
SECOND SUBSTITUTE HOUSE BILL 2364

State of Washington

64th Legislature

2016 Regular Session

By House General Government & Information Technology (originally sponsored by Representatives Wylie, Fitzgibbon, S. Hunt, Moeller, Vick, and Buys)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to the licensing of marijuana-related businesses
2 involving a partnership, employee cooperative, association, nonprofit
3 corporation, corporation, or limited liability company; and amending
4 RCW 69.50.331.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 69.50.331 and 2015 2nd sp.s. c 4 s 301 are each
7 amended to read as follows:

8 (1) For the purpose of considering any application for a license
9 to produce, process, research, transport, or deliver marijuana,
10 useable marijuana, marijuana concentrates, or marijuana-infused
11 products subject to the regulations established under RCW 69.50.385,
12 or sell marijuana, or for the renewal of a license to produce,
13 process, research, transport, or deliver marijuana, useable
14 marijuana, marijuana concentrates, or marijuana-infused products
15 subject to the regulations established under RCW 69.50.385, or sell
16 marijuana, the state liquor and cannabis board must conduct a
17 comprehensive, fair, and impartial evaluation of the applications
18 timely received.

19 (a) The state liquor and cannabis board must develop a
20 competitive, merit-based application process that includes, at a
21 minimum, the opportunity for an applicant to demonstrate experience

1 and qualifications in the marijuana industry. The state liquor and
2 cannabis board must give preference between competing applications in
3 the licensing process to applicants that have the following
4 experience and qualifications, in the following order of priority:

5 (i) First priority is given to applicants who:

6 (A) Applied to the state liquor and cannabis board for a
7 marijuana retailer license prior to July 1, 2014;

8 (B) Operated or were employed by a collective garden before
9 January 1, 2013;

10 (C) Have maintained a state business license and a municipal
11 business license, as applicable in the relevant jurisdiction; and

12 (D) Have had a history of paying all applicable state taxes and
13 fees;

14 (ii) Second priority must be given to applicants who:

15 (A) Operated or were employed by a collective garden before
16 January 1, 2013;

17 (B) Have maintained a state business license and a municipal
18 business license, as applicable in the relevant jurisdiction; and

19 (C) Have had a history of paying all applicable state taxes and
20 fees; and

21 (iii) Third priority must be given to all other applicants who do
22 not have the experience and qualifications identified in (a)(i) and
23 (ii) of this subsection.

24 (b) The state liquor and cannabis board may cause an inspection
25 of the premises to be made, and may inquire into all matters in
26 connection with the construction and operation of the premises. For
27 the purpose of reviewing any application for a license and for
28 considering the denial, suspension, revocation, or renewal or denial
29 thereof, of any license, the state liquor and cannabis board may
30 consider any prior criminal conduct of the applicant including an
31 administrative violation history record with the state liquor and
32 cannabis board and a criminal history record information check. The
33 state liquor and cannabis board may submit the criminal history
34 record information check to the Washington state patrol and to the
35 identification division of the federal bureau of investigation in
36 order that these agencies may search their records for prior arrests
37 and convictions of the individual or individuals who filled out the
38 forms. The state liquor and cannabis board must require
39 fingerprinting of any applicant whose criminal history record
40 information check is submitted to the federal bureau of

1 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A
2 RCW do not apply to these cases. Subject to the provisions of this
3 section, the state liquor and cannabis board may, in its discretion,
4 grant or deny the renewal or license applied for. Denial may be based
5 on, without limitation, the existence of chronic illegal activity
6 documented in objections submitted pursuant to subsections (7)(c) and
7 (10) of this section. Authority to approve an uncontested or
8 unopposed license may be granted by the state liquor and cannabis
9 board to any staff member the board designates in writing. Conditions
10 for granting this authority must be adopted by rule.

11 (c) No license of any kind may be issued to:

12 (i) A person under the age of twenty-one years;

13 (ii) A person doing business as a sole proprietor who has not
14 lawfully resided in the state for at least six months prior to
15 applying to receive a license;

16 (iii) A ~~((partnership, — employee — cooperative, — association,~~
17 ~~nonprofit corporation, or corporation)) business entity or nonprofit~~
18 ~~entity, unless formed under the laws of this state((, — and unless all~~
19 ~~of the members thereof are qualified to obtain a license as provided~~
20 ~~in this section)) or holding a certificate of registration under~~
21 ~~chapter 23.95 RCW, and provided that:~~

22 (A) More than fifty percent of the interest in the entity is held
23 by one or more interest holders who lawfully reside in the state; and

24 (B) All interest holders who are not state residents are resident
25 citizens of the United States; or

26 (iv) A person whose place of business is conducted by a manager
27 or agent, unless the manager or agent possesses the same
28 qualifications required of the licensee.

29 (d) The state liquor and cannabis board has discretionary
30 authority to deny a license or license renewal to an entity if the
31 state liquor and cannabis board is unable to investigate a
32 nonresident interest holder in the entity in accordance with the
33 investigatory standards applicable to the investigation of a state
34 resident.

35 (e) The department must by rule establish an application fee for
36 license applicants who are business or nonprofit entities as defined
37 under this section. The fee must be in an amount sufficient to offset
38 the additional investigative and administrative costs associated with
39 the licensure of such entities and shall be in addition to any other
40 application or licensing fee imposed under this chapter.

1 (2)(a) The state liquor and cannabis board may, in its
2 discretion, subject to the provisions of RCW 69.50.334, suspend or
3 cancel any license; and all protections of the licensee from criminal
4 or civil sanctions under state law for producing, processing,
5 researching, or selling marijuana, marijuana concentrates, useable
6 marijuana, or marijuana-infused products thereunder must be suspended
7 or terminated, as the case may be.

8 (b) The state liquor and cannabis board must immediately suspend
9 the license of a person who has been certified pursuant to RCW
10 74.20A.320 by the department of social and health services as a
11 person who is not in compliance with a support order. If the person
12 has continued to meet all other requirements for reinstatement during
13 the suspension, reissuance of the license is automatic upon the state
14 liquor and cannabis board's receipt of a release issued by the
15 department of social and health services stating that the licensee is
16 in compliance with the order.

17 (c) The state liquor and cannabis board may request the
18 appointment of administrative law judges under chapter 34.12 RCW who
19 shall have power to administer oaths, issue subpoenas for the
20 attendance of witnesses and the production of papers, books,
21 accounts, documents, and testimony, examine witnesses, and to receive
22 testimony in any inquiry, investigation, hearing, or proceeding in
23 any part of the state, under rules and regulations the state liquor
24 and cannabis board may adopt.

25 (d) Witnesses must be allowed fees and mileage each way to and
26 from any inquiry, investigation, hearing, or proceeding at the rate
27 authorized by RCW 34.05.446. Fees need not be paid in advance of
28 appearance of witnesses to testify or to produce books, records, or
29 other legal evidence.

30 (e) In case of disobedience of any person to comply with the
31 order of the state liquor and cannabis board or a subpoena issued by
32 the state liquor and cannabis board, or any of its members, or
33 administrative law judges, or on the refusal of a witness to testify
34 to any matter regarding which he or she may be lawfully interrogated,
35 the judge of the superior court of the county in which the person
36 resides, on application of any member of the board or administrative
37 law judge, compels obedience by contempt proceedings, as in the case
38 of disobedience of the requirements of a subpoena issued from said
39 court or a refusal to testify therein.

1 (3) Upon receipt of notice of the suspension or cancellation of a
2 license, the licensee must forthwith deliver up the license to the
3 state liquor and cannabis board. Where the license has been suspended
4 only, the state liquor and cannabis board must return the license to
5 the licensee at the expiration or termination of the period of
6 suspension. The state liquor and cannabis board must notify all other
7 licensees in the county where the subject licensee has its premises
8 of the suspension or cancellation of the license; and no other
9 licensee or employee of another licensee may allow or cause any
10 marijuana, marijuana concentrates, useable marijuana, or marijuana-
11 infused products to be delivered to or for any person at the premises
12 of the subject licensee.

13 (4) Every license issued under this chapter is subject to all
14 conditions and restrictions imposed by this chapter or by rules
15 adopted by the state liquor and cannabis board to implement and
16 enforce this chapter. All conditions and restrictions imposed by the
17 state liquor and cannabis board in the issuance of an individual
18 license must be listed on the face of the individual license along
19 with the trade name, address, and expiration date.

20 (5) Every licensee must post and keep posted its license, or
21 licenses, in a conspicuous place on the premises.

22 (6) No licensee may employ any person under the age of twenty-one
23 years.

24 (7)(a) Before the state liquor and cannabis board issues a new or
25 renewed license to an applicant it must give notice of the
26 application to the chief executive officer of the incorporated city
27 or town, if the application is for a license within an incorporated
28 city or town, or to the county legislative authority, if the
29 application is for a license outside the boundaries of incorporated
30 cities or towns.

31 (b) The incorporated city or town through the official or
32 employee selected by it, or the county legislative authority or the
33 official or employee selected by it, has the right to file with the
34 state liquor and cannabis board within twenty days after the date of
35 transmittal of the notice for applications, or at least thirty days
36 prior to the expiration date for renewals, written objections against
37 the applicant or against the premises for which the new or renewed
38 license is asked. The state liquor and cannabis board may extend the
39 time period for submitting written objections.

1 (c) The written objections must include a statement of all facts
2 upon which the objections are based, and in case written objections
3 are filed, the city or town or county legislative authority may
4 request, and the state liquor and cannabis board may in its
5 discretion hold, a hearing subject to the applicable provisions of
6 Title 34 RCW. If the state liquor and cannabis board makes an initial
7 decision to deny a license or renewal based on the written objections
8 of an incorporated city or town or county legislative authority, the
9 applicant may request a hearing subject to the applicable provisions
10 of Title 34 RCW. If a hearing is held at the request of the
11 applicant, state liquor and cannabis board representatives must
12 present and defend the state liquor and cannabis board's initial
13 decision to deny a license or renewal.

14 (d) Upon the granting of a license under this title the state
15 liquor and cannabis board must send written notification to the chief
16 executive officer of the incorporated city or town in which the
17 license is granted, or to the county legislative authority if the
18 license is granted outside the boundaries of incorporated cities or
19 towns.

20 (8)(a) Except as provided in (b) through (d) of this subsection,
21 the state liquor and cannabis board may not issue a license for any
22 premises within one thousand feet of the perimeter of the grounds of
23 any elementary or secondary school, playground, recreation center or
24 facility, child care center, public park, public transit center, or
25 library, or any game arcade admission to which is not restricted to
26 persons aged twenty-one years or older.

27 (b) A city, county, or town may permit the licensing of premises
28 within one thousand feet but not less than one hundred feet of the
29 facilities described in (a) of this subsection, except elementary
30 schools, secondary schools, and playgrounds, by enacting an ordinance
31 authorizing such distance reduction, provided that such distance
32 reduction will not negatively impact the jurisdiction's civil
33 regulatory enforcement, criminal law enforcement interests, public
34 safety, or public health.

35 (c) A city, county, or town may permit the licensing of research
36 premises allowed under RCW 69.50.372 within one thousand feet but not
37 less than one hundred feet of the facilities described in (a) of this
38 subsection by enacting an ordinance authorizing such distance
39 reduction, provided that the ordinance will not negatively impact the

1 jurisdiction's civil regulatory enforcement, criminal law
2 enforcement, public safety, or public health.

3 (d) The state liquor and cannabis board may license premises
4 located in compliance with the distance requirements set in an
5 ordinance adopted under (b) or (c) of this subsection. Before issuing
6 or renewing a research license for premises within one thousand feet
7 but not less than one hundred feet of an elementary school, secondary
8 school, or playground in compliance with an ordinance passed pursuant
9 to (c) of this subsection, the board must ensure that the facility:

10 (i) Meets a security standard exceeding that which applies to
11 marijuana producer, processor, or retailer licensees;

12 (ii) Is inaccessible to the public and no part of the operation
13 of the facility is in view of the general public; and

14 (iii) Bears no advertising or signage indicating that it is a
15 marijuana research facility.

16 (9) Subject to section 1601 of this act, a city, town, or county
17 may adopt an ordinance prohibiting a marijuana producer or marijuana
18 processor from operating or locating a business within areas zoned
19 primarily for residential use or rural use with a minimum lot size of
20 five acres or smaller.

21 (10) In determining whether to grant or deny a license or renewal
22 of any license, the state liquor and cannabis board must give
23 substantial weight to objections from an incorporated city or town or
24 county legislative authority based upon chronic illegal activity
25 associated with the applicant's operations of the premises proposed
26 to be licensed or the applicant's operation of any other licensed
27 premises, or the conduct of the applicant's patrons inside or outside
28 the licensed premises. "Chronic illegal activity" means (a) a
29 pervasive pattern of activity that threatens the public health,
30 safety, and welfare of the city, town, or county including, but not
31 limited to, open container violations, assaults, disturbances,
32 disorderly conduct, or other criminal law violations, or as
33 documented in crime statistics, police reports, emergency medical
34 response data, calls for service, field data, or similar records of a
35 law enforcement agency for the city, town, county, or any other
36 municipal corporation or any state agency; or (b) an unreasonably
37 high number of citations for violations of RCW 46.61.502 associated
38 with the applicant's or licensee's operation of any licensed premises
39 as indicated by the reported statements given to law enforcement upon
40 arrest.

1 (11) For the purposes of this section:
2 (a) "Entity" has the same meaning as in RCW 23.95.105(6);
3 (b) "Interest" has the same meaning as in RCW 23.95.105(13); and
4 (c) "Interest holder" has the same meaning as in RCW
5 23.95.105(14).

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