

# HOUSE BILL REPORT

## HB 1152

---

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

**Title:** An act relating to licensing agreements and consulting contracts for licensed marijuana businesses.

**Brief Description:** Concerning licensing agreements and consulting contracts for licensed marijuana businesses.

**Sponsors:** Representatives Blake and Vick.

#### **Brief History:**

##### **Committee Activity:**

Commerce & Gaming: 1/30/17, 2/6/17 [DPS].

#### **Brief Summary of Substitute Bill**

- Authorizes licensed marijuana businesses to enter into certain licensing agreements or consulting contracts with other businesses and requires any such agreements or contracts to be disclosed to the Liquor and Cannabis Board (LCB).
- Withholds from disclosure under the Public Records Act any trade secrets, technology, proprietary information, and financial considerations contained in any agreements or contracts entered into by a licensed marijuana business.
- Grants the LCB rulemaking authority.

---

### HOUSE COMMITTEE ON COMMERCE & GAMING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Sawyer, Chair; Kloba, Vice Chair; Condotta, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Barkis, Blake, Farrell, Jenkin, Kirby and Ryu.

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

#### **Background:**

---

*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.*

### Licensed Marijuana Businesses.

The Liquor and Cannabis Board (LCB) issues the following licenses to qualified individuals and businesses, subject to requirements: (1) marijuana producer license; (2) marijuana processor license; (3) marijuana retailer license; (4) marijuana researcher license; and (5) marijuana transporter license. During the licensing and regulatory processes, the LCB obtains detailed information about the licensees' business operations as well as personal information.

### Exemptions from Disclosure under the Public Records Act for Information Pertaining to Marijuana Businesses.

The Public Records Act (PRA) generally requires that, upon request by a member of the public, any state or local government agency must make available any public record maintained by the state or local government agency. The term "public record" is broadly defined. Among the various exemptions to the general rule of disclosure of public records are several exemptions related to information submitted to or obtained by the LCB during the licensing or regulatory process with respect to marijuana businesses.

Exemptions from disclosure under the PRA exist for the following information, which may be submitted to or obtained by the LCB, related to marijuana businesses:

- financial institution and retirement account information, and building security plan information;
- marijuana transport information, vehicle and driver identification data, and account numbers or unique access identifiers issued to private entities for traceability system access; and
- proprietary financial, commercial, operations, and technical and research information and data from applications from marijuana research licensees applications or reports.

---

### **Summary of Substitute Bill:**

#### Licensed Marijuana Businesses.

Licensed marijuana businesses are authorized to enter into licensing agreements or consulting contracts with any individual, business entity, or nonprofit entity, for any goods or services that are registered trademarks, unregistered trademarks, trade names, or trade dress, and for any trade secrets, technology, or proprietary information used to manufacture a marijuana product or used to provide a service related to a marijuana business. All such agreements or contracts entered into by a licensed marijuana business must be disclosed to the LCB. The LCB is granted rulemaking authority related to the authorized licensing agreements and consulting contracts.

#### Exemption from Disclosure under the Public Records Act for Information Pertaining to Marijuana Businesses.

Trade secrets, technology, proprietary information, and financial considerations contained in any agreements or contracts entered into by a licensed marijuana business, which may be submitted to or obtained by the LCB, is exempt from disclosure under the PRA.

### **Substitute Bill Compared to Original Bill:**

The LCB is granted rulemaking authority regarding the authorized licensing agreements and consulting contracts.

---

**Appropriation:** None.

**Fiscal Note:** Available.

**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 bill will provide clarity for the industry and the (LCB). Because Initiative 502 failed to address business practice issues, what is permissible is unclear. The bill will allow marijuana businesses to engage in normal business practices, such as entering licensing contracts with other businesses. It will help small businesses. The bill ensures that the LCB has the necessary regulatory tools by requiring licensing agreements and consulting contracts to be disclosed to the LCB. The exemption from disclosure under the Public Records Act (PRA) is appropriately narrow, and protects businesses' trade secrets such as growing methods, formulas, or recipes, which do not need to be released to the public.

(Opposed) This is an industry changing proposal. Like with spirits privatization, this will result in gains for a select few businesses, and harm other businesses. It eliminates the clear line in ownership. Marijuana businesses can already obtain out-of-state loans under certain circumstances, and do not need the bill. The LCB lacks jurisdiction out of state, so this could make the state vulnerable. It is concerning that some in the marijuana industry are asking for reduced transparency with the new exemption from disclosure under the PRA.

(Other) This would bring clarity to and streamline the LCB's licensing process. The LCB appreciates the sponsors' work on the proposal, and generally supports the bill. It would not jeopardize the LCB's ability to be an effective regulator.

**Persons Testifying:** (In support) Representative Blake, prime sponsor; Vicki Christophersen, Washington CannaBusiness Association; Ezra Eickmeyer; and Philip Dawdy, Have A Heart.

(Opposed) John Kingsbury, Thurston National Organization for Reforming Marijuana Laws.

(Other) James Paribello, Liquor and Cannabis Board.

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