

HOUSE BILL REPORT

E2SHB 2334

As Passed House:
March 6, 2018

Title: An act relating to the regulation of the use of cannabinoid additives in marijuana products.

Brief Description: Regulating the use of cannabinoid additives in marijuana products.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Sawyer and Kloba).

Brief History:

Committee Activity:

Commerce & Gaming: 1/8/18, 1/15/18 [DPS];

Appropriations: 2/1/18, 2/6/18 [DP2S(w/o sub COG)].

Floor Activity:

Passed House: 3/6/18, 58-40.

Brief Summary of Engrossed Second Substitute Bill

- Authorizes licensed marijuana producers and processors to use cannabidiol (CBD) products obtained from sources other than state licensed producers and processors, provided such products are laboratory tested and meet other specified requirements.
- Creates a definition of "CBD product."
- Provides the Liquor and Cannabis Board with rulemaking authority regarding the use of CBD products by licensed marijuana producers and processors.
- Increases the fee for all marijuana license applications and renewals to \$1,381, effective July 1, 2018.

HOUSE COMMITTEE ON COMMERCE & GAMING

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, Jenkin, Kirby and Ryu.

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.

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

Staff: Thamas Osborn (786-7129).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Commerce & Gaming. Signed by 21 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; Bergquist, Buys, Cody, Fitzgibbon, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan, Tharinger and Wilcox.

Minority Report: Do not pass. Signed by 12 members: Representatives MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Caldier, Condotta, Graves, Haler, Harris, Manweller, Schmick, Taylor, Vick and Volz.

Staff: Linda Merelle (786-7092).

Background:

Cannabinoids and Cannabidiol.

The term "cannabinoid" encompasses a wide variety of organic compounds derived from the cannabis plant. Cannabidiol (CBD) is a type of cannabinoid that is believed to have potential health benefits and is the active ingredient in most regulated medical marijuana products produced and sold by Liquor and Cannabis Board (LCB) licensed marijuana producer/processors and retailers, respectively. In its purest form, CBD does not contain tetrahydrocannabinol (THC), which is the cannabis-derived psychoactive compound that causes euphoric effects. Properly purified CBD products may contain some THC, but the percentage of THC is generally small and does not reach levels typically found in regulated recreational marijuana products. Accordingly, in this state cannabis products, including CBD, that have a THC content of 0.3 percent or less do not meet the statutory definition of marijuana and therefore are not considered to be controlled substances.

Cannabidiol Products Obtained Outside of the Initiative 502 Regulatory System.

Cannabidiol concentrates are often used as an additive by licensed marijuana processors in order to enhance the CBD content of medical marijuana products. Although many marijuana processors have the technical ability to produce CBD concentrates, it is common for marijuana processors to purchase such concentrates from sources operating outside of the marijuana market regulated by the LCB and the Department of Health (DOH).

Most CBD concentrates used by state licensed marijuana processors are derived from hemp and imported from foreign countries engaged in hemp production. These imported CBD concentrates generally enter the country in the form of hemp oil. As a form of cannabis, hemp plants produce CBD that can be extracted and concentrated for use by state licensed marijuana processors in order to increase the CBD content of their medical marijuana products. Whether derived from hemp or marijuana, imported CBD concentrates are not subject to state regulation and therefore are not subject to laboratory testing for toxins and

other impurities. Consequently, medical marijuana products that contain imported CBD additives may contain toxic substances that are undetected.

Licenses.

The fee for licenses for marijuana producers, processors, and retailers is set in statute. Beginning July 1, 2018, the fee is \$1,300 for both the original application and each annual renewal.

Summary of Engrossed Second Substitute Bill:

State licensed marijuana producers and processors are unrestricted in their use of CBD products for the purpose of enhancing the CBD content of regulated marijuana products, provided such CBD products are lawfully produced by, or purchased from, an in-state producer or processor licensed by the LCB.

Licensees may also use CBD products for CBD enhancement purposes that are either imported or otherwise produced outside of the LCB regulatory system provided the CBD product has:

- a THC level of 0.3 percent or less on a dry weight basis; and
- been tested for contaminants and toxins by an accredited testing laboratory licensed by the LCB.

The term "CBD product" is defined as being any product containing or consisting of cannabidiol.

The LCB is authorized to enact the rules necessary to implement the requirements of this section. However, in establishing such rules the LCB is prohibited from enacting rules pertaining to either the production or processing practices of the industrial hemp industry or any cannabidiol products that are sold or marketed outside of the regulatory framework established under chapter 69.50 RCW.

Effective July 1, 2018, the annual licensing fee for marijuana producers, processors, and retailers is increased from \$1,300 to \$1,381.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 3 relating to an increase in marijuana license fees, which takes effect July 1, 2018.

Staff Summary of Public Testimony (Commerce & Gaming):

(In support) Cannabidiol products used by LCB licensed processors to enhance the CBD content of marijuana-related products are neither tested for purity nor subject to explicit regulation. The CBD products used by state licensed processors are either imported from foreign countries or sourced from other states and not subject to regulatory controls. Many

CBD products contain pesticides, heavy metals, and other toxins that pose a threat to public health. Accordingly, all such products should be subject to laboratory testing and regulation by the LCB so as to ensure product purity and safety. The market for CBD products is large and should be regulated within the system created by Initiative 502.

(Opposed) Cannabidiol is a safe and useful product that should not be regulated by the LCB or the Washington State Department of Agriculture. Such regulations are not needed insofar as CBD is not a form of marijuana and does not contain THC. The World Health Organization recently did a study showing that CBD is a safe substance. There is no evidence that CBD presents any health risks and has been widely recognized as having many beneficial health effects. Most CBD is derived from hemp extracts obtained from Oregon and Colorado. If passed, this bill would all but eliminate patient access to CBD products and do great harm to the hemp industry. One of the primary uses of hemp is for the extraction of CBD and the regulations in the bill will ruin the CBD market, the hemp industry, and hemp farmers, as well. The bill represents yet another example of overregulation that is harmful to commercial activity. The LCB cannot be trusted to enact reasonable administrative rules regarding CBD.

Staff Summary of Public Testimony (Appropriations):

(In support) None.

(Opposed) None.

Persons Testifying (Commerce & Gaming): (In support) Brooke Davies, Cannabis Organization of Retail Establishments; Kristi Weeks, Washington State Department of Health; and Phillip Dawdy, Have A Heart.

(Opposed) John Worthington, American Alliance for Medical Cannabis; Steve Sarich, Washington State Hemp Commission; Poppy Sidhu; Dana Luce and Stephen Rowland; and Pamela Bosch, Highland Hemp House.

Persons Testifying (Appropriations): None.

Persons Signed In To Testify But Not Testifying (Commerce & Gaming): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.