
SENATE BILL 5130

State of Washington 64th Legislature 2015 Regular Session

By Senators Pearson and Benton

Read first time 01/14/15. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to marijuana producers and processors; amending
2 RCW 69.50.331; creating new sections; and declaring an emergency.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that licensing of
5 marijuana producer and processor businesses within an area zoned for
6 residential use or an area zoned for rural use with a minimum lot
7 size of five acres creates a public nuisance, lowers property values,
8 and increases the risk of criminal activity. The impacts of these
9 businesses greatly affects the economic value of the neighboring
10 properties through many factors, such as offensive odors, increased
11 noise levels, increased traffic, the potential for spraying of
12 fertilizers and pesticides, and the potential for increased criminal
13 activity, including trespassing, theft, and acts of physical
14 violence.

15 The legislature finds that locating and relocating these
16 businesses in other areas more suitable for producing marijuana and
17 processing marijuana, useable marijuana, marijuana concentrates, and
18 marijuana-infused products poses a smaller cost on society than to
19 allow the businesses to diminish the public health, safety, and
20 welfare of the neighboring residential and rural properties. The
21 legislature also finds that the newly prohibited areas have other

1 economically viable or beneficial uses and are not diminished in
2 value by this act, and in many of these instances this act may
3 increase the value of the properties in question.

4 **Sec. 2.** RCW 69.50.331 and 2013 c 3 s 6 are each amended to read
5 as follows:

6 (1) For the purpose of considering any application for a license
7 to produce, process, or sell marijuana, or for the renewal of a
8 license to produce, process, or sell marijuana, the state liquor
9 control board may cause an inspection of the premises to be made, and
10 may inquire into all matters in connection with the construction and
11 operation of the premises. For the purpose of reviewing any
12 application for a license and for considering the denial, suspension,
13 revocation, or renewal or denial thereof, of any license, the state
14 liquor control board may consider any prior criminal conduct of the
15 applicant including an administrative violation history record with
16 the state liquor control board and a criminal history record
17 information check. The state liquor control board may submit the
18 criminal history record information check to the Washington state
19 patrol and to the identification division of the federal bureau of
20 investigation in order that these agencies may search their records
21 for prior arrests and convictions of the individual or individuals
22 who filled out the forms. The state liquor control board shall
23 require fingerprinting of any applicant whose criminal history record
24 information check is submitted to the federal bureau of
25 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A
26 RCW shall not apply to these cases. Subject to the provisions of this
27 section, the state liquor control board may, in its discretion, grant
28 or deny the renewal or license applied for. Denial may be based on,
29 without limitation, the existence of chronic illegal activity
30 documented in objections submitted pursuant to subsections (7)(c) and
31 (~~(9)~~) (10) of this section. Authority to approve an uncontested or
32 unopposed license may be granted by the state liquor control board to
33 any staff member the board designates in writing. Conditions for
34 granting this authority shall be adopted by rule. No license of any
35 kind may be issued to:

- 36 (a) A person under the age of twenty-one years;
37 (b) A person doing business as a sole proprietor who has not
38 lawfully resided in the state for at least three months prior to
39 applying to receive a license;

1 (c) A partnership, employee cooperative, association, nonprofit
2 corporation, or corporation unless formed under the laws of this
3 state, and unless all of the members thereof are qualified to obtain
4 a license as provided in this section; or

5 (d) A person whose place of business is conducted by a manager or
6 agent, unless the manager or agent possesses the same qualifications
7 required of the licensee.

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

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

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

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

36 (e) In case of disobedience of any person to comply with the
37 order of the state liquor control board or a subpoena issued by the
38 state liquor control board, or any of its members, or administrative
39 law judges, or on the refusal of a witness to testify to any matter
40 regarding which he or she may be lawfully interrogated, the judge of

1 the superior court of the county in which the person resides, on
2 application of any member of the board or administrative law judge,
3 shall compel obedience by contempt proceedings, as in the case of
4 disobedience of the requirements of a subpoena issued from said court
5 or a refusal to testify therein.

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

18 (4) Every license issued under chapter 3, Laws of 2013 shall be
19 subject to all conditions and restrictions imposed by chapter 3, Laws
20 of 2013 or by rules adopted by the state liquor control board to
21 implement and enforce chapter 3, Laws of 2013. All conditions and
22 restrictions imposed by the state liquor control board in the
23 issuance of an individual license shall be listed on the face of the
24 individual license along with the trade name, address, and expiration
25 date.

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

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

30 (7)(a) Before the state liquor control board issues a new or
31 renewed license to an applicant it shall give notice of the
32 application to the chief executive officer of the incorporated city
33 or town, if the application is for a license within an incorporated
34 city or town, or to the county legislative authority, if the
35 application is for a license outside the boundaries of incorporated
36 cities or towns.

37 (b) The incorporated city or town through the official or
38 employee selected by it, or the county legislative authority or the
39 official or employee selected by it, shall have the right to file
40 with the state liquor control board within twenty days after the date

1 of transmittal of the notice for applications, or at least thirty
2 days prior to the expiration date for renewals, written objections
3 against the applicant or against the premises for which the new or
4 renewed license is asked. The state liquor control board may extend
5 the time period for submitting written objections.

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

19 (d) Upon the granting of a license under this title the state
20 liquor control board shall send written notification to the chief
21 executive officer of the incorporated city or town in which the
22 license is granted, or to the county legislative authority if the
23 license is granted outside the boundaries of incorporated cities or
24 towns.

25 (8) The state liquor control board shall not issue a license for
26 any premises within one thousand feet of the perimeter of the grounds
27 of any elementary or secondary school, playground, recreation center
28 or facility, child care center, public park, public transit center,
29 or library, or any game arcade admission to which is not restricted
30 to persons aged twenty-one years or older.

31 (9) The state liquor control board shall not issue a marijuana
32 producer or marijuana processor license for any premises located
33 within an area zoned for residential use or an area zoned for rural
34 use with a minimum lot size of five acres.

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

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

14 NEW SECTION. **Sec. 3.** This act applies prospectively to new
15 licenses issued on or after the effective date of this section. This
16 act is also intended to be applied to the renewal of existing
17 licenses issued under this chapter and no existing license may be
18 renewed for locations that are in violation of the provisions of this
19 act.

20 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of
22 the state government and its existing public institutions, and takes
23 effect immediately.

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