
SUBSTITUTE SENATE BILL 5102

State of Washington

65th Legislature

2018 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Rivers and Palumbo)

READ FIRST TIME 01/25/18.

1 AN ACT Relating to residency requirements for licensed marijuana
2 businesses; and amending RCW 69.50.331.

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

4 **Sec. 1.** RCW 69.50.331 and 2017 c 317 s 2 are each amended to
5 read as follows:

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

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

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

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

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

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

28 (iii) A ~~((partnership, employee cooperative, association,~~
29 ~~nonprofit corporation, or corporation))~~ business entity or nonprofit
30 entity, unless formed under the laws of this state(~~(, and unless all~~
31 ~~of the members thereof are qualified to obtain a license as provided~~
32 ~~in this section))~~ or holding a certificate of registration under
33 chapter 23.95 RCW, and provided that:

34 (A) Those holding seventy-five percent of the interest in the
35 entity meet the residency requirement; and

36 (B) All interest holders who are not state residents are resident
37 citizens of the United States; or

38 (iv) A person whose place of business is conducted by a manager
39 or agent, unless the manager or agent possesses the same

1 qualifications required of the licensee, with the exception of the
2 residency requirement.

3 (c) The state liquor and cannabis board has discretionary
4 authority to deny a license or license renewal to an entity if the
5 state liquor and cannabis board is unable to investigate a
6 nonresident interest holder in the entity in accordance with the
7 investigatory standards applicable to the investigation of a state
8 resident.

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

16 (b) The state liquor and cannabis board must immediately suspend
17 the license of a person who has been certified pursuant to RCW
18 74.20A.320 by the department of social and health services as a
19 person who is not in compliance with a support order. If the person
20 has continued to meet all other requirements for reinstatement during
21 the suspension, reissuance of the license is automatic upon the state
22 liquor and cannabis board's receipt of a release issued by the
23 department of social and health services stating that the licensee is
24 in compliance with the order.

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

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

38 (e) In case of disobedience of any person to comply with the
39 order of the state liquor and cannabis board or a subpoena issued by
40 the state liquor and cannabis board, or any of its members, or

1 administrative law judges, or on the refusal of a witness to testify
2 to any matter regarding which he or she may be lawfully interrogated,
3 the judge of the superior court of the county in which the person
4 resides, on application of any member of the board or administrative
5 law judge, compels obedience by contempt proceedings, as in the case
6 of disobedience of the requirements of a subpoena issued from said
7 court or a refusal to testify therein.

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

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

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

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

31 (7)(a) Before the state liquor and cannabis board issues a new or
32 renewed license to an applicant it must give notice of the
33 application to the chief executive officer of the incorporated city
34 or town, if the application is for a license within an incorporated
35 city or town, or to the county legislative authority, if the
36 application is for a license outside the boundaries of incorporated
37 cities or towns, or to the tribal government if the application is
38 for a license within Indian country, or to the port authority if the
39 application for a license is located on property owned by a port
40 authority.

1 (b) The incorporated city or town through the official or
2 employee selected by it, the county legislative authority or the
3 official or employee selected by it, the tribal government, or port
4 authority has the right to file with the state liquor and cannabis
5 board within twenty days after the date of transmittal of the notice
6 for applications, or at least thirty days prior to the expiration
7 date for renewals, written objections against the applicant or
8 against the premises for which the new or renewed license is asked.
9 The state liquor and cannabis board may extend the time period for
10 submitting written objections upon request from the authority
11 notified by the state liquor and cannabis board.

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

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

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

38 (b) A city, county, or town may permit the licensing of premises
39 within one thousand feet but not less than one hundred feet of the
40 facilities described in (a) of this subsection, except elementary

1 schools, secondary schools, and playgrounds, by enacting an ordinance
2 authorizing such distance reduction, provided that such distance
3 reduction will not negatively impact the jurisdiction's civil
4 regulatory enforcement, criminal law enforcement interests, public
5 safety, or public health.

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

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

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

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

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

26 (e) The state liquor and cannabis board may not issue a license
27 for any premises within Indian country, as defined in 18 U.S.C. Sec.
28 1151, including any fee patent lands within the exterior boundaries
29 of a reservation, without the consent of the federally recognized
30 tribe associated with the reservation or Indian country.

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

35 (10) In determining whether to grant or deny a license or renewal
36 of any license, the state liquor and cannabis board must give
37 substantial weight to objections from an incorporated city or town or
38 county legislative authority based upon chronic illegal activity
39 associated with the applicant's operations of the premises proposed
40 to be licensed or the applicant's operation of any other licensed

1 premises, or the conduct of the applicant's patrons inside or outside
2 the licensed premises. "Chronic illegal activity" means (a) a
3 pervasive pattern of activity that threatens the public health,
4 safety, and welfare of the city, town, or county including, but not
5 limited to, open container violations, assaults, disturbances,
6 disorderly conduct, or other criminal law violations, or as
7 documented in crime statistics, police reports, emergency medical
8 response data, calls for service, field data, or similar records of a
9 law enforcement agency for the city, town, county, or any other
10 municipal corporation or any state agency; or (b) an unreasonably
11 high number of citations for violations of RCW 46.61.502 associated
12 with the applicant's or licensee's operation of any licensed premises
13 as indicated by the reported statements given to law enforcement upon
14 arrest.

15 (11) For the purposes of this section:

16 (a) "Entity" has the same meaning as in RCW 23.95.105(6);

17 (b) "Interest" has the same meaning as in RCW 23.95.105(13); and

18 (c) "Interest holder" has the same meaning as in RCW
19 23.95.105(14).

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