
Commerce & Gaming Committee

HB 2279

Brief Description: Improving the development of the marijuana market by enacting provisions specific to craft cannabis production.

Sponsors: Representatives Dolan, Appleton and Wylie.

Brief Summary of Bill

- Establishes a craft marijuana producer license and a craft marijuana producer/processor license.
- Limits eligibility to applicants who do not own, operate, or control another licensed marijuana business.
- Establishes production limits for the new craft licenses by square footage of authorized production canopy.
- Directs the Liquor and Cannabis Board (LCB) to adopt rules for authorized retail sales of marijuana of a craft licensee's own production to consumers from the licensee's production facility.
- Authorizes existing licensed producers and processors, who qualify, to transfer to the new craft licenses without paying additional fees, and provides for a reduced fee for new applicants for social equity purposes.
- Creates an advisory group of craft marijuana producers and processors to consult with the LCB.

Hearing Date: 2/3/20

Staff: Peter Clodfelter (786-7127).

Background:

The Liquor and Cannabis Board (LCB) licenses and regulates marijuana businesses, including marijuana producers, marijuana processors, and marijuana retailers. The license issuance fee as

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.

well as annual license renewal fee is \$1,381. The LCB is not currently accepting new applications for these license types.

Licensed producers may also be licensed as processors, although neither a licensed producer nor processor may have a direct or indirect financial interest in a licensed marijuana retailer. Marijuana producers and processors are prohibited from making retail sales of marijuana products to consumers, although marijuana producers may sell immature plants or clones and seeds to cooperatives and to qualifying patients and designated providers. For retail sales of marijuana products at retail outlets, there is a 37 percent excise tax paid by consumers in addition to sales and use tax.

A separate license is required for each location of a marijuana business. Marijuana retailers are limited in statute to holding a collective total of five marijuana retailer licenses between the owners. Pursuant to the LCB's rules, marijuana producers are limited to three marijuana producer licenses, and marijuana processors are limited to three marijuana processor licenses.

The LCB's rules allow marijuana producers to be licensed as follows in terms of square feet of authorized production canopy:

- tier 1 producer – less than 2,000 square feet;
- tier 2 producer – 2,000 thousand square feet up to 10,000 square feet; and
- tier 3 producer – 10,000 up to 30,000 square feet.

When reviewing license applications, including for license issuance and renewal, the LCB may consider any prior criminal conduct of an applicant, including an administrative violation history record with the LCB and a criminal history record information check. During the license issuance and renewal process, the LCB gives notice of the license application to the applicable local government, tribe, or port authority, which may file written objections against the applicant or the premises. When objections are filed, the LCB has discretion to hold a hearing. If the LCB makes an initial decision to deny a license or renewal based on the written objections, the applicant may request a hearing pursuant to the Administrative Procedure Act, and the LCB must defend the decision.

The LCB has discretion in granting or denying license issuance or license renewal. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted to the LCB from the relevant local government. In determining whether to grant or deny a license or renewal of any license, the LCB must give substantial weight to local government objections based upon chronic illegal activity associated with the applicant's operation of the premises or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises.

Summary of Bill:

New Marijuana License Types. The following two new marijuana licenses are created and issued by the Liquor and Cannabis Board (LCB): (1) Craft marijuana producer license; and (2) craft marijuana producer/processor license. To be eligible for a license, an applicant must meet all the requirements generally applicable to marijuana producers and, if applicable, marijuana processors. Additionally, the applicant may not operate, manage, or exercise control over any other licensed marijuana businesses in Washington.

Production canopy limits are established for craft licensees. A craft licensee may choose to produce marijuana indoors, by seasonal sun-grown production, or by a combination of these two methods. If production is indoors, the licensee may have no more than 10,000 square feet of production canopy. If production is seasonal sun-grown production, the licensee may have no more than 30,000 square feet of production canopy. Producing by a mix of these two production methods is also authorized, based on a formula. Illustrative examples of permissible production canopy combinations are also set out, such as 5,000 square feet of indoor production canopy and 15,000 square feet of seasonal sun-grown production canopy.

"Indoor production" means marijuana production where artificial light is used to cultivate the marijuana plants. "Seasonal sun-grown production" means marijuana production conducted outdoors seasonally on an expanse of open or cleared ground with or without the use of temporary structures.

Retail Sales by Craft Licensees. Retail sales privileges are provided to holders of the new craft licenses to sell their own product directly to consumers in person at the licensee's facility. The LCB must adopt rules by October 1, 2020, allowing licensed craft marijuana producers and licensed craft marijuana producer/processors to make retail sales of marijuana products of their own production to adults age 21 and over from the licensed production facility. All taxes applicable to retail sales of marijuana apply to these transactions. For purposes of local zoning and land use ordinances, retail sales of marijuana by a craft licensee are considered ancillary to, and do not alter, the primary use of the property as an agricultural, industrial, or commercial use. A city, town, or county may not prohibit a craft licensee from conducting retail sales of marijuana as authorized in the bill.

Transferring to New License and Fees. Existing licensed marijuana producers and processors may transfer to a new craft license, if they qualify, without paying any additional fees. Provisions also authorize a craft licensee to opt to transition back to a marijuana producer license or, as applicable, to marijuana producer/processor licenses. Otherwise, the license and application fees are the same as for the existing marijuana producer and processor license. However, the LCB must establish a reduced application fee and reduced license fee for a craft marijuana producer applicant or licensee, for social equity purposes, based on the applicant or licensee's race, creed, color, sex, national origin, sexual orientation, families with children status, honorably discharged veteran or military status, or based on any sensory, mental, or physical disability of the applicant or licensee.

Advisory Group Established. An advisory group of craft marijuana producers and processors is created. The LCB must solicit input from and consult with the advisory group when developing policies or rules related to the production and/or processing of marijuana. Members of the advisory group may be reimbursed for travel expenses.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.