
Commerce & Gaming Committee

HB 2871

Brief Description: Establishing a retail privilege endorsement to a marijuana producer license.

Sponsors: Representative Kirby; by request of Liquor and Cannabis Board.

Brief Summary of Bill

- Creates a retail privilege endorsement to the marijuana producer license, authorizing the sale of marijuana products meeting Department of Health (DOH) requirements for medical marijuana products.
- Creates a home delivery endorsement to allow a retail privilege endorsement holder to deliver marijuana products meeting DOH requirements for medical marijuana products to customers.
- Directs the Liquor and Cannabis Board to adopt rules to implement the new license endorsements, including establishing application and renewal fees.

Hearing Date: 2/3/20

Staff: Peter Clodfelter (786-7127).

Background:

The Liquor and Cannabis Board (LCB) licenses and regulates marijuana businesses, including marijuana producers, marijuana processors, and marijuana retailers. The license issuance fee as well as annual license renewal fee is \$1,381. The LCB is not currently accepting new applications for these license types.

Licensed producers may also be licensed as processors, although neither a licensed producer nor processor may have a direct or indirect financial interest in a licensed marijuana retailer. Marijuana producers and processors are prohibited from making retail sales of marijuana products to consumers, although marijuana producers may sell immature plants or clones and seeds to cooperatives and to qualifying patients and designated providers.

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.

Marijuana retailers are limited in statute to holding a collective total of five marijuana retailer licenses between the owners. Pursuant to the LCB's rules, marijuana producers are limited to three marijuana producer licenses, and marijuana processors are limited to three marijuana processor licenses.

The LCB's rules allow marijuana producers to be licensed as follows in terms of square feet of authorized production canopy:

- tier 1 producer – less than 2,000 square feet;
- tier 2 producer – 2,000 thousand square feet up to 10,000 square feet; and
- tier 3 producer – 10,000 up to 30,000 square feet.

A medical marijuana endorsement is available to marijuana retailers to permit the retailer to sell marijuana for medical use to qualifying patients and designated providers, subject to certain requirements. The endorsement also permits retailers to provide marijuana at no charge, at their discretion, to qualifying patients and designated providers. Pursuant to the 2015 law that merged the medical and recreational marijuana systems, a medical marijuana consultant certificate was established. The certificate is issued by the Department of Health (DOH) to qualified applicants who complete an approved training program. A medical marijuana consultant may assist customers with the selection of products sold at the retail outlet that may benefit the qualifying patient's terminal or debilitating medical condition, among other services.

The 2015 law that merged the medical and recreational marijuana systems also required the DOH, in conjunction with the LCB, to adopt rules on requirements for different types of marijuana products that may be sold or provided at no charge to qualifying patients and designated providers. The DOH's rules on this topic provide requirements for marijuana products that may be labeled as DOH-compliant product after undergoing additional screening for pesticides, heavy metals, and mycotoxins.

Summary of Bill:

Retail Privilege Endorsement. A retail privilege endorsement to a marijuana producer license is established, authorizing the retail sale of medical marijuana. To be eligible for the endorsement, a marijuana producer must hold, as of July 1, 2019, the license defined in the Liquor and Cannabis Board's (LCB) rules as authorizing the lowest level of production.

A marijuana producer holding a retail privilege endorsement may not hold an interest in any other marijuana producer or marijuana retailer license and may not hold any interest in more than one processor license. Retail privilege endorsement holders must meet all marijuana retailer requirements and be in compliance with city, town, or county zoning and permit requirements.

Marijuana products for sale by a retail privilege endorsement holder must meet Department of Health (DOH) requirements for sale to qualifying patients and designated providers. If useable marijuana is used in the creation of products sold by a marijuana producer holding a retail privilege endorsement, the usable marijuana must be of the marijuana producer's own production. Marijuana producers holding a retail privilege endorsement may also sell plants and seeds to qualifying patients holding a valid recognition card.

Retail privilege endorsement holders must hold, or employ a person who holds, a medical marijuana consultant certificate. The medical marijuana consultant must be on the premises when retail sales are being conducted. The retail location of the retail privilege endorsement holder must be at least one mile from the following: (1) any retail outlet in operation as of January 1, 2020; (2) any retail outlet operated by a tribal government; and (3) a location where a tribal government intends to conduct retail sales of marijuana products if the tribal government has a marijuana compact and has notified the LCB of its intent by January 1, 2020.

Home Delivery Endorsement. A home delivery endorsement is established to allow a retail privilege endorsement holder to deliver marijuana products to customers. Marijuana products delivered under a home delivery endorsement must meet DOH requirements for sale to qualifying patients and designated providers. Home delivery endorsement holders must hold, or employ a person holding, a medical marijuana consultant certificate.

Rules. The LCB must adopt rules to implement the new retail privilege endorsement and home delivery endorsement. These rules must include application forms and application periods for both endorsements, fees, including any application fees and renewal fees for the endorsements, and other requirements necessary to implement the new endorsements.

Miscellaneous. Outdated provisions from a 2015 law that required the LCB to reconsider and increase the maximum number of retail outlets authorized before the 2015 law took effect are removed from law. The ability of holders of the new retail privilege endorsement to advertise themselves as medical retail outlets is added to the things the LCB must consider when establishing time, place, and manner restrictions and requirements regarding marijuana advertising. References to the State Liquor and Cannabis Board are shortened to the "board" in sections of the Uniform Controlled Substances Act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 7, which takes effect July 1, 2024, to account for a delayed effective date in unrelated legislation from 2019.