor that processes, packages, or makes marijuana-infused edibles is required to obtain an annual marijuana-infused edible endorsement.

The Department may adopt rules specific to marijuana-infused edibles. The rules must be consistent with rules adopted by LCB and the Department of Health.

The Department must regulate marijuana-infused edible processing the same as other food processing, except:

- the Department must not consider foods containing marijuana to be adulterated when produced in compliance with the Uniform Controlled Substances Act and rules adopted by LCB;
- initial issuance and renewal for an annual marijuana-infused edible endorsement in lieu of a food processing license must be made through the business licensing system;
- renewal of the endorsement must coincide with renewal of the endorsement holder's marijuana processor license;
- the Department must adopt a penalty schedule specific to marijuana processors; and
- the Department must notify LCB of violations by marijuana processors.

Endorsement provisions are:

- marijuana processors must have a valid marijuana processor license before submitting an application for initial endorsement;
- the application and endorsement fees total is \$895;
- applicants for endorsement otherwise must meet the same requirements as applicants for a food processing license;
- a marijuana processor must obtain a separate endorsement for each processing location; and
- the Department may deny, suspend, or revoke a marijuana-infused edible endorsement on the same grounds as a food processor's license.

Existing exemptions from public disclosure for marijuana processors are maintained.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There is a great deal of safety regulation provided for on the marijuana product side of producing these edibles, but these are also food products, and food safety is really a core competency of the Department of Agriculture. This bill takes the authority to regulate these products and places it into the Department of Agriculture, thereby removing the Liquor and Cannabis Board as a middle man and creating an endorsement received directly from the Department of Agriculture. In doing so, this bill provides an additional measure of safety for the food product side of the edibles.

In the food processing industry, there have been a variety of times when there have been violations, things have slipped in, and food illnesses resulted. This bill works to prevent these incidents by bringing marijuana statutory authorities in line with sanitary processing standards for food processing. Finally, by placing authority in the Department of Agriculture, this bill enhances the level of education and outreach to this industry.

Persons Testifying: PRO: Representative Shelley Kloba, Prime Sponsor; Steve Fuller, Washington State Department of Agriculture.

Persons Signed In To Testify But Not Testifying: No one.