SENATE BILL 5456

State of Washington 69th Legislature 2025 Regular Session

By Senators Stanford, MacEwen, and Nobles

Read first time 01/23/25. Referred to Committee on Labor & Commerce.

AN ACT Relating to removing barriers to the responsible growth of Washington's cannabis industry by removing restrictions on investing in Washington cannabis businesses, modifying which owners must qualify for and be named on a cannabis license, authorizing additional fees, and providing for the suspension of inactive cannabis producer licenses; amending RCW 69.50.325 and 69.50.331; reating a new section; and providing an effective date.

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

9 <u>NEW SECTION.</u> Sec. 1. (1) The legislature finds that restricting 10 investment in Washington's cannabis industry solely to Washington 11 residents has created a significant and unnecessary barrier, one that 12 does not exist in other state-regulated cannabis markets or any other industry nationwide. This restriction prevents cannabis businesses 13 from accessing the standard tools needed for growth and innovation. 14 15 While current regulations permit lending and financing, direct 16 investment, such as angel investment, venture capital, and equity 17 investment, is a critical mechanism for businesses across all 18 industries to expand, particularly for those lacking personal wealth. 19 Without access to these resources, small businesses are left at a 20 distinct disadvantage compared to larger, well-funded ventures and 21 competitors in other states.

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1 (2) The legislature further finds that this restriction was originally enacted when Washington became the first state to legalize 2 3 cannabis, as a precaution to avoid potential federal enforcement. However, as cannabis legalization has expanded across the nation, 4 every other state with legal cannabis has adopted regulatory 5 6 structures without such a residency requirement. To date, no federal action has been taken against these states' systems, underscoring the 7 outdated nature of Washington's restrictive policy. 8

9 (3) The legislature further finds that eliminating the in-state 10 residency requirement for investors is essential to creating a level 11 playing field. At the same time, maintaining strict transparency 12 requirements for all qualified investors ensures accountability and 13 preserves the integrity of Washington's cannabis industry.

legislature also recognizes that 14 The a well-balanced (4) 15 regulatory structure fosters economic growth while preserving the 16 state's high regulatory standards. Such a framework is essential for 17 maintaining a vibrant and sustainable cannabis marketplace that 18 serves all Washingtonians. However, oversupply issues have arisen 19 from the issuance of excessive producer licenses, creating uncertainty in the market. Suspending inactive producer licenses 20 21 until an interstate or federal cannabis marketplace is established will address this challenge and promote stability. 22

(5) Therefore, the legislature intends to expand access to investment opportunities for Washington's cannabis businesses, empower locally grown and produced cannabis enterprises to compete effectively in the national market, support smaller, community-based businesses in building resilience against larger, well-capitalized entities, and address oversupply challenges by suspending inactive producer licenses until a federal marketplace emerges.

30 Sec. 2. RCW 69.50.325 and 2022 c 16 s 54 are each amended to 31 read as follows:

(1) There shall be a cannabis producer's license regulated by the 32 board and subject to annual renewal. The licensee is authorized to 33 produce: (a) Cannabis for sale at wholesale to cannabis processors 34 and other cannabis producers; (b) immature plants or clones and seeds 35 for sale to cooperatives as described under RCW 69.51A.250; and (c) 36 immature plants or clones and seeds for sale to qualifying patients 37 38 and designated providers as provided under RCW 69.51A.310. The 39 production, possession, delivery, distribution, and sale of cannabis

in accordance with the provisions of this chapter and the rules 1 adopted to implement and enforce it, by a validly licensed cannabis 2 producer, shall not be a criminal or civil offense under Washington 3 state law. Every cannabis producer's license shall be issued in the 4 name of the applicant(($_{\tau}$)) in accordance with RCW 69.50.331 and shall 5 6 specify the location at which the cannabis producer intends to operate, which must be within the state of Washington((, and the)). 7 The holder ((thereof)) of the cannabis producer's license shall not 8 allow any other person to use the license. The application fee for a 9 cannabis producer's license ((shall be two hundred fifty dollars)) is 10 \$250 plus any additional application or licensing fee required under 11 12 RCW 69.50.331(1). The annual fee for issuance and renewal of a cannabis producer's license ((shall be one thousand three hundred 13 eighty-one dollars)) is \$1,381. A separate license shall be required 14 15 for each location at which a cannabis producer intends to produce 16 cannabis.

(2) There shall be a cannabis processor's license to process, 17 package, and label cannabis concentrates, useable cannabis, and 18 19 cannabis-infused products for sale at wholesale to cannabis processors and cannabis retailers, regulated by the board and subject 20 21 to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of cannabis, useable cannabis, 22 cannabis-23 infused products, and cannabis concentrates in accordance with the provisions of this chapter and chapter 69.51A RCW and the rules 24 25 adopted to implement and enforce these chapters, by a validly licensed cannabis processor, shall not be a criminal or civil offense 26 under Washington state law. Every cannabis processor's license shall 27 be issued in the name of the applicant((τ)) in accordance with RCW 28 29 69.50.331 and shall specify the location at which the licensee intends to operate, which must be within the state of Washington ((τ) 30 31 and the)). The holder ((thereof)) of the cannabis processor's license 32 shall not allow any other person to use the license. The application 33 fee for a cannabis processor's license ((shall be two hundred fifty dollars)) is \$250 plus any additional application or licensing fee 34 required under RCW 69.50.331(1). The annual fee for issuance and 35 renewal of a cannabis processor's license ((shall be one thousand 36 three hundred eighty-one dollars)) is \$1,381. A separate license 37 shall be required for each location at which a cannabis processor 38 39 intends to process cannabis.

(3) (a) There shall be a cannabis retailer's license to sell 1 cannabis concentrates, useable cannabis, and cannabis-infused 2 products at retail in retail outlets, regulated by the board and 3 subject to annual renewal. The possession, delivery, distribution, 4 and sale of cannabis concentrates, useable cannabis, and cannabis-5 6 infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly 7 licensed cannabis retailer, shall not be a criminal or civil offense 8 under Washington state law. Every cannabis retailer's license shall 9 10 be issued in the name of the applicant((τ)) in accordance with RCW 69.50.331 and shall specify the location of the retail outlet the 11 12 licensee intends to operate, which must be within the state of Washington((, and the)). The holder ((thereof)) of the cannabis 13 retailer's license shall not allow any other person to use the 14 15 license. The application fee for a cannabis retailer's license 16 ((shall be two hundred fifty dollars)) is \$250 plus any additional 17 application or licensing fee required under RCW 69.50.331(1). The annual fee for issuance and renewal of a cannabis retailer's license 18 19 ((shall be one thousand three hundred eighty-one dollars)) is \$1,381. A separate license shall be required for each location at which a 20 21 cannabis retailer intends to sell cannabis concentrates, useable cannabis, and cannabis-infused products. 22

(b) 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 cannabis licenses.

(c) (i) A cannabis retailer's license is subject to forfeiture inaccordance with rules adopted by the board pursuant to this section.

(ii) The board shall adopt rules to establish a license forfeiture process for a licensed cannabis 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 board, subject to the following restrictions:

34 (A) No cannabis retailer's license may be subject to forfeiture35 within the first nine months of license issuance; and

36 (B) The board must require license forfeiture on or before 37 twenty-four calendar months of license issuance if a cannabis 38 retailer is not fully operational and open to the public, unless the 39 board determines that circumstances out of the licensee's control are 40 preventing the licensee from becoming fully operational and that, in

1 the board's discretion, the circumstances warrant extending the 2 forfeiture period beyond ((twenty-four)) <u>24</u> calendar months.

3 (iii) The board has discretion in adopting rules under this 4 subsection (3)(c).

5 (iv) ((This subsection (3)(c) applies to cannabis retailer's 6 licenses issued before and after July 23, 2017. However, no license 7 of a cannabis retailer that otherwise meets the conditions for 8 license forfeiture established pursuant to this subsection (3)(c) may 9 be subject to forfeiture within the first nine calendar months of 10 July 23, 2017.

11 (v)) The board may not require license forfeiture if the 12 licensee has been incapable of opening a fully operational retail 13 cannabis business due to actions by the city, town, or county with 14 jurisdiction over the licensee that include any of the following:

(A) The adoption of a ban or moratorium that prohibits theopening of a retail cannabis 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 cannabis retailer from becoming operational.

(d) The board may issue cannabis retailer licenses pursuant tothis chapter and RCW 69.50.335.

24 Sec. 3. RCW 69.50.331 and 2023 c 220 s 2 are each amended to 25 read as follows:

(1) For the purpose of considering any application for a license 26 27 to produce, process, research, transport, or deliver cannabis, 28 useable cannabis, cannabis concentrates, or cannabis-infused products subject to the regulations established under RCW 69.50.385, or sell 29 30 cannabis, or for the renewal of a license to produce, process, 31 research, transport, or deliver cannabis, useable cannabis, cannabis 32 concentrates, or cannabis-infused products subject to the regulations established under RCW 69.50.385, or sell cannabis, the board must 33 conduct a comprehensive, fair, and impartial evaluation of the 34 35 applications timely received.

(a) The board may cause an inspection of the premises to be made,
and may inquire into all matters in connection with the construction
and operation of the premises. For the purpose of reviewing any
application for a license and for considering the denial, suspension,

1 revocation, cancellation, or renewal or denial thereof, of any license, the board may consider any prior criminal arrests or 2 convictions of the applicant, any public safety administrative 3 violation history record with the board, and a criminal history 4 record information check. The board may submit the criminal history 5 6 record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in 7 order that these agencies may search their records for prior arrests 8 and convictions of the individual or individuals who filled out the 9 forms. The board must require fingerprinting of any applicant whose 10 11 criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of 12 chapter 9.96A RCW do not apply to these cases. Subject to the 13 provisions of this section, the board may, in its discretion, grant 14 or deny the renewal or license applied for. Denial may be based on, 15 without limitation, the existence of chronic illegal activity 16 documented in objections submitted pursuant to subsections (7)(c) and 17 18 (10) of this section. Authority to approve an uncontested or 19 unopposed license may be granted by the board to any staff member the board designates in writing. Conditions for granting this authority 20 21 must be adopted by rule.

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

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(i) A person under the age of 21 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;

27 (iii) A partnership, employee cooperative, association, nonprofit 28 corporation, or corporation)) <u>An entity</u> unless formed under the laws 29 of this state((, and unless all of the members thereof are qualified 30 to obtain a license as provided in this section)); or

31 (((iv))) (iii) A person whose place of business is conducted by a 32 manager or agent, unless the manager or agent possesses the same 33 qualifications required of the licensee.

34 <u>(c)(i) A person is not required to be a resident of this state</u> 35 <u>and an entity with a certificate of registration is not required to</u> 36 <u>be formed under the laws of this state to qualify for a cannabis</u> 37 <u>license under this chapter, subject to the following requirements:</u>

38 <u>(A) A natural person holding an ownership interest of more than</u>
39 <u>10 percent in the entity must qualify for and be named on the</u>
40 license;

(B) Except as provided in (c) (i) (C) of this subsection, a natural
 person holding an ownership interest of 10 percent or less in the
 entity is not required to qualify for or be named on the license;

4 <u>(C) If no natural person holds an ownership interest of more than</u> 5 <u>10 percent in the entity, the natural person with the largest</u> 6 <u>ownership interest must qualify for and be named on the license; and</u>

7 <u>(D) Directors of the entity must possess the same qualifications</u> 8 <u>required of the licensee.</u>

9 <u>(ii) The identification of a natural person holding an ownership</u> 10 <u>interest of 10 percent or less but more than one percent in the</u> 11 <u>entity, who is not otherwise required to qualify for and be named on</u> 12 <u>the license as provided in (c)(i) of this subsection, must be</u> 13 <u>disclosed to the board.</u>

14 (d) The board may impose additional licensing fees to recover 15 additional costs incurred in investigating a nonresident required to 16 be investigated under this section. If, after reasonable efforts, the 17 board is unable to investigate a nonresident required to be 18 investigated under this section, in accordance with the investigatory 19 standards applicable to the investigation of a state resident, the 20 board may deny a license or license renewal to an entity.

(2) (a) The board may, in its discretion, subject to RCW 43.05.160, 69.50.563, 69.50.562, 69.50.334, and 69.50.342(3) suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, researching, or selling cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products thereunder must be suspended or terminated, as the case may be.

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

36 (c) (i) The board must suspend a cannabis producer's license 37 issued under RCW 69.50.325 if no activity has been recorded on the 38 license between July 1, 2023, and December 31, 2024.

39 (ii) A cannabis producer's license suspended under (c) (i) of this 40 subsection must be reissued to the licensee when: <u>(A) Federal law allows for the interstate transfer of cannabis</u>
 <u>between authorized cannabis-related businesses; or</u>

<u>(B) The United States department of justice issues an opinion or</u>
 <u>memorandum allowing or tolerating the interstate transfer of cannabis</u>
 <u>between authorized cannabis-related businesses.</u>

6 <u>(iii) For the purposes of this subsection, "no activity" refers</u> 7 <u>to a cannabis producer's license with a unified business identifier</u> 8 <u>number under which no business activity has been reported to the</u> 9 <u>department of revenue.</u>

(d) The board may request the appointment of administrative law 10 judges under chapter 34.12 RCW who shall have power to administer 11 12 oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, 13 examine witnesses, receive testimony in any inquiry, investigation, 14 hearing, or proceeding in any part of the state, and consider 15 16 mitigating and aggravating circumstances in any case and deviate from 17 any prescribed penalty, under rules the board may adopt.

18 (((d))) <u>(e)</u> Witnesses must be allowed fees and mileage each way 19 to and from any inquiry, investigation, hearing, or proceeding at the 20 rate authorized by RCW 34.05.446. Fees need not be paid in advance of 21 appearance of witnesses to testify or to produce books, records, or 22 other legal evidence.

23 (((e))) <u>(f)</u> In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of 24 25 its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be 26 lawfully interrogated, the judge of the superior court of the county 27 28 in which the person resides, on application of any member of the board or administrative law judge, compels obedience by contempt 29 proceedings, as in the case of disobedience of the requirements of a 30 31 subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a 32 33 license, the licensee must forthwith deliver up the license to the board. Where the license has been suspended only, the board must 34 return the license to the licensee at the expiration or termination 35 of the period of suspension. The board must notify all other 36 licensees in the county where the subject licensee has its premises 37 of the suspension or cancellation of the license; and no other 38 39 licensee or employee of another licensee may allow or cause any 40 cannabis, cannabis concentrates, useable cannabis, or cannabis-

1 infused products to be delivered to or for any person at the premises 2 of the subject licensee.

3 (4) Every license issued under this chapter is subject to all 4 conditions and restrictions imposed by this chapter or by rules 5 adopted by the board to implement and enforce this chapter. All 6 conditions and restrictions imposed by the board in the issuance of 7 an individual license must be listed on the face of the individual 8 license along with the trade name, address, and expiration date.

9 (5) Every licensee must post and keep posted its license, or 10 licenses, in a conspicuous place on the premises.

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(6) No licensee may employ any person under the age of 21 years.

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

21 (b) The incorporated city or town through the official or 22 employee selected by it, the county legislative authority or the official or employee selected by it, the tribal government, or port 23 authority has the right to file with the board within twenty days 24 25 after the date of transmittal of the notice for applications, or at 26 least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which 27 28 the new or renewed license is asked. The board may extend the time 29 period for submitting written objections upon request from the authority notified by the board. 30

31 (c) The written objections must include a statement of all facts upon which the objections are based, and in case written objections 32 33 are filed, the city or town or county legislative authority may request, and the board may in its discretion hold, a hearing subject 34 to the applicable provisions of Title 34 RCW. If the board makes an 35 initial decision to deny a license or renewal based on the written 36 objections of an incorporated city or town or county legislative 37 authority, the applicant may request a hearing subject to the 38 39 applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, board representatives must present and
 defend the board's initial decision to deny a license or renewal.

3 (d) Upon the granting of a license under this title the board 4 must send written notification to the chief executive officer of the 5 incorporated city or town in which the license is granted, or to the 6 county legislative authority if the license is granted outside the 7 boundaries of incorporated cities or towns.

8 (8)(a) Except as provided in (b) through (e) of this subsection, 9 the board may not issue a license for any premises within 1,000 feet 10 of the perimeter of the grounds of any elementary or secondary 11 school, playground, recreation center or facility, child care center, 12 public park, public transit center, or library, or any game arcade 13 admission to which is not restricted to persons aged 21 years or 14 older.

(b) A city, county, or town may permit the licensing of premises 15 within 1,000 feet but not less than 100 feet of the facilities 16 described in (a) of this subsection, except elementary schools, 17 secondary schools, and playgrounds, by enacting an ordinance 18 authorizing such distance reduction, provided that such distance 19 reduction will not negatively impact the jurisdiction's civil 20 regulatory enforcement, criminal law enforcement interests, public 21 safety, or public health. 22

(c) A city, county, or town may permit the licensing of research premises allowed under RCW 69.50.372 within 1,000 feet but not less than 100 feet of the facilities described in (a) of this subsection by enacting an ordinance authorizing such distance reduction, provided that the ordinance will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement, public safety, or public health.

30 (d) The board may license premises located in compliance with the 31 distance requirements set in an ordinance adopted under (b) or (c) of 32 this subsection. Before issuing or renewing a research license for 33 premises within 1,000 feet but not less than 100 feet of an 34 elementary school, secondary school, or playground in compliance with 35 an ordinance passed pursuant to (c) of this subsection, the board 36 must ensure that the facility:

37 (i) Meets a security standard exceeding that which applies to38 cannabis producer, processor, or retailer licensees;

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

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

3 (e) The board must issue a certificate of compliance if the 4 premises met the requirements under (a), (b), (c), or (d) of this 5 subsection on the date of the application. The certificate allows the 6 licensee to operate the business at the proposed location 7 notwithstanding a later occurring, otherwise disqualifying factor.

8 (f) The board may not issue a license for any premises within 9 Indian country, as defined in 18 U.S.C. Sec. 1151, including any fee 10 patent lands within the exterior boundaries of a reservation, without 11 the consent of the federally recognized tribe associated with the 12 reservation or Indian country.

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

17 (10) In determining whether to grant or deny a license or renewal of any license, the board must give substantial weight to objections 18 from an incorporated city or town or county legislative authority 19 based upon chronic illegal activity associated with the applicant's 20 21 operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the 22 23 applicant's patrons inside or outside the licensed premises. (("Chronic illegal activity" means (a) a pervasive pattern of 24 25 activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container 26 27 violations, assaults, disturbances, disorderly conduct, or other 28 criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field 29 data, or similar records of a law enforcement agency for the city, 30 31 town, county, or any other municipal corporation or any state agency; 32 or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of 33 any licensed premises as indicated by the reported statements given 34 35 to law enforcement upon arrest.))

36 (11) The board may not issue a cannabis retail license for any 37 premises not currently licensed if:

38 (a) The board receives a written objection from the legislative39 authority of an incorporated city or town, or county legislative

1 authority, relating to the physical location of the proposed 2 premises;

3 (b) The objection to the location from the incorporated city or 4 town, or county legislative authority, is received by the board 5 within 20 days of the board notifying the incorporated city or town, 6 or county legislative authority, of the proposed cannabis retail 7 location; and

(c) The objection to the issuance of a cannabis retail license at 8 the specified location is based on a preexisting local ordinance 9 limiting outlet density in a specific geographic area. For purposes 10 this subsection (11), a preexisting local ordinance is an 11 of 12 ordinance enacted and in effect before the date the applicant submits an application for a cannabis retail license to the board identifying 13 the premises proposed to be licensed. No objection related to the 14 physical location of a proposed premises may be made by a local 15 government under this subsection (11) based on a local ordinance 16 17 enacted after the date the applicant submits an application for a 18 cannabis retail license to the board identifying the premises 19 proposed to be licensed.

(12) After January 1, 2024, all cannabis licensees are encouraged 20 but are not required to submit a social equity plan to the board. 21 Upon confirmation by the board that a cannabis licensee who is not a 22 23 social equity applicant, and who does not hold a social equity license issued under RCW 69.50.335, has submitted a social equity 24 25 plan, the board must within 30 days reimburse such a licensee an amount equal to the cost of the licensee's annual cannabis license 26 renewal fee. The license renewal fee reimbursement authorized under 27 28 this subsection is subject to the following limitations:

(a) The board may provide reimbursement one time only to anylicensed entity; and

31 (b) Any licensed entity holding more than one cannabis license is 32 eligible for reimbursement of the license renewal fee on only one 33 license.

34 <u>(13) The definitions in this subsection apply throughout this</u> 35 <u>section unless the context clearly requires otherwise.</u>

36 <u>(a) "Chronic illegal activity" means: (i) A pervasive pattern of</u> 37 activity that threatens the public health, safety, and welfare of the 38 city, town, or county including, but not limited to, open container 39 violations, assaults, disturbances, disorderly conduct, or other 40 criminal law violations, or as documented in crime statistics, police

1 reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, 2 3 town, county, or any other municipal corporation or any state agency; or (ii) an unreasonably high number of citations for violations of 4 RCW 46.61.502 associated with the applicant's or licensee's operation 5 6 of any licensed premises as indicated by the reported statements 7 given to law enforcement upon arrest. (b) "Entity" has the meaning provided in RCW 23.95.105. 8 (c) "Interest" has the meaning provided in RCW 23.95.105. 9

10 <u>NEW SECTION.</u> Sec. 4. This act takes effect January 1, 2026.

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