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HOUSE BILL 2238

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State of Washington                      65th Legislature      2017 3rd Special Session

By Representatives Klippert, Haler, McDonald, and Dent

1            AN ACT Relating to the licensing of marijuana businesses that are  
2 located in close proximity to playgrounds, child care centers, and  
3 preschools; amending RCW 69.50.331, 69.50.369, and 69.50.580; and  
4 declaring an emergency.

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, nonprofit  
17 corporation, or corporation unless formed under the laws of this  
18 state, and unless all of the members thereof are qualified to obtain  
19 a license as provided in this section; or

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

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

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

39 (c) The state liquor and cannabis board may request the  
40 appointment of administrative law judges under chapter 34.12 RCW who

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

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

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

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

34 (4) Every license issued under this chapter is subject to all  
35 conditions and restrictions imposed by this chapter or by rules  
36 adopted by the state liquor and cannabis board to implement and  
37 enforce this chapter. All conditions and restrictions imposed by the  
38 state liquor and cannabis board in the issuance of an individual  
39 license must be listed on the face of the individual license along  
40 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))~~ (e) of this  
2 subsection, the state liquor and cannabis board may not issue a  
3 license for any premises within one thousand feet of the perimeter of  
4 the grounds of any:

5 (i) Elementary or secondary school((τ));

6 (ii) Playground, whether such playground is owned or managed by a  
7 governmental entity, private entity, or person;

8 (iii) Recreation center or facility((τ));

9 (iv) Child care center, including a preschool or entity that  
10 regularly provides child day care or early learning services for a  
11 group of children for periods of less than twenty-four hours, whether  
12 or not the child care center is required to be licensed by the  
13 department of early learning under chapter 43.215 RCW;

14 (v) Public park((τ));

15 (vi) Public transit center((τ-φ));

16 (vii) Library((τ)); or ~~((any))~~

17 (viii) Game arcade admission to which is not restricted to  
18 persons aged twenty-one years or older.

19 (b) The state liquor and cannabis board may not renew a license  
20 for any premises that is located within one thousand feet of the  
21 perimeter of the grounds of any playground or child care center  
22 described in (a)(ii) or (iv) of this subsection. This subsection  
23 (8)(b) applies to a license issued before, on, or after the effective  
24 date of this section.

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

33 ~~((e))~~ (d) A city, county, or town may permit the licensing of  
34 research premises allowed under RCW 69.50.372 within one thousand  
35 feet but not less than one hundred feet of the facilities described  
36 in (a) of this subsection by enacting an ordinance authorizing such  
37 distance reduction, provided that the ordinance will not negatively  
38 impact the jurisdiction's civil regulatory enforcement, criminal law  
39 enforcement, public safety, or public health.

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

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

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

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

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

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

1       **Sec. 2.** RCW 69.50.369 and 2015 2nd sp.s. c 4 s 204 are each  
2 amended to read as follows:

3       (1) No licensed marijuana producer, processor, researcher, or  
4 retailer may place or maintain, or cause to be placed or maintained,  
5 an advertisement of marijuana, useable marijuana, marijuana  
6 concentrates, or a marijuana-infused product in any form or through  
7 any medium whatsoever:

8       (a) Within one thousand feet of the perimeter of a school  
9 grounds, playground as described in RCW 69.50.331(8)(a)(ii),  
10 recreation center or facility, child care center as described in RCW  
11 69.50.331(8)(a)(iv), public park, or library, or any game arcade  
12 admission to which is not restricted to persons aged twenty-one years  
13 or older;

14       (b) On or in a public transit vehicle or public transit shelter;  
15 or

16       (c) On or in a publicly owned or operated property.

17       (2) Merchandising within a retail outlet is not advertising for  
18 the purposes of this section.

19       (3) This section does not apply to a noncommercial message.

20       (4) The state liquor and cannabis board must fine a licensee one  
21 thousand dollars for each violation of subsection (1) of this  
22 section. Fines collected under this subsection must be deposited into  
23 the dedicated marijuana account created under RCW 69.50.530.

24       **Sec. 3.** RCW 69.50.580 and 2015 2nd sp.s. c 4 s 801 are each  
25 amended to read as follows:

26       (1) Applicants for a marijuana producer's, marijuana processor's,  
27 marijuana researcher's or marijuana retailer's license under this  
28 chapter must display a sign provided by the state liquor and cannabis  
29 board on the outside of the premises to be licensed notifying the  
30 public that the premises are subject to an application for such  
31 license. The sign must:

32       (a) Contain text with content sufficient to notify the public of  
33 the nature of the pending license application, the date of the  
34 application, the name of the applicant, and contact information for  
35 the state liquor and cannabis board;

36       (b) Be conspicuously displayed on, or immediately adjacent to,  
37 the premises subject to the application and in the location that is  
38 most likely to be seen by the public;



1 (c) Be of a size sufficient to ensure that it will be readily  
2 seen by the public; and

3 (d) Be posted within seven business days of the submission of the  
4 application to the state liquor and cannabis board.

5 (2) The state liquor and cannabis board must adopt such rules as  
6 are necessary for the implementation of this section, including rules  
7 pertaining to the size of the sign and the text thereon, the textual  
8 content of the sign, the fee for providing the sign, and any other  
9 requirements necessary to ensure that the sign provides adequate  
10 notice to the public.

11 (3)(a) A city, town, or county may adopt an ordinance requiring  
12 individual notice by an applicant for a marijuana producer's,  
13 marijuana processor's, marijuana researcher's, or marijuana  
14 retailer's license under this chapter, sixty days prior to issuance  
15 of the license, to any elementary or secondary school, playground as  
16 described in RCW 69.50.331(8)(a)(ii), recreation center or facility,  
17 child care center as described in RCW 69.50.331(8)(a)(iv), church,  
18 public park, public transit center, library, or any game arcade  
19 admission to which is not restricted to persons aged twenty-one years  
20 or older, that is within one thousand feet of the perimeter of the  
21 grounds of the establishment seeking licensure. The notice must  
22 provide the contact information for the liquor and cannabis board  
23 where any of the owners or operators of these entities may submit  
24 comments or concerns about the proposed business location.

25 (b) For the purposes of this subsection, "church" means a  
26 building erected for and used exclusively for religious worship and  
27 schooling or other activity in connection therewith.

28 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
29 preservation of the public peace, health, or safety, or support of  
30 the state government and its existing public institutions, and takes  
31 effect immediately.

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