

SENATE BILL REPORT

SHB 1126

As Reported by Senate Committee On:
Commerce, Labor & Sports, March 22, 2017

Title: An act relating to establishing a deadline for the use and implementation of a marijuana retail license by a licensee.

Brief Description: Establishing a deadline for the use and implementation of a marijuana retail license by a licensee.

Sponsors: House Committee on Commerce & Gaming (originally sponsored by Representatives Condotta, Sawyer and Vick).

Brief History: Passed House: 2/20/17, 86-11.

Committee Activity: Commerce, Labor & Sports: 3/09/17, 3/22/17 [DPA].

Brief Summary of Amended Bill

- Establishes that a marijuana retailer license is subject to forfeiture if the licensee does not become fully operational and open to the public within a specified period from the date of license issuance.
- Requires the Liquor and Cannabis Board (LCB) to adopt rules establishing the license forfeiture process and gives the LCB discretion in adopting the rules and establishing the forfeiture process.
- Prohibits a marijuana retailer license from being subject to forfeiture within the first nine months of license issuance or if a local ban or moratorium prevented the business from opening.
- Provides that the LCB must generally require license forfeiture on or before 24 calendar months of license issuance, if the licensee is not fully operational and open to the public, but gives the LCB discretion to extend that forfeiture period in the LCB's discretion when circumstances out of the licensee's control.

SENATE COMMITTEE ON COMMERCE, LABOR & SPORTS

Majority Report: Do pass as amended.

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.

Signed by Senators Baumgartner, Chair; Keiser, Ranking Minority Member; Conway, Hasegawa, King, Rossi, Saldaña and Wilson.

Staff: Richard Rodger (786-7461)

Background: The LCB issues the following licenses to qualified individuals, business entities, and nonprofit entities, subject to requirements: (1) marijuana producer license; (2) marijuana processor license; (3) marijuana retailer license; (4) marijuana researcher license; and (5) marijuana transporter license. The Legislature requires the LCB to develop a competitive, merit-based application process that includes, at a minimum, the opportunity for an applicant to demonstrate experience and qualifications.

The LCB may inspect the premises of an applicant for a license, and may inquire into all matters in connection with the construction and operation of the premises. The LCB may consider any prior criminal conduct of the applicant, including an administrative violation history record with the LCB and a criminal history record information check.

The LCB has discretion to grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted to the LCB from specified city, town, or county officials. The LCB must give substantial weight to such objections. The LCB has discretion to suspend or cancel any license. The LCB's action in denying an application for the reissuance of a license to produce, process, or sell marijuana, or as to any revocation, suspension, or modification of any such license, is an adjudicative proceeding subject to the Administrative Procedure Act.

The Legislature delegates authority to the LCB to determine, in consultation with the Office of Financial Management, the maximum number of retail outlets that may be licensed in each county, taking into consideration specific factors.

In addition to holding a marijuana license issued by the LCB, a licensee generally needs various authorizations from the city, county, or town in which the licensee's premises is located prior to conducting business.

Summary of Amended Bill: The LCB must adopt rules to establish a license forfeiture process for a licensed marijuana retailer that is not fully operational and open to the public within a specified period from the date of license issuance, as established by the LCB. However, no marijuana retailer license may be subject to forfeiture within the first nine months of license issuance or during any period that the licensee is prevented from operating or opening their business due to a local ban or moratorium.

The LCB must require license forfeiture on or before 24 calendar months of license issuance if a marijuana retailer is not fully operational and open to the public, unless the LCB determines that circumstances out of the licensee's control are preventing the licensee from becoming fully operational and that, in the LCB's discretion, the circumstances warrant extending the forfeiture period beyond 24 calendar months. The LCB has discretion in the content of the required rules.

The license forfeiture process applies to marijuana retailer licenses issued before and after the effective date of the act. However, no marijuana retailer's license may be subject to forfeiture within the first three months of the effective date of the act.

EFFECT OF COMMERCE, LABOR & SPORTS COMMITTEE AMENDMENT(S):

- Prohibits the forfeiture of a marijuana retailer's license during any period that the licensee is prevented from operating or opening their business due to a local ban or moratorium.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The LCB does not have a method to cancel a marijuana retail license. We just want to make sure that people don't get one of these limited licenses just to hold on to. We also want to prevent a person from getting a license and holding it for a long period with the intent to resell the business and never open a store.

OTHER: We support this bill but would like an amendment that clearly states the LCB will not undertake a forfeiture action when the sole reason for the store not opening is a local ban or moratorium. A vast majority of unused licenses fit this category. We do not believe the LCB would take such an action but would appreciate the amendment to calm some nervous license holders.

Persons Testifying: PRO: Representative Cary Condotta, Prime Sponsor.

OTHER: Ezra Eickmeyer, citizen.

Persons Signed In To Testify But Not Testifying: No one.