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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

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

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

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

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

(a) The state liquor and cannabis board must develop a competitive, merit-based application process that includes, at a minimum, the opportunity for an applicant to demonstrate experience and qualifications in the marijuana industry. The state liquor and cannabis board must give preference between competing applications in the licensing process to applicants that have the following experience and qualifications, in the following order of priority:

(i) First priority is given to applicants who:

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

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

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

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

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

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

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

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

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

(b) The state liquor and cannabis board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, or renewal or denial thereof, of any license, the state liquor and cannabis board may consider any prior criminal conduct of the applicant including an administrative violation history record with the state liquor and cannabis board and a criminal history record information check. The state liquor and cannabis board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor and cannabis board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW do not apply to these cases. Subject to the provisions of this section, the state liquor and cannabis board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (10) of this section. Authority to approve an uncontested or unopposed license may be granted by the state liquor and cannabis board to any staff member the board designates in writing. Conditions for granting this authority must be adopted by rule.

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

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

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

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

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

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

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

(c) The state liquor and cannabis board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under rules and regulations the state liquor and cannabis board may adopt.

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

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

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

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

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

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

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

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

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

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

(8)(a) Except as provided in (b) through ((~~(d)~~)) (e) of this subsection, the state liquor and cannabis board may not issue a license for any premises within one thousand feet of the perimeter of the grounds of any:

(i) Elementary or secondary school((~~,~~));

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

(iii) Recreation center or facility((~~,~~));

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

(v) Public park((~~,~~));

(vi) Public transit center((~~, or~~));

(vii) Library((~~,~~)); or ((~~any~~))

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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