

SENATE BILL REPORT

EHB 1857

As of March 15, 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, and jurisdictional requirements.

Brief Description: Addressing provisions concerning marijuana with respect to research licenses, local authority notifications, the retail licensing application process, processor wholesale events, and jurisdictional requirements.

Sponsors: Representatives Kloba, Sawyer, Appleton and Condotta; by request of Liquor and Cannabis Board.

Brief History: Passed House: 3/03/17, 85-12.

Committee Activity: Commerce, Labor & Sports: 3/15/17.

Brief Summary of Bill

- Eliminates the Liquor and Cannabis Board's (LCB's) merit-based application process to obtain a retail marijuana license.
- Provides tribes and port authorities with the same notices regarding marijuana business applications as given to cities, towns, and counties.
- Provides for the filing of written objections by tribal governments and port authorities.
- Prohibits the LCB from issuing a marijuana license for any premises within Indian country, unless incorporated into an agreement with a federally recognized Indian tribe.
- Modifies the LCB's rule-making authority related to the marijuana research license to eliminate an erroneous reference.
- Extends the LCB's general immunity from personal liability to include the board's duties relating to marijuana.

SENATE COMMITTEE ON COMMERCE, LABOR & SPORTS

Staff: Richard Rodger (786-7461)

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: Marijuana License Application Process. The LCB issues the following licenses to qualified individuals, business entities, and nonprofit entities, subject to requirements: (1) marijuana producer license; (2) marijuana processor license; (3) marijuana retailer license; (4) marijuana researcher license; and (5) marijuana transporter license. For the purposes of considering an application for a license, the LCB must conduct a comprehensive, fair, and impartial evaluation of the applications timely received. Additionally, the LCB must develop a competitive, merit-based application process that includes, at a minimum, the opportunity for an applicant to demonstrate experience and qualifications in the marijuana industry. The LCB was required to give preference between competing applications in the licensing process to applicants that had specific experience and qualifications.

Local Governments. Before the LCB issues a new or renewed license to an applicant, it must give notice of the application to the city or town where the business will be located. If the application is for a license outside the boundaries of incorporated cities or towns, the notice is given to the county legislative authority. The city, town, or county may file a written objection against the applicant or against the premises for both new licenses or renewals. The LCB may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted to the LCB from a city, town, or county with jurisdiction over the licensee. The LCB may extend the time period for submitting written objections.

State-Tribal Marijuana Agreements. The Governor may enter into agreements with federally recognized Indian tribes concerning marijuana. Marijuana agreements may address any marijuana-related issue that involves both state and tribal interests or otherwise has an impact on tribal-state land.

Marijuana Research Licensees. The LCB is authorized to adopt rules concerning the conditions under which a marijuana researcher may receive donated marijuana, grown by a marijuana processor.

LCB Board Member & Staff Immunity. The LCB's general authorizing statute contains a standard clause providing the board members and the board's staff with immunity from personal liability for any damages sustained by any person because of any acts performed, done, or omitted in the performance of their duties. The immunity applies to those acts taken under the LCB's general authorizing statute.

Summary of Bill: Marijuana License Application Process. The LCB's competitive, merit-based application process to obtain a marijuana license is eliminated.

Local Governments, Tribal Governments, and Port Authorities. The notice provisions and the right to file objections pertaining to an application or renewal of a marijuana license, which is given to cities, towns, and counties, is extended to include applicable tribal governments and, if the property is owned by a port authority, to that authority.

The LCB's discretion to extend the time period for submitting written objections from cities, towns, counties, tribal governments, and port authorities is upon the request of the authority notified by the LCB of the license application or renewal.

The LCB may not issue a license for any premises within Indian country, including any federal fee patent lands within the exterior boundaries of a reservation, unless incorporated into an agreement with a federally recognized tribe.

Marijuana Producer and Processor Licensees. An erroneous reference is removed from the statute relating to a city, town, or county's authority to prohibit producers or processors from operating or locating in specified areas.

Marijuana Research Licensees. The LCB rule making authority is extended to set conditions under which a marijuana researcher may receive donated marijuana from a licensed marijuana producer. The erroneous reference to marijuana processors' authority to produce marijuana is removed from the marijuana research license statute.

LCB Board Member & Staff Immunity. The LCB's general immunity from personal liability is extended to the board's duties performed under the separate chapter covering the Uniform Controlled Substances Act (UCSA). The UCSA includes the board's duties relating to marijuana licensing and enforcement.

Prospective Effect. The act applies prospectively only, not retroactively. The act applies only to causes of action that arise, if the change is substantive, or that are commenced, if the change is procedural, on or after the effective date of the act.

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: This bill is part of the continual evolution of the marijuana laws. The tribal provisions are supported by the tribes and will help create a better statewide regulatory system. The LCB would also support the addition of the advertising provisions that were added to the Senate companion bill.

OTHER: The marijuana licensing provisions are sketchy and undefined. The priority licensing provisions, including the priority for collective garden growers, should not be removed. Please require the LCB to undertake a relicensing process. There are many potential violations with the existing ownerships that could be cleaned up by this bill. Many jobs are at stake due to the lengthy time it takes for the LCB to investigate and approve new ownership arrangements and new investors. The advertising provisions in the companion bill are unconstitutional and should not be added to this bill. The plant and seed provisions in the companion bill, which require patients to be in the statewide data base should not be included here. The expanded immunity provisions for the LCB raises concerns. For example, the LCB's files for its original rulemaking seem to be lost and they should be held liable.

Persons Testifying: PRO: Representative Shelley Kloba, Prime Sponsor; James Paribello, WSLCB.

OTHER: Chris Kealy, Spinning Heads, Inc.; Kirk Ludden, VIPER PAC; John Novak, VIPER PAC/Co-Director.

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