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**SUBSTITUTE SENATE BILL 6393**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Senate Labor & Commerce (originally sponsored by Senators Conway, Saldaña, Keiser, Hasegawa, Van De Wege, Wilson, C., and Nguyen)

AN ACT Relating to cannabis industry workplace standards; amending RCW 69.50.325; and adding a new section to chapter 69.50 RCW.

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

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

(1) Except as provided in subsection (2) of this section, to renew a marijuana producer, processor, retailer, or transportation license, the licensee must demonstrate the licensee has in place business practices, employee benefits, or policies sufficient to earn at least one hundred points as provided in this section. Each of the following business practices, employee benefits, or policies identified in (a) through (o) of this subsection and adopted by a licensee or offered by a licensee to employees is worth the following amounts of points, and may be combined by a licensee to earn at least one hundred points:

(a) Providing at least eighty-five percent of full-time and part-time employees with a living wage is twenty-five points. A living wage is at least one hundred fifty percent of the state minimum wage. Commissions and bonuses constitute wages and are counted as wages in the work week in which they are earned. Wages do not include an employer payment toward a health benefits plan;

(b) Establishing and administering a workplace health and safety plan is twenty points. The plan must include monthly meetings between management and employees where employees may report health and safety issues;

(c) Offering at least eighty-five percent of full-time and part-time hourly employees health care coverage under a health benefits plan is forty points. Offering health care coverage that is fully paid by the employer is an additional five points. Offering a health benefits plan that includes dental and vision coverage is an additional five points;

(d) Offering at least eighty-five percent of full-time and part-time hourly employees employer-provided retirement benefits is twenty points;

(e) Establishing and administering a code of conduct that includes a sexual harassment prevention policy and an anti-retaliation policy is twenty points;

(f) Establishing and administering a community engagement program, is twenty points;

(g) Receiving state certification under chapter 39.19 RCW as a minority or women-owned and operated marijuana business enterprise is twenty points;

(h) Establishing and having in effect an agreement between the employer and a bona fide labor organization in which the employer agrees to remain neutral or otherwise agrees to work with or provide information to the bona fide labor organization for the purposes of unionizing employees is twenty-five points;

(i) Having in effect a collective bargaining agreement covering the licensee's employees is forty points;

(j) Offering one or more of the following employee support programs is twenty points:

(i) A profit-sharing program;

(ii) A child care program; or

(iii) A tuition reimbursement program;

(k) Administering an environmental stewardship plan is fifteen points. An environmental stewardship plan must be a plan of action to minimize the licensee's carbon footprint, environmental impact, and resource needs, including policies for recycling marijuana product packaging and seeking to minimize the amount of waste created by the licensee;

(l) Establishing and administering a security and recordkeeping plan is fifteen points. A security and recordkeeping plan must:

(i) Be sufficient to comply with security requirements established by the board pursuant to RCW 69.50.342(1)(d);

(ii) Address recordkeeping, tracking and monitoring of inventory, and quality control; and

(iii) Address destruction and disposal of marijuana product in accordance with board rules;

(m) Having eighty-five percent of full-time and part-time employees complete training provided by the board on compliance, safety, and preventing sales to minors is five points;

(n) Offering one or more of the following to a licensee's employees is ten points:

(i) An employee transportation subsidy;

(ii) Identity theft protection;

(iii) Life insurance; or

(iv) An employee wellness program; and

(o) Locating the licensed business in a community with an average income below three hundred percent of the federal poverty level is five points.

(2)(a) If the board determines that a licensee otherwise meets the requirements for license renewal established in this chapter but that the licensee has not earned at least one hundred points as required by subsection (1) of this section, then the board shall approve the renewal of the license on the condition that the licensee has one year to comply with this section and earn at least one hundred points as provided in this section.

(b) After the expiration of one year from the date a licensee is notified the licensee has not earned one hundred points as required under this section, the board may suspend or revoke the license if the board determines the licensee still does not have in place business practices, employee benefits, or policies sufficient to earn at least one hundred points as provided in this section.

(3) The board:

(a) May adopt rules to administer this section; and

(b) Has discretion in determining the manner in which licensees demonstrate meeting the requirements of this section and whether an individual licensee demonstrates the licensee does or does not have any of the specific business practices, employee benefits, or policies identified in subsection (1) of this section to have a combination of at least one hundred total points and qualify for license renewal.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Actuarial value" means the percentage of total average costs for covered benefits that a health benefits package will cover.

(b) "Bonuses" means nondiscretionary payments in addition to hourly, salary, commission, or piece-rate payments paid under an agreement between an employer and an employee.

(c) "Commissions" means a sum of money paid to an employee upon completion of a task.

(d) "Community engagement program" means an established set of policies or practices regarding how a licensee will engage, communicate, and collaborate with neighboring businesses, residents, local governments, and persons in the community. A program must include a process where persons may communicate public safety or other concerns regarding the operation of the licensee's business to the licensee in a manner enabling the licensee to, when possible, resolve or mitigate any concerns. A program may include, as an additional component, the creation of or participation in an incubator program designed to increase participation in the marijuana industry by persons of color, women, veterans, persons with disabilities, and other persons.

(e) "Health benefits plan" means a silver or higher level essential health benefits package, as defined in 42 U.S.C. Sec. 18022, or an equivalent plan designed to provide benefits that are actuarially equivalent to seventy percent of the full actuarial value of the benefits provided under the plan, whichever is greater.

(5) This section does not apply to a marijuana producer, processor, retailer, or transportation licensee that averaged twenty or fewer full-time equivalent employees in the twelve months prior to the licensee's application for renewal.

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

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

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

(3)(a) There shall be a marijuana retailer's license to sell marijuana concentrates, useable marijuana, and marijuana-infused products at retail in retail outlets, regulated by the ((~~state liquor and cannabis~~)) board and subject to annual renewal. The possession, delivery, distribution, and sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer, shall not be a criminal or civil offense under Washington state law. Every marijuana retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana retailer's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana retailer intends to sell marijuana concentrates, useable marijuana, and marijuana-infused products. Renewal of a marijuana retailer license is subject to section 1 of this act.

(b) An individual retail licensee and all other persons or entities with a financial or other ownership interest in the business operating under the license are limited, in the aggregate, to holding a collective total of not more than five retail marijuana licenses.

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

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

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

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

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

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

(v) The ((~~state liquor and cannabis~~)) board may not require license forfeiture if the licensee has been incapable of opening a fully operational retail marijuana business due to actions by the city, town, or county with jurisdiction over the licensee that include any of the following:

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

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

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