

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 2005**

Chapter 209, Laws of 2017

65th Legislature  
2017 Regular Session

MUNICIPAL BUSINESS LICENSING--STATE PARTNERSHIP--TAX APPORTIONMENT

EFFECTIVE DATE: 7/23/2017

Passed by the House April 17, 2017  
Yeas 97 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate April 12, 2017  
Yeas 49 Nays 0

CYRUS HABIB

**President of the Senate**

Approved May 5, 2017 10:37 AM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2005** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 5, 2017

**Secretary of State  
State of Washington**

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ENGROSSED HOUSE BILL 2005

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AS AMENDED BY THE SENATE

Passed Legislature - 2017 Regular Session

State of Washington                      65th Legislature                      2017 Regular Session

By Representatives Lytton, Nealey, Kagi, and Ormsby

Read first time 02/07/17. Referred to Committee on Finance.

1            AN ACT Relating to improving the business climate in this state  
2 by simplifying the administration of municipal general business  
3 licenses; adding a new chapter to Title 35 RCW; and creating a new  
4 section.

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

6            NEW SECTION.    **Sec. 1.**    The definitions in this section apply  
7 throughout this chapter unless the context clearly requires  
8 otherwise.

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

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

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

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

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

20            (6) "Regulatory business license" means a license, other than a  
21 general business license, required for certain types of businesses

1 that a city has determined warrants additional regulation, such as  
2 taxicab or other for-hire vehicle operators, adult entertainment  
3 businesses, amusement device operators, massage parlors, debt  
4 collectors, door-to-door sales persons, trade-show operators, and  
5 home-based businesses.

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

12 (a) Except as otherwise provided in subsection (3) of this  
13 section, the department must phase in the issuance and renewal of  
14 general business licenses of cities that required a general business  
15 license as of July 1, 2017, and are not already partnering with the  
16 department, as follows:

17 (i) Between January 1, 2018, and December 31, 2021, the  
18 department must partner with at least six cities per year;

19 (ii) Between January 1, 2022, and December 31, 2027, the  
20 department must partner with the remaining cities; or

21 (iii) Between July 1, 2017 and December 31, 2022, the department  
22 must partner with all cities requiring a general business license if  
23 specific funding for the purposes of this subsection (iii) is  
24 appropriated in the omnibus appropriations act.

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

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

35 (b) If a city subject to (a) of this subsection (2) imposes a new  
36 general business license requirement after July 1, 2017, the  
37 department, in its sole discretion, may adjust resources to partner  
38 with the imposing city as of the date that the new general business  
39 licensing requirement takes effect. If the department cannot

1 reallocate resources, the city may issue and renew its general  
2 business license until the department is able to partner with the  
3 city.

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

7 (a) Insufficient funds are appropriated for this specific  
8 purpose;

9 (b) The department cannot ensure the business licensing system is  
10 adequately prepared to handle all general business licenses due to  
11 unforeseen circumstances;

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

15 (d) The department receives a written notice from a city within  
16 sixty days of the date that the city appears on the department's  
17 biennial partnership plan, which includes an explanation of the  
18 fiscal or technical challenges causing the city to delay joining the  
19 system. A delay under this subsection (3)(d) may be for no more than  
20 three years.

21 (4)(a) In consultation with affected cities and in accordance  
22 with the priorities established in subsection (5) of this section,  
23 the department must establish a biennial plan for partnering with  
24 cities to assume the issuance and renewal of general business  
25 licenses as required by this section. The plan must identify the  
26 cities that the department will partner with and the dates targeted  
27 for the department to assume the duties of issuing and renewing  
28 general business licenses.

29 (b) By January 1, 2018, and January 1st of each even-numbered  
30 year thereafter, the department must submit the partnering plan  
31 required in (a) of this subsection (4) to the governor; legislative  
32 fiscal committees; house local government committee; senate  
33 agriculture, water, trade and economic development committee; senate  
34 local government committee; affected cities; association of  
35 Washington cities; association of Washington business; national  
36 federation of independent business; and Washington retail  
37 association.

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

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

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

10 (7) A city may decline to partner with the department for the  
11 issuance and renewal of a general business license as provided in  
12 subsection (1) of this section if the city participates in the online  
13 local business license and tax filing portal known as "FileLocal" as  
14 of July 1, 2020. For the purposes of this subsection (7), a city is  
15 considered to be a FileLocal participant as of the date that a  
16 business may access FileLocal for purposes of applying for or  
17 renewing that city's general business license and reporting and  
18 paying that city's local business and occupation taxes. A city that  
19 ceases participation in FileLocal after July 1, 2020, must partner  
20 with the department for the issuance and renewal of its general  
21 business license as provided in subsection (1) of this section.

22 (8) By January 1, 2019, and each January 1st thereafter through  
23 January 1, 2028, the department must submit a progress report to the  
24 legislature. The report required by this subsection must provide  
25 information about the progress of the department's efforts to partner  
26 with all cities that impose a general business license requirement  
27 and include:

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

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

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

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

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

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

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

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

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

10        (b) If the department is unable to administer a city's fee  
11 structure, the city must work with the department to adopt a fee  
12 structure that is administrable by the department. If a city fails to  
13 comply with this subsection (2)(b), it may not enforce its general  
14 business licensing requirements on any person until the effective  
15 date of a fee 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  
38 set license fees, provide exemptions and thresholds for these

1 licenses, approve or deny license applicants, and take appropriate  
2 administrative actions against licensees.

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

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

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

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

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

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

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

1 methods that rely on information typically available in commercial  
2 transaction receipts and captured by common business recordkeeping  
3 systems.

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

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

Passed by the House April 17, 2017.

Passed by the Senate April 12, 2017.

Approved by the Governor May 5, 2017.

Filed in Office of Secretary of State May 5, 2017.

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