
Commerce & Gaming Committee

ESSB 5298

Brief Description: Regarding labeling of marijuana products.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Rivers, Palumbo and Wellman).

Brief Summary of Engrossed Substitute Bill

- Allows marijuana products identified as Department of Health compliant to include additional information on labels that provide the product's intended role in maintaining a bodily structure or function.
- Prohibits marijuana product label information from: containing claims that marijuana products diagnose, mitigate, treat, cure, or prevent any disease; including false or misleading statements; or being especially appealing to children.
- Allows a marijuana product label to contain directions or recommended conditions of use, describe the product's psychoactive effect, or make a legal claim related to the nonmarijuana ingredients.
- Provides the state and its agencies with immunity from civil liability for a licensee's descriptions on the labels.

Hearing Date: 3/19/19

Staff: Kyle Raymond (786-7190).

Background:

The Liquor and Cannabis Board (LCB) is required to adopt rules determining the nature, form, and capacity of all containers used by licensees that contain marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products (collectively, "marijuana").

The LCB must adopt labeling requirement rules for marijuana sold at retail that include the following business and product information: (1) processor and retailer licensee's business or

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trade name and Unified Business Identifier (UBI) number; (2) marijuana lot numbers; (3) marijuana's tetrahydrocannabinol (THC) concentration and cannabidiol (CBD) concentration; (4) available medical and scientific information about the health and safety risks posed by marijuana use; and (5) the statement *Warning—May be habit forming*, which is required pursuant to a separate state law on the misbranding of drugs.

By rule, the LCB requires additional information to be included on marijuana product labels, including: product weight, a statement disclosing all pesticides applied to the marijuana plants, and information about the growing medium during production and processing. The LCB also requires all of the following warning statements on marijuana product labels:

- *Warning: This product has intoxicating effects and may be habit forming. Smoking is hazardous to your health;*
- *There may be health risks associated with consumption of this product;*
- *Should not be used by women that are pregnant or breast feeding;*
- *For use only by adults twenty-one and older. Keep out of reach of children; and*
- *Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.*

There is a sales and use tax exemption on sales of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the Department of Health (DOH) to be beneficial for medical use, by marijuana retailers with medical marijuana endorsements to qualifying patients or designated providers who have been issued recognition cards.

Summary of Bill:

Marijuana products identified as DOH compliant may include additional claims on marijuana product labels that describe the intended role of the product to maintain a structure or function of the body. The labels may also characterize the documented mechanism by which the product maintains a bodily structure or function. All marijuana product label claims must be substantiated as truthful and not misleading.

Marijuana product labels may include terms that describe the product's intended role in maintaining bodily structures or functions. A label may include terms such as: "wellness," "well-being," "health," "maintain," "support," "assist," "promote," and "relief," and derivatives of any such terms.

The labels that describe how a marijuana product maintains bodily structures or functions may not claim to diagnose, mitigate, treat, cure, or prevent any disease. In addition, the labeling may not be false, misleading, or especially appealing to children.

A marijuana product is not in violation of any state law or administrative rule solely because its label contains: (1) directions or recommended conditions of use; (2) a claim describes the product's psychoactive effect; or (3) makes a legal claim related to the nonmarijuana ingredients.

There is no civil liability on the part of the state, the LCB, any other state agency, officer, employee, or agent based on a marijuana licensee's description of a structure or function claim or the product's intended role.

The sales and use tax exemptions apply to DOH compliant marijuana products identified in chapter 246-70 WAC.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2020.