
SUBSTITUTE HOUSE BILL 2359

State of Washington

66th Legislature

2020 Regular Session

By House Commerce & Gaming (originally sponsored by Representatives Vick and Wylie)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to creating a certificate of compliance for
2 marijuana business premises that meet the statutory qualifications at
3 the time of application; 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 2019 c 394 s 7 are each amended to
6 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 board must conduct a comprehensive, fair, and
16 impartial evaluation of the applications timely received.

17 (a) The board may cause an inspection of the premises to be made,
18 and may inquire into all matters in connection with the construction
19 and operation of the premises. For the purpose of reviewing any
20 application for a license and for considering the denial, suspension,
21 revocation, cancellation, or renewal or denial thereof, of any

1 license, the board may consider any prior criminal arrests or
2 convictions of the applicant, any public safety administrative
3 violation history record with the board, and a criminal history
4 record information check. The board may submit the criminal history
5 record information check to the Washington state patrol and to the
6 identification division of the federal bureau of investigation in
7 order that these agencies may search their records for prior arrests
8 and convictions of the individual or individuals who filled out the
9 forms. The board must require fingerprinting of any applicant whose
10 criminal history record information check is submitted to the federal
11 bureau of investigation. The provisions of RCW 9.95.240 and of
12 chapter 9.96A RCW do not apply to these cases. Subject to the
13 provisions of this section, the board may, in its discretion, grant
14 or deny the renewal or license applied for. Denial may be based on,
15 without limitation, the existence of chronic illegal activity
16 documented in objections submitted pursuant to subsections (7)(c) and
17 (10) of this section. Authority to approve an uncontested or
18 unopposed license may be granted by the board to any staff member the
19 board designates in writing. Conditions for granting this authority
20 must be adopted by rule.

21 (b) No license of any kind may be issued to:

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

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

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

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

33 (2)(a) The board may, in its discretion, subject to RCW
34 43.05.160, 69.50.563, 69.50.562, 69.50.334, and 69.50.342(3) suspend
35 or cancel any license; and all protections of the licensee from
36 criminal or civil sanctions under state law for producing,
37 processing, researching, or selling marijuana, marijuana
38 concentrates, useable marijuana, or marijuana-infused products
39 thereunder must be suspended or terminated, as the case may be.

1 (b) The board must immediately suspend the license of a person
2 who has been certified pursuant to RCW 74.20A.320 by the department
3 of social and health services as a person who is not in compliance
4 with a support order. If the person has continued to meet all other
5 requirements for reinstatement during the suspension, reissuance of
6 the license is automatic upon the board's receipt of a release issued
7 by the department of social and health services stating that the
8 licensee is in compliance with the order.

9 (c) The board may request the appointment of administrative law
10 judges under chapter 34.12 RCW who shall have power to administer
11 oaths, issue subpoenas for the attendance of witnesses and the
12 production of papers, books, accounts, documents, and testimony,
13 examine witnesses, receive testimony in any inquiry, investigation,
14 hearing, or proceeding in any part of the state, and consider
15 mitigating and aggravating circumstances in any case and deviate from
16 any prescribed penalty, under rules the board may adopt.

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

22 (e) In case of disobedience of any person to comply with the
23 order of the board or a subpoena issued by the board, or any of its
24 members, or administrative law judges, or on the refusal of a witness
25 to testify to any matter regarding which he or she may be lawfully
26 interrogated, the judge of the superior court of the county in which
27 the person resides, on application of any member of the board or
28 administrative law judge, compels obedience by contempt proceedings,
29 as in the case of disobedience of the requirements of a subpoena
30 issued from said court or a refusal to testify therein.

31 (3) Upon receipt of notice of the suspension or cancellation of a
32 license, the licensee must forthwith deliver up the license to the
33 board. Where the license has been suspended only, the board must
34 return the license to the licensee at the expiration or termination
35 of the period of suspension. The board must notify all other
36 licensees in the county where the subject licensee has its premises
37 of the suspension or cancellation of the license; and no other
38 licensee or employee of another licensee may allow or cause any
39 marijuana, marijuana concentrates, useable marijuana, or marijuana-

1 infused products to be delivered to or for any person at the premises
2 of the subject licensee.

3 (4) Every license issued under this chapter is subject to all
4 conditions and restrictions imposed by this chapter or by rules
5 adopted by the board to implement and enforce this chapter. All
6 conditions and restrictions imposed by the board in the issuance of
7 an individual license must be listed on the face of the individual
8 license along with the trade name, address, and expiration date.

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

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

13 (7) (a) Before the board issues a new or renewed license to an
14 applicant it must give notice of the application to the chief
15 executive officer of the incorporated city or town, if the
16 application is for a license within an incorporated city or town, or
17 to the county legislative authority, if the application is for a
18 license outside the boundaries of incorporated cities or towns, or to
19 the tribal government if the application is for a license within
20 Indian country, or to the port authority if the application for a
21 license is located on property owned by a port authority.

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

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

1 request of the applicant, board representatives must present and
2 defend the board's initial decision to deny a license or renewal.

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

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

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

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

30 (d) The board may license premises located in compliance with the
31 distance requirements set in an ordinance adopted under (b) or (c) of
32 this 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 (c) of this
36 subsection, the board must ensure that the facility:

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

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

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

3 (e) The board must issue a certificate of compliance for premises
4 that met the requirements under (a), (b), (c), or (d) of this
5 subsection upon completion of location compliance verification and
6 approval. The certificate allows the licensee to operate the business
7 at the proposed location notwithstanding a later occurring, otherwise
8 disqualifying factor.

9 (f) The board may not issue a license for any premises within
10 Indian country, as defined in 18 U.S.C. Sec. 1151, including any fee
11 patent lands within the exterior boundaries of a reservation, without
12 the consent of the federally recognized tribe associated with the
13 reservation or Indian country.

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

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

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