
HOUSE BILL 2789

State of Washington 62nd Legislature 2012 Regular Session

By Representatives Reykdal, Orcutt, Stanford, Wilcox, Billig, Ryu, Clibborn, Smith, Haler, Buys, Harris, Taylor, Angel, and McCune

Read first time 02/21/12. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to creating a cooperative process between cities
2 and the department of revenue for local business licensing
3 simplification; adding a new section to chapter 19.02 RCW; and adding
4 a new chapter to Title 35 RCW.

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

6 NEW SECTION. **Sec. 1.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Business licensing system" and "business license" have the
9 same meaning as in RCW 19.02.020.

10 (2) "City" means a city, town, or code city.

11 (3) "Department" means the department of revenue.

12 (4)(a) "Employee" means any individual:

13 (i) Who is considered an employee under the statutory or common law
14 of this state;

15 (ii) Who is considered an employee or worker by the department of
16 labor and industries;

17 (iii) Whose wages are reported by his or her employer to the
18 employment security department for purposes of contributions payable
19 under chapter 50.24 RCW;

1 (iv) Who is a sole proprietor of a business; or

2 (v) Who is an owner, officer, partner, member, manager, or trustee
3 of a business entity. For purposes of this subsection, "manager" means
4 a person designated as such by a limited liability company, limited
5 liability partnership, or similar business entity, in the entity's
6 certificate of formation or similar governing documents.

7 (b) An individual that falls within any provision in (a) of this
8 subsection (4) is an employee regardless of whether that individual is
9 employed full-time or part-time; is employed on a permanent or
10 temporary basis; or receives wages, salary, commission, or other form
11 of remuneration from his or her employer.

12 (c) Notwithstanding anything to the contrary in this subsection
13 (4), an individual who is merely a passive investor in a business and
14 does not perform any services or activities as an agent of the business
15 is not an employee.

16 (d) An individual performing services in his or her capacity as a
17 director of a corporation or other entity is not an employee of the
18 entity if the individual does not otherwise fall within the provisions
19 of (a) of this subsection (4).

20 (5) "General business license" means a license, not including a
21 regulatory license, that a city requires all or most businesses to
22 obtain in order to conduct business within the city. For purposes of
23 this subsection (5), "regulatory license" means a license that a city
24 requires only for certain types of businesses, such as taxicab or other
25 for-hire vehicle operators, adult entertainment businesses, amusement
26 device operators, massage parlors, debt collectors, door-to-door sales
27 persons, trade-show operators, and home-based businesses.

28 NEW SECTION. **Sec. 2.** (1) By July 1, 2020, all cities that are
29 required to participate under subsection (2) of this section must have
30 their general business licenses issued and renewed, if the license is
31 required to be renewed, through the business and licensing system in
32 accordance with chapter 19.02 RCW.

33 (2)(a) Subject to (b) of this subsection, the association of
34 Washington cities, as a representative of the cities, must determine
35 which cities are required to participate in issuing and renewing their
36 general business licenses through the business and licensing system in
37 accordance with chapter 19.02 RCW under this section.

1 (b) The association of Washington cities must select additional
2 cities to participate each year beginning with the year in which this
3 section takes effect through 2020. Unless provided otherwise in
4 subsection (4) of this section, all cities must be participating in the
5 business and licensing system in accordance with chapter 19.02 RCW as
6 provided in this section by no later than July 1, 2020.

7 (3) In establishing a schedule for assuming the issuance and
8 renewal of general business licenses under this section, the department
9 must work with the affected cities and/or the association of Washington
10 cities, as a representative of the affected cities, to determine
11 collaboratively based upon substantial input from the affected cities
12 and/or the association of Washington cities such schedule.

13 (4) The department may delay or phase-in the issuance and renewal
14 of general business licenses beyond the date provided in subsection (1)
15 of this section if funding or other resources are insufficient to
16 enable the department to meet the deadline in subsection (1) of this
17 section or as necessary to ensure the business licensing system is
18 adequately prepared to handle all general business licenses and that
19 the transition to mandatory department issuance and renewal of general
20 business licenses is as seamless as possible.

21 (5) Cities may continue to issue and renew their general business
22 licenses until those licenses have been incorporated into the business
23 licensing system. A city whose general business license has been
24 incorporated into the business licensing system may no longer issue and
25 renew those licenses.

26 (6) For purposes of this section, "business and occupation tax" has
27 the same meaning as in RCW 35.102.030.

28 NEW SECTION. **Sec. 3.** (1) By the time that a city's general
29 business license is required to be issued and renewed through the
30 business licensing system, the license is subject to all of the
31 provisions of this section.

32 (2)(a) A city may use only the following types of fees for general
33 business licenses:

- 34 (i) A flat fee as established by the city;
- 35 (ii) A flat fee calculated by multiplying a specific dollar amount
36 by the quotient resulting from dividing the total hours worked by the

1 business's employees located within the city by one thousand nine
2 hundred twenty; or

3 (iii) A range of flat fees where the determination of the
4 applicable fee is based on the quotient resulting from dividing the
5 total hours worked by the business's employees located within the city
6 by one thousand nine hundred twenty.

7 (b) A city may not use a combination of fees described in (a)(i)
8 through (iii) of this subsection (2) for its general business license.

9 (c) For purposes of this subsection, a flat fee for a general
10 business license must be the same amount for all businesses or for all
11 businesses within a specified fee range.

12 (d) For purposes of this subsection, an employee of a staffing firm
13 is not considered to be an employee of any client of the staffing firm
14 to whom the employee is assigned. To the extent that a staffing firm
15 assigns its employees to work in any city that imposes a licensing fee
16 as authorized in (a) of this subsection (2), the staffing firm is
17 subject to a licensing fee in such city even if the staffing firm is
18 not otherwise physically located in that city. For purposes of this
19 subsection (2)(d), "staffing firm" means a person providing "staffing
20 services" as defined in RCW 82.04.540.

21 (e) For purposes of this subsection, a covered employee is not
22 considered to be an employee of the professional employer organization
23 with which the individual has a coemployment relationship. Rather, the
24 covered employee is deemed the sole employee of the client. The
25 definitions in RCW 82.04.540 apply to this subsection (2)(e).

26 (f) For purposes of the fees authorized in (a)(ii) and (iii) of
27 this subsection (2):

28 (i) Hours worked are for the twelve-month period ending the last
29 day of the month immediately preceding the month in which the license
30 for which the fee is imposed takes effect, except that new businesses
31 must make a reasonable estimation of the hours that their employees
32 located within the city will work in the city during the twelve-month
33 period beginning on the date that the license for which the fee is
34 imposed will take effect; and

35 (ii) It must be presumed that any employee that works in a city for
36 any part of a twelve-month period has worked for at least one thousand
37 nine hundred twenty hours in that city during that twelve-month period

1 unless the individual's employer has records establishing that the
2 employee worked more or fewer than one thousand nine hundred twenty
3 hours in that city during that twelve-month period.

4 (g) For purposes of (a)(ii) and (iii) of this subsection (2), an
5 employee is located in a city if the employee:

6 (i) Spends any amount of time in the city on behalf of his or her
7 employer, even if most of the employee's work time is spent outside of
8 the city; or

9 (ii) Does not spend any time in the city on behalf of his or her
10 employer; but the employee's work is directed or managed by the
11 employer primarily from a location within the city, and the employer is
12 not required to pay a general business license fee to any other city in
13 which the employee performs services for the employer.

14 (3)(a) A general business license may not be renewed more
15 frequently than once per year except that the department may require a
16 more frequent renewal date as may be necessary to synchronize the
17 renewal date for the general business license with the business's
18 business license expiration date.

19 (b) In establishing a procedure to synchronize renewal dates for
20 general business licenses under this section with other licenses, the
21 department must work with the affected cities and/or the association of
22 Washington cities, as a representative of the affected cities, to
23 determine collaboratively based upon substantial input from the
24 affected cities and/or the association of Washington cities such
25 procedure.

26 (4) The business licensing system need not accommodate any monetary
27 penalty imposed by a city for failing to obtain or renew a general
28 business license. The penalty imposed in RCW 19.02.085 applies to
29 general business licenses that are not renewed by their expiration
30 date.

31 (5) The department may refuse to administer any provision of a city
32 ordinance that is inconsistent with this chapter. This authority
33 includes refusing to issue or renew a city's general business license.
34 Within five working days following the department's refusal to
35 administer a provision of a city's licensing ordinance, the department
36 must provide notice to the city of the department's refusal and the
37 reasons therefore.

1 NEW SECTION. **Sec. 4.** The department is not authorized to enforce
2 a city's licensing laws except to the extent of issuing or renewing a
3 license in accordance with this chapter and chapter 19.02 RCW or
4 refusing to issue a license due to an incomplete application,
5 nonpayment of the appropriate licensing fee as indicated by the license
6 application or renewal application, or the nonpayment of any applicable
7 penalty for late renewal.

8 NEW SECTION. **Sec. 5.** Cities whose general business licenses are
9 issued through the business licensing system retain the authority to
10 provide exemptions and thresholds for these licenses.

11 NEW SECTION. **Sec. 6.** (1) Provisions relating to requiring a nexus
12 between the city issuing the general business license and a person
13 obtaining or renewing a license from such city in order for the city to
14 issue or renew the license must be established in accordance with the
15 proposed recommendations from the work group established in RCW
16 82.32.--- (section 9, chapter . . ., Laws of 2012 (House Bill No. . . .
17 (H-4271/12))).

18 (2)(a) If House Bill No. . . . (H-4271/12) is not enacted by the
19 2012 legislature, then any provisions relating to requiring a nexus
20 under this chapter must be developed by a work group hereby created to
21 review and make recommendations in regards to such provisions.

22 (b) The work group created under this section must consist of the
23 following members:

24 (i) Three members representing cities, appointed by the association
25 of Washington cities;

26 (ii) Three members representing the business community, appointed
27 by the Washington state chamber of commerce; and

28 (iii) One member representing the department, to serve as a voting
29 chair, to be appointed by the department.

30 (c) The work group must prepare and provide recommendations in the
31 form of implementing legislation to the appropriate fiscal committees
32 of both the house of representatives and the senate by December 15,
33 2012.

34 (d) The recommendations prepared by the work group under this
35 section:

1 (i) Must be the result of the collaborative and cooperative efforts
2 of the work group members; and

3 (ii) Must include proposed legislation that addresses the issue of
4 nexus in relation to issuance and renewal of general business licenses
5 between the licensee and the issuing city.

6 NEW SECTION. **Sec. 7.** A general business license change enacted by
7 a city whose general business license is issued through the business
8 licensing system takes effect no sooner than seventy-five days after
9 the department receives notice of the change and only on the first day
10 of January, April, July, or October, if the change affects in any way
11 who must obtain a license, who is exempt from obtaining a license, or
12 the amount or method of determining any fee for the issuance or renewal
13 of a license.

14 NEW SECTION. **Sec. 8.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 9.** A new section is added to chapter 19.02 RCW
19 to read as follows:

20 The department must offer applicants the ability to submit
21 applications for general business licenses or their renewal
22 electronically. The department must also offer an option for
23 application and renewal fees for general business licenses to be paid
24 electronically. For purposes of this section, "general business
25 license" has the same meaning as in section 1 of this act.

26 NEW SECTION. **Sec. 10.** Sections 1 through 7 of this act constitute
27 a new chapter in Title 35 RCW.

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