
HOUSE BILL 2364

State of Washington

64th Legislature

2016 Regular Session

By Representatives Wylie, Fitzgibbon, S. Hunt, Moeller, Vick, and Buys

Read first time 01/11/16. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to the licensing of marijuana-related businesses
2 involving a partnership, employee cooperative, association, nonprofit
3 corporation, corporation, or limited liability company; and amending
4 RCW 69.50.331.

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

6 **Sec. 1.** RCW 69.50.331 and 2015 2nd sp.s. c 4 s 301 are each
7 amended to read as follows:

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

19 (a) The state liquor and cannabis board must develop a
20 competitive, merit-based application process that includes, at a
21 minimum, the opportunity for an applicant to demonstrate experience

1 and qualifications in the marijuana industry. The state liquor and
2 cannabis board must give preference between competing applications in
3 the licensing process to applicants that have the following
4 experience and qualifications, in the following order of priority:

5 (i) First priority is given to applicants who:

6 (A) Applied to the state liquor and cannabis board for a
7 marijuana retailer license prior to July 1, 2014;

8 (B) Operated or were employed by a collective garden before
9 January 1, 2013;

10 (C) Have maintained a state business license and a municipal
11 business license, as applicable in the relevant jurisdiction; and

12 (D) Have had a history of paying all applicable state taxes and
13 fees;

14 (ii) Second priority must be given to applicants who:

15 (A) Operated or were employed by a collective garden before
16 January 1, 2013;

17 (B) Have maintained a state business license and a municipal
18 business license, as applicable in the relevant jurisdiction; and

19 (C) Have had a history of paying all applicable state taxes and
20 fees; and

21 (iii) Third priority must be given to all other applicants who do
22 not have the experience and qualifications identified in (a)(i) and
23 (ii) of this subsection.

24 (b) The state liquor and cannabis board may cause an inspection
25 of the premises to be made, and may inquire into all matters in
26 connection with the construction and operation of the premises. For
27 the purpose of reviewing any application for a license and for
28 considering the denial, suspension, revocation, or renewal or denial
29 thereof, of any license, the state liquor and cannabis board may
30 consider any prior criminal conduct of the applicant including an
31 administrative violation history record with the state liquor and
32 cannabis board and a criminal history record information check. The
33 state liquor and cannabis board may submit the criminal history
34 record information check to the Washington state patrol and to the
35 identification division of the federal bureau of investigation in
36 order that these agencies may search their records for prior arrests
37 and convictions of the individual or individuals who filled out the
38 forms. The state liquor and cannabis board must require
39 fingerprinting of any applicant whose criminal history record
40 information check is submitted to the federal bureau of

1 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A
2 RCW do not apply to these cases. Subject to the provisions of this
3 section, the state liquor and cannabis board may, in its discretion,
4 grant or deny the renewal or license applied for. Denial may be based
5 on, without limitation, the existence of chronic illegal activity
6 documented in objections submitted pursuant to subsections (7)(c) and
7 (10) of this section. Authority to approve an uncontested or
8 unopposed license may be granted by the state liquor and cannabis
9 board to any staff member the board designates in writing. Conditions
10 for granting this authority must be adopted by rule.

11 (c) No license of any kind may be issued to:

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

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

16 (iii) A partnership, employee cooperative, association, nonprofit
17 corporation, ((or)) corporation, or limited liability company unless
18 formed under the laws of this state((, and unless all of the members
19 thereof are qualified to obtain a license as provided in this
20 section)) or holding a certificate of authority to transact business
21 in this state. For the purposes of licensing under this chapter, the
22 partners, members, or shareholders of the entities identified in this
23 subsection (1)(c)(iii) are not subject to any state residency
24 requirements; or

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

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

35 (b) The state liquor and cannabis board must immediately suspend
36 the license of a person who has been certified pursuant to RCW
37 74.20A.320 by the department of social and health services as a
38 person who is not in compliance with a support order. If the person
39 has continued to meet all other requirements for reinstatement during
40 the suspension, reissuance of the license is automatic upon the state

1 liquor and cannabis board's receipt of a release issued by the
2 department of social and health services stating that the licensee is
3 in compliance with the order.

4 (c) The state liquor and cannabis board may request the
5 appointment of administrative law judges under chapter 34.12 RCW who
6 shall have power to administer oaths, issue subpoenas for the
7 attendance of witnesses and the production of papers, books,
8 accounts, documents, and testimony, examine witnesses, and to receive
9 testimony in any inquiry, investigation, hearing, or proceeding in
10 any part of the state, under rules and regulations the state liquor
11 and cannabis board may adopt.

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

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

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

39 (4) Every license issued under this chapter is subject to all
40 conditions and restrictions imposed by this chapter or by rules

1 adopted by the state liquor and cannabis board to implement and
2 enforce this chapter. All conditions and restrictions imposed by the
3 state liquor and cannabis board in the issuance of an individual
4 license must be listed on the face of the individual license along
5 with the trade name, address, and expiration date.

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

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

10 (7)(a) Before the state liquor and cannabis board issues a new or
11 renewed license to an applicant it must give notice of the
12 application to the chief executive officer of the incorporated city
13 or town, if the application is for a license within an incorporated
14 city or town, or to the county legislative authority, if the
15 application is for a license outside the boundaries of incorporated
16 cities or towns.

17 (b) The incorporated city or town through the official or
18 employee selected by it, or the county legislative authority or the
19 official or employee selected by it, has the right to file with the
20 state liquor and cannabis board within twenty days after the date of
21 transmittal of the notice for applications, or at least thirty days
22 prior to the expiration date for renewals, written objections against
23 the applicant or against the premises for which the new or renewed
24 license is asked. The state liquor and cannabis board may extend the
25 time period for submitting written objections.

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

39 (d) Upon the granting of a license under this title the state
40 liquor and cannabis board must send written notification to the chief

1 executive officer of the incorporated city or town in which the
2 license is granted, or to the county legislative authority if the
3 license is granted outside the boundaries of incorporated cities or
4 towns.

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

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

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

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

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

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

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

1 (9) Subject to section 1601 of this act, a city, town, or county
2 may adopt an ordinance prohibiting a marijuana producer or marijuana
3 processor from operating or locating a business within areas zoned
4 primarily for residential use or rural use with a minimum lot size of
5 five acres or smaller.

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

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