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HOUSE BILL 2770

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State of Washington

65th Legislature

2018 Regular Session

By Representatives Kloba, Condotta, and Macri

Read first time 01/15/18. Referred to Committee on Commerce & Gaming.

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

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

5 **Sec. 1.** RCW 69.50.331 and 2017 c 317 s 2 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 state liquor and cannabis board must conduct a  
16 comprehensive, fair, and impartial evaluation of the applications  
17 timely received.

18 (a) The state liquor and cannabis board may cause an inspection  
19 of the premises to be made, and may inquire into all matters in  
20 connection with the construction and operation of the premises. For  
21 the purpose of reviewing any application for a license and for

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

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

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

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

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

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

36 (2)(a) The state liquor and cannabis board may, in its  
37 discretion, subject to the provisions of RCW 69.50.334, suspend or  
38 cancel any license; and all protections of the licensee from criminal  
39 or civil sanctions under state law for producing, processing,  
40 researching, or selling marijuana, marijuana concentrates, useable

1 marijuana, or marijuana-infused products thereunder must be suspended  
2 or terminated, as the case may be.

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

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

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

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

35 (3) Upon receipt of notice of the suspension or cancellation of a  
36 license, the licensee must forthwith deliver up the license to the  
37 state liquor and cannabis board. Where the license has been suspended  
38 only, the state liquor and cannabis board must return the license to  
39 the licensee at the expiration or termination of the period of  
40 suspension. The state liquor and cannabis board must notify all other

1 licensees in the county where the subject licensee has its premises  
2 of the suspension or cancellation of the license; and no other  
3 licensee or employee of another licensee may allow or cause any  
4 marijuana, marijuana concentrates, useable marijuana, or marijuana-  
5 infused products to be delivered to or for any person at the premises  
6 of the subject licensee.

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

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

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

18 (7)(a) Before the state liquor and cannabis board issues a new or  
19 renewed license to an applicant it must give notice of the  
20 application to the chief executive officer of the incorporated city  
21 or town, if the application is for a license within an incorporated  
22 city or town, or to the county legislative authority, if the  
23 application is for a license outside the boundaries of incorporated  
24 cities or towns, or to the tribal government if the application is  
25 for a license within Indian country, or to the port authority if the  
26 application for a license is located on property owned by a port  
27 authority.

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

39 (c) The written objections must include a statement of all facts  
40 upon which the objections are based, and in case written objections

1 are filed, the city or town or county legislative authority may  
2 request, and the state liquor and cannabis board may in its  
3 discretion hold, a hearing subject to the applicable provisions of  
4 Title 34 RCW. If the state liquor and cannabis board makes an initial  
5 decision to deny a license or renewal based on the written objections  
6 of an incorporated city or town or county legislative authority, the  
7 applicant may request a hearing subject to the applicable provisions  
8 of Title 34 RCW. If a hearing is held at the request of the  
9 applicant, state liquor and cannabis board representatives must  
10 present and defend the state liquor and cannabis board's initial  
11 decision to deny a license or renewal.

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

18 (8)(a) Except as provided in (b) through (d) of this subsection,  
19 the state liquor and cannabis board may not issue a license for any  
20 premises within one thousand feet of the perimeter of the grounds of  
21 any elementary or secondary school, playground, recreation center or  
22 facility, child care center, public park, public transit center, or  
23 library, or any game arcade admission to which is not restricted to  
24 persons aged twenty-one years or older.

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

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

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

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

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

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

14 (e) The state liquor and cannabis board may not issue a license  
15 for any premises within Indian country, as defined in 18 U.S.C. Sec.  
16 1151, including any fee patent lands within the exterior boundaries  
17 of a reservation, without the consent of the federally recognized  
18 tribe associated with the reservation or Indian country.

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

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

1 as indicated by the reported statements given to law enforcement upon  
2 arrest.

3 (11)(a) For purposes of determining who is an applicant for a  
4 marijuana producer, processor, or retailer license, any person or  
5 entity in any of the following positions in the business applying for  
6 the license is considered an applicant and must be named on the  
7 license:

8 (i) A sole proprietor;

9 (ii) A general partner of a general partnership, limited  
10 partnership, limited liability partnership, or limited liability  
11 limited partnership;

12 (iii) A limited partner of a limited partnership, limited  
13 liability partnership, or limited liability limited partnership who  
14 has more than a ten percent ownership interest in the partnership;

15 (iv) A manager of a limited liability company;

16 (v) A member of a limited liability company who has more than a  
17 ten percent ownership interest in the limited liability company;

18 (vi) A corporate officer or director, or person with equivalent  
19 title, of a privately or publicly held corporation;

20 (vii) A stockholder of a privately or publicly held corporation  
21 who has more than a ten percent ownership interest in the  
22 corporation;

23 (viii) Any person or entity who is in receipt of or who has the  
24 right to receive more than ten percent of the gross or net sales from  
25 the licensed business during any full or partial calendar or fiscal  
26 year;

27 (ix) Any person or entity who exercises control over the business  
28 pursuant to an agreement, such as a management agreement, operating  
29 agreement, partnership agreement, or other agreement; and

30 (x) A spouse of any person in (a)(i) through (ix) of this  
31 subsection.

32 (b) Except as provided in (a) of this subsection, a person or  
33 entity with an ownership interest of ten percent or less of the  
34 business applying for or holding a marijuana producer, processor, or  
35 retailer license is not an applicant and is not required to be named  
36 on the license.

37 (c) Any person owning ten percent or less of a business holding  
38 or applying for a marijuana producer, processor, or retailer license  
39 must pass a criminal background check. The check must be done through  
40 the Washington state patrol identification and criminal history

1 section and must include a national check from the federal bureau of  
2 investigation, which must be through the submission of fingerprints.  
3 The Washington state patrol must serve as the sole source for receipt  
4 of fingerprint submissions and the responses to the submissions from  
5 the federal bureau of investigation. Any person owning ten percent or  
6 less of a business applying for or holding a marijuana producer,  
7 processor, or retailer license must transmit appropriate fees for a  
8 state and national criminal history check to the Washington state  
9 patrol. The cost of investigations conducted under this subsection  
10 must be borne by the person owning ten percent or less of the  
11 business.

12 (d) The state liquor and cannabis board may:

13 (i) Investigate any person or entity in an application for a  
14 marijuana producer, processor, or retailer license where hidden  
15 ownership or misrepresentation of fact is suspected; and

16 (ii) Require any business applying for or holding a marijuana  
17 producer, processor, or retailer license to provide to the board the  
18 name of any person or entity who holds or is transferred any  
19 ownership interest in the business and the amount of and nature of  
20 any such ownership interest.

21 (12) Nothing in this chapter prevents an ownership interest in a  
22 business with a marijuana producer, processor, or retailer license  
23 from transferring, upon the death or incapacity of the owner, to an  
24 heir or assign of the owner in accordance with the uniform transfers  
25 to minors act, chapter 11.114 RCW, or otherwise, even if the heir or  
26 assign is under age twenty-one.

27 **Sec. 2.** RCW 69.50.325 and 2017 c 317 s 1 and 2017 c 316 s 2 are  
28 each reenacted and amended to read as follows:

29 (1) There shall be a marijuana producer's license regulated by  
30 the state liquor and cannabis board and subject to annual renewal.  
31 The licensee is authorized to produce: (a) Marijuana for sale at  
32 wholesale to marijuana processors and other marijuana producers; (b)  
33 immature plants or clones and seeds for sale to cooperatives as  
34 described under RCW 69.51A.250; and (c) immature plants or clones and  
35 seeds for sale to qualifying patients and designated providers as  
36 provided under RCW 69.51A.310. The production, possession, delivery,  
37 distribution, and sale of marijuana in accordance with the provisions  
38 of this chapter and the rules adopted to implement and enforce it, by  
39 a validly licensed marijuana producer, shall not be a criminal or



1 civil offense under Washington state law. Every marijuana producer's  
2 license shall be issued in the name of the applicant in accordance  
3 with RCW 69.50.331(11), shall specify the location at which the  
4 marijuana producer intends to operate, which must be within the state  
5 of Washington, and the holder thereof shall not allow any other  
6 person to use the license. The application fee for a marijuana  
7 producer's license shall be two hundred fifty dollars. The annual fee  
8 for issuance and renewal of a marijuana producer's license shall be  
9 one thousand three hundred dollars. A separate license shall be  
10 required for each location at which a marijuana producer intends to  
11 produce marijuana.

12 (2) There shall be a marijuana processor's license to process,  
13 package, and label marijuana concentrates, useable marijuana, and  
14 marijuana-infused products for sale at wholesale to marijuana  
15 processors and marijuana retailers, regulated by the state liquor and  
16 cannabis board and subject to annual renewal. The processing,  
17 packaging, possession, delivery, distribution, and sale of marijuana,  
18 useable marijuana, marijuana-infused products, and marijuana  
19 concentrates in accordance with the provisions of this chapter and  
20 chapter 69.51A RCW and the rules adopted to implement and enforce  
21 these chapters, by a validly licensed marijuana processor, shall not  
22 be a criminal or civil offense under Washington state law. Every  
23 marijuana processor's license shall be issued in the name of the  
24 applicant in accordance with RCW 69.50.331(11), shall specify the  
25 location at which the licensee intends to operate, which must be  
26 within the state of Washington, and the holder thereof shall not  
27 allow any other person to use the license. The application fee for a  
28 marijuana processor's license shall be two hundred fifty dollars. The  
29 annual fee for issuance and renewal of a marijuana processor's  
30 license shall be one thousand three hundred dollars. A separate  
31 license shall be required for each location at which a marijuana  
32 processor intends to process marijuana.

33 (3)(a) There shall be a marijuana retailer's license to sell  
34 marijuana concentrates, useable marijuana, and marijuana-infused  
35 products at retail in retail outlets, regulated by the state liquor  
36 and cannabis board and subject to annual renewal. The possession,  
37 delivery, distribution, and sale of marijuana concentrates, useable  
38 marijuana, and marijuana-infused products in accordance with the  
39 provisions of this chapter and the rules adopted to implement and  
40 enforce it, by a validly licensed marijuana retailer, shall not be a

1 criminal or civil offense under Washington state law. Every marijuana  
2 retailer's license shall be issued in the name of the applicant in  
3 accordance with RCW 69.50.331(11), shall specify the location of the  
4 retail outlet the licensee intends to operate, which must be within  
5 the state of Washington, and the holder thereof shall not allow any  
6 other person to use the license. The application fee for a marijuana  
7 retailer's license shall be two hundred fifty dollars. The annual fee  
8 for issuance and renewal of a marijuana retailer's license shall be  
9 one thousand three hundred dollars. A separate license shall be  
10 required for each location at which a marijuana retailer intends to  
11 sell marijuana concentrates, useable marijuana, and marijuana-infused  
12 products.

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

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

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

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

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

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

38 (iv) This subsection (3)(c) applies to marijuana retailer's  
39 licenses issued before and after July 23, 2017. However, no license  
40 of a marijuana retailer that otherwise meets the conditions for

1 license forfeiture established pursuant to this subsection (3)(c) may  
2 be subject to forfeiture within the first nine calendar months of  
3 July 23, 2017.

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

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

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

16 NEW SECTION. **Sec. 3.** This act takes effect July 1, 2018.

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