
HOUSE BILL 1937

State of Washington

65th Legislature

2017 Regular Session

By Representative Stokesbary

Read first time 02/03/17. Referred to Committee on Community Development, Housing & Tribal Affairs.

1 AN ACT Relating to buffer zones with respect to siting state-
2 licensed marijuana businesses and entities near reservations of
3 federally recognized tribes; and amending RCW 69.50.331.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (b) The state liquor and cannabis board may cause an inspection
24 of the premises to be made, and may inquire into all matters in
25 connection with the construction and operation of the premises. For
26 the purpose of reviewing any application for a license and for
27 considering the denial, suspension, revocation, or renewal or denial
28 thereof, of any license, the state liquor and cannabis board may
29 consider any prior criminal conduct of the applicant including an
30 administrative violation history record with the state liquor and
31 cannabis board and a criminal history record information check. The
32 state liquor and cannabis board may submit the criminal history
33 record information check to the Washington state patrol and to the
34 identification division of the federal bureau of investigation in
35 order that these agencies may search their records for prior arrests
36 and convictions of the individual or individuals who filled out the
37 forms. The state liquor and cannabis board must require
38 fingerprinting of any applicant whose criminal history record
39 information check is submitted to the federal bureau of
40 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A

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

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

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

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

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

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

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

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

38 (c) The state liquor and cannabis board may request the
39 appointment of administrative law judges under chapter 34.12 RCW who
40 shall have power to administer oaths, issue subpoenas for the

1 attendance of witnesses and the production of papers, books,
2 accounts, documents, and testimony, examine witnesses, and to receive
3 testimony in any inquiry, investigation, hearing, or proceeding in
4 any part of the state, under rules and regulations the state liquor
5 and cannabis board may adopt.

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

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

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

33 (4) Every license issued under this chapter is subject to all
34 conditions and restrictions imposed by this chapter or by rules
35 adopted by the state liquor and cannabis board to implement and
36 enforce this chapter. All conditions and restrictions imposed by the
37 state liquor and cannabis board in the issuance of an individual
38 license must be listed on the face of the individual license along
39 with the trade name, address, and expiration date.

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

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

5 (7)(a) Before the state liquor and cannabis board issues a new or
6 renewed license to an applicant it must give notice of the
7 application to the chief executive officer of the incorporated city
8 or town, if the application is for a license within an incorporated
9 city or town, or to the county legislative authority, if the
10 application is for a license outside the boundaries of incorporated
11 cities or towns.

12 (b) The incorporated city or town through the official or
13 employee selected by it, or the county legislative authority or the
14 official or employee selected by it, has the right to file with the
15 state liquor and cannabis board within twenty days after the date of
16 transmittal of the notice for applications, or at least thirty days
17 prior to the expiration date for renewals, written objections against
18 the applicant or against the premises for which the new or renewed
19 license is asked. The state liquor and cannabis board may extend the
20 time period for submitting written objections.

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

34 (d) Upon the granting of a license under this title the state
35 liquor and cannabis board must send written notification to the chief
36 executive officer of the incorporated city or town in which the
37 license is granted, or to the county legislative authority if the
38 license is granted outside the boundaries of incorporated cities or
39 towns.

1 (8)(a) Except as provided in (b) through (d) of this subsection,
2 the state liquor and cannabis board may not issue a license for any
3 premises within one thousand feet of the perimeter of the grounds of
4 any elementary or secondary school, playground, recreation center or
5 facility, child care center, public park, public transit center,
6 ~~((or))~~ library, ~~((or))~~ any game arcade admission to which is not
7 restricted to persons aged twenty-one years or older, or except as
8 agreed to in a compact entered pursuant to RCW 43.06.490, the
9 reservation of any federally recognized tribe.

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

19 (c) A city, county, or town may permit the licensing of research
20 premises allowed under RCW 69.50.372 within one thousand feet but not
21 less than one hundred feet of the facilities described in (a) of this
22 subsection, except for the reservation of any federally recognized
23 tribe, by enacting an ordinance authorizing such distance reduction,
24 provided that the ordinance will not negatively impact the
25 jurisdiction's civil regulatory enforcement, criminal law
26 enforcement, public safety, or public health.

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

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

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

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

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

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

26 (11)(a) A licensed marijuana producer, processor, retailer,
27 researcher, or transporter, the premises of which is, on the
28 effective date of this section, within one thousand feet of the
29 perimeter of the grounds of the reservation of any federally
30 recognized tribe, may continue to operate notwithstanding subsection
31 (8)(a) of this section. However, the license is forfeited upon the
32 addition of a new true party of interest to the license.

33 (b) For purposes of this subsection, "true party of interest" has
34 the same meaning as in WAC 314-55-035, as it exists on the effective
35 date of this section, but does not include the spouse of a person who
36 is a true party of interest.

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