

SSB 5318 - S AMD TO S AMD (S-2696.1/19) **190**
By Senator Padden

RULED BEYOND SCOPE 03/11/2019

1 Beginning on page 7, line 34, strike all of section 7 and insert
2 the following:

3 **"Sec. 7.** RCW 69.50.331 and 2017 c 317 s 2 are each amended to
4 read as follows:

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

16 (a) The (~~state liquor and cannabis~~) board may cause an
17 inspection of the premises to be made, and may inquire into all
18 matters in connection with the construction and operation of the
19 premises. For the purpose of reviewing any application for a license
20 and for considering the denial, suspension, revocation, cancellation,
21 or renewal or denial thereof, of any license, the (~~state liquor and~~
22 ~~cannabis~~) board may consider any prior administrative violation
23 history record with the board or prior criminal (~~conduct~~) arrests
24 or convictions of the applicant (~~including an administrative~~
25 ~~violation history record with the state liquor and cannabis board~~)
26 and a criminal history record information check. The (~~state liquor~~
27 ~~and cannabis~~) board may submit the criminal history record
28 information check to the Washington state patrol and to the
29 identification division of the federal bureau of investigation in
30 order that these agencies may search their records for prior arrests
31 and convictions of the individual or individuals who filled out the
32 forms. The (~~state liquor and cannabis~~) board must require

1 fingerprinting of any applicant whose criminal history record
2 information check is submitted to the federal bureau of
3 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A
4 RCW do not apply to these cases. Subject to the provisions of this
5 section, the (~~state liquor and cannabis~~) board may, in its
6 discretion, grant or deny the renewal or license applied for. Denial
7 may be based on, without limitation, the existence of chronic illegal
8 activity documented in objections submitted pursuant to subsections
9 (7)(c) and (10) of this section. Authority to approve an uncontested
10 or unopposed license may be granted by the (~~state liquor and
11 cannabis~~) board to any staff member the board designates in writing.
12 Conditions for granting this authority must be adopted by rule.

13 (b) No license of any kind may be issued to:

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

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

18 (iii) A partnership, employee cooperative, association, nonprofit
19 corporation, or corporation unless formed under the laws of this
20 state, and unless all of the members thereof are qualified to obtain
21 a license as provided in this section; or

22 (iv) A person whose place of business is conducted by a manager
23 or agent, unless the manager or agent possesses the same
24 qualifications required of the licensee.

25 (2)(a) The (~~state liquor and cannabis~~) board may, in its
26 discretion, subject to (~~the provisions of~~) sections 2 and 3 of this
27 act, RCW 69.50.334, and 69.50.342(3) suspend or cancel any license;
28 and all protections of the licensee from criminal or civil sanctions
29 under state law for producing, processing, researching, or selling
30 marijuana, marijuana concentrates, useable marijuana, or marijuana-
31 infused products thereunder must be suspended or terminated, as the
32 case may be.

33 (b) The (~~state liquor and cannabis~~) board must immediately
34 suspend the license of a person who has been certified pursuant to
35 RCW 74.20A.320 by the department of social and health services as a
36 person who is not in compliance with a support order. If the person
37 has continued to meet all other requirements for reinstatement during
38 the suspension, reissuance of the license is automatic upon the
39 (~~state liquor and cannabis~~) board's receipt of a release issued by

1 the department of social and health services stating that the
2 licensee is in compliance with the order.

3 (c) The (~~state liquor and cannabis~~) board may request the
4 appointment of administrative law judges under chapter 34.12 RCW who
5 shall have power to administer oaths, issue subpoenas for the
6 attendance of witnesses and the production of papers, books,
7 accounts, documents, and testimony, examine witnesses, (~~and to~~)
8 receive testimony in any inquiry, investigation, hearing, or
9 proceeding in any part of the state, and consider mitigating and
10 aggravating circumstances in any case and deviate from any prescribed
11 penalty, under rules (~~and regulations~~) the (~~state liquor and~~
12 ~~cannabis~~) board may adopt.

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

18 (e) In case of disobedience of any person to comply with the
19 order of the (~~state liquor and cannabis~~) board or a subpoena issued
20 by the (~~state liquor and cannabis~~) board, or any of its members, or
21 administrative law judges, or on the refusal of a witness to testify
22 to any matter regarding which he or she may be lawfully interrogated,
23 the judge of the superior court of the county in which the person
24 resides, on application of any member of the board or administrative
25 law judge, compels obedience by contempt proceedings, as in the case
26 of disobedience of the requirements of a subpoena issued from said
27 court or a refusal to testify therein.

28 (3) Upon receipt of notice of the suspension or cancellation of a
29 license, the licensee must forthwith deliver up the license to the
30 (~~state liquor and cannabis~~) board. Where the license has been
31 suspended only, the (~~state liquor and cannabis~~) board must return
32 the license to the licensee at the expiration or termination of the
33 period of suspension. The (~~state liquor and cannabis~~) board must
34 notify all other licensees in the county where the subject licensee
35 has its premises of the suspension or cancellation of the license;
36 and no other licensee or employee of another licensee may allow or
37 cause any marijuana, marijuana concentrates, useable marijuana, or
38 marijuana-infused products to be delivered to or for any person at
39 the premises of the subject licensee.

1 (4) Every license issued under this chapter is subject to all
2 conditions and restrictions imposed by this chapter or by rules
3 adopted by the ((~~state liquor and cannabis~~)) board to implement and
4 enforce this chapter. All conditions and restrictions imposed by the
5 ((~~state liquor and cannabis~~)) board in the issuance of an individual
6 license must be listed on the face of the individual license along
7 with the trade name, address, and expiration date.

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

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

12 (7)(a) Before the ((~~state liquor and cannabis~~)) board issues a
13 new or renewed license to an applicant or authorizes a licensee's
14 application for a change of location, it must give notice of the
15 application to the chief executive officer of the incorporated city
16 or town, if the application is for a license within an incorporated
17 city or town, or to the county legislative authority, if the
18 application is for a license outside the boundaries of incorporated
19 cities or towns, or to the tribal government if the application is
20 for a license within Indian country, or to the port authority if the
21 application for a license is located on property owned by a port
22 authority.

23 (b) The incorporated city or town through the official or
24 employee selected by it, the county legislative authority or the
25 official or employee selected by it, the tribal government, or port
26 authority has the right to file with the ((~~state liquor and~~
27 ~~cannabis~~)) board within twenty days after the date of transmittal of
28 the notice for original license applications, or at least thirty days
29 prior to the expiration date for renewals, or forty-five days from
30 the notice of an application for a change of location, written
31 objections against the applicant or against the premises for which
32 the new or renewed license, or application for a change of location,
33 is asked. The ((~~state liquor and cannabis~~)) board may extend the time
34 period for submitting written objections upon request from the
35 authority notified by the ((~~state liquor and cannabis~~)) board.

36 (c)(i) The written objections must include a statement of all
37 facts upon which the objections are based, and in case written
38 objections are filed, the city or town or county legislative
39 authority may request, and the ((~~state liquor and cannabis~~)) board

1 ((~~may in its discretion~~)) must hold, a hearing subject to the
2 applicable provisions of Title 34 RCW.

3 (ii) If the ((~~state liquor and cannabis~~)) board makes an initial
4 decision to deny a license ((~~or~~)), renewal, or change of location
5 based on the written objections of an incorporated city or town or
6 county legislative authority, the applicant or licensee may request a
7 hearing subject to the applicable provisions of Title 34 RCW. If a
8 hearing is held at the request of the applicant or licensee, ((~~state~~
9 ~~liquor and cannabis~~)) the objecting local government may appear and
10 present their objections, and the board representatives must present
11 and defend the ((~~state liquor and cannabis~~)) board's initial decision
12 to deny a license ((~~or~~)), renewal, or application for a change of
13 location.

14 (d) Upon the granting of a license under this title the ((~~state~~
15 ~~liquor and cannabis~~)) board must send written notification to the
16 chief executive officer of the incorporated city or town in which the
17 license is granted, or to the county legislative authority if the
18 license is granted outside the boundaries of incorporated cities or
19 towns.

20 (8)(a) Except as provided in (b) through (d) of this subsection,
21 the ((~~state liquor and cannabis~~)) board may not issue a license for
22 any premises within one thousand feet of the perimeter of the grounds
23 of any elementary or secondary school, playground, recreation center
24 or facility, child care center, public park, public transit center,
25 or library, or any game arcade admission to which is not restricted
26 to persons aged twenty-one years or older.

27 (b) A city, county, or town may permit the licensing of premises
28 within one thousand feet but not less than one hundred feet of the
29 facilities described in (a) of this subsection, except elementary
30 schools, secondary schools, and playgrounds, by enacting an ordinance
31 authorizing such distance reduction, provided that such distance
32 reduction will not negatively impact the jurisdiction's civil
33 regulatory enforcement, criminal law enforcement interests, public
34 safety, or public health.

35 (c) A city, county, or town may permit the licensing of research
36 premises allowed under RCW 69.50.372 within one thousand feet but not
37 less than one hundred feet of the facilities described in (a) of this
38 subsection by enacting an ordinance authorizing such distance
39 reduction, provided that the ordinance will not negatively impact the

1 jurisdiction's civil regulatory enforcement, criminal law
2 enforcement, public safety, or public health.

3 (d) The (~~state liquor and cannabis~~) board may license premises
4 located in compliance with the distance requirements set in an
5 ordinance adopted under (b) or (c) of this subsection. Before issuing
6 or renewing a research license for premises within one thousand feet
7 but not less than one hundred feet of an elementary school, secondary
8 school, or playground in compliance with an ordinance passed pursuant
9 to (c) of this subsection, the board must ensure that the facility:

10 (i) Meets a security standard exceeding that which applies to
11 marijuana producer, processor, or retailer licensees;

12 (ii) Is inaccessible to the public and no part of the operation
13 of the facility is in view of the general public; and

14 (iii) Bears no advertising or signage indicating that it is a
15 marijuana research facility.

16 (e) The (~~state liquor and cannabis~~) board may not issue a
17 license for any premises within Indian country, as defined in 18
18 U.S.C. Sec. 1151, including any fee patent lands within the exterior
19 boundaries of a reservation, without the consent of the federally
20 recognized tribe associated with the reservation or Indian country.

21 (9) A city, town, or county may adopt an ordinance prohibiting a
22 marijuana producer or marijuana processor from operating or locating
23 a business within areas zoned primarily for residential use or rural
24 use with a minimum lot size of five acres or smaller.

25 (10) In determining whether to grant or deny a license or renewal
26 of any license, or deny an application for a change in location, the
27 (~~state liquor and cannabis~~) board must give substantial weight to
28 objections from an incorporated city or town or county legislative
29 authority based upon:

30 (a) The number of existing license retail outlets within five
31 miles of the proposed location;

32 (b) Chronic illegal activity associated with the applicant's
33 operations of the premises proposed to be licensed or the applicant's
34 operation of any other licensed premises, or the conduct of the
35 applicant's patrons inside or outside the licensed premises; and

36 (c) Concerns expressed by law enforcement about the potential
37 sale of products that could be transported out-of-state.

38 (11) For the purposes of subsection (10) of this section,
39 "chronic illegal activity" means (a) a (~~pervasive~~) pattern of
40 activity that threatens the public health, safety, and welfare of the

1 city, town, or county including, but not limited to, diversion of
2 marijuana or marijuana products out of the state, open container
3 violations, assaults, disturbances, disorderly conduct, or other
4 criminal law violations, or as documented in crime statistics, police
5 reports, emergency medical response data, calls for service, field
6 data, or similar records of a law enforcement agency for the city,
7 town, county, or any other municipal corporation or any state agency
8 or any law enforcement agency of another state; or (b) an
9 unreasonably high number of citations for violations of RCW
10 46.61.502, 46.61.504, or 46.61.5249 associated with the applicant's
11 or licensee's operation of any licensed premises as indicated by the
12 reported statements given to law enforcement upon arrest.

13 **Sec. 8.** RCW 69.50.580 and 2015 2nd sp.s. c 4 s 801 are each
14 amended to read as follows:

15 (1) Applicants for a marijuana producer's, marijuana processor's,
16 marijuana researcher's or marijuana retailer's license and licensees
17 who apply for a change of location under this chapter must display a
18 sign provided by the state liquor and cannabis board on the outside
19 of the premises to be licensed notifying the public that the premises
20 are subject to an application for such license. The sign must:

21 (a) Contain text with content sufficient to notify the public of
22 the nature of the pending license application, the date of the
23 application, the name of the applicant, and contact information for
24 the state liquor and cannabis board;

25 (b) Be conspicuously displayed on, or immediately adjacent to,
26 the premises subject to the application and in the location that is
27 most likely to be seen by the public;

28 (c) Be of a size sufficient to ensure that it will be readily
29 seen by the public; and

30 (d) Be posted within seven business days of the submission of the
31 application to the state liquor and cannabis board.

32 (2) The state liquor and cannabis board must adopt such rules as
33 are necessary for the implementation of this section, including rules
34 pertaining to the size of the sign and the text thereon, the textual
35 content of the sign, the fee for providing the sign, and any other
36 requirements necessary to ensure that the sign provides adequate
37 notice to the public.

38 (3) (a) A city, town, or county may adopt an ordinance requiring
39 individual notice by an applicant for a marijuana producer's,

1 marijuana processor's, marijuana researcher's, or marijuana
2 retailer's license under this chapter, sixty days prior to issuance
3 of the license, to any elementary or secondary school, playground,
4 recreation center or facility, child care center, church, public
5 park, public transit center, library, licensed business, or any game
6 arcade admission to which is not restricted to persons aged twenty-
7 one years or older, that is within one thousand feet of the perimeter
8 of the grounds of the establishment seeking licensure. The ordinance
9 may also require notice be given to any residents who reside within
10 one thousand feet of the proposed establishment. The notice must
11 provide the contact information for the liquor and cannabis board
12 where any of the objecting residents or owners or operators of these
13 entities may submit comments or concerns about the proposed business
14 location.

15 (b) (i) The board must consider the objections from the residents
16 or owners or operators of the entities listed in (a) of this
17 subsection based upon the factors specified in RCW 69.50.331(10),
18 associated with the applicant's operations of the premises proposed
19 to be licensed or the applicant's operation of any other licensed
20 premises, or the conduct of the applicant's patrons inside or outside
21 the licensed premises.

22 (ii) The written objections must include a statement of all facts
23 upon which the objections are based. If written objections are filed,
24 the objecting residents or owners or operators of the entities may
25 request, and the board must hold, a hearing subject to the applicable
26 provisions of Title 34 RCW.

27 (iii) If the board makes an initial decision to deny a license,
28 renewal, or change of location based on the written objections of an
29 objecting resident or entity, the applicant or licensee may request a
30 hearing subject to the applicable provisions of Title 34 RCW. If a
31 hearing is held at the request of the applicant, the objecting
32 residents or owners or operators may appear and present their
33 objections, and the board representatives must present and defend the
34 board's initial decision to deny a license or renewal or an
35 application for a change of location.

36 (c) For the purposes of this subsection, "church" means a
37 building erected for and used exclusively for religious worship and
38 schooling or other activity in connection therewith."

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

3 On page 14, after line 15, insert the following:

4 "NEW SECTION. **Sec. 9.** A new section is added to chapter 69.50
5 RCW to read as follows:

6 Within existing resources, the board must assist any in-state or
7 out-of-state law enforcement agency with concerns over the in-state
8 purchase of licensed marijuana products for use or resale outside of
9 this state."

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

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By Senator Padden

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12 On page 2, beginning on line 30, after "69.50.342" strike "and
13 69.50.331" and insert ", 69.50.331, and 69.50.580"

EFFECT: Maintains original language from the striking amendment in Sec. 7 and adds provisions to that section, plus revisions to RCW 69.50.580 to the following effect:

Adds additional statutory requirements for a marijuana licensee who applies to move the location of the licensed business. Requires notice to local governments of a proposed relocation and allows the local government to file an objection within 45 days of the notice. If requested by a local government, the Liquor and Cannabis Board (LCB) must hold a hearing on any application by the licensee. The objecting local government has the right to appear and present its objections. The basis for a local government's right to object to a license application is expanded to include: (1) The number of existing licensed retail outlets within five miles; and (2) law enforcement's concern about potential products being transported out-of-state.

Modifies the definition of "chronic illegal activity" to cover a pattern of activity (instead of a "pervasive" pattern) and expanded to include that out-of-state diversion activity and illegal activity may also be considered when reported by law enforcement of another state.

Adds public notice requirements to include a notice, posted at the premises, when a licensee proposes to move its location. The current law that allows local governments to require, by ordinance, additional notices by licensees to certain entities located within 1,000 feet of the proposed location, is expanded to include notice to nearby residents and licensed businesses. Objections may be filed

based on the grounds that are granted a local government, including the new provisions added in to RCW 69.50.331 in the amendment.

Adds new provisions for objecting residents and entities: (1) The LCB must consider those objections; (2) the residents and entities have the right to request, and present their objections, at a hearing, if the LCB approves an application; and (3) the residents and entities have the right to appear and present their objections at any hearing requested by an applicant whose application was denied.

Directs the Liquor and Cannabis Board to assist, within available resources, any in-state or out-of-state law enforcement agency with concerns over the in-state purchase of licensed marijuana products for use or resale outside of this state.

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