
ENGROSSED HOUSE BILL 1857

State of Washington

65th Legislature

2017 Regular Session

By Representatives Kloba, Sawyer, Appleton, and Condotta; by request of Liquor and Cannabis Board

Read first time 02/01/17. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to marijuana with respect to privileges for
2 research licenses, local authority notifications, the retail
3 licensing merit-based application process, processor wholesale
4 events, and jurisdictional requirements; amending RCW 69.50.331,
5 69.50.372, and 66.08.100; and creating a new section.

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

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

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

20 (a) ~~((The state liquor and cannabis board must develop a~~
21 ~~competitive, merit-based application process that includes, at a~~

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

~~6 (i) First priority is given to applicants who:~~

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

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

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

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

~~15 (ii) Second priority must be given to applicants who:~~

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

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

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

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

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

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

12 ((~~e~~)) (b) No license of any kind may be issued to:

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

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

17 (iii) A partnership, employee cooperative, association, nonprofit
18 corporation, or corporation unless formed under the laws of this
19 state, and unless all of the members thereof are qualified to obtain
20 a license as provided in this section; or

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

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

31 (b) The state liquor and cannabis board must immediately suspend
32 the license of a person who has been certified pursuant to RCW
33 74.20A.320 by the department of social and health services as a
34 person who is not in compliance with a support order. If the person
35 has continued to meet all other requirements for reinstatement during
36 the suspension, reissuance of the license is automatic upon the state
37 liquor and cannabis board's receipt of a release issued by the
38 department of social and health services stating that the licensee is
39 in compliance with the order.

1 (c) The state liquor and cannabis board may request the
2 appointment of administrative law judges under chapter 34.12 RCW who
3 shall have power to administer oaths, issue subpoenas for the
4 attendance of witnesses and the production of papers, books,
5 accounts, documents, and testimony, examine witnesses, and to receive
6 testimony in any inquiry, investigation, hearing, or proceeding in
7 any part of the state, under rules and regulations the state liquor
8 and cannabis board may adopt.

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

14 (e) In case of disobedience of any person to comply with the
15 order of the state liquor and cannabis board or a subpoena issued by
16 the state liquor and cannabis board, or any of its members, or
17 administrative law judges, or on the refusal of a witness to testify
18 to any matter regarding which he or she may be lawfully interrogated,
19 the judge of the superior court of the county in which the person
20 resides, on application of any member of the board or administrative
21 law judge, compels obedience by contempt proceedings, as in the case
22 of disobedience of the requirements of a subpoena issued from said
23 court or a refusal to testify therein.

24 (3) Upon receipt of notice of the suspension or cancellation of a
25 license, the licensee must forthwith deliver up the license to the
26 state liquor and cannabis board. Where the license has been suspended
27 only, the state liquor and cannabis board must return the license to
28 the licensee at the expiration or termination of the period of
29 suspension. The state liquor and cannabis board must notify all other
30 licensees in the county where the subject licensee has its premises
31 of the suspension or cancellation of the license; and no other
32 licensee or employee of another licensee may allow or cause any
33 marijuana, marijuana concentrates, useable marijuana, or marijuana-
34 infused products to be delivered to or for any person at the premises
35 of the subject licensee.

36 (4) Every license issued under this chapter is subject to all
37 conditions and restrictions imposed by this chapter or by rules
38 adopted by the state liquor and cannabis board to implement and
39 enforce this chapter. All conditions and restrictions imposed by the
40 state liquor and cannabis board in the issuance of an individual

1 license must be listed on the face of the individual license along
2 with the trade name, address, and expiration date.

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

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

7 (7)(a) Before the state liquor and cannabis board issues a new or
8 renewed license to an applicant it must give notice of the
9 application to the chief executive officer of the incorporated city
10 or town, if the application is for a license within an incorporated
11 city or town, or to the county legislative authority, if the
12 application is for a license outside the boundaries of incorporated
13 cities or towns, or to the tribal government if the application is
14 for a license within Indian country, or to the port authority if the
15 application for a license is located on property owned by a port
16 authority.

17 (b) The incorporated city or town through the official or
18 employee selected by it, (~~(or)~~) the county legislative authority or
19 the official or employee selected by it, the tribal government, or
20 port authority has the right to file with the state liquor and
21 cannabis board within twenty days after the date of transmittal of
22 the notice for applications, or at least thirty days prior to the
23 expiration date for renewals, written objections against the
24 applicant or against the premises for which the new or renewed
25 license is asked. The state liquor and cannabis board may extend the
26 time period for submitting written objections upon request from the
27 authority notified by the state liquor and cannabis board.

28 (c) The written objections must include a statement of all facts
29 upon which the objections are based, and in case written objections
30 are filed, the city or town or county legislative authority may
31 request, and the state liquor and cannabis board may in its
32 discretion hold, a hearing subject to the applicable provisions of
33 Title 34 RCW. If the state liquor and cannabis board makes an initial
34 decision to deny a license or renewal based on the written objections
35 of an incorporated city or town or county legislative authority, the
36 applicant may request a hearing subject to the applicable provisions
37 of Title 34 RCW. If a hearing is held at the request of the
38 applicant, state liquor and cannabis board representatives must
39 present and defend the state liquor and cannabis board's initial
40 decision to deny a license or renewal.

1 (d) Upon the granting of a license under this title the state
2 liquor and cannabis board must send written notification to the chief
3 executive officer of the incorporated city or town in which the
4 license is granted, or to the county legislative authority if the
5 license is granted outside the boundaries of incorporated cities or
6 towns.

7 (8)(a) Except as provided in ~~((b))~~ (a)(i) through ~~((d))~~ (ii)
8 of this subsection, the state liquor and cannabis board may not issue
9 a license for any premises within one thousand feet of the perimeter
10 of the grounds of any elementary or secondary school, playground,
11 recreation center or facility, child care center, public park, public
12 transit center, or library, or any game arcade admission to which is
13 not restricted to persons aged twenty-one years or older.

14 ~~((b))~~ (i) A city, county, or town may permit the licensing of
15 premises within one thousand feet but not less than one hundred feet
16 of the facilities described in ~~((a)–(f))~~ this subsection, except
17 elementary schools, secondary schools, and playgrounds, by enacting
18 an ordinance authorizing such distance reduction, provided that such
19 distance reduction will not negatively impact the jurisdiction's
20 civil regulatory enforcement, criminal law enforcement interests,
21 public safety, or public health.

22 ~~((e))~~ (ii) A city, county, or town may permit the licensing of
23 research premises allowed under RCW 69.50.372 within one thousand
24 feet but not less than one hundred feet of the facilities described
25 in ~~((a)–(f))~~ this subsection by enacting an ordinance authorizing
26 such distance reduction, provided that the ordinance will not
27 negatively impact the jurisdiction's civil regulatory enforcement,
28 criminal law enforcement, public safety, or public health.

29 ~~((d))~~ (iii) The state liquor and cannabis board may license
30 premises located in compliance with the distance requirements set in
31 an ordinance adopted under ~~((b)–(e))~~ (a)(i) or (ii) of this
32 subsection. Before issuing or renewing a research license for
33 premises within one thousand feet but not less than one hundred feet
34 of an elementary school, secondary school, or playground in
35 compliance with an ordinance passed pursuant to ~~((e))~~ (a)(ii) of
36 this subsection, the board must ensure that the facility:

37 ~~((i))~~ (A) Meets a security standard exceeding that which
38 applies to marijuana producer, processor, or retailer licensees;

39 ~~((ii))~~ (B) Is inaccessible to the public and no part of the
40 operation of the facility is in view of the general public; and

1 (~~(iii)~~) (C) Bears no advertising or signage indicating that it
2 is a marijuana research facility.

3 **(b) The state liquor and cannabis board may not issue a license**
4 **for any premises within Indian country, as defined in RCW 82.24.010,**
5 **including any federal fee patent lands within the exterior boundaries**
6 **of a reservation, unless incorporated into an agreement with a**
7 **federally recognized tribe, pursuant to RCW 43.06.490.**

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

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

33 **Sec. 2.** RCW 69.50.372 and 2016 sp.s. c 9 s 1 are each amended to
34 read as follows:

35 (1) A marijuana research license is established that permits a
36 licensee to produce, process, and possess marijuana for the following
37 limited research purposes:

38 (a) To test chemical potency and composition levels;

1 (b) To conduct clinical investigations of marijuana-derived drug
2 products;

3 (c) To conduct research on the efficacy and safety of
4 administering marijuana as part of medical treatment; and

5 (d) To conduct genomic or agricultural research.

6 (2) As part of the application process for a marijuana research
7 license, an applicant must submit to the liquor and cannabis board's
8 designated scientific reviewer a description of the research that is
9 intended to be conducted. The liquor and cannabis board must select a
10 scientific reviewer to review an applicant's research project and
11 determine that it meets the requirements of subsection (1) of this
12 section, as well as assess the following:

13 (a) Project quality, study design, value, or impact;

14 (b) Whether applicants have the appropriate personnel, expertise,
15 facilities/infrastructure, funding, and human/animal/other federal
16 approvals in place to successfully conduct the project; and

17 (c) Whether the amount of marijuana to be grown by the applicant
18 is consistent with the project's scope and goals.

19 If the scientific reviewer determines that the research project
20 does not meet the requirements of subsection (1) of this section, the
21 application must be denied.

22 (3) A marijuana research licensee may only sell marijuana grown
23 or within its operation to other marijuana research licensees. The
24 liquor and cannabis board may revoke a marijuana research license for
25 violations of this subsection.

26 (4) A marijuana research licensee may contract with the
27 University of Washington or Washington State University to perform
28 research in conjunction with the university. All research projects,
29 not including those projects conducted pursuant to a contract entered
30 into under RCW 28B.20.502(3), must be approved by the scientific
31 reviewer and meet the requirements of subsection (1) of this section.

32 (5) In establishing a marijuana research license, the liquor and
33 cannabis board may adopt rules on the following:

34 (a) Application requirements;

35 (b) Marijuana research license renewal requirements, including
36 whether additional research projects may be added or considered;

37 (c) Conditions for license revocation;

38 (d) Security measures to ensure marijuana is not diverted to
39 purposes other than research;

1 (e) Amount of plants, useable marijuana, marijuana concentrates,
2 or marijuana-infused products a licensee may have on its premises;

3 (f) Licensee reporting requirements;

4 (g) Conditions under which marijuana grown by licensed marijuana
5 producers and other product types from licensed marijuana processors
6 may be donated to marijuana research licensees; and

7 (h) Additional requirements deemed necessary by the liquor and
8 cannabis board.

9 (6) The production, processing, possession, delivery, donation,
10 and sale of marijuana in accordance with this section and the rules
11 adopted to implement and enforce it, by a validly licensed marijuana
12 researcher, shall not be a criminal or civil offense under Washington
13 state law. Every marijuana research license must be issued in the
14 name of the applicant, must specify the location at which the
15 marijuana researcher intends to operate, which must be within the
16 state of Washington, and the holder thereof may not allow any other
17 person to use the license.

18 (7) The application fee for a marijuana research license is two
19 hundred fifty dollars. The annual fee for issuance and renewal of a
20 marijuana research license is one thousand dollars. The applicant
21 must pay the cost of the review process directly to the scientific
22 reviewer as designated by the liquor and cannabis board.

23 (8) The scientific reviewer shall review any reports made by
24 marijuana research licensees under liquor and cannabis board rule and
25 provide the liquor and cannabis board with its determination on
26 whether the research project continues to meet research
27 qualifications under this section.

28 (9) For the purposes of this section, "scientific reviewer" means
29 an organization that convenes or contracts with persons who have the
30 training and experience in research practice and research methodology
31 to determine whether a project meets the criteria for a marijuana
32 research license under this section and to review any reports
33 submitted by marijuana research licensees under liquor and cannabis
34 board rule. "Scientific reviewers" include, but are not limited to,
35 educational institutions, research institutions, peer review bodies,
36 or such other organizations that are focused on science or research
37 in its day-to-day activities.

38 **Sec. 3.** RCW 66.08.100 and 2012 c 117 s 269 are each amended to
39 read as follows:

1 No court of the state of Washington other than the superior court
2 of Thurston county shall have jurisdiction over any action or
3 proceeding against the board or any member thereof for anything done
4 or omitted to be done in or arising out of the performance of his or
5 her or their duties under this title. Neither the board nor any
6 member or members thereof shall be personally liable in any action at
7 law for damages sustained by any person because of any acts performed
8 or done or omitted to be done by the board or any employee of the
9 board in the performance of his or her duties and in the
10 administration of this title or chapter 69.50 RCW.

11 NEW SECTION. **Sec. 4.** This act applies prospectively only and
12 not retroactively. It applies only to causes of action that arise (if
13 change is substantive) or that are commenced (if change is
14 procedural) on or after the effective date of this section.

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