

SSB 5318 - S AMD TO S AMD (S-2696.1/19) **362**
By Senator Saldaña

RULED BEYOND SCOPE 03/11/2019

1 On page 3, line 8, after "therein," strike "the state liquor and
2 cannabis" and insert "~~(the state liquor and cannabis)~~ and except as
3 provided in subsection (4) of this section, the"

4 On page 4, after line 39, insert the following:

5 "(4) (a) No rule may:

6 (i) Limit the number of marijuana retailer licenses that an
7 individual retail licensee and other persons or entities with a
8 financial or other ownership interest in the business operating under
9 the license may hold in the aggregate, in a manner contrary to RCW
10 69.50.325(3);

11 (ii) Limit the number of marijuana producer or marijuana
12 processor licenses that an individual marijuana producer or marijuana
13 processor licensee and other persons or entities with a financial or
14 other ownership interest in the business operating under the license
15 may hold in the aggregate, in a manner contrary to RCW 69.50.325 (1)
16 and (2); or

17 (iii) Require a person or interest holder to be a resident of
18 this state or require a business or nonprofit entity to be formed
19 under the laws of this state for the person or entity to qualify for
20 a marijuana producer, marijuana processor, or marijuana retailer
21 license, if the person or entity has in effect a labor peace
22 agreement covering each licensed establishment as provided in section
23 8 of this act.

24 (b) This subsection (4) does not limit the application of RCW
25 69.50.345(2)."

26 Beginning on page 8, line 36, after "(b)" strike all material
27 through "section" on page 9, line 4 and insert "Except as provided in
28 (c) of this subsection and in section 8 of this act, no license of
29 any kind may be issued to:

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

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

4 (iii) A ~~((partnership, employee cooperative, association,~~
5 ~~nonprofit corporation, or corporation))~~ business or nonprofit entity
6 unless formed under the laws of this state~~((7))~~ and, except as
7 provided in (d) of this subsection, unless all of the ~~((members~~
8 ~~thereof))~~ interest holders are qualified to obtain a license as
9 provided in this section and have lawfully resided in the state for
10 at least six months before applying to receive a license"

11 On page 9, after line 7, insert the following:

12 "(c) Pursuant to section 8 of this act, a person or business or
13 nonprofit entity that does not meet the requirements of (b) of this
14 subsection may be eligible for a marijuana license in certain
15 circumstances.

16 (d) (i) For any marijuana license issued by the board, all natural
17 persons holding an ownership interest of more than ten percent of the
18 business or nonprofit entity licensed or proposed to be licensed must
19 qualify for and be named on the license. If no natural person owns
20 more than ten percent of the entity, the natural person with the
21 largest ownership interest must qualify for and be named on the
22 license. Officers and directors must possess the same qualifications
23 as the licensee. Except as otherwise provided in this subsection, any
24 natural person holding an ownership interest of ten percent or less
25 of the entity is not required to qualify for or be named on the
26 license. For licensees with labor peace agreements in effect as
27 provided in section 8 of this act, a natural person who is not
28 required to qualify for or be named on the license is not required to
29 be a resident of Washington state. For licensees without labor peace
30 agreements in effect, all natural persons who own any interest in the
31 entity must be residents of this state and natural persons who own
32 interests of more than ten percent of the entity must meet all other
33 requirements and qualifications in this section and chapter.

34 (ii) The identification of any natural person holding an
35 ownership interest of ten percent or less but more than one percent
36 of the entity, who is not otherwise required to qualify for and be
37 named on the license as provided in (d) (i) of this subsection, must
38 be disclosed to the board."

1 On page 10, after line 10, insert the following:

2 "(f) In accordance with section 8 of this act, the board shall
3 suspend, cancel, or revoke the license of an establishment for which
4 the board determines there is no longer a labor peace agreement in
5 effect and for which a labor peace agreement is required under
6 section 8 of this act."

7 On page 13, beginning on line 5, after "premises." strike all
8 material through "arrest." on line 17 and insert the following:

9 "(11) Nothing in this chapter prevents an interest in a business
10 with a marijuana producer, processor, retailer, or transportation
11 license from transferring, upon the death or incapacity of the owner,
12 to an heir or assign of the owner in accordance with the uniform
13 transfers to minors act, chapter 11.114 RCW, or otherwise, even if
14 the heir or assign is under age twenty-one.

15 (12) For the purposes of this section:

16 (a) "Chronic illegal activity" means ((+a)):

17 (i) A pervasive pattern of activity that threatens the public
18 health, safety, and welfare of the city, town, or county including,
19 but not limited to, open container violations, assaults,
20 disturbances, disorderly conduct, or other criminal law violations,
21 or as documented in crime statistics, police reports, emergency
22 medical response data, calls for service, field data, or similar
23 records of a law enforcement agency for the city, town, county, or
24 any other municipal corporation or any state agency; or ((+b))

25 (ii) An unreasonably high number of citations for violations of
26 RCW 46.61.502 associated with the applicant's or licensee's operation
27 of any licensed premises as indicated by the reported statements
28 given to law enforcement upon arrest.

29 (b) "Entity" has the meaning provided in RCW 23.95.105.

30 (c) "Interest" has the meaning provided in RCW 23.95.105.

31 (d) "Interest holder" has the meaning provided in RCW 23.95.105.

32 NEW SECTION. Sec. 8. A new section is added to chapter 69.50
33 RCW to read as follows:

34 (1) In accordance with RCW 69.50.331, 69.50.325, and 69.50.342, a
35 licensed marijuana producer, processor, or retailer or an applicant
36 for such a license, shall submit to the board an attestation signed
37 by a bona fide labor organization stating the licensee or applicant

1 has entered into a labor peace agreement with the bona fide labor
2 organization, if the licensee or applicant:

3 (a) Is not formed under the laws of this state or if not all
4 interest holders who must qualify for the license have lawfully
5 resided in the state for longer than six months before applying for
6 the license, so long as sixty percent of the interest holders meet
7 the residency requirements;

8 (b) Is an applicant for a marijuana retailer license who, if the
9 license is issued, would hold more than a collective total of five
10 marijuana retailer licenses but not more than a collective total of
11 seven marijuana retailer licenses as provided in RCW 69.50.325(3); or

12 (c) Is an applicant for a marijuana producer or marijuana
13 processor license who, if the license is issued, would collectively
14 hold more marijuana producer or marijuana processor licenses than any
15 limit established under board rules for marijuana producers or
16 marijuana processors without labor peace agreements in effect, as
17 provided in RCW 69.50.325 and 69.50.342(3).

18 (2) The board may issue a conditional license to an applicant who
19 has not fully complied with this section, provided that compliance
20 with this section is required for an applicant to receive final
21 license approval, and an applicant must meet all other license
22 requirements established in this chapter.

23 (3) For an applicant or licensee relying on the authorization in
24 this section:

25 (a) The submission of the attestation and the maintenance of a
26 labor peace agreement with a bona fide labor organization is an
27 ongoing material condition of the establishment's license; and

28 (b) In accordance with RCW 69.50.331, the board shall suspend,
29 cancel, or revoke the license of an establishment for which the board
30 determines there is no longer a labor peace agreement in effect.

31 (4) The board may impose additional licensing fees to recover any
32 additional costs incurred in investigating any nonresident required
33 to be investigated under this section and RCW 69.50.331. If, after
34 reasonable efforts, the board is unable to investigate any
35 nonresident required to be investigated under this section and RCW
36 69.50.331, in accordance with the investigatory standards applicable
37 to the investigation of a state resident, the board may deny a
38 license or license renewal to an entity.

39 (5) Any business entity or nonprofit entity not formed under
40 Washington state law must hold a certificate of registration under

1 chapter 23.95 RCW to be eligible for a marijuana license under this
2 section.

3 **Sec. 9.** RCW 69.50.325 and 2018 c 132 s 3 are each amended to
4 read as follows:

5 (1) (a) There shall be a marijuana producer's license regulated by
6 the (~~state liquor and cannabis~~) board and subject to annual
7 renewal. The licensee is authorized to produce: (a) Marijuana for
8 sale at wholesale to marijuana processors and other marijuana
9 producers; (b) immature plants or clones and seeds for sale to
10 cooperatives as described under RCW 69.51A.250; and (c) immature
11 plants or clones and seeds for sale to qualifying patients and
12 designated providers as provided under RCW 69.51A.310. The
13 production, possession, delivery, distribution, and sale of marijuana
14 in accordance with the provisions of this chapter and the rules
15 adopted to implement and enforce it, by a validly licensed marijuana
16 producer, shall not be a criminal or civil offense under Washington
17 state law. Every marijuana producer's license shall be issued in the
18 name of the applicant, shall specify the location at which the
19 marijuana producer intends to operate, which must be within the state
20 of Washington, and the holder thereof shall not allow any other
21 person to use the license. The application fee for a marijuana
22 producer's license shall be two hundred fifty dollars. The annual fee
23 for issuance and renewal of a marijuana producer's license shall be
24 one thousand three hundred eighty-one dollars. A separate license
25 shall be required for each location at which a marijuana producer
26 intends to produce marijuana.

27 (b) In accordance with RCW 69.50.342(3) and section 8 of this
28 act, if the board adopts rules limiting the collective number of
29 marijuana producer or marijuana processor licenses that an individual
30 marijuana producer or marijuana processor licensee and all other
31 persons or entities with a financial or other ownership interest in
32 the business operating under the license are limited, in the
33 aggregate, to holding, then the board's rules must provide an
34 exemption for individual marijuana producer or marijuana processor
35 licensees that have in effect a labor peace agreement to allow these
36 licensees to hold up to two more marijuana producer or processor
37 licenses than would otherwise be allowed under rule.

38 (2) There shall be a marijuana processor's license to process,
39 package, and label marijuana concentrates, useable marijuana, and

1 marijuana-infused products for sale at wholesale to marijuana
2 processors and marijuana retailers, regulated by the (~~state liquor~~
3 ~~and cannabis~~) board and subject to annual renewal. The processing,
4 packaging, possession, delivery, distribution, and sale of marijuana,
5 useable marijuana, marijuana-infused products, and marijuana
6 concentrates in accordance with the provisions of this chapter and
7 chapter 69.51A RCW and the rules adopted to implement and enforce
8 these chapters, by a validly licensed marijuana processor, shall not
9 be a criminal or civil offense under Washington state law. Every
10 marijuana processor's license shall be issued in the name of the
11 applicant, shall specify the location at which the licensee intends
12 to operate, which must be within the state of Washington, and the
13 holder thereof shall not allow any other person to use the license.
14 The application fee for a marijuana processor's license shall be two
15 hundred fifty dollars. The annual fee for issuance and renewal of a
16 marijuana processor's license shall be one thousand three hundred
17 eighty-one dollars. A separate license shall be required for each
18 location at which a marijuana processor intends to process marijuana.
19 Subsection (1)(b) of this section applies to marijuana processors.

20 (3)(a) There shall be a marijuana retailer's license to sell
21 marijuana concentrates, useable marijuana, and marijuana-infused
22 products at retail in retail outlets, regulated by the (~~state liquor~~
23 ~~and cannabis~~) board and subject to annual renewal. The possession,
24 delivery, distribution, and sale of marijuana concentrates, useable
25 marijuana, and marijuana-infused products in accordance with the
26 provisions of this chapter and the rules adopted to implement and
27 enforce it, by a validly licensed marijuana retailer, shall not be a
28 criminal or civil offense under Washington state law. Every marijuana
29 retailer's license shall be issued in the name of the applicant,
30 shall specify the location of the retail outlet the licensee intends
31 to operate, which must be within the state of Washington, and the
32 holder thereof shall not allow any other person to use the license.
33 The application fee for a marijuana retailer's license shall be two
34 hundred fifty dollars. The annual fee for issuance and renewal of a
35 marijuana retailer's license shall be one thousand three hundred
36 eighty-one dollars. A separate license shall be required for each
37 location at which a marijuana retailer intends to sell marijuana
38 concentrates, useable marijuana, and marijuana-infused products.

39 (b)(i) Except as provided in (b)(ii) of this subsection, an
40 individual retail licensee and all other persons or entities with a

1 financial or other ownership interest in the business operating under
2 the license are limited, in the aggregate, to holding a collective
3 total of not more than five retail marijuana licenses.

4 (ii) Not more than a collective total of seven marijuana retailer
5 licenses may be held by an individual retail licensee and all other
6 persons or entities with a financial or other ownership interest in
7 the business operating under the license, if each marijuana retailer
8 establishment is covered by a labor peace agreement as provided in
9 section 8 of this act.

10 (c) (i) A marijuana retailer's license is subject to forfeiture in
11 accordance with rules adopted by the ((state liquor and cannabis))
12 board pursuant to this section.

13 (ii) The ((state liquor and cannabis)) board shall adopt rules to
14 establish a license forfeiture process for a licensed marijuana
15 retailer that is not fully operational and open to the public within
16 a specified period from the date of license issuance, as established
17 by the ((state liquor and cannabis)) board, subject to the following
18 restrictions:

19 (A) No marijuana retailer's license may be subject to forfeiture
20 within the first nine months of license issuance; and

21 (B) The ((state liquor and cannabis)) board must require license
22 forfeiture on or before twenty-four calendar months of license
23 issuance if a marijuana retailer is not fully operational and open to
24 the public, unless the board determines that circumstances out of the
25 licensee's control are preventing the licensee from becoming fully
26 operational and that, in the board's discretion, the circumstances
27 warrant extending the forfeiture period beyond twenty-four calendar
28 months.

29 (iii) The ((state liquor and cannabis)) board has discretion in
30 adopting rules under this subsection (3) (c).

31 (iv) This subsection (3) (c) applies to marijuana retailer's
32 licenses issued before and after July 23, 2017. However, no license
33 of a marijuana retailer that otherwise meets the conditions for
34 license forfeiture established pursuant to this subsection (3) (c) may
35 be subject to forfeiture within the first nine calendar months of
36 July 23, 2017.

37 (v) The ((state liquor and cannabis)) board may not require
38 license forfeiture if the licensee has been incapable of opening a
39 fully operational retail marijuana business due to actions by the

1 city, town, or county with jurisdiction over the licensee that
2 include any of the following:

3 (A) The adoption of a ban or moratorium that prohibits the
4 opening of a retail marijuana business; or

5 (B) The adoption of an ordinance or regulation related to zoning,
6 business licensing, land use, or other regulatory measure that has
7 the effect of preventing a licensee from receiving an occupancy
8 permit from the jurisdiction or which otherwise prevents a licensed
9 marijuana retailer from becoming operational."

10 Renumber the remaining sections consecutively and correct any
11 internal references accordingly.

12 On page 21, after line 16, insert the following:

13 "~~(xx)~~ "Labor peace agreement" means an agreement between an
14 employer and a bona fide labor organization in which the employer
15 agrees to remain neutral or otherwise agrees to work with or provide
16 information to the bona fide labor organization for the purpose of
17 unionizing employees.

18 NEW SECTION. **Sec. 10.** The liquor and cannabis board must
19 collect demographic information on applicants for marijuana licenses,
20 marijuana licensees, and interest holders in marijuana businesses
21 including gender, race, ethnicity, and related geographic
22 distribution and report the aggregate data to the relevant committees
23 of the legislature by January 1, 2020.

24 NEW SECTION. **Sec. 11.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected."

28 Renumber the remaining section consecutively and correct any
29 internal references accordingly.

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By Senator Saldaña

RULED BEYOND SCOPE 03/11/2019

1 On page 22, beginning on line 30, after "69.50.342" strike "and
2 69.50.331" and insert ", 69.50.331, and 69.50.325"

EFFECT: (1) Adds additional provisions concerning the ability of businesses and entities to obtain a marijuana license.

(2) Creates a new exception to the six-month residency requirement for businesses with labor peace agreements in effect, so long as 60 percent of the interest holders meet the residency requirements.

(3) Creates an exception to the five license limit for marijuana retailer licenses, to allow retailers with labor peace agreements to be eligible for up to seven total licenses.

(4) Requires a similar exception to any license limit established by LCB rule for individual marijuana producers or processors, for producers or processors with labor peace agreements in effect. Allows these licensees to hold up to 2 additional licenses than otherwise allowed under LCB rule.

(5) Limits LCB rule making under the bill's provisions.

(6) Provides that for licensees with labor peace agreements in effect, a natural person who is not required to qualify for or be named on a marijuana license is not required to be Washington state residents.

(7) Provides that for licensees without labor peace agreements in effect, all natural persons who own any interest in the entity must be residents of this state and natural persons who own interests of more than 10 percent of the entity must continue to have to qualify for and be named on the license.

(8) Requires the identification of natural persons owning 10 percent or less of the business, but more than one percent of the business, to be disclosed to the LCB.

(9) Adds provisions addressing inheritance of a business with a marijuana license.

(10) Defines "labor peace agreement" and other terms.

(11) Authorizes the LCB to impose additional licensing fees to recover investigatory costs, and grants the LCB discretionary authority to deny license issuances and renewals when the LCB is unable to investigate any nonresident requiring investigation.

(12) Adds a savings clause.

(13) Requires the LCB to collect demographic information and report to the legislature by January 1, 2020.

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