**5318-S AMS SALD S2572.3 - NOT FOR FLOOR USE**

**SSB 5318** - S AMD TO S AMD (S-2696.1/19) **237**

By Senator Saldaña

**PULLED 03/11/2019**

On page 3, line 8, after "therein," strike "the state liquor and cannabis" and insert "((~~the state liquor and cannabis~~)) and except as provided in subsection (4) of this section, the"

On page 4, after line 39, insert the following:

"(4)(a) No rule may:

(i) Limit the number of marijuana retailer licenses that an individual retail licensee and other persons or entities with a financial or other ownership interest in the business operating under the license may hold in the aggregate, in a manner contrary to RCW 69.50.325(3);

(ii) Limit the number of marijuana producer or marijuana processor licenses that an individual marijuana producer or marijuana processor licensee and other persons or entities with a financial or other ownership interest in the business operating under the license may hold in the aggregate, in a manner contrary to RCW 69.50.325 (1) and (2); or

(iii) Require a person or interest holder to be a resident of this state or require a business or nonprofit entity to be formed under the laws of this state for the person or entity to qualify for a marijuana producer, marijuana processor, or marijuana retailer license, if the person or entity has in effect a labor peace agreement covering each licensed establishment as provided in section 8 of this act.

(b) This subsection (4) does not limit the application of RCW 69.50.345(2)."

Beginning on page 8, line 36, after "(b)" strike all material through "section" on page 9, line 4 and insert "Except as provided in (c) of this subsection and in section 8 of this act, no license of any kind may be issued to:

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

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

(iii) A ((~~partnership, employee cooperative, association, nonprofit corporation, or corporation~~)) business or nonprofit entity unless formed under the laws of this state((~~,~~)) and, except as provided in (d) of this subsection, unless all of the ((~~members thereof~~)) interest holders are qualified to obtain a license as provided in this section and have lawfully resided in the state for at least six months before applying to receive a license"

On page 9, after line 7, insert the following:

"(c) Pursuant to section 8 of this act, a person or business or nonprofit entity that does not meet the requirements of (b) of this subsection may be eligible for a marijuana license in certain circumstances.

(d)(i) For any marijuana license issued by the board, all natural persons holding an ownership interest of more than ten percent of the business or nonprofit entity licensed or proposed to be licensed must qualify for and be named on the license. If no natural person owns more than ten percent of the entity, the natural person with the largest ownership interest must qualify for and be named on the license. Officers and directors must possess the same qualifications as the licensee. Except as otherwise provided in this subsection, any natural person holding an ownership interest of ten percent or less of the entity is not required to qualify for or be named on the license. For licensees with labor peace agreements in effect as provided in section 8 of this act, a natural person who is not required to qualify for or be named on the license is not required to be a resident of Washington state. For licensees without labor peace agreements in effect, all natural persons who own any interest in the entity must be residents of this state and natural persons who own interests of more than ten percent of the entity must meet all other requirements and qualifications in this section and chapter.

(ii) The identification of any natural person holding an ownership interest of ten percent or less but more than one percent of the entity, who is not otherwise required to qualify for and be named on the license as provided in (d)(i) of this subsection, must be disclosed to the board."

On page 10, after line 10, insert the following:

"(f) In accordance with section 8 of this act, the board shall suspend, cancel, or revoke the license of an establishment for which the board determines there is no longer a labor peace agreement in effect and for which a labor peace agreement is required under section 8 of this act."

On page 13, beginning on line 5, after "premises." strike all material through "arrest." on line 17 and insert the following:

"(11) Nothing in this chapter prevents an interest in a business with a marijuana producer, processor, retailer, or transportation license from transferring, upon the death or incapacity of the owner, to an heir or assign of the owner in accordance with the uniform transfers to minors act, chapter 11.114 RCW, or otherwise, even if the heir or assign is under age twenty-one.

(12) For the purposes of this section:

(a) "Chronic illegal activity" means ((~~(a)~~)):

(i) A pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or ((~~(b)~~))

(ii) An unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

(b) "Entity" has the meaning provided in RCW 23.95.105.

(c) "Interest" has the meaning provided in RCW 23.95.105.

(d) "Interest holder" has the meaning provided in RCW 23.95.105.

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

(1) In accordance with RCW 69.50.331, 69.50.325, and 69.50.342, a licensed marijuana producer, processor, or retailer or an applicant for such a license, shall submit to the board an attestation signed by a bona fide labor organization stating the licensee or applicant has entered into a labor peace agreement with the bona fide labor organization, if the licensee or applicant:

(a) Is not formed under the laws of this state or if not all interest holders who must qualify for the license have lawfully resided in the state for longer than six months before applying for the license, so long as fifty-one percent of the interest holders meet the residency requirements;

(b) Is an applicant for a marijuana retailer license who, if the license is issued, would hold more than a collective total of five marijuana retailer licenses but not more than a collective total of seven marijuana retailer licenses as provided in RCW 69.50.325(3); or

(c) Is an applicant for a marijuana producer or marijuana processor license who, if the license is issued, would collectively hold more marijuana producer or marijuana processor licenses than any limit established under board rules for marijuana producers or marijuana processors without labor peace agreements in effect, as provided in RCW 69.50.325 and 69.50.342(3).

(2) The board may issue a conditional license to an applicant who has not fully complied with this section, provided that compliance with this section is required for an applicant to receive final license approval, and an applicant must meet all other license requirements established in this chapter.

(3) For an applicant or licensee relying on the authorization in this section:

(a) The submission of the attestation and the maintenance of a labor peace agreement with a bona fide labor organization is an ongoing material condition of the establishment's license; and

(b) In accordance with RCW 69.50.331, the board shall suspend, cancel, or revoke the license of an establishment for which the board determines there is no longer a labor peace agreement in effect.

(4) The board may impose additional licensing fees to recover any additional costs incurred in investigating any nonresident required to be investigated under this section and RCW 69.50.331. If, after reasonable efforts, the board is unable to investigate any nonresident required to be investigated under this section and RCW 69.50.331, in accordance with the investigatory standards applicable to the investigation of a state resident, the board may deny a license or license renewal to an entity.

(5) Any business entity or nonprofit entity not formed under Washington state law must hold a certificate of registration under chapter 23.95 RCW to be eligible for a marijuana license under this section.

**Sec.**  RCW 69.50.325 and 2018 c 132 s 3 are each amended to read as follows:

(1)(a) There shall be a marijuana producer's license regulated by the ((~~state liquor and cannabis~~)) board and subject to annual renewal. The licensee is authorized to produce: (a) Marijuana for sale at wholesale to marijuana processors and other marijuana producers; (b) immature plants or clones and seeds for sale to cooperatives as described under RCW 69.51A.250; and (c) immature plants or clones and seeds for sale to qualifying patients and designated providers as provided under RCW 69.51A.310. The production, possession, delivery, distribution, and sale of marijuana in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana producer, shall not be a criminal or civil offense under Washington state law. Every marijuana producer's license shall be issued in the name of the applicant, shall specify the location at which the marijuana producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana producer's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana producer intends to produce marijuana.

(b) In accordance with RCW 69.50.342(3) and section 8 of this act, if the board adopts rules limiting the collective number of marijuana producer or marijuana processor licenses that an individual marijuana producer or marijuana processor licensee and all other persons or entities with a financial or other ownership interest in the business operating under the license are limited, in the aggregate, to holding, then the board's rules must provide an exemption for individual marijuana producer or marijuana processor licensees that have in effect a labor peace agreement to allow these licensees to hold up to two more marijuana producer or processor licenses than would otherwise be allowed under rule.

(2) There shall be a marijuana processor's license to process, package, and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers, regulated by the ((~~state liquor and cannabis~~)) board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of marijuana, useable marijuana, marijuana-infused products, and marijuana concentrates in accordance with the provisions of this chapter and chapter 69.51A RCW and the rules adopted to implement and enforce these chapters, by a validly licensed marijuana processor, shall not be a criminal or civil offense under Washington state law. Every marijuana processor's license shall be issued in the name of the applicant, shall specify the location at which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana processor's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana processor intends to process marijuana. Subsection (1)(b) of this section applies to marijuana processors.

(3)(a) There shall be a marijuana retailer's license to sell marijuana concentrates, useable marijuana, and marijuana-infused products at retail in retail outlets, regulated by the ((~~state liquor and cannabis~~)) board and subject to annual renewal. The possession, delivery, distribution, and sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer, shall not be a criminal or civil offense under Washington state law. Every marijuana retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana retailer's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana retailer intends to sell marijuana concentrates, useable marijuana, and marijuana-infused products.

(b)(i) Except as provided in (b)(ii) of this subsection, an individual retail licensee and all other persons or entities with a financial or other ownership interest in the business operating under the license are limited, in the aggregate, to holding a collective total of not more than five retail marijuana licenses.

(ii) Not more than a collective total of seven marijuana retailer licenses may be held by an individual retail licensee and all other persons or entities with a financial or other ownership interest in the business operating under the license, if each marijuana retailer establishment is covered by a labor peace agreement as provided in section 8 of this act.

(c)(i) A marijuana retailer's license is subject to forfeiture in accordance with rules adopted by the ((~~state liquor and cannabis~~)) board pursuant to this section.

(ii) The ((~~state liquor and cannabis~~)) board shall adopt rules to establish a license forfeiture process for a licensed marijuana retailer that is not fully operational and open to the public within a specified period from the date of license issuance, as established by the ((~~state liquor and cannabis~~)) board, subject to the following restrictions:

(A) No marijuana retailer's license may be subject to forfeiture within the first nine months of license issuance; and

(B) The ((~~state liquor and cannabis~~)) board must require license forfeiture on or before twenty-four calendar months of license issuance if a marijuana retailer is not fully operational and open to the public, unless the board determines that circumstances out of the licensee's control are preventing the licensee from becoming fully operational and that, in the board's discretion, the circumstances warrant extending the forfeiture period beyond twenty-four calendar months.

(iii) The ((~~state liquor and cannabis~~)) board has discretion in adopting rules under this subsection (3)(c).

(iv) This subsection (3)(c) applies to marijuana retailer's licenses issued before and after July 23, 2017. However, no license of a marijuana retailer that otherwise meets the conditions for license forfeiture established pursuant to this subsection (3)(c) may be subject to forfeiture within the first nine calendar months of July 23, 2017.

(v) The ((~~state liquor and cannabis~~)) board may not require license forfeiture if the licensee has been incapable of opening a fully operational retail marijuana business due to actions by the city, town, or county with jurisdiction over the licensee that include any of the following:

(A) The adoption of a ban or moratorium that prohibits the opening of a retail marijuana business; or

(B) The adoption of an ordinance or regulation related to zoning, business licensing, land use, or other regulatory measure that has the effect of preventing a licensee from receiving an occupancy permit from the jurisdiction or which otherwise prevents a licensed marijuana retailer from becoming operational."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 21, after line 16, insert the following:

"(xx) "Labor peace agreement" means an agreement between an employer and a bona fide labor organization in which the employer agrees to remain neutral or otherwise agrees to work with or provide information to the bona fide labor organization for the purpose of unionizing employees.

NEW SECTION. **Sec.**  The liquor and cannabis board must collect demographic information on applicants for marijuana licenses, marijuana licensees, and interest holders in marijuana businesses including gender, race, ethnicity, and related geographic distribution and report the aggregate data to the relevant committees of the legislature by January 1, 2020.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Renumber the remaining section consecutively and correct any internal references accordingly.

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On page 22, beginning on line 30, after "69.50.342" strike "and 69.50.331" and insert ", 69.50.331, and 69.50.325"

EFFECT: (1) Adds additional provisions concerning the ability of businesses and entities to obtain a marijuana license.

(2) Creates a new exception to the six-month residency requirement for businesses with labor peace agreements in effect, so long as 51 percent of the interest holders meet the residency requirements.

(3) Creates an exception to the five license limit for marijuana retailer licenses, to allow retailers with labor peace agreements to be eligible for up to seven total licenses.

(4) Requires a similar exception to any license limit established by LCB rule for individual marijuana producers or processors, for producers or processors with labor peace agreements in effect. Allows these licensees to hold up to 2 additional licenses than otherwise allowed under LCB rule.

(5) Limits LCB rule making under the bill's provisions.

(6) Provides that for licensees with labor peace agreements in effect, a natural person who is not required to qualify for or be named on a marijuana license is not required to be Washington state residents.

(7) Provides that for licensees without labor peace agreements in effect, all natural persons who own any interest in the entity must be residents of this state and natural persons who own interests of more than 10 percent of the entity must continue to have to qualify for and be named on the license.

(8) Requires the identification of natural persons owning 10 percent or less of the business, but more than one percent of the business, to be disclosed to the LCB.

(9) Adds provisions addressing inheritance of a business with a marijuana license.

(10) Defines "labor peace agreement" and other terms.

(11) Authorizes the LCB to impose additional licensing fees to recover investigatory costs, and grants the LCB discretionary authority to deny license issuances and renewals when the LCB is unable to investigate any nonresident requiring investigation.

(12) Adds a savings clause.

(13) Requires the LCB to collect demographic information and report to the legislature by January 1, 2020.