

SENATE BILL REPORT

SB 5324

As Reported by Senate Committee On:
Agriculture, Water, Trade & Economic Development, February 9, 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: Senators Takko and Rivers; by request of Department of Agriculture.

Brief History:

Committee Activity: Agriculture, Water, Trade & Economic Development: 1/31/17, 2/09/17 [DPS, DNP, w/oRec].

Brief Summary of Substitute 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: That Substitute Senate Bill No. 5324 be substituted therefor, and the substitute bill do pass.

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

Minority Report: Do not pass.

Signed by Senator Pearson.

Minority Report: That it be referred without recommendation.

Signed by Senator Short.

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.

Staff: Greg Vogel (786-7413)

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 THC concentration no greater than 10 percent. The term marijuana-infused edibles does not include either useable marijuana or marijuana concentrates.

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 of Agriculture (Department) is charged with the regulation of food processing.

Business Licensing System - Additional Licenses. Applications for the following must be filed and processed with the business licensing service, and renewals must be issued, under the business licensing system:

- nursery dealer's licenses,
- seed dealer's licenses,
- pesticide dealer's licenses,
- shopkeeper's licenses for selling nonprescription drugs, and
- egg dealer's licenses.

Businesses requiring a nursery dealer's license, seed dealer's license, pesticide dealer's license, or egg dealer's license are subject to regulation by the Department. Businesses that sell nonprescription drugs are subject to regulation by the Department of Health.

Summary of Bill (First Substitute): 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 shall regulate marijuana-infused edible processing the same as other food processing, except:

- the Department shall 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 shall adopt a penalty schedule specific to marijuana processors; and
- the Department shall 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 \$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.

EFFECT OF CHANGES MADE BY AGRICULTURE, WATER, TRADE & ECONOMIC DEVELOPMENT COMMITTEE (First Substitute):

- Removes the provision stating that the initial endorsement is valid until the next renewal time for the endorsement holder's marijuana processor license.
- Adds an exception for edibles produced solely for tasting samples or internal product testing that do not use marijuana as an ingredient from the requirement that the premises only process marijuana-infused edibles.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The Department conducts the inspections for food processing. The product being made with marijuana is a food product, so it seems logical to have all food products regulated under one agency. The Department has expertise in regulating conventional food processors, working with LCB on initial inspection of marijuana-infused edible processing facilities, and conducting follow-up inspections of these facilities. The fee level covers all of the anticipated activities for licensing these entities, and the industry is willing to pay the fee in order to have a regulatory structure that really understands the commercial grade kitchens where producing takes place.

Persons Testifying: PRO: Senator Dean Takko, Prime Sponsor; Candace Jacobs, Washington State Department of Agriculture; Amber Lewis, Db3.

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