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**HOUSE BILL 1667**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Representative Wylie

Prefiled 12/20/21. Read first time 01/10/22. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to ownership of cannabis-related businesses;  
2 amending RCW 69.50.331 and 69.50.325; and providing an effective  
3 date.

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

5 **Sec. 1.** RCW 69.50.331 and 2020 c 154 s 1 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)) business entity or nonprofit entity~~  
28 unless formed under the laws of this state(~~(, and unless all of the~~  
29 ~~members thereof are qualified to obtain a license as provided in this~~  
30 ~~section)); or~~

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

34 (c)(i) For any marijuana license issued by the board, all natural  
35 persons holding an ownership interest of more than 10 percent of the  
36 business entity or nonprofit entity licensed or proposed to be  
37 licensed must qualify for and be named on the license. If no natural  
38 person owns more than 10 percent of the entity, the natural person  
39 with the largest ownership interest must qualify for and be named on  
40 the license. Any natural person holding an ownership interest of 10

1 percent or less of the entity is not required to qualify for or be  
2 named on the license.

3 (ii) The identification of any natural person holding an  
4 ownership interest of 10 percent or less but more than one percent of  
5 the entity, who is not otherwise required to qualify for and be named  
6 on the license as provided in (c)(i) of this subsection, must be  
7 disclosed to the board.

8 (d) The board may deny a license or license renewal to an entity  
9 if the board is unable to investigate a nonresident interest holder  
10 in the entity with greater ownership than 10 percent in accordance  
11 with the investigatory standards applicable to the investigation of a  
12 state resident.

13 (e) The board must by rule establish an additional application  
14 fee for license applicants who are business entities or nonprofit  
15 entities. The fee must be in an amount sufficient to offset the  
16 additional investigative and administrative costs associated with the  
17 licensure of such entities and is in addition to any other  
18 application or licensing fee imposed under this chapter. The  
19 additional application fee in this subsection (1)(e) applies to  
20 applications to add an owner to an existing license as well as to  
21 applications for new producer, processor, and retailer licenses.  
22 Nothing in this section requires the board to accept applications for  
23 new producer, processor, or retailer licenses.

24 (2)(a) The board may, in its discretion, subject to RCW  
25 43.05.160, 69.50.563, 69.50.562, 69.50.334, and 69.50.342(3) suspend  
26 or cancel any license; and all protections of the licensee from  
27 criminal or civil sanctions under state law for producing,  
28 processing, researching, or selling marijuana, marijuana  
29 concentrates, useable marijuana, or marijuana-infused products  
30 thereunder must be suspended or terminated, as the case may be.

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

39 (c) The board may request the appointment of administrative law  
40 judges under chapter 34.12 RCW who shall have power to administer

1 oaths, issue subpoenas for the attendance of witnesses and the  
2 production of papers, books, accounts, documents, and testimony,  
3 examine witnesses, receive testimony in any inquiry, investigation,  
4 hearing, or proceeding in any part of the state, and consider  
5 mitigating and aggravating circumstances in any case and deviate from  
6 any prescribed penalty, under rules the board may adopt.

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

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

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

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

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

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

3 (7) (a) Before the board issues a new or renewed license to an  
4 applicant it must give notice of the application to the chief  
5 executive officer of the incorporated city or town, if the  
6 application is for a license within an incorporated city or town, or  
7 to the county legislative authority, if the application is for a  
8 license outside the boundaries of incorporated cities or towns, or to  
9 the tribal government if the application is for a license within  
10 Indian country, or to the port authority if the application for a  
11 license is located on property owned by a port authority.

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

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

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

38 (8) (a) Except as provided in (b) through (e) of this subsection,  
39 the board may not issue a license for any premises within one  
40 thousand feet of the perimeter of the grounds of any elementary or

1 secondary school, playground, recreation center or facility, child  
2 care center, public park, public transit center, or library, or any  
3 game arcade admission to which is not restricted to persons aged  
4 twenty-one years or older.

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

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

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

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

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

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

33 (e) The board must issue a certificate of compliance if the  
34 premises met the requirements under (a), (b), (c), or (d) of this  
35 subsection on the date of the application. The certificate allows the  
36 licensee to operate the business at the proposed location  
37 notwithstanding a later occurring, otherwise disqualifying factor.

38 (f) The board may not issue a license for any premises within  
39 Indian country, as defined in 18 U.S.C. Sec. 1151, including any fee  
40 patent lands within the exterior boundaries of a reservation, without

1 the consent of the federally recognized tribe associated with the  
2 reservation or Indian country.

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

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

26 (11) For the purposes of this section:

27 (a) "Entity" has the same meaning as in RCW 23.95.105;

28 (b) "Interest" has the same meaning as in RCW 23.95.105; and

29 (c) "Interest holder" has the same meaning as in RCW 23.95.105.

30 **Sec. 2.** RCW 69.50.325 and 2020 c 236 s 6 are each amended to  
31 read as follows:

32 (1) There shall be a marijuana producer's license regulated by  
33 the board and subject to annual renewal. The licensee is authorized  
34 to produce: (a) Marijuana for sale at wholesale to marijuana  
35 processors and other marijuana producers; (b) immature plants or  
36 clones and seeds for sale to cooperatives as described under RCW  
37 69.51A.250; and (c) immature plants or clones and seeds for sale to  
38 qualifying patients and designated providers as provided under RCW  
39 69.51A.310. The production, possession, delivery, distribution, and

1 sale of marijuana in accordance with the provisions of this chapter  
2 and the rules adopted to implement and enforce it, by a validly  
3 licensed marijuana producer, shall not be a criminal or civil offense  
4 under Washington state law. Every marijuana producer's license shall  
5 be issued in the name of the applicant in accordance with RCW  
6 69.50.331, shall specify the location at which the marijuana producer  
7 intends to operate, which must be within the state of Washington, and  
8 the holder thereof shall not allow any other person to use the  
9 license. The application fee for a marijuana producer's license shall  
10 be two hundred fifty dollars plus the amount of any additional  
11 application fee that may be required pursuant to RCW 69.50.331(1)(e).  
12 The annual fee for issuance and renewal of a marijuana producer's  
13 license shall be one thousand three hundred eighty-one dollars. A  
14 separate license shall be required for each location at which a  
15 marijuana producer intends to produce marijuana.

16 (2) There shall be a marijuana processor's license to process,  
17 package, and label marijuana concentrates, useable marijuana, and  
18 marijuana-infused products for sale at wholesale to marijuana  
19 processors and marijuana retailers, regulated by the board and  
20 subject to annual renewal. The processing, packaging, possession,  
21 delivery, distribution, and sale of marijuana, useable marijuana,  
22 marijuana-infused products, and marijuana concentrates in accordance  
23 with the provisions of this chapter and chapter 69.51A RCW and the  
24 rules adopted to implement and enforce these chapters, by a validly  
25 licensed marijuana processor, shall not be a criminal or civil  
26 offense under Washington state law. Every marijuana processor's  
27 license shall be issued in the name of the applicant in accordance  
28 with RCW 69.50.331, shall specify the location at which the licensee  
29 intends to operate, which must be within the state of Washington, and  
30 the holder thereof shall not allow any other person to use the  
31 license. The application fee for a marijuana processor's license  
32 shall be two hundred fifty dollars plus the amount of any additional  
33 application fee that may be required pursuant to RCW 69.50.331(1)(e).  
34 The annual fee for issuance and renewal of a marijuana processor's  
35 license shall be one thousand three hundred eighty-one dollars. A  
36 separate license shall be required for each location at which a  
37 marijuana processor intends to process marijuana.

38 (3)(a) There shall be a marijuana retailer's license to sell  
39 marijuana concentrates, useable marijuana, and marijuana-infused  
40 products at retail in retail outlets, regulated by the board and



1 subject to annual renewal. The possession, delivery, distribution,  
2 and sale of marijuana concentrates, useable marijuana, and marijuana-  
3 infused products in accordance with the provisions of this chapter  
4 and the rules adopted to implement and enforce it, by a validly  
5 licensed marijuana retailer, shall not be a criminal or civil offense  
6 under Washington state law. Every marijuana retailer's license shall  
7 be issued in the name of the applicant in accordance with RCW  
8 69.50.331, shall specify the location of the retail outlet the  
9 licensee intends to operate, which must be within the state of  
10 Washington, and the holder thereof shall not allow any other person  
11 to use the license. The application fee for a marijuana retailer's  
12 license shall be two hundred fifty dollars plus the amount of any  
13 additional application fee that may be required pursuant to RCW  
14 69.50.331(1)(e). The annual fee for issuance and renewal of a  
15 marijuana retailer's license shall be one thousand three hundred  
16 eighty-one dollars. A separate license shall be required for each  
17 location at which a marijuana retailer intends to sell marijuana  
18 concentrates, useable marijuana, and marijuana-infused products.

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

23 (c) (i) A marijuana retailer's license is subject to forfeiture in  
24 accordance with rules adopted by the board pursuant to this section.

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

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

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

39 (iii) The board has discretion in adopting rules under this  
40 subsection (3)(c).

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

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

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

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

18 (d) The board may issue marijuana retailer licenses pursuant to  
19 this chapter and RCW 69.50.335.

20 NEW SECTION. **Sec. 3.** This act takes effect July 1, 2022.

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