

HOUSE BILL REPORT

HB 1461

As Reported by House Committee On:
Commerce & Gaming
Appropriations

Title: An act relating to creating a voluntary marijuana production standard and certification program.

Brief Description: Creating a voluntary marijuana production standard and certification program.

Sponsors: Representatives Sawyer, Condotta, Kloba, Chapman and Appleton; by request of Department of Agriculture.

Brief History:

Committee Activity:

Commerce & Gaming: 1/30/17, 2/2/17 [DP];
Appropriations: 2/13/17, 2/21/17 [DP].

Brief Summary of Bill

- Creates a voluntary marijuana production/processing program within the Washington State Department of Agriculture to certify and regulate marijuana products meeting the organic product standards established by the federal National Organic Program.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: Do pass. Signed by 11 members: Representatives Sawyer, Chair; Kloba, Vice Chair; Condotta, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Barkis, Blake, Farrell, Jenkin, Kirby, Ryu and Young.

Staff: Thamas Osborn (786-7129).

Background:

Initiative Measure No. 502.

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.

Initiative Measure No. 502 (I-502) was a ballot measure approved by Washington voters in November 2012 that: (1) legalized the production, processing, possession, and personal use of marijuana; (2) created a framework for a regulatory scheme to be further developed by the Liquor and Cannabis Board (LCB) through its rulemaking authority; and (3) revised provisions in criminal statute to accommodate such legalization in accordance with the requirements of the initiative.

Since the passage of I-502, the production, processing, and sale of marijuana and marijuana-related products has become an industry that is rapidly approaching yearly sales of \$1 billion. In addition to the more traditional products whose ingestion requires smoking, a significant part of the industry is devoted to the production and processing of marijuana-infused edible products (candy, baked goods, drinks, oils, tinctures, medicines, etc.). Many producers and processors are producing a variety of marijuana products through methods that endeavor to comply with state and federal standards required for official designation as "organic" agricultural products. However, neither state nor federal law provides organic certification standards that are applicable to marijuana products, insofar as such certification cannot be provided to products that are illegal under federal law, which continues to be the case with marijuana products.

National Organic Program.

Administered by the United States Department of Agriculture (USDA), the National Organic Program ensures the integrity of products labeled as "organic" through the implementation of a regulatory framework that includes stringent standards applicable to crops, agricultural products, and food. Only those crops or products meeting the standards of the program may be labelled as organic. In order to sell, label, or represent a product as organic, agricultural producers and processors must follow the specifications set out by USDA organic production regulations.

Washington State Department of Agriculture Organic Program.

The Washington State Department of Agriculture's (Department) Organic Program (WSDA Organic Program) is accredited as an organic certification agent by the USDA. As a certification agent of the National Organic Program, the WSDA Organic Program's role is to inspect and certify organic operations, verifying that they are meeting all of the requirements of USDA organic standards.

Summary of Bill:

Washington State Department of Agriculture Marijuana Product Certification Program.

The act creates a voluntary marijuana production/processing standard and certification program within the Department applicable to producers and processors endeavoring to meet the organic product standards established by the USDA's National Organic Program. Although federal law has been interpreted as barring the use of the term "organic" in the marketing and labeling of marijuana products, the intent of the state program is to create production and processing standards applicable to the marketing of marijuana products that otherwise meet the federal standards. No marijuana or marijuana product may be marketed

as meeting these standards unless covered by a Department-issued certification. And, even if the federal and state standards are met, the use of the term "organic" may not be used.

Rule-Making Authority.

The WSDA Organic Program must be consistent with the Department's existing organic certification program and gives the Department rule-making authority to establish:

- production and processing standards for marijuana that are consistent with the National Organic Program's standards;
- a program to certify marijuana producers and processors that meet the standards;
- a fee schedule that provides revenues sufficient to fully fund the program and make it self-sustaining; and
- other rules as necessary.

Inspection and Enforcement.

The Department is granted inspection and enforcement authority with respect to those LCB licensees who opt to participate in the certification program. If a Department-certified LCB licensee is found to be in violation of the certification standards, the Department may suspend or revoke the certification and impose a fine. The fine may not exceed the total of estimated enforcement costs plus \$1,000. In addition, the LCB may also take action against, and impose sanctions upon, a marijuana producer, marijuana processor, or marijuana retailer for ongoing violations of the Department's program regulations.

Public Disclosure.

Information about marijuana producers, marijuana processors, and marijuana retailers otherwise exempt from public inspection and copying under the Public Disclosure Act is also exempt from public inspection and copying if submitted to or used by the Department.

Use of Program Fees.

All fees collected under this chapter must be deposited in an account within the Agricultural Local Fund. The revenue from such fees must be used solely for carrying out the provisions of this chapter, and no appropriation is required for disbursement from the fund.

Appropriation: None.

Fiscal Note: Available.

Effective Date: 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 creates a program to be administered by the Department that will ensure the safety and integrity of marijuana products that claim to be organically produced and processed. Under current law, both state and federal, there are no regulatory standards governing marijuana-related products that claim to be organically grown. This bill would remedy the problem by enabling the Department to enforce explicit production standards

and methods for organic marijuana products. Clear regulatory standards are needed to protect the consumer and allay public health concerns. There are federal standards for organic products, but marijuana products cannot be federally certified because marijuana products remain illegal under federal law. Authorizing the Department to step in and implement a regulatory and certification system addresses this federal jurisdictional loophole.

(Opposed) None.

Persons Testifying: Representative Sawyer, prime sponsor; Vicki Christophersen, Washington CannaBusiness Association; Ezra Eickmeyer; Brenda Book, Washington State Department of Agriculture Organic Program; and Nathaniel Lewis, Oyster Bay Farm.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 33 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist, Buys, Caldier, Cody, Condotta, Fitzgibbon, Haler, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Manweller, Nealey, Pettigrew, Pollet, Sawyer, Schmick, Senn, Springer, Stanford, Sullivan, Taylor, Tharinger, Vick, Volz and Wilcox.

Staff: Dan Jones (786-7118).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Commerce & Gaming:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date: 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 voluntary certification program created by the bill would exist alongside the Organic Certification Program at the Washington State Department of Agriculture, which is the oldest and largest certification program in the nation. The costs of the new program would be covered by fees paid by operations that would like to be certified. This is a consumer protection measure because it would bring integrity to existing claims in the marketplace.

(Opposed) None.

Persons Testifying: Steve Fuller, Washington State Department of Agriculture.

Persons Signed In To Testify But Not Testifying: None.