
HOUSE BILL 2247

State of Washington

66th Legislature

2020 Regular Session

By Representatives Goehner, Boehnke, Duerr, Chambers, and Dent

Prefiled 12/15/19.

1 AN ACT Relating to aligning marijuana licensing decisions by the
2 liquor and cannabis board with local zoning ordinances; and amending
3 RCW 69.50.331 and 69.51A.250.

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

5 **Sec. 1.** RCW 69.50.331 and 2019 c 394 s 7 are each amended to
6 read as follows:

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

17 (a) The board may cause an inspection of the premises to be made,
18 and may inquire into all matters in connection with the construction
19 and operation of the premises. For the purpose of reviewing any
20 application for a license and for considering the denial, suspension,
21 revocation, cancellation, or renewal or denial thereof, of any

1 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 record information check to the Washington state patrol and to the
6 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 criminal history record information check is submitted to the federal
11 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)(e)~~
17 ~~and (10)~~) (8)(c) and (11) of this section. Authority to approve an
18 uncontested or unopposed license may be granted by the board to any
19 staff member the board designates in writing. Conditions for granting
20 this authority must be adopted by rule.

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

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

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

26 (iii) A partnership, employee cooperative, association, nonprofit
27 corporation, or corporation unless formed under the laws of this
28 state, and unless all of the members thereof are qualified to obtain
29 a license as provided in this section; (~~(e)~~)

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

33 (v) Any entity when there is a written objection from a city,
34 town, county, port authority, or tribal government of a federally
35 recognized Indian tribe, pursuant to subsection (7) of this section.

36 (2)(a) The board may, in its discretion, subject to RCW
37 43.05.160, 69.50.563, 69.50.562, 69.50.334, and 69.50.342(3) suspend
38 or cancel any license; and all protections of the licensee from
39 criminal or civil sanctions under state law for producing,
40 processing, researching, or selling marijuana, marijuana

1 concentrates, useable marijuana, or marijuana-infused products
2 thereunder must be suspended or terminated, as the case may be.

3 (b) The board must immediately suspend the license of a person
4 who has been certified pursuant to RCW 74.20A.320 by the department
5 of social and health services as a person who is not in compliance
6 with a support order. If the person has continued to meet all other
7 requirements for reinstatement during the suspension, reissuance of
8 the license is automatic upon the board's receipt of a release issued
9 by the department of social and health services stating that the
10 licensee is in compliance with the order.

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

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

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

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

1 marijuana, marijuana concentrates, useable marijuana, or marijuana-
2 infused products to be delivered to or for any person at the premises
3 of the subject licensee.

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

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

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

14 (7) The board may not issue a new or renewed marijuana license
15 for any premises in which the city, town, county, port authority, or
16 tribal government of a federally recognized Indian tribe, as
17 applicable, has provided a written objection under subsection (8) of
18 this section stating that the jurisdiction's local zoning ordinances
19 prohibit the use of the property for activities authorized under the
20 terms of the applicable marijuana license. For purposes of making
21 licensing decisions in conformity with local zoning ordinances under
22 this subsection, the board may rely on a written statement submitted
23 to the board by the following entities, stating that the
24 jurisdiction's local zoning ordinances either do or do not prohibit
25 the use of the property for activities authorized under the terms of
26 the marijuana license:

27 (a) The chief executive officer of the incorporated city or town
28 if the application is for a license in an incorporated city or town;

29 (b) The county legislative authority if the application is for a
30 license outside the boundaries of incorporated cities or towns;

31 (c) The port authority if the application is for a license on
32 property owned by a port authority; or

33 (d) The tribal government if the application is for a license on
34 property within Indian country, as defined in 18 U.S.C. Sec. 1151,
35 including any fee patent lands within the exterior boundaries of a
36 reservation.

37 (8)(a) Before the board issues a new or renewed license to an
38 applicant it must give notice of the application to the chief
39 executive officer of the incorporated city or town, if the
40 application is for a license within an incorporated city or town, or

1 to the county legislative authority, if the application is for a
2 license outside the boundaries of incorporated cities or towns, or to
3 the tribal government if the application is for a license within
4 Indian country, or to the port authority if the application for a
5 license is located on property owned by a port authority.

6 (b) The incorporated city or town through the official or
7 employee selected by it, the county legislative authority or the
8 official or employee selected by it, the tribal government, or port
9 authority has the right to file with the board within twenty days
10 after the date of transmittal of the notice for applications, or at
11 least thirty days prior to the expiration date for renewals, written
12 objections against the applicant or against the premises for which
13 the new or renewed license is asked. The board may extend the time
14 period for submitting written objections upon request from the
15 authority notified by the board.

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

27 (d) Upon the granting of a license under this title the board
28 must send written notification to the chief executive officer of the
29 incorporated city or town in which the license is granted, or to the
30 county legislative authority if the license is granted outside the
31 boundaries of incorporated cities or towns.

32 (~~(+8)~~) (9)(a) Except as provided in (b) through (d) of this
33 subsection, the board may not issue a license for any premises within
34 one thousand feet of the perimeter of the grounds of any elementary
35 or secondary school, playground, recreation center or facility, child
36 care center, public park, public transit center, or library, or any
37 game arcade admission to which is not restricted to persons aged
38 twenty-one years or older.

39 (b) A city, county, or town may permit the licensing of premises
40 within one thousand feet but not less than one hundred feet of the

1 facilities described in (a) of this subsection, except elementary
2 schools, secondary schools, and playgrounds, by enacting an ordinance
3 authorizing such distance reduction, provided that such distance
4 reduction will not negatively impact the jurisdiction's civil
5 regulatory enforcement, criminal law enforcement interests, public
6 safety, or public health.

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

14 (d) The board may license premises located in compliance with the
15 distance requirements set in an ordinance adopted under (b) or (c) of
16 this subsection. Before issuing or renewing a research license for
17 premises within one thousand feet but not less than one hundred feet
18 of an elementary school, secondary school, or playground in
19 compliance with an ordinance passed pursuant to (c) of this
20 subsection, the board must ensure that the facility:

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

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

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

27 (e) The board may not issue a license for any premises within
28 Indian country, as defined in 18 U.S.C. Sec. 1151, including any fee
29 patent lands within the exterior boundaries of a reservation, without
30 the consent of the federally recognized tribe associated with the
31 reservation or Indian country.

32 ~~((9))~~ (10) A city, town, or county may adopt an ordinance
33 prohibiting a marijuana producer or marijuana processor from
34 operating or locating a business within areas zoned primarily for
35 residential use or rural use with a minimum lot size of five acres or
36 smaller.

37 ~~((10))~~ (11) In determining whether to grant or deny a license
38 or renewal of any license, the board must give substantial weight to
39 objections from an incorporated city or town or county legislative
40 authority based upon chronic illegal activity associated with the

1 applicant's operations of the premises proposed to be licensed or the
2 applicant's operation of any other licensed premises, or the conduct
3 of the applicant's patrons inside or outside the licensed premises.
4 "Chronic illegal activity" means (a) a pervasive pattern of activity
5 that threatens the public health, safety, and welfare of the city,
6 town, or county including, but not limited to, open container
7 violations, assaults, disturbances, disorderly conduct, or other
8 criminal law violations, or as documented in crime statistics, police
9 reports, emergency medical response data, calls for service, field
10 data, or similar records of a law enforcement agency for the city,
11 town, county, or any other municipal corporation or any state agency;
12 or (b) an unreasonably high number of citations for violations of RCW
13 46.61.502 associated with the applicant's or licensee's operation of
14 any licensed premises as indicated by the reported statements given
15 to law enforcement upon arrest.

16 **Sec. 2.** RCW 69.51A.250 and 2017 c 317 s 8 are each amended to
17 read as follows:

18 (1) Qualifying patients or designated providers may form a
19 cooperative and share responsibility for acquiring and supplying the
20 resources needed to produce and process marijuana only for the
21 medical use of members of the cooperative. No more than four
22 qualifying patients or designated providers may become members of a
23 cooperative under this section and all members must hold valid
24 recognition cards. All members of the cooperative must be at least
25 twenty-one years old. The designated provider of a qualifying patient
26 who is under twenty-one years old may be a member of a cooperative on
27 the qualifying patient's behalf. All plants grown in the cooperative
28 must be from an immature plant or clone purchased from a licensed
29 marijuana producer as defined in RCW 69.50.101. Cooperatives may also
30 purchase marijuana seeds from a licensed marijuana producer.

31 (2) Qualifying patients and designated providers who wish to form
32 a cooperative must register the location with the state liquor and
33 cannabis board and this is the only location where cooperative
34 members may grow or process marijuana. This registration must include
35 the names of all participating members and copies of each
36 participant's recognition card. Only qualifying patients or
37 designated providers registered with the state liquor and cannabis
38 board in association with the location may participate in growing or

1 receive useable marijuana or marijuana-infused products grown at that
2 location.

3 (3) No cooperative may be located in any of the following areas:

4 (a) Within one mile of a marijuana retailer;

5 (b) Within the smaller of either:

6 (i) One thousand feet of the perimeter of the grounds of any
7 elementary or secondary school, playground, recreation center or
8 facility, child care center, public park, public transit center,
9 library, or any game arcade that admission to which is not restricted
10 to persons aged twenty-one years or older; or

11 (ii) The area restricted by ordinance, if the cooperative is
12 located in a city, county, or town that has passed an ordinance
13 pursuant to RCW 69.50.331(~~((8))~~) (9); or

14 (c) Where prohibited by a city, town, or county zoning provision.

15 (4) The state liquor and cannabis board must deny the
16 registration of any cooperative if the location does not comply with
17 the requirements set forth in subsection (3) of this section.

18 (5) If a qualifying patient or designated provider no longer
19 participates in growing at the location, he or she must notify the
20 state liquor and cannabis board within fifteen days of the date the
21 qualifying patient or designated provider ceases participation. The
22 state liquor and cannabis board must remove his or her name from
23 connection to the cooperative. Additional qualifying patients or
24 designated providers may not join the cooperative until sixty days
25 have passed since the date on which the last qualifying patient or
26 designated provider notifies the state liquor and cannabis board that
27 he or she no longer participates in that cooperative.

28 (6) Qualifying patients or designated providers who participate
29 in a cooperative under this section:

30 (a) May grow up to the total amount of plants for which each
31 participating member is authorized on their recognition cards, up to
32 a maximum of sixty plants. At the location, the qualifying patients
33 or designated providers may possess the amount of useable marijuana
34 that can be produced with the number of plants permitted under this
35 subsection, but no more than seventy-two ounces;

36 (b) May only participate in one cooperative;

37 (c) May only grow plants in the cooperative and if he or she
38 grows plants in the cooperative may not grow plants elsewhere;

39 (d) Must provide assistance in growing plants. A monetary
40 contribution or donation is not to be considered assistance under

1 this section. Participants must provide nonmonetary resources and
2 labor in order to participate; and

3 (e) May not sell, donate, or otherwise provide marijuana,
4 marijuana concentrates, useable marijuana, or marijuana-infused
5 products to a person who is not participating under this section.

6 (7) The location of the cooperative must be the domicile of one
7 of the participants. Only one cooperative may be located per property
8 tax parcel. A copy of each participant's recognition card must be
9 kept at the location at all times.

10 (8) The state liquor and cannabis board may adopt rules to
11 implement this section including:

12 (a) Any security requirements necessary to ensure the safety of
13 the cooperative and to reduce the risk of diversion from the
14 cooperative;

15 (b) A seed to sale traceability model that is similar to the seed
16 to sale traceability model used by licensees that will allow the
17 state liquor and cannabis board to track all marijuana grown in a
18 cooperative.

19 (9) The state liquor and cannabis board or law enforcement may
20 inspect a cooperative registered under this section to ensure members
21 are in compliance with this section. The state liquor and cannabis
22 board must adopt rules on reasonable inspection hours and reasons for
23 inspections.

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