
HOUSE BILL 1412

State of Washington

64th Legislature

2015 Regular Session

By Representative Moscoso

Read first time 01/20/15. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to municipalities prohibiting the operation of
2 recreational marijuana production, processing, and retail facilities
3 within their jurisdictional boundaries; amending RCW 69.50.325,
4 69.50.331, 69.50.334, and 69.50.354; adding new sections to chapter
5 69.50 RCW; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 69.50
8 RCW to read as follows:

9 (1) In accordance with the requirements of this section, any
10 county, city, or town may enact an ordinance prohibiting the siting
11 or operation within its jurisdictional boundaries of any business or
12 facility for the production, processing, and/or retail sale of
13 recreational marijuana products, including marijuana, marijuana
14 concentrates, and marijuana-infused products. In order to be enacted,
15 a proposed ordinance must first be passed by the legislative
16 authority of the county, city, or town and then approved by the
17 majority of voters voting on it at a general or special election.
18 Following the enactment of the ordinance, the state liquor control
19 board shall not issue or renew any recreational marijuana license
20 authorized under this chapter for the production, processing, or
21 retail sale of recreational marijuana products with respect to

1 businesses that are either located or proposed to be located within
2 the jurisdictional boundaries of a county, city, or town enacting the
3 ordinance.

4 (2) An ordinance proposed by the legislative authority of a
5 county, as authorized under subsection (1) of this section, may be
6 submitted to the voters for their approval or rejection at a general
7 or special election. If the ordinance is approved by a majority of
8 the voters voting on it, the ordinance becomes effective ten days
9 after the results of the election are certified, unless a later date
10 is specified by the ballot measure submitting the ordinance to the
11 voters.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 69.50
13 RCW to read as follows:

14 A county, city, or town that enacts an ordinance under section 1
15 of this act prohibiting the siting or operation of any business or
16 facility licensed for the production, processing, or retail sale of
17 recreational marijuana products, including marijuana, marijuana
18 concentrates, and marijuana-infused products, may not receive any
19 portion of excise tax revenues collected statewide from the operation
20 of such businesses.

21 **Sec. 3.** RCW 69.50.325 and 2014 c 192 s 2 are each amended to
22 read as follows:

23 (1) There shall be a marijuana producer's license to produce
24 marijuana for sale at wholesale to marijuana processors and other
25 marijuana producers, regulated by the state liquor control board and
26 subject to annual renewal. The production, possession, delivery,
27 distribution, and sale of marijuana in accordance with the provisions
28 of chapter 3, Laws of 2013 and the rules adopted to implement and
29 enforce it, by a validly licensed marijuana producer, shall not be a
30 criminal or civil offense under Washington state law. Every marijuana
31 producer's license shall be issued in the name of the applicant,
32 shall specify the location at which the marijuana producer intends to
33 operate, which must be within the state of Washington, and the holder
34 thereof shall not allow any other person to use the license. The
35 application fee for a marijuana producer's license shall be two
36 hundred fifty dollars. The annual fee for issuance and renewal of a
37 marijuana producer's license shall be one thousand dollars. A

1 separate license shall be required for each location at which a
2 marijuana producer intends to produce marijuana.

3 (2) There shall be a marijuana processor's license to process,
4 package, and label marijuana concentrates, useable marijuana, and
5 marijuana-infused products for sale at wholesale to marijuana
6 processors and marijuana retailers, regulated by the state liquor
7 control board and subject to annual renewal. The processing,
8 packaging, possession, delivery, distribution, and sale of marijuana,
9 useable marijuana, marijuana-infused products, and marijuana
10 concentrates in accordance with the provisions of chapter 3, Laws of
11 2013 and the rules adopted to implement and enforce it, by a validly
12 licensed marijuana processor, shall not be a criminal or civil
13 offense under Washington state law. Every marijuana processor's
14 license shall be issued in the name of the applicant, shall specify
15 the location at which the licensee intends to operate, which must be
16 within the state of Washington, and the holder thereof shall not
17 allow any other person to use the license. The application fee for a
18 marijuana processor's license shall be two hundred fifty dollars. The
19 annual fee for issuance and renewal of a marijuana processor's
20 license shall be one thousand dollars. A separate license shall be
21 required for each location at which a marijuana processor intends to
22 process marijuana.

23 (3) There shall be a marijuana retailer's license to sell
24 marijuana concentrates, useable marijuana, and marijuana-infused
25 products at retail in retail outlets, regulated by the state liquor
26 control board and subject to annual renewal. The possession,
27 delivery, distribution, and sale of marijuana concentrates, useable
28 marijuana, and marijuana-infused products in accordance with the
29 provisions of chapter 3, Laws of 2013 and the rules adopted to
30 implement and enforce it, by a validly licensed marijuana retailer,
31 shall not be a criminal or civil offense under Washington state law.
32 Every marijuana retailer's license shall be issued in the name of the
33 applicant, shall specify the location of the retail outlet the
34 licensee intends to operate, which must be within the state of
35 Washington, and the holder thereof shall not allow any other person
36 to use the license. The application fee for a marijuana retailer's
37 license shall be two hundred fifty dollars. The annual fee for
38 issuance and renewal of a marijuana retailer's license shall be one
39 thousand dollars. A separate license shall be required for each

1 location at which a marijuana retailer intends to sell marijuana
2 concentrates, useable marijuana, and marijuana-infused products.

3 (4) The state liquor control board is prohibited from issuing or
4 renewing a commercial marijuana license, as authorized under this
5 section, for an applicant or existing licensee whose place of
6 business is located within the jurisdictional boundaries of any
7 county, city, or town that has enacted, pursuant to section 1 of this
8 act, an ordinance prohibiting the operation of any business or
9 facility for the production, processing, or retail sale of
10 recreational marijuana products, including marijuana, marijuana
11 concentrates, and marijuana-infused products.

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

14 (1) For the purpose of considering any application for a license
15 to produce, process, or sell marijuana, or for the renewal of a
16 license to produce, process, or sell marijuana, the state liquor
17 control board may cause an inspection of the premises to be made, and
18 may inquire into all matters in connection with the construction and
19 operation of the premises. For the purpose of reviewing any
20 application for a license and for considering the denial, suspension,
21 revocation, or renewal or denial thereof, of any license, the state
22 liquor control board may consider any prior criminal conduct of the
23 applicant including an administrative violation history record with
24 the state liquor control board and a criminal history record
25 information check. The state liquor control board may submit the
26 criminal history record information check to the Washington state
27 patrol and to the identification division of the federal bureau of
28 investigation in order that these agencies may search their records
29 for prior arrests and convictions of the individual or individuals
30 who filled out the forms. The state liquor control board shall
31 require fingerprinting of any applicant whose criminal history record
32 information check is submitted to the federal bureau of
33 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A
34 RCW shall not apply to these cases. Subject to the provisions of this
35 section, the state liquor control board may, in its discretion, grant
36 or deny the renewal or license applied for. Denial may be based on,
37 without limitation, the existence of chronic illegal activity
38 documented in objections submitted pursuant to subsections (7)(c) and
39 (9) of this section. Authority to approve an uncontested or unopposed

1 license may be granted by the state liquor control board to any staff
2 member the board designates in writing. Conditions for granting this
3 authority shall be adopted by rule. No license of any kind may be
4 issued to:

5 (a) A person under the age of twenty-one years;

6 (b) A person doing business as a sole proprietor who has not
7 lawfully resided in the state for at least three months prior to
8 applying to receive a license;

9 (c) A partnership, employee cooperative, association, nonprofit
10 corporation, or corporation unless formed under the laws of this
11 state, and unless all of the members thereof are qualified to obtain
12 a license as provided in this section; ((~~or~~))

13 (d) A person whose place of business is conducted by a manager or
14 agent, unless the manager or agent possesses the same qualifications
15 required of the licensee; or

16 (e) A person whose existing or proposed place of business is in a
17 county, city, or town that has enacted an ordinance pursuant to
18 section 1 of this act prohibiting the operation or siting of any
19 facility or business for the production, processing, or retail sale
20 of recreational marijuana products, including marijuana, marijuana
21 concentrates, and marijuana-infused products.

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

28 (b) The state liquor control board shall immediately suspend the
29 license of a person who has been certified pursuant to RCW 74.20A.320
30 by the department of social and health services as a person who is
31 not in compliance with a support order. If the person has continued
32 to meet all other requirements for reinstatement during the
33 suspension, reissuance of the license shall be automatic upon the
34 state liquor control board's receipt of a release issued by the
35 department of social and health services stating that the licensee is
36 in compliance with the order.

37 (c) The state liquor control board may request the appointment of
38 administrative law judges under chapter 34.12 RCW who shall have
39 power to administer oaths, issue subpoenas for the attendance of
40 witnesses and the production of papers, books, accounts, documents,

1 and testimony, examine witnesses, and to receive testimony in any
2 inquiry, investigation, hearing, or proceeding in any part of the
3 state, under rules and regulations the state liquor control board may
4 adopt.

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

10 (e) In case of disobedience of any person to comply with the
11 order of the state liquor control board or a subpoena issued by the
12 state liquor control board, or any of its members, or administrative
13 law judges, or on the refusal of a witness to testify to any matter
14 regarding which he or she may be lawfully interrogated, the judge of
15 the superior court of the county in which the person resides, on
16 application of any member of the board or administrative law judge,
17 shall compel obedience by contempt proceedings, as in the case of
18 disobedience of the requirements of a subpoena issued from said court
19 or a refusal to testify therein.

20 (3) Upon receipt of notice of the suspension or cancellation of a
21 license, the licensee shall forthwith deliver up the license to the
22 state liquor control board. Where the license has been suspended
23 only, the state liquor control board shall return the license to the
24 licensee at the expiration or termination of the period of
25 suspension. The state liquor control board shall notify all other
26 licensees in the county where the subject licensee has its premises
27 of the suspension or cancellation of the license; and no other
28 licensee or employee of another licensee may allow or cause any
29 marijuana, useable marijuana, or marijuana-infused products to be
30 delivered to or for any person at the premises of the subject
31 licensee.

32 (4) Every license issued under chapter 3, Laws of 2013 shall be
33 subject to all conditions and restrictions imposed by chapter 3, Laws
34 of 2013 or by rules adopted by the state liquor control board to
35 implement and enforce chapter 3, Laws of 2013. All conditions and
36 restrictions imposed by the state liquor control board in the
37 issuance of an individual license shall be listed on the face of the
38 individual license along with the trade name, address, and expiration
39 date.

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

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

5 (7)(a) Before the state liquor control board issues a new or
6 renewed license to an applicant it shall give notice of the
7 application to the chief executive officer of the incorporated city
8 or town, if the application is for a license within an incorporated
9 city or town, or to the county legislative authority, if the
10 application is for a license outside the boundaries of incorporated
11 cities or towns.

12 (b) The incorporated city or town through the official or
13 employee selected by it, or the county legislative authority or the
14 official or employee selected by it, shall have the right to file
15 with the state liquor control board within twenty days after the date
16 of transmittal of the notice for applications, or at least thirty
17 days prior to the expiration date for renewals, written objections
18 against the applicant or against the premises for which the new or
19 renewed license is asked. The state liquor control board may extend
20 the time period for submitting written objections.

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

34 (d) Upon the granting of a license under this title the state
35 liquor control board shall send written notification to the chief
36 executive officer of the incorporated city or town in which the
37 license is granted, or to the county legislative authority if the
38 license is granted outside the boundaries of incorporated cities or
39 towns.

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

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

26 **Sec. 5.** RCW 69.50.334 and 2013 c 3 s 7 are each amended to read
27 as follows:

28 (1) Except as provided under subsection (5) of this section, the
29 action, order, or decision of the state liquor control board as to
30 any denial of an application for the reissuance of a license to
31 produce, process, or sell marijuana, or as to any revocation,
32 suspension, or modification of any license to produce, process, or
33 sell marijuana, shall be an adjudicative proceeding and subject to
34 the applicable provisions of chapter 34.05 RCW.

35 ~~((1))~~ (2) An opportunity for a hearing may be provided to an
36 applicant for the reissuance of a license prior to the disposition of
37 the application, and if no opportunity for a prior hearing is
38 provided then an opportunity for a hearing to reconsider the
39 application must be provided the applicant.

1 ~~((+2))~~ (3) An opportunity for a hearing must be provided to a
2 licensee prior to a revocation or modification of any license and,
3 except as provided in subsection ~~((+4))~~ (6) of this section, prior
4 to the suspension of any license.

5 ~~((+3))~~ (4) No hearing shall be required until demanded by the
6 applicant or licensee.

7 ~~((+4))~~ (5) The provisions of subsection (1) of this section
8 authorizing an adjudicative proceeding do not apply if the licensee's
9 business is located in a jurisdiction that has enacted an ordinance,
10 pursuant to section 1 of this act, prohibiting the siting or
11 operation of any business or facility for the production, processing,
12 or retail sale of recreational marijuana products.

13 (6) The state liquor control board may summarily suspend a
14 license for a period of up to one hundred eighty days without a prior
15 hearing if it finds that public health, safety, or welfare
16 imperatively require emergency action, and it incorporates a finding
17 to that effect in its order. Proceedings for revocation or other
18 action must be promptly instituted and determined. An administrative
19 law judge may extend the summary suspension period for up to one
20 calendar year from the first day of the initial summary suspension in
21 the event the proceedings for revocation or other action cannot be
22 completed during the initial one hundred eighty-day period due to
23 actions by the licensee. The state liquor control board's enforcement
24 division shall complete a preliminary staff investigation of the
25 violation before requesting an emergency suspension by the state
26 liquor control board.

27 **Sec. 6.** RCW 69.50.354 and 2014 c 192 s 3 are each amended to
28 read as follows:

29 Subject to the restrictions set forth in section 1 of this act
30 and RCW 69.50.331, there may be licensed, in no greater number in
31 each of the counties of the state than as the state liquor control
32 board shall deem advisable, retail outlets established for the
33 purpose of making marijuana concentrates, useable marijuana, and
34 marijuana-infused products available for sale to adults aged twenty-
35 one and over. Retail sale of marijuana concentrates, useable
36 marijuana, and marijuana-infused products in accordance with the
37 provisions of chapter 3, Laws of 2013 and the rules adopted to
38 implement and enforce it, by a validly licensed marijuana retailer or

1 retail outlet employee, shall not be a criminal or civil offense
2 under Washington state law.

3 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of
5 the state government and its existing public institutions, and takes
6 effect immediately.

--- END ---