
Commerce & Gaming Committee

HB 1236

Brief Description: Concerning the ability of business and nonprofit entities to obtain a marijuana license.

Sponsors: Representatives Stanford, MacEwen, Vick, Blake and Appleton.

Brief Summary of Bill

- Eliminates the six-month residency requirement for marijuana licenses.
- Authorizes out-of-state ownership of licensed marijuana businesses, subject to restrictions.
- Requires out-of-state businesses to be registered with the Secretary of State to qualify for a marijuana license.
- Requires natural persons owning more than 10 percent of the business to qualify for and be named on the license.
- Requires officers and directors to qualify for the license to the same extent as a licensee.
- Provides that, generally, natural persons owning 10 percent or less of the business are not required to qualify for or be named on the license.
- Authorizes the Liquor and Cannabis Board (LCB) to impose additional licensing fees to recover investigatory costs.
- Grants the LCB discretionary authority to deny license issuances and renewals when the LCB is unable to investigate any nonresident requiring investigation.

Hearing Date: 1/28/19

Staff: Peter Clodfelter (786-7127).

Background:

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 502 is implemented to require all owners of licensed marijuana businesses to have lawfully resided in Washington state for at least six months prior to applying for a marijuana license from the Liquor and Cannabis Board (LCB). Additionally, no marijuana license may be issued to a person under the age of 21 years, or to a partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under Washington state law and unless all of the members thereof are qualified to obtain a license. If a manager or agent conducts the business of a licensed marijuana establishment, the manager or agent must possess the same qualifications required of the licensee.

To apply for a marijuana producer, processor, or retailer license there is a \$250 application fee, plus fees equivalent to \$1,480 for license issuance and annually for license renewal. When an application for a marijuana license is submitted to the LCB, the LCB may inspect the premises proposed to be licensed, and may inquire into all matters in connection with the construction and operation of the premises. When reviewing applications for a license, and for considering the denial, suspension, revocation, or renewal or denial of any license or license renewal, the LCB may consider any prior criminal conduct of the applicants, including an administrative violation history record with the LCB and a criminal history record information check.

The LCB may submit the criminal history record information check to the Washington State Patrol (WSP) and to the identification division of the Federal Bureau of Investigation (FBI) so the WSP and FBI may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The LCB must require fingerprinting of any applicant whose criminal history record information check is submitted to the FBI. The LCB has discretion in granting or denying the license or license renewal applied for by an applicant or licensee. Denial may be based on, without limitation, the the existence of chronic illegal activity documented in objections submitted to the LCB from the relevant local government.

In the Uniform Business Organizations Code, the terms "entity" and "interest" are defined. "Entity" means a business corporation, a nonprofit corporation, a limited liability partnership, a limited partnership, a limited liability company, or a general cooperative association. "Interest" means a share in a business corporation, a membership or share in a nonprofit corporation, a partnership interest in a limited liability partnership, a partnership interest in a limited partnership, a limited liability company interest, or a share or membership in a general cooperative association.

The Secretary of State issues a certificate of registration to foreign entities registered in Washington state. A certificate of registration contains information including the foreign entity's name, as well as statements such as that the entity is registered to do business in the state and that the most recent annual report has been delivered to the Secretary of State for filing. A certificate of registration issued by the Secretary of State may be relied upon as conclusive evidence of the facts stated in the certificate, and that as of the date of its issuance, in the case of a foreign entity, it is registered and authorized to do business in Washington.

Summary of Bill:

The six-month residency requirement for obtaining a marijuana license is eliminated. Terms referencing business and nonprofit entities are updated to reflect terms used in the Uniform Business Organizations Code.

It is provided that a person is not required to be a Washington state resident and a business or nonprofit entity with a certificate of registration is not required to be formed under Washington state law to qualify for a marijuana license.

However, natural persons holding an ownership interest of more than 10 percent of the entity must qualify for and be named on the license. In contrast, natural persons owning 10 percent or less of the entity are not required to qualify for or be named on the license.

If no natural person owns more than 10 percent of the entity, the natural person with the largest ownership interest must qualify for and be named on the license.

Officers and directors of the entity must possess the same qualifications required of the licensee.

The Liquor and Cannabis Board (LCB) may impose additional licensing fees to recover any additional costs incurred in investigating a nonresident required to be investigated. If, after reasonable efforts, the LCB is unable to investigate any nonresident required to be investigated under the investigatory standards applicable to the investigation of a state resident, the LCB has discretionary authority to deny a license or license renewal to an entity.

The definitions of the terms "entity" and "interest" used in the Uniform Business Organizations Code are added to the marijuana licensing statute.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.