

SSB 5777 - S AMD 93
By Senator Brown

ADOPTED 03/03/2017

1 Strike everything after the enacting clause and insert the
2 following:

3 NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

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

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

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

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

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

17 (6) "Regulatory business license" means a license, other than a
18 general business license, required for certain types of businesses
19 that a city has determined warrants additional regulation, such as
20 taxicab or other for-hire vehicle operators, adult entertainment
21 businesses, amusement device operators, massage parlors, debt
22 collectors, door-to-door sales persons, trade-show operators, and
23 home-based businesses.

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

30 (a) Except as otherwise provided in subsection (3) of this
31 section, the department must phase in the issuance and renewal of

1 general business licenses of cities that required a general business
2 license as of July 1, 2017, and by December 31, 2022, if specific
3 funding for the purposes of this section is appropriated by June 30,
4 2017, in the omnibus appropriations act.

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

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

15 (b) If a city subject to (a) of this subsection (2) imposes a new
16 general business license requirement after July 1, 2017, the
17 department, in its sole discretion, may adjust resources to partner
18 with the imposing city as of the date that the new general business
19 licensing requirement takes effect, except as otherwise provided in
20 subsection (7) of this section. If the department cannot reallocate
21 resources, the city may issue and renew its general business license
22 until the department is able to partner with the city.

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

26 (a) Insufficient funds are appropriated for this specific
27 purpose;

28 (b) The department cannot ensure the business licensing system is
29 adequately prepared to handle all general business licenses due to
30 unforeseen circumstances;

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

34 (d) The city legislative body determines partnering with the
35 department creates an undue hardship because the city lacks the
36 fiscal or technical ability.

37 (4)(a) In consultation with affected cities and in accordance
38 with the priorities established in subsection (5) of this section,
39 the department must establish a biennial plan for partnering with
40 cities to assume the issuance and renewal of general business

1 licenses as required by this section. The plan must identify the
2 cities that the department will partner with and the dates targeted
3 for the department to assume the duties of issuing and renewing
4 general business licenses.

5 (b) By January 1, 2018, and January 1st of each even-numbered
6 year thereafter, the department must submit the partnering plan
7 required in (a) of this subsection (4) to the governor; legislative
8 fiscal committees; house local government committee; senate
9 agriculture, water, trade and economic development committee; senate
10 local government committee; affected cities; association of
11 Washington cities; association of Washington business; national
12 federation of independent business; and Washington retail
13 association.

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

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

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

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

29 (a) The city participates in the online local business license
30 and tax filing portal known as "FileLocal" as of July 1, 2020. For
31 the purposes of this subsection (7)(a), a city is considered to be a
32 FileLocal participant as of the date that a business may access
33 FileLocal for purposes of applying for or renewing that city's
34 general business license and reporting and paying that city's local
35 business and occupation taxes. A city that ceases participation in
36 FileLocal after July 1, 2020, must partner with the department for
37 the issuance and renewal of its general business license as provided
38 in subsection (1) of this section;

39 (b) The city determines that partnering with the department would
40 cause an undue hardship. A city that declines to partner with the

1 department for the issuance and renewal of its general business
2 license as provided in this subsection must provide written notice to
3 the department within sixty days of the date that a city appears on
4 the department's biennial partnering plan or receives notice that the
5 partnering plan has been amended as provided in subsection (4) of
6 this section. Such written notice must include an explanation of the
7 nature of the hardship. Hardship may include, but is not limited to,
8 lack of fiscal or technical ability to participate in the partnering
9 process as determined by the city legislative body, lack of support
10 from the city legislative authority to become a partner, preference
11 for a local system based on local circumstances or conditions, or
12 other hardships identified by the city; or

13 (c) The city, after partnering with the department for a minimum
14 of one year, determines that continuing to partner with the
15 department creates an undue hardship. A city that partners with the
16 department for the issuance and renewal of a general business license
17 as provided in subsection (1) of this section may terminate
18 partnering with the department. The city must provide written notice
19 to the department of its reasons for terminating the partnership at
20 least sixty days before termination.

21 (8) By January 1, 2019, and each January 1st thereafter through
22 January 1, 2028, the department must submit a progress report to the
23 governor; legislative fiscal committees; house local government
24 committee; senate agriculture, water, trade and economic development
25 committee; senate local government committee; association of
26 Washington cities; association of Washington business; national
27 federation of independent business; and Washington retail
28 association. The report required by this subsection must provide
29 information about the progress of the department's efforts to partner
30 with all cities that impose a general business license requirement
31 and include:

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

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

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

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

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

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

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

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

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

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

16 (3) A general business license may not be renewed more frequently
17 than once per year except that the department may require a more
18 frequent renewal date as may be necessary to synchronize the renewal
19 date for the general business license with the business's business
20 license expiration date.

21 (4) The business licensing system need not accommodate any
22 monetary penalty imposed by a city for failing to obtain or renew a
23 general business license. The penalty imposed in RCW 19.02.085
24 applies to general business licenses that are not renewed by their
25 expiration date.

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

29 NEW SECTION. **Sec. 4.** The department is not authorized to
30 enforce a city's licensing laws except to the extent of issuing or
31 renewing a license in accordance with this chapter and chapter 19.02
32 RCW or refusing to issue a license due to an incomplete application,
33 nonpayment of the appropriate fees as indicated by the license
34 application or renewal application, or the nonpayment of any
35 applicable penalty for late renewal.

36 NEW SECTION. **Sec. 5.** Cities whose general business licenses are
37 issued through the business licensing system retain the authority to

1 set license fees, provide exemptions and thresholds for these
2 licenses, approve or deny license applicants, and take appropriate
3 administrative actions against licensees.

4 NEW SECTION. **Sec. 6.** Cities may not require a person to obtain
5 or renew a general business license unless the person engages in
6 business within its respective city. For the purposes of this
7 section, a person may not be considered to be engaging in business
8 within a city unless the person is subject to the taxing jurisdiction
9 of a city under the standards established for interstate commerce
10 under the commerce clause of the United States Constitution.

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

18 NEW SECTION. **Sec. 8.** (1)(a) The cities, working through the
19 association of Washington cities, must form a model ordinance
20 development committee made up of a representative sampling of cities
21 that impose a general business license requirement. This committee
22 must work through the association of Washington cities to adopt a
23 model ordinance on general business license requirements by July 1,
24 2018. The model ordinance and subsequent amendments developed by the
25 committee must be adopted using a process that includes opportunity
26 for substantial input from business stakeholders and other members of
27 the public. Input must be solicited from statewide business
28 associations and from local chambers of commerce and downtown
29 business associations in cities that require a person that conducts
30 business in the city to obtain a general business license.

31 (b) The department, association of Washington cities, and
32 municipal research and services center must post copies of, or links
33 to, the model ordinance on their internet web sites. Additionally, a
34 city that imposes a general business license requirement must make
35 copies of its general business license ordinance or ordinances
36 available for inspection and copying as provided in chapter 42.56
37 RCW.

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

7 (2) A city that imposes a general business license requirement
8 must adopt the mandatory provisions of the model ordinance by January
9 1, 2019. The following provisions are mandatory:

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

13 (b) A uniform minimum licensing threshold under which a person
14 would be relieved of the requirement to obtain a city's general
15 business license. A city retains the authority to create a higher
16 threshold for the requirement to obtain a general business license
17 but must not deviate lower than the level required by the model
18 ordinance.

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

22 (b) A city that requires a city registration as provided in (a)
23 of this subsection must partner with the department to have such
24 registration issued through the business licensing service in
25 accordance with chapter 19.02 RCW. This subsection (3)(b) does not
26 apply to a city that is excluded from the requirement to partner with
27 the department for the issuance and renewal of general business
28 licenses as provided in section 2 of this act.

29 NEW SECTION. **Sec. 9.** Cities that impose a general business
30 license must adopt the mandatory provisions of the model ordinance as
31 provided in section 8 of this act by January 1, 2019. A city that has
32 not complied with the requirements of this section by January 1,
33 2019, may not enforce its general business licensing requirements on
34 any person until the date that the mandatory provisions of the model
35 ordinance take effect within the city.

36 NEW SECTION. **Sec. 10.** Cities must coordinate with the
37 association of Washington cities to submit a report to the governor;
38 legislative fiscal committees; house local government committee; and

1 the senate agriculture, water, trade and economic development
2 committee by January 1, 2019. The report must:

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

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

7 (3) Incorporate comments from statewide business organizations
8 concerning the process and substance of the model ordinance.
9 Statewide business organizations must be allowed thirty days to
10 submit comments for inclusion in the report.

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

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

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

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

27 (iii) One nonvoting representative from the department of
28 revenue.

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

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

36 (3) By October 31, 2018, the task force established in subsection
37 (2) of this section must prepare a report to the legislature to
38 recommend changes to RCW 35.102.130 and related sections, as needed,
39 to develop a method for assigning gross receipts to a local

1 jurisdiction using a market-based model. The task force must focus on
2 methods that rely on information typically available in commercial
3 transaction receipts and captured by common business recordkeeping
4 systems.

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

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

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ADOPTED 03/03/2017

9 On page 1, line 3 of the title, after "licenses;" strike the
10 remainder of the title and insert "adding a new chapter to Title 35
11 RCW; and creating a new section."

EFFECT: (1) Authorizes the Department of Revenue (DOR) to delay implementation if a city's legislative body determines that partnering with DOR creates an undue hardship.

(2) Adds a deadline of July 1, 2020, for cities to participate in FileLocal as an alternative to partnering with DOR. Requires a city that ceases participation in FileLocal after the deadline to partner with DOR.

(3) Provides that a city's legislative body must determine that the city lacks fiscal or technical ability to partner with DOR if lacking fiscal or technical ability is the basis for the city's claim of undue hardship.

(4) Provides that a city that has partnered with DOR may decline to continue its partnership with DOR if doing so would cause an undue hardship.

(5) Removes a provision prohibiting a city from enforcing its general business license if it fails to work with DOR to adopt a fee structure that is administrable by DOR.

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