

# HOUSE BILL REPORT

## HB 1710

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**As Reported by House Committee On:**  
Commerce & Gaming

**Title:** An act relating to establishing a Washington state cannabis commission.

**Brief Description:** Establishing a Washington state cannabis commission.

**Sponsors:** Representatives Shewmake, Ramel, Harris-Talley and Kloba.

**Brief History:**

**Committee Activity:**

Commerce & Gaming: 1/11/22, 1/21/22 [DPS].

**Brief Summary of Substitute Bill**

- Establishes the Washington State Cannabis Cultivation Commission (Commission) consisting of cannabis producers, producers/processors, and the Director of the Department of Agriculture (WSDA).
- Establishes purposes of the Commission, including related to education and research, and grants the Commission powers and duties.
- Includes certain oversight of the Commission by the Director of the WSDA and requires the Commission to reimburse all agency costs.

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### HOUSE COMMITTEE ON COMMERCE & GAMING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Kloba, Chair; Wicks, Vice Chair; Kirby, Morgan and Wylie.

**Minority Report:** Do not pass. Signed by 4 members: Representatives MacEwen, Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Chambers and Vick.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Peter Clodfelter (786-7127)

**Background:**

There are 21 agricultural commodity commissions related to specific commodities in Washington. Commissions are funded by assessments on producers of the commodities within Washington. Several of the commodity commissions are established in law, including the Washington Apple Commission, the Washington Dairy Products Commission, the Washington Wine Commission, the Washington Beer Commission, the Washington Grain Commission, and others. The Washington State Department of Agriculture (WSDA) established additional agricultural commodity commissions through a process in the Washington Agricultural Enabling Act. The Director of the WSDA, or the Director's authorized representative, is a member of each commodity commission.

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**Summary of Substitute Bill:**

Establishment of the Washington State Cannabis Cultivation Commission.

The Washington State Cannabis Cultivation Commission (Commission) is established, consisting of 13 voting members including the Director of the Washington State Department of Agriculture (Director) and representatives of licensed cannabis producers and producers/processors located throughout the state.

Purposes.

The Commission's purposes are the following:

- planning and conducting cannabis-related programs;
- providing for research;
- advising government agencies and interested persons on cannabis-related matters;
- cooperating with interested parties toward standardization of methods;
- advising on packaging and labeling requirements;
- conducting reviews, surveys, and inquiries regarding market metrics and trends;
- informing and advising producers and producers/processors;
- educating and training producers, producers/processors, researchers, and their employees;
- providing resource conservation-related information and services;
- assisting and cooperating with government agencies in investigating and controlling pests, diseases, and other adverse factors;
- advancing knowledge and practice of the production of cannabis in Washington;
- fostering conditions favorable to investment in the production of Washington cannabis;
- limiting youth access and exposure to cannabis; and
- enabling producers and producers/processors, with the aid of the state, to develop and engage in research, provide uniform grading and proper preparation of cannabis commodities for market, protect the interest of consumers, discover and develop new

and improved cultivars, and advance knowledge and the practices of processing cannabis in Washington.

#### Powers and Duties.

The Commission's powers and duties are the following:

- electing a chair and adopting and amending rules of internal governance;
- employing and discharging administrators, staff, professional consultants, and service providers;
- designating a public records officer and other representatives;
- acquiring personal property, purchasing or leasing office space and other necessary real property, and transferring or conveying property;
- instituting legal actions;
- keeping accurate records that are open to inspection and audit;
- making disbursements and expending funds;
- cooperating with interested parties;
- serving as liaison with the Washington State Liquor and Cannabis Board (LCB) and all other interested parties on behalf of the Commission;
- entering into contracts or cooperative agreements for research or interagency agreements;
- soliciting, accepting, and expending or retaining gifts, bequests, contributions, and grants;
- retaining private legal counsel in emergent situations to conduct actions on behalf of the Commission subject to appointment or approval by the Office of the State Attorney General;
- engaging in appropriate activities and events;
- participating in hearings, meetings, and other proceedings in all matters relating to cannabis and reporting activities to the Public Disclosure Commission if applicable;
- obtaining from the LCB a list of the names and addresses of producers, processors, and retailers, and other available data from the state as requested by the Commission to be used to disseminate information among and solicit the opinions of producers and producers/processors;
- acquiring, creating, developing, and owning intellectual property rights and collecting royalties resulting from the sale or licensing of commission-funded research;
- speaking on behalf of the Washington state government regarding agricultural production of cannabis subject to oversight of the Director of the Washington State Department of Agriculture (WSDA);
- possessing cannabis products for purposes of the Commission's work; and
- adopting rules, subject to approval by the Director of the WSDA, and exercising other powers and duties necessary to carry out the legislation establishing the Commission.

#### Commission Membership.

Of the 13 voting members of the Commission, eight must be cannabis producers or producers/processors located in four districts throughout the state, and four members must be elected statewide representing producers or producers/processors of different sizes.

Initial commission members are appointed by the Director for initial staggered terms of one, two, or three years. Thereafter, members of the Commission other than the Director are elected by a vote of qualified producers or producers/processors in each district for three-year terms. When making initial appointments and replacement appointments, the Director must give priority to persons who represent communities of color in order to maintain a balanced and diverse distribution of members based on disproportionately impacted communities, ethnicity, geographic location, gender identity, sexual orientation, and age, where practicable. Members must be reimbursed for expenses incurred in the performance of their duties in accordance with state law.

#### Advisory Council.

A nonvoting advisory council is created to assist the Commission. The Director must appoint one standalone processor member and one testing laboratory member to the advisory council. Advisory council members must be considered from a pool of self-nominated active business representatives from each business type. Each Commission member and advisory council member, other than the Director, must be at least 21 years of age, a citizen and resident of Washington, must directly hold or be a named owner in whole or in majority part of an entity holding the relevant license, and must be engaged in and derive a substantial portion of their income from the production of cannabis within Washington for a period of three years.

#### Approval of Budget, Plans, and Rules.

The Commission must prepare and submit its budget for each fiscal year to the Director of the WSDA for approval. Additionally, the Commission must develop and also submit for approval any plans concerning, but not limited to, the establishment and administration of Commission governance issues and the initiation or establishment of rulemaking. The Director must review the Commission's education programs to ensure they comply with state and federal laws. The WSDA serves as the Commission's rules coordinator and the Commission's rules are subject to the Director's approval.

#### Reimbursement of All Agency Costs by the Commission.

The Commission must fully reimburse the WSDA for all costs incurred by the WSDA, including staff support and the adoption of rules and other actions necessary to carry out the legislation. The Commission must also reimburse all costs incurred by the Liquor and Cannabis Board for activities related to the Commission.

#### Assessments on Producers and Producers/Processors.

The Commission is funded by agricultural commodity assessments that the LCB must levy on cannabis producers and producers/processors. Beginning on October 31, 2022, the assessment on each producer licensee is 0.29 percent of all sales revenues. Beginning on October 31, 2022, the assessment on each producer/processor licensee is 0.145 percent of all sales revenues. An exemption from the assessments applies through October of 2027 for producers and producers/processors who are licensed through the cannabis social equity program. The Commission must deposit money collected in a separate account in the

Commission's name in any bank that is a state depository. All expenditures and disbursements made from this account may be made without the necessity of a specific legislative appropriation.

Information Sharing.

Financial and commercial information and records submitted to either the LCB or the Commission to administer the law establishing the Commission may be shared between the LCB and the Commission. They may also be used, if required, in any suit or administrative hearing involving the law establishing the Commission.

Liability.

It is specified that obligations incurred by and claims against the Commission must be enforced against the assets of the Commission and, except to the extent of such assets, no liability for the debts or actions of the Commission exists against the state or against any member, employee, or agent of the Commission or the state in the person's individual capacity. Additionally, individual members and employees of the Commission may not be held responsible for errors, mistakes, or other acts or omissions, except for their individual acts of dishonesty or crimes.

Civil Service Law Exception.

Officers and employees of the Commission are included in the exceptions to the State Civil Service Law.

**Substitute Bill Compared to Original Bill:**

The substitute bill makes the following changes compared to the original bill:

- changes and adds intent language;
- changes the name of the proposed commission to the Washington State Cannabis Cultivation Commission from the Washington State Cannabis Commission;
- limits the proposed authority of the Washington State Cannabis Commission (Commission) to speak on behalf of the Washington state government, so the authority to do so is only with regard to agricultural production of cannabis in the state, subject to oversight of the Director of the Department of Agriculture (WSDA);
- specifies that the WSDA serves as the Commission's rules coordinator and the Commission's rules are subject to approval by the Director of the WSDA;
- requires the Director of the WSDA to give priority to persons who represent communities of color when making initial appointments and replacement appointments to the Commission;
- changes requirements about the documents that must be submitted by the Commission to the Director of the WSDA for approval, including: (1) eliminating the requirement to submit a research plan and an education and training plan each fiscal year; (2) requiring submission of plans concerning Commission governance issues; and (3) requiring submission of plans on the initiation or establishment of any rulemaking; and

- specifies that staff support is within the types of costs incurred by the WSDA for which the Commission must fully reimburse the WSDA. Adds requirements for the Commission to reimburse the Liquor and Cannabis Board (LCB) for all costs incurred by the LCB for activities related to the Commission.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on January 24, 2022.

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

**Staff Summary of Public Testimony:**

(In support) The creation of an agricultural commodity commission for cannabis will benefit the state, provide for education, outreach, and sharing of knowledge with producers, and enable scientific research related to cannabis. Agricultural commodity commissions exist for many commodities in Washington and have proven to be beneficial for the producers who fund the commissions as well as for the state as a whole. The bill has been refined over several years. Although many aspects of the proposed Washington State Cannabis Cultivation Commission (Commission) are modeled on existing laws for other agricultural commodity commissions, marketing activities are not included. The bill includes a relatively low assessment amount on producers and producers/processors. Compared to other commodities, the cannabis plant is especially in need of a commodity commission. There is critical information growers need that the Commission could provide. In general, cannabis producers are less experienced at farming. The Commission could improve the regulation of pesticide use in cannabis production, help producers with pest control, and lead to developments in laboratory testing. This bill puts Washington in a good position if cannabis is legalized federally. Legal barriers still exist that prevent or limit traditional research institutions from conducting needed cannabis research, and the scope of needed research is beyond what any single cannabis business can fund. Creating the Commission would help lead to research addressing the most pressing issues that will benefit all producers and the state.

(Opposed) There are fundamental reasons why this bill has not advanced in the past and it should not be a priority until cannabis is legalized federally. The assessment on producers would be a fee ultimately passed on to consumers, who already pay the highest cannabis excise tax in the country at 37 percent. Increased costs for consumers will undermine efforts to curtail the illicit market. The value provided to individual cannabis producers is not worth the thousands of dollars in annual assessments that they must pay to fund the Commission under the bill. These cannabis businesses would rather use that money for purposes such as increasing employee pay or benefits.

(Other) There are areas of the bill that agencies are supportive of, and agencies have worked with proponents to address concerns raised in previous years. There is agreement on the strong need for more cannabis research. Making the Commission research-focused and industry-funded is a good approach. There are several concerns in the original bill that could be addressed through amendments, such as changing the provision addressing the Commission speaking on behalf of Washington. Not including any marketing activities by the Commission is appreciated. If the bill is amended so the Commission also reimburses the Liquor and Cannabis Board (LCB) for its work, then the bill could result in no cost to the LCB. There is less diversity in ownership of cannabis producers relative to cannabis retailers, which could be a topic for the Social Equity and Cannabis Task Force. Cannabis retailers should be included in the Commission's membership.

**Persons Testifying:** (In support) Representative Sharon Shewmake, prime sponsor; Shawn DeNae Wagenseller, WA Bud Co.; Steve Walser, Buddy Boy Farms; Ryan Sevigny, Landrace Labs; Lara Kaminsky, The Cannabis Alliance; and Jeremy Moberg, Washington Sun and Craft Association.

(Opposed) Brooke Davies, Washington CannaBusiness Association; Bethany Rondeaux, Falcanna; and Paige Berger, Hygge Farms.

(Other) Kelly McLain, Washington State Department of Agriculture; Chris Thompson, Liquor and Cannabis Board; and Adán Espino Jr., Craft Cannabis Coalition.

**Persons Signed In To Testify But Not Testifying:** None.