

SENATE BILL REPORT

SB 5985

As of March 27, 2019

Title: An act relating to provisions impacting marijuana business licensees.

Brief Description: Concerning provisions impacting marijuana business licensees.

Sponsors: Senators Saldaña, Rivers and Palumbo.

Brief History:

Committee Activity: Labor & Commerce: 4/01/19.

Brief Summary of Bill

- Creates an exception to the six-month residency requirement for businesses with labor peace agreements in effect, so long as 60 percent of the interest holders meet the requirements.
- Modifies the limits on the number of marijuana licenses that may be held by businesses with labor peace agreements.
- Requires a \$1,000 fee for each additional license issued under the labor peace agreement provisions.
- Modifies the licensing provisions regarding who is required to qualify for or be named on a license, be a Washington State resident, and be disclosed to the Liquor and Cannabis Board (LCB).
- Authorizes additional fees to recover investigatory costs and grants discretionary authority to deny a license or renewal involving nonresident licensees.
- Adds provisions addressing inheritance of a business with a marijuana license.
- Modifies the provisions for outdoor advertising for licensed marijuana retail outlets including, banning billboards, allowing reader boards, removing the limit on size of signs, and allowing local governments to adopt less restrictive advertising rules.
- Requires marijuana licensees to submit certain demographic information to the LCB and requires a report to the Legislature.

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.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Richard Rodger (786-7461)

Background: Marijuana Business Licensing. Initiative 502 requires all owners of licensed marijuana businesses to have lawfully resided in Washington for at least six months prior to applying for a marijuana license from the LCB. Additionally, no marijuana license may be issued to a person under the age of twenty-one, or to a partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under Washington 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.

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 existence of chronic illegal activity documented in objections submitted to the LCB from the relevant local government.

Individual marijuana retailer licensees 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.

The Uniform Business Organizations Code defines the following terms:

- "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; and
- "interest holder" means a shareholder of a business corporation, a member or shareholder of a nonprofit corporation, a partner of a limited liability partnership, a general or limited partner of a limited partnership, a member of a limited liability company, or a shareholder or member of a general cooperative association.

The secretary of state issues a certificate of registration to foreign entities registered in Washington. A certificate of registration contains information including the foreign entity's name, as well as statements such as the entity is registered to do business in the state and 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 as of the date of its issuance, in the case of a foreign entity, it is registered and authorized to do business in Washington.

Marijuana Advertising. All marijuana licensees' outdoor advertising, including billboards, are limited to text that identifies the business or trade name, the nature of the business, and its location. All licensed marijuana businesses are prohibited from placing any sign or other advertisement for a marijuana business or marijuana product within 1000 feet of the perimeter of a school ground, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged twenty-one or older.

All signs, billboards, or other print advertising for marijuana businesses or marijuana products must contain text stating that marijuana products may be purchased or possessed only by persons twenty-one years of age or older. Advertising signs may not contain any depictions of marijuana plants, marijuana products, or images that might be appealing to children.

Licensed marijuana retailers may display two outdoor signs that are no larger than 1600 square inches, which must be permanently affixed to a building or other structure.

Local governments may adopt rules for marijuana retailers that have more restrictive provisions for outdoor marijuana advertising. The local governments are responsible for the enforcement of their advertising restrictions.

Summary of Bill: Marijuana Business Licensing. For any marijuana license issued by the LCB, all natural persons holding an ownership interest of more than 10 percent of the business or nonprofit entity licensed or proposed to be licensed must qualify for and 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 must possess the same qualifications as the licensee.

Generally, any natural person holding an ownership interest of 10 percent or less of the entity is not required to qualify for or be named on the license. A natural person holding an ownership interest of 10 percent or less of the entity must still be a Washington resident, unless the applicant or marijuana licensee has in effect a labor peace agreement with a bona fide labor organization. The identification of any natural person holding an ownership interest of 10 percent or less, but more than 1 percent of the entity, who is not otherwise required to qualify for and be named on the license, must be disclosed to the LCB.

The term "labor peace agreement" is defined for purposes of the Controlled Substances Act as an agreement between an employer and a bona fide labor organization in which the employer agrees to remain neutral or otherwise agrees to work with or provide information to the bona fide labor organization for the purpose of unionizing employees.

For marijuana licensees and applicants relying on authorization tied to labor peace agreements, the licensee or applicant must submit to the LCB, an attestation signed by a bona

bona fide labor organization stating the licensee or applicant has entered into a labor peace agreement with the bona fide labor organization. Submission of the attestation and the maintenance of the labor peace agreement is an ongoing material condition of the establishment's license for licensees relying on the new authorization.

Having and maintaining a labor peace agreement is required for a marijuana business to do any of the following:

- be formed under the laws of another state or have any or all owners who are not Washington residents, so long as 60 percent of the interest holders meet the residency requirements;
- hold a collective total of up to seven marijuana retailer licenses, as opposed to five; or
- hold up to two additional marijuana producer or processor licenses than any limit established in the LCB's rules on the number of marijuana producer or processor licenses that may be collectively held.

LCB must collect an additional fee of \$1,000 for each additional license it issues to a marijuana producer, marijuana processor, or marijuana retail outlet licensee under the labor peace agreement provisions.

Any business entity or nonprofit entity not formed under Washington law must hold a certificate of registration from the secretary of state. Additionally, the LCB must suspend, cancel, or revoke the marijuana license of an establishment for which the LCB determines there is no longer a labor peace agreement in effect and for which a labor peace agreement is required. The LCB may impose additional licensing fees to recover any additional costs incurred in investigating any nonresident required to be investigated and may deny a license or license renewal to an entity if, after reasonable effort, the LCB is unable to investigate any nonresident requiring investigation.

Nothing in the Controlled Substances Act prevents an interest in a business with a marijuana producer, processor, retailer, or transportation license from transferring, upon the death or incapacity of the owner, to an heir or assign of the owner in accordance with the Uniform Transfers to Minors Act, or otherwise, even if the heir or assign is under age twenty-one.

Definitions of the terms entity, interest, and interest holder from the Uniform Business Organizations Code are added to the marijuana licensing statute, and terms related to business and nonprofit entities are updated.

Applicants for marijuana licenses, marijuana licensees, and interest holders in marijuana businesses must submit demographic information, including gender, race, ethnicity, and related geographic distribution to the LCB. LCB must report the aggregate data to the relevant committees of the legislature by January 1, 2020.

Marijuana Advertising. Licensed marijuana businesses are prohibited from advertising on billboards visible from any street, road, highway, right-of-way, or public parking area. Marijuana retail outlets may have reader boards outside of the premises of the business. The two signs allowed outside of marijuana retail outlets are no longer limited to 1600 square inches.

Local governments may adopt rules for outdoor advertising that are less restrictive than the statutory requirements, so long as the rules are consistent with the signage requirements for other businesses. Local governments may not alter the restrictions concerning advertising that is appealing to children or the restrictions on location of signs near schools, parks, playgrounds, and other similar entities.

Other. The bill contains a severability clause.

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.