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## Regulated Substances & Gaming Committee

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### HB 1581

**Brief Description:** Establishing a Washington state cannabis commission.

**Sponsors:** Representatives Wylie, Kloba, Reeves and Ramel.

#### Brief Summary of Bill

- Establishes the Washington State Cannabis Commission (Commission) consisting of cannabis producers, producer/processors, and the Director of the Washington State Department of Agriculture (WSDA), to be funded by agricultural commodity assessments on producers and producer/processors.
- Specifies purposes of the Commission including planning and conducting programs, research, advising government agencies, reviewing market metrics, educating and advising producers, advancing knowledge and practice, limiting youth access, and other purposes.
- Grants the Commission powers and duties related to internal governance, employment and contracting, cooperating with other entities and persons, acquiring and owning intellectual property rights, adopting rules, and other specified powers.
- Includes certain oversight of the Commission by the Director of the WSDA, including requiring submission and approval of the Commission's proposed budget, plans, and rules.

**Hearing Date:** 2/6/23

**Staff:** Peter Clodfelter (786-7127).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

There are 21 agricultural commodity commissions related to specific commodities in Washington. Commissions are funded by assessments on producers of the commodities within Washington. Several of the commodity commissions are established in law, including the Washington Apple Commission, the Washington Dairy Products Commission, the Washington Wine Commission, the Washington Beer Commission, the Washington Grain Commission, and others. The Washington State Department of Agriculture (WSDA) established additional agricultural commodity commissions through a process in the Washington Agricultural Enabling Act. The Director of the WSDA, or the Director's authorized representative, is a member of each commodity commission.

## **Summary of Bill:**

### Establishment of the Washington State Cannabis Commission.

Legislative findings and intent are included. The Washington State Cannabis Commission (Commission) is established to benefit the people of Washington and its economy. The Commission is established for the following purposes to:

- plan and conduct programs for cannabis-related matters;
- provide for conducting research;
- cooperate with and act in an advisory capacity to local, state, and federal agencies or other interested parties with respect to cannabis-related matters;
- cooperate with other interested parties toward standardizing methods by which to identify and determine the genetics, strains, cultivars, phenotypes, standards, and grades of cannabis and advise on packaging and labeling requirements;
- conduct reviews, surveys, and inquiries regarding market metrics and analytics;
- inform and advise producers and producer/processors in all matters regarding cannabis including, but not limited to, educational information on its cultivation, usage, risks, and related technical and scientific developments;
- provide cannabis-related education and training to producers, producer/processors, researchers, and their employees, including health and safety information;
- provide information and services for meeting resource conservation objectives of producers and producer/processors;
- assist and cooperate with local, state, or federal government agencies in the investigation and control of pests, diseases, and other factors that could adversely affect the cultivation, quality, or safety of Washington-produced cannabis;
- advance knowledge and practice of the production of cannabis in Washington through the research and testing of methods to improve pest management, worker protection and safety training, energy efficiency, and environmental protection;
- foster conditions favorable to investment in the production of Washington cannabis consistent with state and federal laws;
- limit youth access and youth exposure to cannabis;
- enable cannabis producers and producer/processors of Washington, in cooperation with the Commission to: (1) develop and engage in research including discovering better and more

efficient production, irrigation, odor mitigation, processing, transportation, handling, packaging, and use of cannabis and cannabis products; and (2) discover and develop new and improved cultivars for the reliable and economical production of cannabis in Washington;

- establish the uniform grading and proper preparation of cannabis products for market;
- protect the interest of consumers and Washington by advising on the overall production of cannabis to assure a balanced and sufficient supply of cannabis and cannabis products of good quality at all seasons and times; and
- advance knowledge and the practices of processing cannabis in Washington.

The Commission is granted powers and authorities to do all the following:

- elect a chair and other officers by a majority vote or as contained in the Commission's bylaws;
- adopt, rescind, and amend bylaws and internal rules of governance;
- administer, enforce, direct, and control the provisions of the law establishing the Commission;
- employ and discharge persons and firms including administrators, staff, professional consultants, and service providers;
- designate a public records officer, rules coordinator, and other representatives;
- acquire personal property, purchase or lease office space and other necessary real property, and transfer and convey property;
- institute and maintain in the Commission's own name legal actions or proceedings before administrative tribunals or other governmental authorities necessary to carry out the Commission's duties;
- keep accurate records of receipts and disbursements, which must be open to inspection and audit by the State Auditor or private auditor designated by the State Auditor at least every five years, and at any time by a duly appointed internal auditor upon a majority vote of the Commission;
- make necessary disbursements for routine operating expenses;
- expend funds for all activities, projects, and undertakings of the Commission;
- cooperate with other interested parties for the purposes of the Commission;
- serve as a liaison with the Washington State Liquor and Cannabis Board (LCB) and other interested parties on behalf of the Commission;
- enter into contracts or cooperative agreements for research;
- enter into contracts or interagency agreements with any other interested parties;
- solicit, accept, and expend or retain any gifts, bequests, contributions, or grants from private persons or public agencies;
- retain, in emergent situations, the services of private legal counsel to conduct legal actions on the Commission's behalf, provided that the retention of a private attorney is subject to the appointment or approval by the Office of the Attorney General;
- engage in appropriate activities and events for the purpose of supporting authorized activities of the Commission;
- participate in international, federal, state, and local hearings, meetings, and proceedings in all matters relating to cannabis;

- obtain from the LCB a list of the names and addresses of producers, processors, producer/processors, and retailers, and other available data from the state as requested by the Commission with respect to the discharge of the Commission's duties;
- acquire, create, develop, and own intellectual property rights, licenses, and patents and to collect royalties resulting from the sale or licensing of Commission-funded research, provided all results and recommendations from research conducted or funded by the Commission must be available to all producers and producer/processors without charge, except for reasonable out-of-pocket costs;
- speak on behalf of the Washington State government with regard to agricultural production of cannabis in Washington, subject to oversight of the Director of the Washington State Department of Agriculture (WSDA) (Director);
- possess cannabis products while engaging in authorized activities in furtherance of the Commission's purposes;
- adopt rules that are subject to the Director's approval as the Commission's rules coordinator; and
- exercise other powers and duties necessary to carry out the new law.

#### Membership of the Commission.

The Commission consists of 13 voting members: Eight producer or producer/processor members from the districts; one statewide at large producer or producer/processor member; one statewide tier one or equally small producer or producer/processor member; one statewide tier two or equally medium producer or producer/processor member; one statewide tier three or equally large producer or producer/processor member; and the Director.

A nonvoting advisory council is also created to assist the Commission. The Director must appoint one stand alone processor member and one testing laboratory member to the advisory council. The advisory members must be considered from a pool of self-nominated active business representatives from each business type.

Each member of the Commission and the advisory council, other than the Director, must be 21 years of age or older, be a citizen and resident of Washington, directly hold or be a named owner in whole or in majority part of an entity holding the relevant (and not suspended) business license issued by the LCB. Each member must also be engaged in the production of cannabis within Washington for a period of three years and have, during that period, derived a substantial portion of their income from the activity.

Producer or producer/processor members in voting positions must be producers or producer/processors with production facilities in the district in which they are nominated and elected. Producer or producer/processor members elected to at large positions may be from any district. The districts are as follows:

- district one, positions one and two, comprises the counties of Clallam, Island, Jefferson, King, San Juan, Skagit, Snohomish, and Whatcom.
- district two, positions three and four, comprises the counties of Chelan, Douglas, Ferry, Grant, Kittitas, Okanogan, Pend Oreille, and Stevens.

- district three, positions five and six, comprises the counties of Adams, Asotin, Benton, Columbia, Franklin, Garfield, Lincoln, Spokane, Walla Walla, Whitman, and Yakima.
- district four, positions seven and eight, comprises the counties of Clark, Cowlitz, Grays Harbor, Kitsap, Klickitat, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum.

The initial Commission members must be appointed by the Director. Four members must be appointed for a one-year term, four members for a two-year term, and four members for a three-year term. The initial members must be considered from a pool of self-nominated qualified producers or producer/processors from each district. Thereafter, Commission members, other than the Director, must be elected by a vote of qualified producers or producer/processors in each district for three-year terms.

When making initial appointments and replacement appointments, the Director may give priority to persons who represent the diverse communities of Washington in order to maintain a balanced representation of members where practicable. Seven voting members of the Commission constitute a quorum. Each member of the Commission may be reimbursed for expenses incurred in the performance of their duties in accordance with laws governing mileage, subsistence, lodging and refreshment, and per diem allowances for members of commissions.

#### Oversight by the Director of the Washington State Department of Agriculture.

Before the beginning of the Commission's fiscal year, the Commission must prepare and submit its budget for the fiscal year to the Director for approval. The Director must timely review and approve or disapprove all submissions. The Commission must develop and submit any plans concerning, but not limited to, the establishment, issuance, effectuation, and administration of Commission governance issues and the initiation or establishment of any rule making to the Director for approval. The Director must also review the Commission's education program.

#### Deposits and Expenditures.

The Commission must deposit moneys collected in a separate account in the name of the Commission in a bank that is a state depository. All expenditures and disbursements made from this account may be made without a legislative appropriation. The Uniform Controlled Substances Act does not apply to this account or to the moneys received, collected, or expended.

#### Use of Financial and Commercial Information.

Financial and commercial information and records submitted to the LCB or the Commission may be shared between the LCB and the Commission. The information and records may also be used, if required, in a suit or administrative hearing involving the Commission. The issuance of general statements based upon the reports of producers or producer/processors is allowed if the statements do not identify a specific producer or licensee. The Director or the Commission may publish the name of a producer or producer/processor violating requirements related to the Commission and a statement of the manner of the violation.

### Liability.

Obligations incurred by the Commission and other liabilities or claims against the Commission must be enforced only against the Commission's assets and, except to the extent of the assets, no liability for the debts or actions of the Commission exists against Washington State, its political subdivisions, instrumentalities, or any member, employee, or agent of the Commission or Washington State in their individual capacity. Commission members and employees may not be held individually responsible for acts or omissions except for their own crimes or acts of dishonesty. Commission members are state officers or volunteers and are entitled to the defenses, indemnifications, limitations of liability, and other protections and benefits of laws governing actions and claims against the state.

### Reimbursement of Agency Costs.

All costs incurred by the WSDA, including staff support and the adoption of rules and other actions necessary to carry out the proposed law, must be fully reimbursed by the Commission. All costs incurred by the LCB must also be fully reimbursed by the Commission. Costs incurred must include initial estimates of work and line item accounting of the costs incurred.

### Agricultural Commodity Assessments to Fund the Commission.

To provide for permanent funding of the Commission, agricultural commodity assessments must be levied by the LCB on cannabis producers and cannabis producer/processors:

- beginning on October 31, 2023, the assessment on each producer licensee is 0.29 percent of all sales revenues conducted by the producer license;
- beginning on October 31, 2023, the assessment on each producer/processor licensee is 0.145 percent of all sales revenues conducted by the processor license;
- until October 31, 2028, assessments on producers and producer/processors do not apply to a producer or producer/processor licensed through the cannabis social equity program;
- the Commission may, by a majority vote, request the LCB to reduce, increase, or suspend the effective assessment based on the approved projects and activities of the Commission within a given fiscal year;
- after the initial fiscal year, the Commission must set assessment rates at a regular meeting by May 1 of each year, to become effective for the next fiscal year;
- the Commission must give notice to producers and processors of the assessment rate before the beginning of the fiscal year in which it is effective; and
- assessments collected must be disbursed quarterly to the Commission.

### State Civil Service Law Exemption.

The State Civil Service Law does not apply to officers and employees of the Commission.

**Appropriation:** None.

**Fiscal Note:** Available.

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