
SENATE BILL 5131

State of Washington

65th Legislature

2017 Regular Session

By Senators Rivers and Conway; by request of Liquor and Cannabis Board

Read first time 01/13/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to marijuana with respect to privileges for
2 research licenses, local authority notifications, the retail
3 licensing merit-based application process, processor wholesale
4 events, and jurisdictional requirements; amending RCW 69.50.325,
5 69.50.331, 69.50.372, and 66.08.100; and creating a new section.

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

7 **Sec. 1.** RCW 69.50.325 and 2016 c 170 s 1 are each amended to
8 read as follows:

9 (1) There shall be a marijuana producer's license to produce
10 marijuana for sale at wholesale to marijuana processors and other
11 marijuana producers and to produce marijuana plants for sale to
12 cooperatives as described under RCW 69.51A.250, regulated by the
13 state liquor and cannabis board and subject to annual renewal. The
14 production, possession, delivery, distribution, and sale of marijuana
15 in accordance with the provisions of this chapter and the rules
16 adopted to implement and enforce it, by a validly licensed marijuana
17 producer, shall not be a criminal or civil offense under Washington
18 state law. Every marijuana producer's license shall be issued in the
19 name of the applicant, shall specify the location at which the
20 marijuana producer intends to operate, which must be within the state
21 of Washington, and the holder thereof shall not allow any other

1 person to use the license. The application fee for a marijuana
2 producer's license shall be two hundred fifty dollars. The annual fee
3 for issuance and renewal of a marijuana producer's license shall be
4 one thousand dollars. A separate license shall be required for each
5 location at which a marijuana producer intends to produce marijuana.

6 (2) There shall be a marijuana processor's license to process(~~(~~
7 ~~package, and label~~)) marijuana concentrates, useable marijuana, and
8 marijuana-infused products for sale at wholesale to marijuana
9 processors and process, package, and label marijuana concentrates,
10 useable marijuana, and marijuana-infused products for wholesale to
11 marijuana retailers, regulated by the state liquor and cannabis board
12 and subject to annual renewal. The processing, packaging, possession,
13 delivery, distribution, and sale of marijuana, useable marijuana,
14 marijuana-infused products, and marijuana concentrates in accordance
15 with the provisions of this chapter and chapter 69.51A RCW and the
16 rules adopted to implement and enforce these chapters, by a validly
17 licensed marijuana processor, shall not be a criminal or civil
18 offense under Washington state law. Every marijuana processor's
19 license shall be issued in the name of the applicant, shall specify
20 the location at which the licensee intends to operate, which must be
21 within the state of Washington, and the holder thereof shall not
22 allow any other person to use the license. The application fee for a
23 marijuana processor's license shall be two hundred fifty dollars. The
24 annual fee for issuance and renewal of a marijuana processor's
25 license shall be one thousand dollars. A separate license shall be
26 required for each location at which a marijuana processor intends to
27 process marijuana.

28 (3) There shall be a marijuana retailer's license to sell
29 marijuana concentrates, useable marijuana, and marijuana-infused
30 products at retail in retail outlets, regulated by the state liquor
31 and cannabis board and subject to annual renewal. The possession,
32 delivery, distribution, and sale of marijuana concentrates, useable
33 marijuana, and marijuana-infused products in accordance with the
34 provisions of this chapter and the rules adopted to implement and
35 enforce it, by a validly licensed marijuana retailer, shall not be a
36 criminal or civil offense under Washington state law. Every marijuana
37 retailer's license shall be issued in the name of the applicant,
38 shall specify the location of the retail outlet the licensee intends
39 to operate, which must be within the state of Washington, and the
40 holder thereof shall not allow any other person to use the license.

1 The application fee for a marijuana retailer's license shall be two
2 hundred fifty dollars. The annual fee for issuance and renewal of a
3 marijuana retailer's license shall be one thousand dollars. A
4 separate license shall be required for each location at which a
5 marijuana retailer intends to sell marijuana concentrates, useable
6 marijuana, and marijuana-infused products.

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

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

20 (a) ~~((The state liquor and cannabis board must develop a~~
21 ~~competitive, merit-based application process that includes, at a~~
22 ~~minimum, the opportunity for an applicant to demonstrate experience~~
23 ~~and qualifications in the marijuana industry. The state liquor and~~
24 ~~cannabis board must give preference between competing applications in~~
25 ~~the licensing process to applicants that have the following~~
26 ~~experience and qualifications, in the following order of priority:~~

27 ~~(i) First priority is given to applicants who:~~

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

30 ~~(B) Operated or were employed by a collective garden before~~
31 ~~January 1, 2013;~~

32 ~~(C) Have maintained a state business license and a municipal~~
33 ~~business license, as applicable in the relevant jurisdiction; and~~

34 ~~(D) Have had a history of paying all applicable state taxes and~~
35 ~~fees;~~

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

37 ~~(A) Operated or were employed by a collective garden before~~
38 ~~January 1, 2013;~~

1 ~~(B) Have maintained a state business license and a municipal~~
2 ~~business license, as applicable in the relevant jurisdiction; and~~

3 ~~(C) Have had a history of paying all applicable state taxes and~~
4 ~~fees; and~~

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

8 ~~(b))~~) The state liquor and cannabis board may cause an inspection
9 of the premises to be made, and may inquire into all matters in
10 connection with the construction and operation of the premises. For
11 the purpose of reviewing any application for a license and for
12 considering the denial, suspension, revocation, or renewal or denial
13 thereof, of any license, the state liquor and cannabis board may
14 consider any prior criminal conduct of the applicant including an
15 administrative violation history record with the state liquor and
16 cannabis board and a criminal history record information check. The
17 state liquor and cannabis board may submit the criminal history
18 record information check to the Washington state patrol and to the
19 identification division of the federal bureau of investigation in
20 order that these agencies may search their records for prior arrests
21 and convictions of the individual or individuals who filled out the
22 forms. The state liquor and cannabis board must require
23 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 do not apply to these cases. Subject to the provisions of this
27 section, the state liquor and cannabis board may, in its discretion,
28 grant or deny the renewal or license applied for. Denial may be based
29 on, without limitation, the existence of chronic illegal activity
30 documented in objections submitted pursuant to subsections (7)(c) and
31 (10) of this section. Authority to approve an uncontested or
32 unopposed license may be granted by the state liquor and cannabis
33 board to any staff member the board designates in writing. Conditions
34 for granting this authority must be adopted by rule.

35 ~~((e))~~) (b) No license of any kind may be issued to:

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

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

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

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

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

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

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

37 (e) In case of disobedience of any person to comply with the
38 order of the state liquor and cannabis board or a subpoena issued by
39 the state liquor and cannabis board, or any of its members, or
40 administrative law judges, or on the refusal of a witness to testify

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

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

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

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

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

30 (7)(a) Before the state liquor and cannabis board issues a new or
31 renewed license to an applicant it must 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, or to the tribal government if the application is
37 for a license within Indian country under the jurisdiction of a
38 federally recognized Indian tribe, 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, ((~~or~~)) the county legislative authority or
3 the official or employee selected by it, the tribal government, or
4 port authority has the right to file with the state liquor and
5 cannabis board within twenty days after the date of transmittal of
6 the notice for applications, or at least thirty days prior to the
7 expiration date for renewals, written objections against the
8 applicant or against the premises for which the new or renewed
9 license is asked. The state liquor and cannabis board may extend the
10 time period for submitting written objections upon request from the
11 authority 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 (9) (~~Subject to section 1601 of this act,~~) A city, town, or
27 county may adopt an ordinance prohibiting a marijuana producer or
28 marijuana processor from operating or locating a business within
29 areas zoned primarily for residential use or rural use with a minimum
30 lot size of five acres or smaller.

31 (10) In determining whether to grant or deny a license or renewal
32 of any license, the state liquor and cannabis board must give
33 substantial weight to objections from an incorporated city or town or
34 county legislative authority based upon chronic illegal activity
35 associated with the applicant's operations of the premises proposed
36 to be licensed or the applicant's operation of any other licensed
37 premises, or the conduct of the applicant's patrons inside or outside
38 the licensed premises. "Chronic illegal activity" means (a) a
39 pervasive pattern of activity that threatens the public health,
40 safety, and welfare of the city, town, or county including, but not

1 limited to, open container violations, assaults, disturbances,
2 disorderly conduct, or other criminal law violations, or as
3 documented in crime statistics, police reports, emergency medical
4 response data, calls for service, field data, or similar records of a
5 law enforcement agency for the city, town, county, or any other
6 municipal corporation or any state agency; or (b) an unreasonably
7 high number of citations for violations of RCW 46.61.502 associated
8 with the applicant's or licensee's operation of any licensed premises
9 as indicated by the reported statements given to law enforcement upon
10 arrest.

11 **Sec. 3.** RCW 69.50.372 and 2016 sp.s. c 9 s 1 are each amended to
12 read as follows:

13 (1) A marijuana research license is established that permits a
14 licensee to produce, process, and possess marijuana for the following
15 limited research purposes:

16 (a) To test chemical potency and composition levels;

17 (b) To conduct clinical investigations of marijuana-derived drug
18 products;

19 (c) To conduct research on the efficacy and safety of
20 administering marijuana as part of medical treatment; and

21 (d) To conduct genomic or agricultural research.

22 (2) As part of the application process for a marijuana research
23 license, an applicant must submit to the liquor and cannabis board's
24 designated scientific reviewer a description of the research that is
25 intended to be conducted. The liquor and cannabis board must select a
26 scientific reviewer to review an applicant's research project and
27 determine that it meets the requirements of subsection (1) of this
28 section, as well as assess the following:

29 (a) Project quality, study design, value, or impact;

30 (b) Whether applicants have the appropriate personnel, expertise,
31 facilities/infrastructure, funding, and human/animal/other federal
32 approvals in place to successfully conduct the project; and

33 (c) Whether the amount of marijuana to be grown by the applicant
34 is consistent with the project's scope and goals.

35 If the scientific reviewer determines that the research project
36 does not meet the requirements of subsection (1) of this section, the
37 application must be denied.

38 (3) A marijuana research licensee may only sell marijuana grown
39 or within its operation to other marijuana research licensees. The

1 liquor and cannabis board may revoke a marijuana research license for
2 violations of this subsection.

3 (4) A marijuana research licensee may contract with the
4 University of Washington or Washington State University to perform
5 research in conjunction with the university. All research projects,
6 not including those projects conducted pursuant to a contract entered
7 into under RCW 28B.20.502(3), must be approved by the scientific
8 reviewer and meet the requirements of subsection (1) of this section.

9 (5) In establishing a marijuana research license, the liquor and
10 cannabis board may adopt rules on the following:

11 (a) Application requirements;

12 (b) Marijuana research license renewal requirements, including
13 whether additional research projects may be added or considered;

14 (c) Conditions for license revocation;

15 (d) Security measures to ensure marijuana is not diverted to
16 purposes other than research;

17 (e) Amount of plants, useable marijuana, marijuana concentrates,
18 or marijuana-infused products a licensee may have on its premises;

19 (f) Licensee reporting requirements;

20 (g) Conditions under which marijuana grown by licensed marijuana
21 producers and other product types from licensed marijuana processors
22 may be donated to marijuana research licensees; and

23 (h) Additional requirements deemed necessary by the liquor and
24 cannabis board.

25 (6) The production, processing, possession, delivery, donation,
26 and sale of marijuana in accordance with this section and the rules
27 adopted to implement and enforce it, by a validly licensed marijuana
28 researcher, shall not be a criminal or civil offense under Washington
29 state law. Every marijuana research license must be issued in the
30 name of the applicant, must specify the location at which the
31 marijuana researcher intends to operate, which must be within the
32 state of Washington, and the holder thereof may not allow any other
33 person to use the license.

34 (7) The application fee for a marijuana research license is two
35 hundred fifty dollars. The annual fee for issuance and renewal of a
36 marijuana research license is one thousand dollars. The applicant
37 must pay the cost of the review process directly to the scientific
38 reviewer as designated by the liquor and cannabis board.

39 (8) The scientific reviewer shall review any reports made by
40 marijuana research licensees under liquor and cannabis board rule and

1 provide the liquor and cannabis board with its determination on
2 whether the research project continues to meet research
3 qualifications under this section.

4 (9) For the purposes of this section, "scientific reviewer" means
5 an organization that convenes or contracts with persons who have the
6 training and experience in research practice and research methodology
7 to determine whether a project meets the criteria for a marijuana
8 research license under this section and to review any reports
9 submitted by marijuana research licensees under liquor and cannabis
10 board rule. "Scientific reviewers" include, but are not limited to,
11 educational institutions, research institutions, peer review bodies,
12 or such other organizations that are focused on science or research
13 in its day-to-day activities.

14 **Sec. 4.** RCW 66.08.100 and 2012 c 117 s 269 are each amended to
15 read as follows:

16 No court of the state of Washington other than the superior court
17 of Thurston county shall have jurisdiction over any action or
18 proceeding against the board or any member thereof for anything done
19 or omitted to be done in or arising out of the performance of his or
20 her or their duties under this title. Neither the board nor any
21 member or members thereof shall be personally liable in any action at
22 law for damages sustained by any person because of any acts performed
23 or done or omitted to be done by the board or any employee of the
24 board in the performance of his or her duties and in the
25 administration of this title or chapter 69.50 RCW.

26 NEW SECTION. **Sec. 5.** This act applies prospectively only and
27 not retroactively. It applies only to causes of action that arise (if
28 change is substantive) or that are commenced (if change is
29 procedural) on or after the effective date of this section.

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