



Washington State Liquor and Cannabis Board

Bill Description: Creating a hemp processor registration and hemp extract certification

Bill Number: ESB 5372

Sponsor: Senator Derek Stanford

Effective Date: July 25, 2021

Amends: RCW 15.140.020, RCW 15.140.120, RCW 15.140.060, and RCW 69.07.020; reenacting and amending RCW 69.07.010, and adding a new section to chapter 69.07 RCW.

Background

In 2016, the Legislature established the industrial hemp research pilot program to begin pilot studies to research the cultivation and commercial viability of hemp in Washington. That law allowed hemp to be grown, produced, processed, possessed and exchanged in the state solely as part of the industrial hemp research program. Federal legislation in 2018 removed hemp from the federal schedule of controlled substances, and allowed the cultivation of hemp within certain regulations.

In 2019, the state Legislature created a new agricultural commodity program for commercial hemp production in Washington, replacing the industrial hemp research program. The Washington State Department of Agriculture (WSDA) licenses hemp producers and administers other program components, such as testing and enforcement. Cannabis producers and processors may cultivate and process hemp at the same location licensed to produce or process cannabis; LCB has been explicitly forbidden to test hemp. Hemp and cannabis look the same to the naked eye and a lab test of potency must be used to tell the difference between the two.

Bill Summary

The bill defines hemp processors as “persons who take possession of hemp with an intent to modify, package or sell a transitional or finished hemp product.” It creates a voluntary process for hemp processors to register with the WSDA. A registered hemp processor is not required to obtain a hemp producer license. Registered hemp processors must be a registered business entity in Washington or a foreign entity compliant with state law.

Until hemp extract becomes authorized as a food ingredient under federal law, it is not allowed as a food ingredient in Washington. Hemp processors may obtain certification for hemp extraction to allow its use as a food ingredient in another state that allows using hemp extract as a food ingredient. WSDA must regulate hemp extraction the same way it regulates other food processing. If federal law changes to allow hemp extract as a food ingredient, WSDA will stop issuing hemp extract certification. Hemp processors would then apply for a food processor license when their annual certification is up for renewal.

The new law modifies the prior total ban on testing hemp by the LCB. Instead, the LCB is authorized to test a substance represented as hemp if the product is obtained from a location that is also licensed to

produce or process cannabis. The change will enable LCB to ensure cannabis producer and processor licensees comply with cannabis regulations enforced by LCB and cannot use a hemp license as cover for illicit cannabis production or processing.

###