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SENATE BILL 5202

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State of Washington

66th Legislature

2019 Regular Session

By Senators Palumbo and Rivers

1 AN ACT Relating to the ability of business and nonprofit entities  
2 to obtain a marijuana license; and amending RCW 69.50.331.

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

4 **Sec. 1.** RCW 69.50.331 and 2017 c 317 s 2 are each amended to  
5 read as follows:

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

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

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

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

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

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

28 (iii) A (~~partnership, employee cooperative, association,~~  
29 ~~nonprofit corporation, or corporation~~) business entity or nonprofit  
30 entity, unless formed under the laws of this state(~~, and unless all~~  
31 ~~of the members thereof are qualified to obtain a license as provided~~  
32 ~~in this section~~) or holding a certificate of registration under  
33 chapter 23.95 RCW. Any natural person holding more than ten percent  
34 interest in the entity must possess the same qualifications required  
35 of the licensee, with the exception of any residency requirement; or

36 (iv) A person whose place of business is conducted by a manager  
37 or agent, unless the manager or agent possesses the same  
38 qualifications required of the licensee, with the exception of any  
39 residency requirement.

1       (c) The board may impose additional licensing fees to recover any  
2 additional costs incurred in investigating any nonresident required  
3 to be investigated under this section. If, after reasonable efforts,  
4 the board is unable to investigate any nonresident required to be  
5 investigated under this section, in accordance with the investigatory  
6 standards applicable to the investigation of a state resident, the  
7 board has discretionary authority to deny a license or license  
8 renewal to an entity.

9       (2) (a) The (~~state liquor and cannabis~~) board may, in its  
10 discretion, subject to the provisions of RCW 69.50.334, suspend or  
11 cancel any license; and all protections of the licensee from criminal  
12 or civil sanctions under state law for producing, processing,  
13 researching, or selling marijuana, marijuana concentrates, useable  
14 marijuana, or marijuana-infused products thereunder must be suspended  
15 or terminated, as the case may be.

16       (b) The (~~state liquor and cannabis~~) board must immediately  
17 suspend the license of a person who has been certified pursuant to  
18 RCW 74.20A.320 by the department of social and health services as a  
19 person who is not in compliance with a support order. If the person  
20 has continued to meet all other requirements for reinstatement during  
21 the suspension, reissuance of the license is automatic upon the  
22 (~~state liquor and cannabis~~) board's receipt of a release issued by  
23 the department of social and health services stating that the  
24 licensee is in compliance with the order.

25       (c) The (~~state liquor and cannabis~~) board may request the  
26 appointment of administrative law judges under chapter 34.12 RCW who  
27 shall have power to administer oaths, issue subpoenas for the  
28 attendance of witnesses and the production of papers, books,  
29 accounts, documents, and testimony, examine witnesses, and (~~to~~)  
30 receive testimony in any inquiry, investigation, hearing, or  
31 proceeding in any part of the state, under rules (~~and regulations~~)  
32 the (~~state liquor and cannabis~~) board may adopt.

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

38       (e) In case of disobedience of any person to comply with the  
39 order of the (~~state liquor and cannabis~~) board or a subpoena issued  
40 by the (~~state liquor and cannabis~~) board, or any of its members, or

1 administrative law judges, or on the refusal of a witness to testify  
2 to any matter regarding which he or she may be lawfully interrogated,  
3 the judge of the superior court of the county in which the person  
4 resides, on application of any member of the board or administrative  
5 law judge, compels obedience by contempt proceedings, as in the case  
6 of disobedience of the requirements of a subpoena issued from said  
7 court or a refusal to testify therein.

8 (3) Upon receipt of notice of the suspension or cancellation of a  
9 license, the licensee must forthwith deliver up the license to the  
10 (~~state liquor and cannabis~~) board. Where the license has been  
11 suspended only, the (~~state liquor and cannabis~~) board must return  
12 the license to the licensee at the expiration or termination of the  
13 period of suspension. The (~~state liquor and cannabis~~) board must  
14 notify all other licensees in the county where the subject licensee  
15 has its premises of the suspension or cancellation of the license;  
16 and no other licensee or employee of another licensee may allow or  
17 cause any marijuana, marijuana concentrates, useable marijuana, or  
18 marijuana-infused products to be delivered to or for any person at  
19 the premises of the subject licensee.

20 (4) Every license issued under this chapter is subject to all  
21 conditions and restrictions imposed by this chapter or by rules  
22 adopted by the (~~state liquor and cannabis~~) board to implement and  
23 enforce this chapter. All conditions and restrictions imposed by the  
24 (~~state liquor and cannabis~~) board in the issuance of an individual  
25 license must be listed on the face of the individual license along  
26 with the trade name, address, and expiration date.

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

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

31 (7) (a) Before the (~~state liquor and cannabis~~) board issues a  
32 new or renewed license to an applicant it must give notice of the  
33 application to the chief executive officer of the incorporated city  
34 or town, if the application is for a license within an incorporated  
35 city or town, or to the county legislative authority, if the  
36 application is for a license outside the boundaries of incorporated  
37 cities or towns, or to the tribal government if the application is  
38 for a license within Indian country, or to the port authority if the  
39 application for a license is located on property owned by a port  
40 authority.

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

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

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

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

38 (b) A city, county, or town may permit the licensing of premises  
39 within one thousand feet but not less than one hundred feet of the  
40 facilities described in (a) of this subsection, except elementary

1 schools, secondary schools, and playgrounds, by enacting an ordinance  
2 authorizing such distance reduction, provided that such distance  
3 reduction will not negatively impact the jurisdiction's civil  
4 regulatory enforcement, criminal law enforcement interests, public  
5 safety, or public health.

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

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

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

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

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

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

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

35 (10) In determining whether to grant or deny a license or renewal  
36 of any license, the (~~state liquor and cannabis~~) board must give  
37 substantial weight to objections from an incorporated city or town or  
38 county legislative authority based upon chronic illegal activity  
39 associated with the applicant's operations of the premises proposed  
40 to be licensed or the applicant's operation of any other licensed

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

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