
Commerce & Gaming Committee

HB 1126

Brief Description: Establishing a deadline for the use and implementation of a marijuana retail license by a licensee.

Sponsors: Representatives Condotta, Sawyer and Vick.

Brief Summary of Bill

- Establishes that a licensed marijuana retailer forfeits the license if the licensee fails to establish a retail business that is fully operational and open to the public within 270 days from the date of the initial issuance of the license, subject to a 180 day extension period if requested by the licensee and authorized by the Liquor & Cannabis Board (LCB).
- Authorizes the LCB to adopt rules regarding the license forfeiture process, the establishment of administrative procedures for consideration of license extension applications, and the criteria that must be met for licensees to qualify for an extension of the license.

Hearing Date: 1/31/17

Staff: Peter Clodfelter (786-7127).

Background:

The Liquor & Cannabis Board (LCB) issues the following licenses to qualified individuals, business entities, and nonprofit entities, subject to requirements: (1) marijuana producer license; (2) marijuana processor license; (3) marijuana retailer license; (4) marijuana researcher license; and (5) marijuana transporter license. The Legislature requires the LCB to develop a competitive, merit-based application process that includes, at a minimum, the opportunity for an applicant to demonstrate experience and qualifications.

The LCB may inspect the premises of an applicant for a license, and may inquire into all matters in connection with the construction and operation of the premises. The LCB may consider any

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prior criminal conduct of the applicant, including an administrative violation history record with the LCB and a criminal history record information check. The LCB may submit the criminal history record information check to the Washington State Patrol (WSP) and the Federal Bureau of Investigation (FBI) for a search of their arrest and conviction records. The LCB must require fingerprinting of any applicant whose criminal history record information check is submitted to the FBI.

The LCB may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted to the LCB from the chief executive officer of the incorporated city or town that the applicant's premises is located in, or from the county legislative authority, if the applicant's premises is not located in an incorporated city or town. The LCB must give substantial weight to such objections.

The LCB is prohibited from issuing a license to any person under age 21, a person doing business as a sole proprietor who has not resided in the state for at least six months prior to applying to receive a license, or certain business entities unless formed under the laws of Washington, and unless all of the members of the entity are qualified to obtain a license. With limited exception, the LCB is also prohibited from issuing a marijuana license within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged 21 years or older. However, local governments may generally reduce those buffer zones to 100 feet, except for elementary or secondary schools and playgrounds. Cities, towns, or counties may also adopt an ordinance prohibiting a marijuana producer or marijuana processor from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of 5 acres or smaller.

The LCB has discretion to suspend or cancel any license. The LCB's action in denying an application for the reissuance of a license to produce, process, or sell marijuana, or as to any revocation, suspension, or modification of any such license, is an adjudicative proceeding subject to the Administrative Procedure Act. An opportunity for a hearing must be provided to a licensee prior to a revocation or modification of any license and, with limited exception, prior to suspension of a license. The LCB may summarily suspend a license for a period of up to 180 days without a prior hearing if the LCB finds that public health, safety, or welfare imperatively require emergency action, and the LCB incorporates a finding to that effect in the order.

The Legislature delegates authority to the LCB to determine, in consultation with the Office of Financial Management, the maximum number of retail outlets that may be licensed in each county, taking into consideration specific factors.

In addition to holding a marijuana license issued by the LCB, a licensee generally needs various authorizations from the city, county, or town in which the licensee's premises is located prior to conducting business.

Summary of Bill:

The holder of a marijuana retailer license issued by the LCB forfeits its license if the licensee fails to establish a retail business that is fully operational and open to the public within 270 days from the date of the initial issuance of the license. Upon such forfeiture, the licensee loses all rights under the license and is prohibited from operating a marijuana retail business.

However, the LCB may authorize one extension of the license forfeiture deadline up to a maximum of 180 days following the expiration of the original deadline. To request an extension of the forfeiture deadline, a licensee must file a license extension application with the LCB in accordance with rules adopted by the LCB.

The LCB is granted rulemaking authority regarding the license forfeiture process, the establishment of administrative procedures for consideration of license extension applications, and the criteria that must be met for licensees to qualify for an extension of the license.

Appropriation: None.

Fiscal Note: Available.

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