
OLR Bill Analysis

sHB 6700

AN ACT CONCERNING HEMP LICENSEES AND THE ADULT-USE CANNABIS MARKET.

SUMMARY

This bill allows licensed hemp producers to convert their license to an adult-use cannabis cultivator or micro-cultivator license and establishes a process for them to do so. It also allows for sales of manufacturer hemp products (intended for human consumption) in licensed dispensary facilities and cannabis retailers and hybrid retailers.

The bill allows converted licensees to pay a reduced fee if they create two equity joint ventures and subjects them to similar requirements as those under existing law for other licenses. By law, an equity joint venture is a business entity that is at least 50% owned and controlled by an individual or applicant meeting the social equity applicant income and residency criteria and is not subject to the lottery system for awarding most licenses to operate in the legal market.

Under the bill, the initial license fee for a converted cultivator or micro-cultivator is \$12 per square foot of grow space. But if the hemp producer participates in two approved equity joint ventures, the reduced fee is \$6 per square foot. It also limits a converted (1) cultivator licensee to 80,000 square feet of grow space and (2) micro-cultivator licensee to 10,000 square feet of grow space.

The bill also makes various minor, technical, and conforming changes, such as adding license conversions to certain cannabis-related conversions (e.g., prohibition on manufacturing and using law enforcement resources).

Finally, the bill also eliminates the reporting requirement that each dispensary facility annually provide the Department of Consumer

Protection (DCP) with data relating to the types, mixtures, and dosages of medical marijuana the facility dispenses.

EFFECTIVE DATE: July 1, 2023

§§ 1-2, 10 & 14-16 — CULTIVATOR OR MICRO-CULTIVATOR CONVERSION

Under the bill, a hemp producer that has been licensed by the Department of Agriculture for the majority of the period beginning January 1, 2021, and ending January 1, 2023, may apply, between October 1, 2023, and December 31, 2023, to DCP for an adult-use cannabis cultivator license or micro-cultivator license without entering the lottery.

Application

The bill requires the application to be in a form and manner the DCP commissioner chooses and include the following:

1. an attestation that the applicant hemp producer has not undergone any ownership change since January 1, 2023;
2. an acknowledgment and affirmation that before being awarded a provisional cultivator or micro-cultivator license, the applicant will surrender their license as a hemp producer;
3. an attestation to the creation of equity joint ventures; and
4. any other item the commissioner deems relevant for a license conversion application.

Limit on Application Approvals

The bill prohibits DCP from approving any submitted application if approval would cause the aggregate grow space of all applicant hemp producers who convert to a cultivator or micro-cultivator license to exceed 250,000 square feet.

Prohibitions

Under the bill a cultivator or micro-cultivator licensee is prohibited from also holding a hemp producer license. Upon surrendering a hemp

producer license and being licensed as a cultivator or micro-cultivator, all hemp inventory in the cultivator or micro-cultivator licensee's possession must be deemed to be cannabis and subject to all cannabis reporting, handling, security, testing, and other standards as required by law.

The bill prohibits hemp producers that convert to a cultivator or micro-cultivator license from adding a new owner after receiving a provisional license with one exception. Within three years after receiving a final license, the cultivator or micro-cultivator may add a new owner who meets the criteria of a social equity applicant.

By law, a "social equity applicant" for a cannabis establishment license is either at least 65% owned and controlled by an individual or individuals, or is an individual who meets the following income and residency requirements:

1. has an average household income that was less than 300% of the state median over the three tax years immediately before the application and
2. has been a resident of a disproportionately impacted area for at least (a) five of the 10 years immediately before applying for the license or (b) nine years before they turned age 18.

Initial & Renewal License Fees

Under the bill, the initial license fee for a converted cultivator or micro-cultivator is \$12 per square foot of grow space. But if the hemp producer participates in two approved equity joint ventures, this fee is reduced to \$6 per square foot. The renewal fee is then the same as a cultivator (\$75,000) or micro-cultivator (\$1,000).

Grow Space Limits

The bill prohibits a hemp producer that converts its license from cultivating, growing, or propagating cannabis at an establishment containing more than 80,000 square feet under a cultivator license and 10,000 square feet under a micro-cultivator license.

Current law requires the DCP commissioner to adopt regulations and issue policies and procedures to establish the maximum grow space allowed for a cultivator and micro-cultivator. In adopting these regulations, the commissioner must seek to ensure an adequate supply of cannabis for the market. The bill prohibits these regulations from allowing a converted cultivator or micro-cultivator to cultivate more than the grow space allowed under the bill.

Under current law and operational policies and procedures, a cultivator must have between 15,000 and 250,000 square feet of grow space and outdoor grow in total; a micro-cultivator must have between 2,000 and 10,000 square feet of grow space and outdoor grow in total but can apply for an expansion of up to 25,000 square feet (CGS §§ 21a-420n(b) & -420p(b); Conn. Agencies Regs. § 21a-421j-24(c)).

§§ 3, 9, 11-12 & 21 — EQUITY JOINT VENTURES

Under the bill, to qualify for a reduced license fee, a hemp producer applying to convert to a cultivator or micro-cultivator license must create two equity joint ventures. These ventures must (1) be approved by the Social Equity Council, (2) be licensed by DCP, (3) be demonstrated by filings with the Secretary of the State (SOTS) with organizing documents disclosing the terms of the business relationship between the applicant and the equity joint ventures, and (4) have an attestation to the creation of the equity joint ventures on the submitted license application.

Qualifications

Under the bill, each equity joint venture created must be in any cannabis establishment-licensed business other than a licensed cultivator or micro-cultivator. In addition, the equity joint venture must be at least 50% owned and controlled by an individual or individuals who meet, or the equity joint venture applicant is an individual who meets, the social equity applicant criteria. By law, a “cannabis establishment” is a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer (i.e., licensed to sell both recreational cannabis and medical marijuana), food and beverage manufacturer, product manufacturer, product packager, delivery service, or

transporter.

Application Procedures and Contents

Similar to existing law for equity joint ventures, the bill requires each equity joint venture applicant to submit an application to the Social Equity Council that may include evidence of business formation, ownership allocation, terms of ownership and financing, and proof of social equity status. The applicant must submit information to the council that enables it to determine the ownership terms. This information includes the entity's organizing documents that outline the ownership stake of each backer, initial backer investment, and payout information.

Upon receiving the council's written approval for an equity joint venture, the applicant must apply for a DCP license in the same form as required by all other licensees of the same license type, except that the application is not subject to the lottery.

Ownership and Proximity Limits

The bill prohibits a converted hemp producer that receives a cultivator or micro-cultivator license, including the backers listed on their conversion application, from increasing its ownership in an equity joint venture to more than 50% in the seven years after DCP issues a license. It also prohibits equity joint ventures that are retailers or hybrid retailers from being located within 20 miles of another equity joint venture that shares a common backer of a converted cultivator or micro-cultivator.

Fee Liability

Under the bill, a converted hemp producer that paid a reduced license fee is liable for the balance of the full fee if it fails to create its two equity joint ventures, so long as each of the ventures received their final licenses within 14 months of DCP approving the cultivator or micro-cultivator license.

Limitations

The bill limits converted cultivators or micro-cultivators to creating

two equity joint ventures. They may not apply for, or create, any additional equity joint ventures once their two created equity joint ventures have each received a provisional license.

Reduced License Renewal Fees

The bill requires an equity joint venture applicant to pay 50% of any applicable licensing fees for the first three renewals and then the full amount after that.

Social Equity and Innovation Fund

For FY 24 and thereafter, the bill requires the license fees DCP collects from these hemp conversions to be paid to the Social Equity and Innovation Fund. By law, dispensary facility and producer conversion fees are already paid into this fund, while the other license fees are paid to the State Treasurer and credited to the General Fund.

By law, the Social Equity and Innovation Fund must be appropriated for the following purposes:

1. paying costs incurred by the Social Equity Council;
2. administering programs under the cannabis law to provide (a) access to capital for businesses, (b) technical assistance for the start-up and operation of a business, (c) funding for workforce education, and (d) funding for community investments; and
3. paying costs incurred to implement the activities authorized under the cannabis law.

§§ 5-7 & 17-18 — MANUFACTURED HEMP SOLD IN ADDITIONAL VENUES

Regulations, Procedures, and Policies

The bill requires the DCP commissioner to amend regulations to implement the bill's provisions. Regardless of the Uniform Administrative Procedure Act's regulation adoption process, to carry out the bill's purposes and protect public health and safety the commissioner, before amending the required regulations, must issue policies and procedures which have the force and effect of law.

At least 15 days before the policies and procedures take effect, the bill requires the commissioner to post them on DCP's website and submit them to SOTS to be posted on the eRegulations system. A policy or procedure is no longer effective once SOTS codifies the final regulation or on June 30, 2027, if the regulations have not been submitted to the Regulation Review Committee.

By January 1, 2024, the DCP commissioner must issue policies and procedures to allow licensed dispensary facilities to acquire manufacturer hemp products from hemp manufacturers and sell these products to qualifying patients and caregivers in accordance with the medical marijuana laws and regulations. At a minimum these regulations must require that each manufacturer hemp product meet the following criteria:

1. be labeled to indicate that it is (a) a manufacturer hemp product, (b) subject to different testing standards than marijuana, and (c) not marijuana; and
2. be stored separately from marijuana, depending on the store, and displayed with DCP-approved signage.

By law, "manufacturer hemp product" means a commodity manufactured from the hemp plant, for commercial or research purposes, that is intended for human ingestion, inhalation, absorption, or other internal consumption, and contains a delta-9 tetrahydrocannabinol (THC) concentration of up to 0.3% on a dry weight basis or per volume or weight of the manufacturer hemp product.

The bill also provides substantially similar requirements for retailers and hybrid retailers to sell manufacturer hemp products. However, the requirements apply to cannabis and cannabis products and only require the commissioner to adopt regulations and issue policies and procedures on labeling and storage requirements and not on acquiring and selling.

Dispensary, Retailer, and Hybrid Retailer Sales

Current law prohibits a dispensary facility from selling or distributing hemp or hemp products. The bill specifies that the prohibition relates to producer hemp products and allows sales under certain conditions.

Under the bill, manufacturer hemp products may be sold within a licensed dispensary facility if the products are (1) sold from a separate location within the dispensary facility from where the medical marijuana is sold, (2) labeled as hemp products that are not subject to marijuana testing standards, and (3) sold in accordance with the medical marijuana and hemp laws and any regulations adopted under them.

Producer Hemp Product

Current law prohibits hemp or hemp products from being sold or distributed within a dispensary facility or the business premises of a cannabis retailer or hybrid retailer. Under the bill, this ban applies only to producer hemp products. (Manufacturer hemp products are intended for human consumption, while producer hemp products are not.)

By law, a “producer hemp product” means any of the following produced in the state: raw hemp products, fiber-based hemp products, or animal hemp food products, each containing a THC concentration of less than 0.3% on a dry weight basis or per volume or weight of the product.

BACKGROUND

Hemp and Cannabis

By law and federal law, “hemp” is the plant *Cannabis sativa* L. and any part of it, including seeds and derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a THC concentration of not more than 0.3% on a dry weight basis.

By law, “cannabis” means marijuana as defined in state law, which means all parts of a plant or species of the genus *cannabis*, whether growing or not, and including its seeds and resin; its compounds, manufactures, salts, derivatives, mixtures, and preparations; and cannabimon, cannabimol, cannabidiol (CBD), and similar compounds

unless derived from hemp as defined in state law; any product made using hemp, as defined in state law, with more than 0.3% total THC concentration on a dry-weight basis, manufactured cannabinoids, and certain synthetic cannabinoids, except those not included below; or cannabimon, cannabimol, CBD, and similar compounds unless derived from hemp, except CBD derived from hemp with THC with more than 0.3% on a dry-weight basis.

Cannabis does not include the following:

1. a plant's mature stalks; fiber made from the stalks; oil or cake made from the seeds; a compound, manufacture, salt, derivative, mixture, or preparation made from the stalks, except the extracted resin;
2. sterilized seeds which are incapable of germination;
3. hemp with a total THC concentration of up to 0.3% on a dry-weight basis;
4. any substance the federal Food and Drug Administration approves as a drug and that is reclassified in any controlled substance schedule, or that the federal Drug Enforcement Administration unclassifies; or
5. synthetic cannabinoids that the DCP commissioner designates as controlled substances and classifies in the appropriate schedule through regulations.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 18 Nay 4 (03/07/2023)