

SENATE BILL REPORT

SB 5131

As of February 3, 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: Senators Rivers and Conway; by request of Liquor and Cannabis Board.

Brief History:

Committee Activity: Commerce, Labor & Sports: 1/19/17.

Brief Summary of Bill

- Clarifies that licensed marijuana processors may only package and label products for sale to retailers.
- Eliminates the 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.
- Extends the Liquor and Cannabis Board's (LCB) 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)

Background: Marijuana Processors. Marijuana processors are licensed by the LCB to process, package, and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers. This language has caused some confusion regarding the extent of the processors' legal authority to sell packaged and labeled products.

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.

Applications for Retail Marijuana Licenses. When the state merged the recreational and medical marijuana retail operations, it required the LCB to use a competitive, merit-based application process for the issuance of additional retail licenses. The LCB was required to give preference between competing applications in the licensing process to applicants that had specific experience and qualifications. That merit-based process has been completed and the LCB is no longer accepting applications for retail licenses.

Notice to 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 extend the time period for submitting written objections.

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 general authorizing statute.

Summary of Bill: Marijuana Processors. The statute is clarified that marijuana processors are licensed to (1) process marijuana concentrates, useable marijuana, and marijuana-infused products for sale at wholesale to marijuana processors and (2) process, package, and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale at wholesale to marijuana retailers. The key difference being that processors may only package and label products for sale to retailers.

Applications for Retail Marijuana Licenses. The merit-based application process to obtain a retail marijuana license is eliminated.

Notice to Local Governments. The notice provisions pertaining to applications for a marijuana license that is given to cities, towns and counties, is extended to include tribal governments and port authorities. The LCB's extension of time to accept written objections must be based upon a request from the notified authority.

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.

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.

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 is a cleanup bill that covers the items we didn't anticipate with last year's bills. As a business association, we are supportive of these technical changes. The merit-based system was designed to integrate the existing medical dispensaries into the recreational system and that goal has been accomplished. There were a few litigation events over the merit-based system but those were all settled and the LCB won all of them. Changing the system would not prevent a court from examining the law as it pertained to any lawsuits. The clarification to the definitions will codify the LCB's current practice regarding the sale of finished products. Processors should not be selling finished products to other processors. By doing so, the processors are acting as distributors which is not authorized. The Legislature can create a distributor's license if it wants one. Allowing producers to donate product to the researchers makes sense. This omission was merely an oversight.

CON: Any changes to the definitions can cost a marijuana business thousands or millions of dollars. Do not change these definitions after the businesses have entered in to financial arrangements that depend on stability. The merit-based system would have been nice for the medical community; however, the LCB did not follow the letter of the law when issuing these licenses. We are concerned about the removal for the current priority system. I oppose the research license provisions because nobody is really using research anymore. This bill is just about bureaucracy. The DOJ's Cole memorandum can be changed at any time.

OTHER: The merit-based system didn't follow the law and there are still lawsuits and administrative appeals pending. The process for issuing licenses is not complete and should still be used.

Persons Testifying: PRO: Senator Ann Rivers, Prime Sponsor; James Paribello, WSLCB; Vicki Christophersen, CannaBusiness Association.

CON: John Worthington, viper Pac. 420LEAKS, CAC.AAMC; Philip Dawdy, Have A Heart; Yolanda Goff, STRYPS/Co-Founder.

OTHER: Ryan Sevigny, The Cannabis Alliance.

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