
ENGROSSED SUBSTITUTE SENATE BILL 5777

State of Washington

65th Legislature

2017 Regular Session

By Senate Commerce, Labor & Sports (originally sponsored by Senators Brown, Carlyle, Angel, Chase, and Saldaña)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to improving the business climate in this state
2 by simplifying the administration of municipal general business
3 licenses; adding a new chapter to Title 35 RCW; and creating a new
4 section.

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

6 NEW SECTION. **Sec. 1.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires
8 otherwise.

9 (1) "Business licensing service," "business licensing system,"
10 and "business license" have the same meaning as in RCW 19.02.020.

11 (2) "City" means a city, town, or code city.

12 (3) "Department" means the department of revenue.

13 (4) "General business license" means a license, not including a
14 regulatory license or a temporary license, that a city requires all
15 or most businesses to obtain to conduct business within that city.

16 (5) "Partner" means the relationship between a city and the
17 department under which general business licenses are issued and
18 renewed through the business licensing service in accordance with
19 chapter 19.02 RCW.

20 (6) "Regulatory business license" means a license, other than a
21 general business license, required for certain types of businesses

1 that a city has determined warrants additional regulation, such as
2 taxicab or other for-hire vehicle operators, adult entertainment
3 businesses, amusement device operators, massage parlors, debt
4 collectors, door-to-door sales persons, trade-show operators, and
5 home-based businesses.

6 NEW SECTION. **Sec. 2.** (1) Except as otherwise provided in
7 subsection (7) of this section, a city that requires a general
8 business license of any person that engages in business activities
9 within that city must partner with the department to have such
10 license issued, and renewed if the city requires renewal, through the
11 business licensing service in accordance with chapter 19.02 RCW.

12 (a) Except as otherwise provided in subsection (3) of this
13 section, the department must phase in the issuance and renewal of
14 general business licenses of cities that required a general business
15 license as of July 1, 2017, and by December 31, 2022, if specific
16 funding for the purposes of this section is appropriated by June 30,
17 2017, in the omnibus appropriations act.

18 (b) A city that imposes a general business license requirement
19 and does not partner with the department as of January 1, 2018, may
20 continue to issue and renew its general business licenses until the
21 city partners with the department as provided in subsection (4) of
22 this section.

23 (2)(a) A city that did not require a general business license as
24 of July 1, 2017, but imposes a new general business license
25 requirement after that date must advise the department in writing of
26 its intent to do so at least ninety days before the requirement takes
27 effect.

28 (b) If a city subject to (a) of this subsection (2) imposes a new
29 general business license requirement after July 1, 2017, the
30 department, in its sole discretion, may adjust resources to partner
31 with the imposing city as of the date that the new general business
32 licensing requirement takes effect, except as otherwise provided in
33 subsection (7) of this section. If the department cannot reallocate
34 resources, the city may issue and renew its general business license
35 until the department is able to partner with the city.

36 (3) The department may delay assuming the duties of issuing and
37 renewing general business licenses beyond the dates provided in
38 subsection (1)(a) of this section if:

1 (a) Insufficient funds are appropriated for this specific
2 purpose;

3 (b) The department cannot ensure the business licensing system is
4 adequately prepared to handle all general business licenses due to
5 unforeseen circumstances;

6 (c) The department determines that a delay is necessary to ensure
7 that the transition to mandatory department issuance and renewal of
8 general business licenses is as seamless as possible; or

9 (d) The city legislative body determines partnering with the
10 department creates an undue hardship because the city lacks the
11 fiscal or technical ability.

12 (4)(a) In consultation with affected cities and in accordance
13 with the priorities established in subsection (5) of this section,
14 the department must establish a biennial plan for partnering with
15 cities to assume the issuance and renewal of general business
16 licenses as required by this section. The plan must identify the
17 cities that the department will partner with and the dates targeted
18 for the department to assume the duties of issuing and renewing
19 general business licenses.

20 (b) By January 1, 2018, and January 1st of each even-numbered
21 year thereafter, the department must submit the partnering plan
22 required in (a) of this subsection (4) to the governor; legislative
23 fiscal committees; house local government committee; senate
24 agriculture, water, trade and economic development committee; senate
25 local government committee; affected cities; association of
26 Washington cities; association of Washington business; national
27 federation of independent business; and Washington retail
28 association.

29 (c) The department may, in its sole discretion, alter the plan
30 required in (a) of this subsection (4) with a minimum notice of
31 thirty days to affected cities.

32 (5) When determining the plan to partner with cities for the
33 issuance and renewal of general business licenses as required in
34 subsection (4) of this section, cities that notified the department
35 of their wish to partner with the department before January 1, 2017,
36 must be allowed to partner before other cities.

37 (6) A city that partners with the department for the issuance and
38 renewal of general business licenses through the business licensing
39 service in accordance with chapter 19.02 RCW may not issue and renew
40 those licenses.

1 (7) A city may decline to partner with the department for the
2 issuance and renewal of a general business license as provided in
3 subsection (1) of this section if:

4 (a) The city participates in the online local business license
5 and tax filing portal known as "FileLocal" as of July 1, 2020. For
6 the purposes of this subsection (7)(a), a city is considered to be a
7 FileLocal participant as of the date that a business may access
8 FileLocal for purposes of applying for or renewing that city's
9 general business license and reporting and paying that city's local
10 business and occupation taxes. A city that ceases participation in
11 FileLocal after July 1, 2020, must partner with the department for
12 the issuance and renewal of its general business license as provided
13 in subsection (1) of this section;

14 (b) The city determines that partnering with the department would
15 cause an undue hardship. A city that declines to partner with the
16 department for the issuance and renewal of its general business
17 license as provided in this subsection must provide written notice to
18 the department within sixty days of the date that a city appears on
19 the department's biennial partnering plan or receives notice that the
20 partnering plan has been amended as provided in subsection (4) of
21 this section. Such written notice must include an explanation of the
22 nature of the hardship. Hardship may include, but is not limited to,
23 lack of fiscal or technical ability to participate in the partnering
24 process as determined by the city legislative body, lack of support
25 from the city legislative authority to become a partner, preference
26 for a local system based on local circumstances or conditions, or
27 other hardships identified by the city; or

28 (c) The city, after partnering with the department for a minimum
29 of one year, determines that continuing to partner with the
30 department creates an undue hardship. A city that partners with the
31 department for the issuance and renewal of a general business license
32 as provided in subsection (1) of this section may terminate
33 partnering with the department. The city must provide written notice
34 to the department of its reasons for terminating the partnership at
35 least sixty days before termination.

36 (8) By January 1, 2019, and each January 1st thereafter through
37 January 1, 2028, the department must submit a progress report to the
38 governor; legislative fiscal committees; house local government
39 committee; senate agriculture, water, trade and economic development
40 committee; senate local government committee; association of

1 Washington cities; association of Washington business; national
2 federation of independent business; and Washington retail
3 association. The report required by this subsection must provide
4 information about the progress of the department's efforts to partner
5 with all cities that impose a general business license requirement
6 and include:

7 (a) A list of cities that have partnered with the department as
8 required in subsection (1) of this section;

9 (b) A list of cities that have not partnered with the department;

10 (c) A list of cities that are scheduled to partner with the
11 department during the upcoming calendar year;

12 (d) A list of cities that have declined to partner with the
13 department as provided in subsection (7) of this section;

14 (e) An explanation of lessons learned and any process
15 efficiencies incorporated by the department;

16 (f) Any recommendations to further simplify the issuance and
17 renewal of general business licenses by the department; and

18 (g) Any other information the department considers relevant.

19 NEW SECTION. **Sec. 3.** (1) A general business license that must
20 be issued and renewed through the business licensing service in
21 accordance with chapter 19.02 RCW is subject to the provisions of
22 this section.

23 (2)(a) A city has broad authority to impose a fee structure as
24 provided by RCW 35.22.280, 35.23.440, and 35A.82.020. However, any
25 fee structure selected by a city must be within the department's
26 technical ability to administer. The department has the sole
27 discretion to determine if it can administer a city's fee structure.

28 (b) If the department is unable to administer a city's fee
29 structure, the city must work with the department to adopt a fee
30 structure that is administrable by the department.

31 (3) A general business license may not be renewed more frequently
32 than once per year except that the department may require a more
33 frequent renewal date as may be necessary to synchronize the renewal
34 date for the general business license with the business's business
35 license expiration date.

36 (4) The business licensing system need not accommodate any
37 monetary penalty imposed by a city for failing to obtain or renew a
38 general business license. The penalty imposed in RCW 19.02.085

1 applies to general business licenses that are not renewed by their
2 expiration date.

3 (5) The department may refuse to administer any provision of a
4 city business license ordinance that is inconsistent with this
5 chapter.

6 NEW SECTION. **Sec. 4.** The department is not authorized to
7 enforce a city's licensing laws except to the extent of issuing or
8 renewing a license in accordance with this chapter and chapter 19.02
9 RCW or refusing to issue a license due to an incomplete application,
10 nonpayment of the appropriate fees as indicated by the license
11 application or renewal application, or the nonpayment of any
12 applicable penalty for late renewal.

13 NEW SECTION. **Sec. 5.** Cities whose general business licenses are
14 issued through the business licensing system retain the authority to
15 set license fees, provide exemptions and thresholds for these
16 licenses, approve or deny license applicants, and take appropriate
17 administrative actions against licensees.

18 NEW SECTION. **Sec. 6.** Cities may not require a person to obtain
19 or renew a general business license unless the person engages in
20 business within its respective city. For the purposes of this
21 section, a person may not be considered to be engaging in business
22 within a city unless the person is subject to the taxing jurisdiction
23 of a city under the standards established for interstate commerce
24 under the commerce clause of the United States Constitution.

25 NEW SECTION. **Sec. 7.** A general business license change enacted
26 by a city whose general business license is issued through the
27 business licensing system takes effect no sooner than seventy-five
28 days after the department receives notice of the change if the change
29 affects in any way who must obtain a license, who is exempt from
30 obtaining a license, or the amount or method of determining any fee
31 for the issuance or renewal of a license.

32 NEW SECTION. **Sec. 8.** (1)(a) The cities, working through the
33 association of Washington cities, must form a model ordinance
34 development committee made up of a representative sampling of cities
35 that impose a general business license requirement. This committee

1 must work through the association of Washington cities to adopt a
2 model ordinance on general business license requirements by July 1,
3 2018. The model ordinance and subsequent amendments developed by the
4 committee must be adopted using a process that includes opportunity
5 for substantial input from business stakeholders and other members of
6 the public. Input must be solicited from statewide business
7 associations and from local chambers of commerce and downtown
8 business associations in cities that require a person that conducts
9 business in the city to obtain a general business license.

10 (b) The department, association of Washington cities, and
11 municipal research and services center must post copies of, or links
12 to, the model ordinance on their internet web sites. Additionally, a
13 city that imposes a general business license requirement must make
14 copies of its general business license ordinance or ordinances
15 available for inspection and copying as provided in chapter 42.56
16 RCW.

17 (c) The definitions in the model ordinance may not be amended
18 more frequently than once every four years, except that the model
19 ordinance may be amended at any time to comply with changes in state
20 law or court decisions. Any amendment to a mandatory provision of the
21 model ordinance must be adopted with the same effective date by all
22 cities.

23 (2) A city that imposes a general business license requirement
24 must adopt the mandatory provisions of the model ordinance by January
25 1, 2019. The following provisions are mandatory:

26 (a) A definition of "engaging in business within the city" for
27 purposes of delineating the circumstances under which a general
28 business license is required;

29 (b) A uniform minimum licensing threshold under which a person
30 would be relieved of the requirement to obtain a city's general
31 business license. A city retains the authority to create a higher
32 threshold for the requirement to obtain a general business license
33 but must not deviate lower than the level required by the model
34 ordinance.

35 (3)(a) A city may require a person that is under the uniform
36 minimum licensing threshold as provided in subsection (2) of this
37 section to obtain a city registration with no fee due to the city.

38 (b) A city that requires a city registration as provided in (a)
39 of this subsection must partner with the department to have such
40 registration issued through the business licensing service in

1 accordance with chapter 19.02 RCW. This subsection (3)(b) does not
2 apply to a city that is excluded from the requirement to partner with
3 the department for the issuance and renewal of general business
4 licenses as provided in section 2 of this act.

5 NEW SECTION. **Sec. 9.** Cities that impose a general business
6 license must adopt the mandatory provisions of the model ordinance as
7 provided in section 8 of this act by January 1, 2019. A city that has
8 not complied with the requirements of this section by January 1,
9 2019, may not enforce its general business licensing requirements on
10 any person until the date that the mandatory provisions of the model
11 ordinance take effect within the city.

12 NEW SECTION. **Sec. 10.** Cities must coordinate with the
13 association of Washington cities to submit a report to the governor;
14 legislative fiscal committees; house local government committee; and
15 the senate agriculture, water, trade and economic development
16 committee by January 1, 2019. The report must:

17 (1) Provide information about the model ordinance adopted by the
18 cities as required in section 8 of this act;

19 (2) Identify cities that have and have not adopted the mandatory
20 provisions of the model ordinance; and

21 (3) Incorporate comments from statewide business organizations
22 concerning the process and substance of the model ordinance.
23 Statewide business organizations must be allowed thirty days to
24 submit comments for inclusion in the report.

25 NEW SECTION. **Sec. 11.** (1) The legislature directs cities,
26 towns, and identified business organizations to partner in
27 recommending changes to simplify the two factor apportionment formula
28 provided in RCW 35.102.130.

29 (2)(a) The local business and occupation tax apportionment task
30 force is established. The task force must consist of the following
31 seven representatives:

32 (i) Three voting representatives selected by the association of
33 Washington cities that are tax managers representing municipalities
34 that impose a local business and occupation tax, including at least
35 one jurisdiction that has performed an audit where apportionment
36 errors were discovered.

1 (ii) Three voting representatives selected by the association of
2 Washington business, including at least one tax practitioner or legal
3 counsel with experience representing business clients during
4 municipal audits that involved apportionment errors or disputes.

5 (iii) One nonvoting representative from the department of
6 revenue.

7 (b) The task force may seek input or collaborate with other
8 parties, as it deems necessary. The department of revenue must serve
9 as the task force chair and must staff the task force.

10 (c) Beginning in the first month following the effective date of
11 this section, the task force must meet no less frequently than once
12 per month until it reports to the legislature as provided under
13 subsection (3) of this section.

14 (3) By October 31, 2018, the task force established in subsection
15 (2) of this section must prepare a report to the legislature to
16 recommend changes to RCW 35.102.130 and related sections, as needed,
17 to develop a method for assigning gross receipts to a local
18 jurisdiction using a market-based model. The task force must focus on
19 methods that rely on information typically available in commercial
20 transaction receipts and captured by common business recordkeeping
21 systems.

22 (4) The task force terminates January 1, 2019, unless legislation
23 is enacted to extend such termination date.

24 NEW SECTION. **Sec. 12.** Sections 1 through 10 of this act
25 constitute a new chapter in Title 35 RCW.

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