

# SENATE BILL REPORT

## HB 2826

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As of February 29, 2020

**Title:** An act relating to clarifying the authority of the liquor and cannabis board to regulate marijuana vapor products.

**Brief Description:** Clarifying the authority of the liquor and cannabis board to regulate marijuana vapor products.

**Sponsors:** Representatives Peterson and Pollet; by request of Liquor and Cannabis Board.

**Brief History:** Passed House: 2/18/20, 95-1.

**Committee Activity:** Labor & Commerce: 2/25/20 [DP-WM].

**Ways & Means:** 2/28/20.

### Brief Summary of Bill

- Authorizes the Liquor and Cannabis Board (LCB) to adopt rules prohibiting any type of marijuana vapor product device, or prohibiting the use of any type of additive, solvent, ingredient, or compound in the production and processing of marijuana products, including marijuana vapor products.
- Requires the LCB to first have determined, following consultation with the Department of Health (DOH) or another authority, that the device, additive, solvent, ingredient, or compound may pose a risk to public health or youth access.
- Authorizes the LCB to require marijuana processors to submit, under oath, to the DOH, a complete list of all constituent substances and the amount and sources of all constituent substances in each marijuana vapor product.
- Addresses the use of certain characterizing flavors in marijuana vapor products.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Braun, Saldaña, Schoesler, Stanford, Walsh and Wellman.

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*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:** Richard Rodger (786-7461)

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Alia Kennedy (786-7405)

**Background:** LCB regulates the production, processing, and retail sale of marijuana and marijuana products. Licensed retail outlets may sell limited amounts of useable marijuana, marijuana-infused products, and marijuana concentrates to adults age 21 and over, and to certain qualifying patients under age 21 if the retailer holds a medical endorsement. Marijuana products sold are intended for human consumption, and some marijuana products may be intended for consumption through vaporization.

Initiative Measure No. 502 (2012) (Initiative) granted LCB significant rule-making authority to establish a regulatory system for the marijuana industry. The Initiative authorized LCB to adopt rules on the following specific topics, among numerous others: (1) methods of producing, processing, and packaging marijuana and marijuana products; (2) conditions of sanitation; (3) safe handling requirements; (4) approved pesticides and pesticide-testing requirements; (5) standards of ingredients, quality, and identity of marijuana and different marijuana products produced, processed, and sold by licensees; and (6) provisions for identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all marijuana and marijuana products produced, processed, or sold within Washington that do not conform to legal requirements.

**Summary of Bill:** LCB may adopt rules prohibiting any type of device used in conjunction with a marijuana vapor product. LCB may also adopt rules prohibiting the use of any type of additive, solvent, ingredient, or compound in the production and processing of marijuana products, including marijuana vapor products. Before adopting either of these types of rules, LCB must have determined, following consultation with DOH or any other authority it deems appropriate, the device, additive, solvent, ingredient, or compound may pose a risk to public health or youth access.

LCB may adopt rules requiring marijuana processors to submit, under oath, to the DOH, a complete list of all constituent substances and the amount and sources of all constituent substances in each marijuana vapor product, including all additives, thickening agents, preservatives, compounds, and any other substance used in the production and processing of each marijuana vapor product.

Marijuana processors may incorporate a characterizing flavor in marijuana vapor products, if the characterizing flavor is derived from botanical terpenes naturally occurring in the *Cannabis* plant, regardless of source, and if the characterizing flavor mimics the terpene profile found in a *Cannabis* plant. Characterizing flavors do not include any synthetic terpenes. If the LCB determines that a characterizing flavor otherwise authorized for use may pose a risk to public health or youth access, LCB may adopt rules prohibiting the use of the characterizing flavor.

"Youth access" is defined to mean the level of interest persons under the age of 21 may have in a vapor product, as well as the degree to which the product is available or appealing to

persons under the age of 21, and the likelihood of initiation, use, or addiction by adolescents and young adults.

**Appropriation:** None.

**Fiscal Note:** Available (Partial).

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony (Labor & Commerce):** PRO: This bill is a simple solution to solve the public safety concerns around vaping products. The marijuana vaping industry has already taken actions to address public safety concerns and the bill implements these practices. We appreciate the work done that has been done on this bill by the LCB and Governor in providing clear authority for the LCB to regulate vaping products and the constituent compounds. The bill also addresses the natural occurring flavors that can be added to the products.

**Persons Testifying (Labor & Commerce):** PRO: Representative Strom Peterson, Prime Sponsor; Philip Dawdy, Washington Cannabis Association; Sara Cooley-Broschart, Liquor and Cannabis Board.

**Persons Signed In To Testify But Not Testifying (Labor & Commerce):** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: This is agency request legislation that stems from the crisis that swept the country last fall regarding vapor product related illnesses. The amended authority would allow the board to prohibit additives that may be a harm to public health or youth access. The bill takes a more nuanced approach to the issue of vapor product flavorings. Flavored vapor products need to be available to customers. The ban significantly hit the vapor processor industry which will impact the business and occupation tax.

**Persons Testifying (Ways & Means):** PRO: Chris Thompson, Washington State Liquor and Cannabis Board; Philip Dawdy, Washington Cannabis Association.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.