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**HOUSE BILL 1414**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Representatives Goehner and Chambers

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 2020 c 154 s 1 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 (e) 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 must issue a certificate of compliance if the  
28 premises met the requirements under (a), (b), (c), or (d) of this  
29 subsection on the date of the application. The certificate allows the  
30 licensee to operate the business at the proposed location  
31 notwithstanding a later occurring, otherwise disqualifying factor.

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

37 ~~((9))~~ (10) A city, town, or county may adopt an ordinance  
38 prohibiting a marijuana producer or marijuana processor from  
39 operating or locating a business within areas zoned primarily for

1 residential use or rural use with a minimum lot size of five acres or  
2 smaller.

3 ~~((10))~~ (11) In determining whether to grant or deny a license  
4 or renewal of any license, the board must give substantial weight to  
5 objections from an incorporated city or town or county legislative  
6 authority based upon chronic illegal activity associated with the  
7 applicant's operations of the premises proposed to be licensed or the  
8 applicant's operation of any other licensed premises, or the conduct  
9 of the applicant's patrons inside or outside the licensed premises.  
10 "Chronic illegal activity" means (a) a pervasive pattern of activity  
11 that threatens the public health, safety, and welfare of the city,  
12 town, or county including, but not limited to, open container  
13 violations, assaults, disturbances, disorderly conduct, or other  
14 criminal law violations, or as documented in crime statistics, police  
15 reports, emergency medical response data, calls for service, field  
16 data, or similar records of a law enforcement agency for the city,  
17 town, county, or any other municipal corporation or any state agency;  
18 or (b) an unreasonably high number of citations for violations of RCW  
19 46.61.502 associated with the applicant's or licensee's operation of  
20 any licensed premises as indicated by the reported statements given  
21 to law enforcement upon arrest.

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

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

37 (2) Qualifying patients and designated providers who wish to form  
38 a cooperative must register the location with the state liquor and  
39 cannabis board and this is the only location where cooperative

1 members may grow or process marijuana. This registration must include  
2 the names of all participating members and copies of each  
3 participant's recognition card. Only qualifying patients or  
4 designated providers registered with the state liquor and cannabis  
5 board in association with the location may participate in growing or  
6 receive useable marijuana or marijuana-infused products grown at that  
7 location.

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

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

10 (b) Within the smaller of either:

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

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

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

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

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

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

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

1 (b) May only participate in one cooperative;

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

4 (d) Must provide assistance in growing plants. A monetary  
5 contribution or donation is not to be considered assistance under  
6 this section. Participants must provide nonmonetary resources and  
7 labor in order to participate; and

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

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

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

17 (a) Any security requirements necessary to ensure the safety of  
18 the cooperative and to reduce the risk of diversion from the  
19 cooperative;

20 (b) A seed to sale traceability model that is similar to the seed  
21 to sale traceability model used by licensees that will allow the  
22 state liquor and cannabis board to track all marijuana grown in a  
23 cooperative.

24 (9) The state liquor and cannabis board or law enforcement may  
25 inspect a cooperative registered under this section to ensure members  
26 are in compliance with this section. The state liquor and cannabis  
27 board must adopt rules on reasonable inspection hours and reasons for  
28 inspections.

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