
SENATE BILL 5102

State of Washington

65th Legislature

2017 Regular Session

By Senators Rivers and Palumbo

Read first time 01/12/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to residency requirements for licensed marijuana
2 businesses; and amending RCW 69.50.331.

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

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

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

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

1 the licensing process to applicants that have the following
2 experience and qualifications, in the following order of priority:

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

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

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

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

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

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

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

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

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

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

22 (b) The state liquor and cannabis board may cause an inspection
23 of the premises to be made, and may inquire into all matters in
24 connection with the construction and operation of the premises. For
25 the purpose of reviewing any application for a license and for
26 considering the denial, suspension, revocation, or renewal or denial
27 thereof, of any license, the state liquor and cannabis board may
28 consider any prior criminal conduct of the applicant including an
29 administrative violation history record with the state liquor and
30 cannabis board and a criminal history record information check. The
31 state liquor and cannabis board may submit the criminal history
32 record information check to the Washington state patrol and to the
33 identification division of the federal bureau of investigation in
34 order that these agencies may search their records for prior arrests
35 and convictions of the individual or individuals who filled out the
36 forms. The state liquor and cannabis board must require
37 fingerprinting of any applicant whose criminal history record
38 information check is submitted to the federal bureau of
39 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A
40 RCW do not apply to these cases. Subject to the provisions of this

1 section, the state liquor and cannabis board may, in its discretion,
2 grant or deny the renewal or license applied for. Denial may be based
3 on, without limitation, the existence of chronic illegal activity
4 documented in objections submitted pursuant to subsections (7)(c) and
5 (10) of this section. Authority to approve an uncontested or
6 unopposed license may be granted by the state liquor and cannabis
7 board to any staff member the board designates in writing. Conditions
8 for granting this authority must be adopted by rule.

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

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

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

14 (iii) A partnership, employee cooperative, association, nonprofit
15 corporation, or corporation unless formed under the laws of this
16 state, and unless all of the members thereof are qualified to obtain
17 a license as provided in this section, with the exception that only
18 those holding fifty percent of all ownership interests must meet the
19 residency requirement; 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, with the exception of the
23 residency requirement.

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.

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

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

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

1 license is granted outside the boundaries of incorporated cities or
2 towns.

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

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, by enacting an ordinance
14 authorizing such distance reduction, provided that such distance
15 reduction will not negatively impact the jurisdiction's civil
16 regulatory enforcement, criminal law enforcement interests, public
17 safety, or public health.

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

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

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

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

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

38 (9) (~~Subject to section 1601 of this act,~~) A city, town, or
39 county may adopt an ordinance prohibiting a marijuana producer or
40 marijuana processor from operating or locating a business within

1 areas zoned primarily for residential use or rural use with a minimum
2 lot size of five acres or smaller.

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

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