

HOUSE BILL REPORT

HB 1712

As Reported by House Committee On:
Commerce & Gaming

Title: An act relating to establishing an endorsement to the marijuana retailer's license to authorize marijuana delivery services.

Brief Description: Establishing an endorsement to the marijuana retailer's license to authorize marijuana delivery services.

Sponsors: Representatives Sawyer and Condotta.

Brief History:

Committee Activity:

Commerce & Gaming: 2/6/17, 2/16/17 [DPS].

Brief Summary of Substitute Bill

- Establishes a marijuana delivery endorsement to the marijuana retailer's license that authorizes the holder to provide marijuana home delivery services to adults age 21 or over located in a local jurisdiction with an ordinance authorizing such deliveries.
- Authorizes orders for marijuana products to be placed over the telephone or Internet by an adult age 21 or over, and deliveries to be made to that same adult at a private residence, hotel, motel, or other lodging business, located in a jurisdiction with an authorizing ordinance.
- Grants the Liquor and Cannabis Board discretion and rule-making authority to implement the program.
- Authorizes tribal compacts to include provisions on marijuana delivery services by tribal marijuana retailers, subject to restrictions including that requirements must be substantially the same as the requirements applicable to marijuana delivery services by state-licensed marijuana retailers with a delivery endorsement.

HOUSE COMMITTEE ON COMMERCE & GAMING

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Sawyer, Chair; Kloba, Vice Chair; Condotta, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Blake, Farrell, Kirby and Ryu.

Minority Report: Do not pass. Signed by 2 members: Representatives Barkis and Jenkin.

Minority Report: Without recommendation. Signed by 1 member: Representative Young.

Staff: Peter Clodfelter (786-7127).

Background:

The Liquor and Cannabis Board (LCB) issues a marijuana retailer license that authorizes the holder to sell useable marijuana, marijuana-infused products, marijuana concentrates, (collectively "marijuana products") and paraphernalia intended for the storage of marijuana products, to adults age 21 and over. Marijuana retailers with a medical marijuana endorsement may also sell marijuana products to qualifying patients age 18 and over who hold a recognition card and are entered into the Medical Marijuana Authorization Database. All sales of marijuana products must be conducted in person at the premises of the marijuana retail outlet.

A person 21 years of age or older may possess any combination of the following amounts of marijuana products:

- 1 ounce of useable marijuana;
- 16 ounces of marijuana-infused product in solid form;
- 72 ounces of marijuana-infused product in liquid form; and
- 7 grams of marijuana concentrates.

Qualifying patients age 18 and over who are entered into the Medical Marijuana Authorization Database and hold a recognition card may purchase at retail three times the recreational possession limits.

The Governor may enter into agreements with federally recognized Indian tribes concerning marijuana. Marijuana agreements may address any marijuana-related issue that involves both state and tribal interests or otherwise has an impact on tribal-state relations.

Summary of Substitute Bill:

An endorsement to the marijuana retailer's license is established that authorizes a retail outlet with the endorsement to perform home deliveries of marijuana products to adults, subject to restrictions. However, before an endorsement may be issued, the local jurisdiction in which the retail outlet is located must adopt an authorizing ordinance. A marijuana retail outlet with a delivery endorsement may deliver marijuana products to a person who is 21 years old or older at a private residence, hotel, motel, boarding house, resort, hostel, trailer camp, or

similar lodging business, located in a local jurisdiction with an authorizing ordinance, and subject to restrictions.

The Liquor and Cannabis Board (LCB) has discretion in determining whether an applicant is qualified to receive a delivery endorsement. Also, after examining the overall characteristics of the commercial marijuana market in local jurisdictions with ordinances authorizing marijuana delivery services and the qualifications of applicants for the delivery endorsement, the LCB may limit the number of delivery endorsements issued or stop issuing delivery endorsements completely. The LCB must set the fee for the endorsement to reflect the program's expected costs. The fee may be subsequently adjusted to reflect the program's actual costs.

A retail marijuana outlet holding a delivery endorsement is limited to using two delivery vehicles per work shift. No marijuana advertising may be displayed on a delivery vehicle. Any person delivering marijuana products must be an owner or employee of the retail outlet and undergo training regarding proof of age identification and verification.

Orders for purchases and deliveries of marijuana products may be made over the telephone or the Internet, by a person age 21 or over. The purchaser may order not more marijuana products than the existing possession limits for adult recreational consumers. The owner or employee performing the delivery must confirm the validity of the purchaser's identification utilizing an electronic device or web-based application, as required by the LCB. The same person who places the order must receive the order.

The LCB is given rulemaking authority to implement the program. The rules must include the following:

- eligibility requirements for qualified licensed marijuana retailers;
- training requirements for owners or employees of marijuana retailers that hold a delivery endorsement who will deliver marijuana products;
- procedures for proof of age identification and verification;
- practices and procedures for conducting compliance tests to ensure that no marijuana products are delivered to a person under 21 years of age by a marijuana retailer with a delivery endorsement;
- civil penalties and other administrative action, as the LCB deems appropriate, that apply to a marijuana retailer with a delivery endorsement that delivers marijuana products to a person under 21 years of age;
- delivery vehicle requirements;
- security requirements;
- recordkeeping requirements;
- limits on the amounts of marijuana products and money that may be carried in a delivery vehicle;
- practices and procedures to ensure that marijuana products delivered are subject to the same traceability requirements that otherwise apply to marijuana products sold by marijuana retailers; and
- penalties for violations of the delivery endorsement program requirements.

The agreements that the Governor may enter with federally recognized Indian tribes related to marijuana may include provisions regarding delivery sales by tribes, tribal enterprises, or

tribal member-owned businesses that are retailers of marijuana, to consumers, where the following requirements are met: (1) the delivery of marijuana originates in Indian country; (2) physical transfer of possession of marijuana occurs within or outside of Indian country; and (3) delivery sale requirements are the same or substantially the same as delivery sale requirements that apply to state-licensed marijuana retailers with a delivery endorsement.

Substitute Bill Compared to Original Bill:

The Liquor and Cannabis Board (LCB) must adopt rules regarding practices and procedures for conducting compliance tests to ensure that no marijuana products are delivered to a person under 21 years of age by a marijuana retailer with a delivery endorsement. The LCB must also adopt rules regarding civil penalties and other administrative action, as the LCB deems appropriate, that apply to a marijuana retailer with a delivery endorsement that delivers marijuana products to a person under 21 years of age.

The requirement that the LCB must subject each licensed marijuana retailer with a delivery endorsement to at least four random tests per year of operation to ensure that no marijuana products are delivered to a person who is under age 21 is removed.

The agreements that the Governor may enter with federally recognized Indian tribes related to marijuana may include provisions regarding delivery sales by tribes, tribal enterprises, or tribal member-owned businesses that are retailers of marijuana, to consumers, where the following requirements are met: (1) the delivery of marijuana originates in Indian country; (2) physical transfer of possession of marijuana occurs within or outside of Indian country; and (3) delivery sale requirements are the same or substantially the same as delivery sale requirements that apply to state-licensed marijuana retailers with a delivery endorsement.

An effective date of July 1, 2018, is established.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on July 1, 2018.

Staff Summary of Public Testimony:

(In support) Marijuana delivery services can increase public safety and eliminate the illicit market. The legal marijuana market, especially in the City of Seattle (City), cannot compete with illegal marijuana delivery services. The City performed a survey and found at least 24 businesses advertising illegal marijuana delivery services in the City. In a related sting operation, enforcement actions or legal proceedings were brought against seven different illegal marijuana delivery service couriers. Each courier generally possessed over a pound of marijuana, no courier checked the purchaser's identification for age verification, and one courier also possessed additional illegal substances. There are parts of the state and the City where there is not convenient access to a marijuana retailer, so authorizing a retailer to go to

a consumer's home to deliver marijuana products is a needed service. Any security issues raised can be adequately addressed. And regardless, there are greater security concerns with the illegal deliveries that are currently being conducted than there are with deliveries authorized by the bill and regulated by the Liquor and Cannabis Board (LCB). Each delivery order should be documented in a manifest and tracked through the LCB's software. Identifications of purchasers should also be verified and scanned at the place of delivery by the retailer employee performing the delivery. Deliveries by foot and bicycle should be allowed.

(Opposed) This is a dangerous proposal and the public safety issues are foreseeable. There already are documented robberies of state-licensed marijuana retail outlets, and the employees performing deliveries of marijuana products will be prime targets for robberies because they will be carrying cash and marijuana products and will be going to the location of the purchaser. This will put the employees of the retail outlets performing deliveries at risk of harm. At a minimum, this proposal should not pass until cash is eliminated from delivery service transactions. Stakeholders who oppose this proposal appreciate that deliveries would be authorized only within local jurisdictions with authorizing ordinances. There is also concern that this could increase youth access to marijuana products. The proposal could also add to the LCB's regulatory burden, and stakeholders want to ensure that the LCB has sufficient resources and is not overburdened so the LCB can effectively regulate the marijuana industry.

(Other) The LCB recognizes the interest in this issue throughout the state, and is willing to work with proponents to find a solution, but the LCB has concerns about this proposal. The proposal does not address where the transactions will occur, and if transactions are at the retail store or at the location the delivery is made to. It is unclear how the existing prohibitions on retailers being located within 1,000 feet of places like schools, parks, and recreational centers apply to delivery services in the proposal if the location that marijuana products are delivered to is within the 1,000-foot buffer zone. There are also concerns about how much product could be transported or possessed by a retailer performing deliveries and how the marijuana products will be traced by the LCB and local law enforcement. Currently, the LCB sees how much product will be transported by a licensee on a manifest ahead of time, but under this proposal that type of regulatory oversight may not be viable. It is unclear how a retailer would know whether the address marijuana products are being delivered to is within a local jurisdiction with an authorizing ordinance. There could also be issues with impaired driving by drivers of delivery vehicles, as well as unattended marijuana products left in delivery vehicles. It is important that local law enforcement is involved in this process as well. The LCB asks that the proposal be put on hold while concerns raised are addressed.

Persons Testifying: (In support) Rebecca Johnson, City of Seattle; Philip Dawdy, Have A Heart; Seth Barnhart, Duber Technologies; and Bailey Hirschburg, Washington National Organization for the Reform of Marijuana Laws.

(Opposed) John Kingsbury, Patients United; and Seth Dawson, Washington Association for Substance Abuse Prevention.

(Other) Justin Nordhorn, Liquor and Cannabis Board.

Persons Signed In To Testify But Not Testifying: None.