



Legislative Department  
Seattle City Council  
Memorandum

Date: July 18, 2014

To: Councilmember Nick Licata, Chair  
Councilmember Jean Godden, Vice-chair  
Council President Tim Burgess, Member  
Finance and Culture Committee

From: Rebecca Herzfeld, Council Central Staff

**Subject: Council Bill (C.B.) 118147 regarding extension of the deadline for existing lots, businesses, and dwelling units to comply with restrictions on major marijuana activities**

**Background**

In 2012, Washington state voters approved Initiative 502 (I-502), which legalized the possession of small amounts of marijuana, and directed the Washington State Liquor Control Board (WSLCB) to develop a process for regulating marijuana production, processing, selling, and delivery.

On October 7, 2013, the City Council adopted Ordinance 124326, which regulated “major marijuana activities” in Seattle in the following ways:

- Defined major marijuana activities as “the production, processing, selling, or delivery of marijuana, marijuana-infused products, or useable marijuana,” in an amount greater than what the State defines as a single medical marijuana collective garden. This amount is 45 marijuana plants, 72 ounces of useable marijuana, or an amount of marijuana-infused product that could reasonably be produced with 72 ounces of useable marijuana.
- Restricted the location of major marijuana activity to areas outside of single-family and multifamily zones, Neighborhood Commercial 1 zones, and certain “special character” areas (historic districts and the downtown Central Waterfront).
- Prohibited all major marijuana activities without a state license issued under Title 69 of the Revised Code of Washington (RCW).
- Set a deadline of January 1, 2015 for major marijuana activities existing at the time Ordinance 124326 went into effect (November 16, 2013) to comply with the locational restrictions and obtain a state license to operate issued under RCW Title 69. New major marijuana activities beginning after November 16, 2013 are required to comply with the law immediately.

**Extending the deadline for existing businesses to obtain a state license**

When Ordinance 124326 was adopted, the Council expected that the Washington legislature would address medical marijuana regulations in the 2014 legislative session. The intent of the

January 1, 2015 deadline was to provide time for implementation of these anticipated regulations. The deadline also allowed time to evaluate the initial implementation of I-502. Because the State did not adopt medical marijuana regulations in 2014, and because there will not be adequate time to evaluate I-502 implementation in Seattle, the proposed C.B. 118147 would extend the original deadline by six months, to July 1, 2015.

**Proposed amendment to the deadline in C.B. 118147**

Committee Chair Licata is now proposing an amendment to the language that extends the deadline for compliance with Seattle’s regulations. His amendment would provide two alternative deadlines, based on potential action by the State legislature. The first option would continue to be July 1, 2015. The second option would extend the deadline to January 1, 2016, but only if State legislation is adopted before July 1, 2015 that amends the medical marijuana chapter of the Revised Code of Washington.

The proposed revision to the deadline is shown below, with new language underlined and deleted language ~~crossed-out~~.

Section 2. Lots, business establishments, and dwelling units where the production, processing, selling, or delivery of marijuana was being conducted prior to November 16, 2013 must come into compliance with Seattle Municipal Code Section 23.42.058 ~~no~~ by the later than July 1, 2015 of the following dates:

A. July 1, 2015; or

B. January 1, 2016 if the Washington Legislature adopts and the Governor signs legislation amending RCW Chapter 69.51A after July 1, 2014 and before July 1, 2015, or if all other actions necessary under Article III, Section 12 of the Washington Constitution for legislation amending RCW Chapter 69.51A to take effect in 2015 occur after July 1, 2014 and before July 1, 2015.

**Number of businesses affected by the proposed deadline extension**

I recently requested information from the Department of Finance and Administrative Services (FAS) about the number of marijuana-related businesses that have Seattle business licenses. Because there is not a formal industry code from the U.S. Census that is assigned to marijuana-related businesses, FAS tracks them with a rarely-used industry code (#446199, All Other Health and Personal Care Stores). Marijuana-related businesses are not required to identify themselves, but many have, and FAS has identified others from advertisements in local newspapers. The total number of businesses with a Seattle business license is therefore an estimate rather than a confirmed count. Note also that it is likely that some marijuana-related businesses have not applied for a business license.

As shown in Table 1 on the following page, there are approximately 269 marijuana-related businesses that had a Seattle business license at some point prior to November 16, 2013. Some of these businesses are testing labs, medical marijuana card issuers, and other related businesses that do not produce, sell, process, or deliver marijuana, and the deadline in the legislation does not apply to them. If the businesses do produce, sell, process, or deliver marijuana, we do not know whether the activity falls below the levels set for major marijuana activity and are

therefore not subject to the City regulations adopted last fall. Some may no longer be in operation, as 53 percent of them have let their Seattle business license lapse.

**Table 1: Number of marijuana-related businesses that have either a current or expired Seattle business license**

<b>License timing</b>	<b>Hold current City business license</b>	<b>City business license has lapsed</b>	<b>TOTAL</b>
Had a business license prior to November 16, 2013 <sup>1</sup>	126	143	269
New business license since November 16, 2013	67		67
<b>TOTAL</b>	<b>193</b>	<b>143</b>	<b>336</b>

Source: FAS business license records as of June 24, 2014; except that for new business licenses, the records are as of July 17, 2014.

<sup>1</sup>If the Department of Planning and Development determines that a business is conducting a major marijuana activity and was operating before November 16, 2013, the business has until January 1, 2015 to comply with Seattle Municipal Code (SMC) Section 23.42.058 (or until the extended deadline if C.B. 118147 is adopted).

According to records from FAS, 67 new marijuana-related businesses applied for business licenses since November 16, 2013. The pace of new license applications is not slowing—FAS issued eleven new business licenses between June 24 and July 16, 2014. We do not know how many of these businesses have actually opened, and if so, whether they are operating at the level defined as major marijuana activity. However, the new businesses that are conducting major marijuana activity are not in compliance with SMC Section 23.42.058.

Enforcement of the regulations in SMC Section 23.42.058 is complicated because the Department of Planning and Development (DPD) does not identify marijuana-related businesses during the permit process. For example, a medical marijuana dispensary would be permitted as a retail use. After a permit is issued, DPD enforcement is done on a complaint basis. DPD has received approximately 38 marijuana-related complaints since 2011, or an average of about 11 per year. According to DPD staff, of the ten marijuana-related complaints received since November 2013, most have involved producers, rather than processors, sellers, or dispensers.

### **Next Steps**

Table 2 outlines the proposed schedule for the review of C.B. 118147.

**Table 2: Proposed Schedule for Council Review**

<b>Action</b>	<b>Date (all in 2014)</b>
Notice of Council public hearing published	June 23
Briefing and public hearing in Finance and Culture (FAC) Committee	July 23
Possible Committee vote	August 13
Possible full Council vote	September 2