

HOUSE BILL REPORT

HB 2335

As Reported by House Committee On:
Commerce & Gaming

Title: An act relating to business practices by marijuana retailers that may mislead the public as to the ownership of a retailer.

Brief Description: Concerning business practices by marijuana retailers that may mislead the public as to the ownership of a retailer.

Sponsors: Representatives Sawyer and Condotta.

Brief History:

Committee Activity:

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

Brief Summary of Substitute Bill

- Prohibits marijuana retailers from advertising or representing themselves to the public in a manner that would cause a reasonable person to believe the marijuana retailer is under common ownership with, or otherwise affiliated with, another marijuana retailer or retailers, unless all the marijuana retailers are under common ownership.
- Defines "common ownership" as having at least one person with an ownership interest in all of the marijuana retailers in the advertisement or commercial representation.
- Specifies that the new prohibition does not prevent advertising a retailer's membership in a trade association.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Sawyer, Chair; Kloba, Vice Chair; Condotta, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Blake, Jenkin, Kirby, Ryu and Young.

Staff: Peter Clodfelter (786-7127).

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.

Background:

The marijuana retailer license is one of the commercial marijuana licenses issued by the Liquor and Cannabis Board (LCB). A marijuana retailer license authorizes the sale of marijuana products at retail from a retail outlet. A separate license is required for each retail outlet location.

The maximum number of marijuana retailer licenses available within each county is limited, based on considerations including population distribution, security and safety issues, the provision of adequate access to licensed sources of marijuana products to discourage purchases from the illegal market, and the number of retail outlets holding medical marijuana endorsements necessary to meet the medical needs of qualifying patients.

An individual marijuana retailer and all other persons or entities with a financial or other ownership interest in the business operating under the license are limited, in the aggregate, to holding a collective total of not more than five retail marijuana licenses.

Advertising practices by marijuana retailers and other commercial marijuana licensees are regulated and restricted in various ways. Advertising restrictions and prohibitions include, among others, the following:

- restrictions on the locations in which marijuana advertisements may be placed or maintained;
- restrictions on the use of billboards and the size and amount of signage outside a retail outlet;
- prohibitions on targeting youth in advertisements, on using objects such as toys or inflatables, and on using a commercial mascot, including a human being, animal, or mechanical device, to attract attention of motorists and passersby; and
- a prohibition on specifically targeting advertisements to persons residing outside of Washington.

The LCB has rulemaking authority to implement the advertising restrictions and prohibitions. The rules must establish escalating penalties including fines and up to suspension or revocation of a marijuana license for subsequent violations.

Summary of Substitute Bill:

Licensed marijuana retailers are prohibited from advertising or representing themselves to the public in a manner that would cause a reasonable person to believe the marijuana retailer is under common ownership with, or otherwise affiliated with, another marijuana retailer or retailers, unless all the marijuana retailers are under common ownership.

"Common ownership" is defined as having at least one person with an ownership interest in all of the marijuana retailers in the advertisement or commercial representation.

It is specified that the new prohibition does not prohibit a marijuana retailer from advertising or representing to the public the retailer's membership in a trade association.

Substitute Bill Compared to Original Bill:

The provision is removed that established that the new prohibition on certain advertisements or commercial representations does not prohibit multiple marijuana retailers with different business or trade names and different owners from acting as a group for the purpose of making group purchases of marijuana products from a marijuana processor. Also removed is the specific grant of rulemaking authority to the Liquor and Cannabis Board (LCB) that authorized the LCB to adopt rules establishing civil penalties for a violation or violations of the new prohibition, and the specific types of advertising methods and business practices prohibited.

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 is about being honest with the public about the ownership of licensed marijuana businesses who advertise to the public. Some marijuana retailers advertise in ways that make it appear that a group of stores, such as eight or nine stores, are acting under the same name. This gives the appearance of franchises and creates questions about what is allowed among businesses who want to follow the law. The bill would make it so that stores that are not owned by the same person or business cannot advertise under a single name. This is an elegant way of enforcing the new law from 2017 that owners of a marijuana retailer are limited to holding a collective total of five marijuana retailer licenses. This will also help solve the hidden ownership problem, which exists, and will clarify who is violating the new law from 2017 and who is not. While considering this bill, it is important to understand that group purchasing is not currently allowed under the Liquor and Cannabis Board's (LCB's) rules. Therefore, the language in the bill about group purchasing should be removed. Additionally, the specific grant of rulemaking authority to the LCB should be removed, because the LCB has existing rulemaking authority to adopt the rules. The bill helps adjust the industry and reflects its development.

(Opposed) None.

Persons Testifying: Representative Sawyer, prime sponsor; Brooke Davies, Cannabis Organization of Retail Establishments; Phillip Dawdy, Have A Heart; and John Kingsbury, Patients United.

Persons Signed In To Testify But Not Testifying: None.