



Legislation Details (With Text)

File #: CB 119772 **Version:** 1 **Name:** CB 119772
Type: Council Bill (CB) **Status:** Committee Agenda Ready
In control: Select Budget Committee

On agenda: 4/22/2020

Final Action: **Ord. No.**

Title: AN ORDINANCE relating to taxation; imposing a payroll expense tax on persons engaging in business in Seattle; adding a new Chapter 5.38 to the Seattle Municipal Code; amending Sections 5.30.010, 5.30.060, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, 5.55.230, and 6.208.020 of the Seattle Municipal Code; declaring an emergency; and establishing an immediate effective date; all by a 3/4 vote of the City Council.

Sponsors: Kshama Sawant, Tammy J. Morales

Indexes:

Attachments: 1. Summary and Fiscal Note, 2. Central Staff Memo (4/22/20)

Date	Ver.	Action By	Action	Result
4/6/2020	1	City Council	referred	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to taxation; imposing a payroll expense tax on persons engaging in business in Seattle; adding a new Chapter 5.38 to the Seattle Municipal Code; amending Sections 5.30.010, 5.30.060, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, 5.55.230, and 6.208.020 of the Seattle Municipal Code; declaring an emergency; and establishing an immediate effective date; all by a 3/4 vote of the City Council.

WHEREAS, the Mayor declared a civil emergency on March 3, 2020, and the City Council modified the civil emergency proclamation by adopting Resolution 31937 on March 5, 2020; and

WHEREAS, The City of Seattle’s 2020 Budget fully appropriates all available municipal revenues to address the many and varied needs of the community; and

WHEREAS, the City Council has determined that there is no viable alternative available for advancing a core City objective during a time of civil emergency; and

WHEREAS, The City of Seattle intends to exercise its taxing authority, as granted by the Washington State Constitution and as authorized by the Washington State Legislature; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council finds and declares that:

A. There is no viable alternative to meet a core City objective.

B. On March 3, 2020, the Mayor proclaimed that a civil emergency exists in Seattle related to the COVID-19 virus.

C. On March 11, 2020, the Governor of Washington State and the Local Health Officer for Public Health - Seattle & King County issued parallel orders prohibiting gatherings of 250 people or more for social, spiritual, and recreational activities in King County.

D. On March 13, 2020, the Governor of Washington State issued an emergency order announcing all K-12 schools in Washington to be closed from March 17, 2020, through April 24, 2020, to combat the spread of the disease.

E. On March 13, 2020, the President of the United States declared a national emergency to allow the government to marshal additional resources to combat the virus.

F. On March 23, 2020, the Governor of Washington State issued an emergency order (“the Stay Home, Stay Safe order”) announcing that “[a]ll people in Washington State shall immediately cease leaving their home or place of residence except: (1) to conduct or participate in essential activities, and/or (2) for employment in essential business services.”

G. As of April 1, 2020, the Washington State Department of Health confirmed 5,984 cases of COVID-19 and 247 deaths caused by the virus.

H. The COVID-19 crisis has had a significant adverse impact on the local economy, impacting the retail, restaurant, and other industries, resulting in layoffs and reduced work hours for a significant percentage of this workforce and loss of income for small businesses. These impacts are being felt most strongly by people with low incomes who have become unemployed or had their work hours severely reduced.

I. There are at least 38,000 businesses in Seattle employing a minimum of 655,000 individuals. Since

the Governor of Washington State closed or limited operations of many businesses in the state, over 133,000 individuals statewide and 37,000 individuals in King County, alone, have filed for unemployment insurance in just the first weeks. Unemployment insurance generally only covers a portion of lost wages. Those filing for unemployment insurance will, in all likelihood, only increase as the closure continues. This will put more and more Seattle households, particularly low-income households, in financial peril.

J. Federal and state assistance to people with low incomes will not be sufficient to meet their basic needs during the COVID-19 public health and economic crisis. Additional financial support to people with low incomes is necessary to help meet their basic needs such as housing, food, and medical care, and to help minimize impacts to public health as well as the local economy.

K. The City's Adopted 2020 Budget fully appropriates all available municipal revenues to address the many and varied needs of the community.

L. On March 17, *The Seattle Times* quoted the City Budget Director as saying that a "best-case scenario" would be that the COVID 19 civil emergency causes as little as a \$110 million or seven percent reduction in General Fund revenues available for City spending priorities in 2020 (and this estimate was made prior to the Governor's emergency order closing all restaurants, bars, and other non-essential businesses).

M. This bill will impose a new payroll expense tax on the largest businesses that will provide new revenues to allow the City, through the procedures described herein, to make immediate cash assistance available to those households most impacted by the COVID-19 civil emergency.

N. The City will provide such immediate cash assistance through Council Bill (CB) 119774.

O. The interfund loan contemplated in CB 119773 is necessary to provide the immediate cash assistance through CB 119774 and is dependent on the tax authorized by this bill going into effect immediately and not being overturned by referendum.

P. As a result of the City having already fully committed the City's General Fund through the 2020 Adopted Budget and of the anticipated decrease in General Fund revenues, other means of repaying the

interfund loans authorized by CB 119773 would not be feasible if the tax authorized by this bill were overturned by referendum.

Section 2. A new Chapter 5.38 is added to the Seattle Municipal Code as follows:

Chapter 5.38 TAX ON CORPORATE PAYROLL

5.38.010 Administrative provisions

All of the provisions contained in Chapter 5.55 shall have full force and application with respect to taxes imposed under the provisions of this Chapter 5.38 except as may be expressly stated to the contrary herein.

5.38.020 Definitions

The definitions contained in Chapter 5.30 shall be fully applicable to this Chapter 5.38 except as may be expressly stated to the contrary herein. The following additional definitions shall apply throughout this Chapter 5.38:

“Business” has the same meaning as that term is defined in SMC 5.30.020. Depending on the context, “business” may also mean a person engaging in business in Seattle.

“Compensation” means remuneration as that term is defined in RCW 50A.05.010, net distributions, or incentive payments, including guaranteed payments, whether based on profit or otherwise, earned for services rendered or work performed, whether paid directly or through an agent, and whether in cash or in property or the right to receive property. “Compensation” does not include payments to an owner of a pass-through entity that are not earned for services rendered or work performed, such as return of capital, investment income, or other income from passive activities.

“Employee” means any individual who performs work, labor, or personal services of any nature for compensation paid by a business. For purposes of this Chapter 5.38, the term “employee”:

1. Includes individuals who are members of limited liability companies, members of professional limited liability companies, partners, other owners of pass-through entities, and sole proprietors; and
2. Includes individuals who would be considered to be independent contractors for purposes of the

business license tax under subsection 5.45.090.S.

“Grocery business” means:

1. A business whose primary business is making retail sales of food and food ingredients to consumers that are exempt from the retail sales tax under RCW 82.08.0293; and

2. A business whose primary business is making wholesale sales of food and food ingredients that will be exempt from the retail sales tax under RCW 82.08.0293 when resold by the purchaser.

For subsections (1) and (2) of this definition, “primary business” means that 75 percent of the gross income of the business for purposes of calculating the business license tax under Chapter 5.45 is attributable to that business activity.

“Local government entity” has the same meaning as that term is defined in RCW 4.96.010.

“Net distribution” means the draws from net income by any owner of a pass-through entity. Taxable distributions are limited by the amount of draws or net income for that owner, whichever is less. If the owner’s draw exceeds that individual’s net profit, the excess draw is a return of capital. A return of capital is not taxable because it is a liquidation of an owner’s assets.

“Pass-through entity” includes a trust, partnership, corporation described in Subchapter S of the Internal Revenue Code of 1986, as amended, limited liability company, limited liability partnership, professional corporation, and any other person or entity which is not subject to the income tax imposed by Subtitle A, Chapter 1 of the Internal Revenue Code of 1986, as amended, or which is allowed a deduction in computing such tax for distributions to the owners or beneficiaries of such person or entity.

“Payroll expense” means the compensation paid in Seattle to employees. Compensation is paid in Seattle to an employee if:

1. The employee is primarily assigned within Seattle;
2. The employee is not primarily assigned to any place of business for the tax period and the employee performs 50 percent or more of the employee’s service for the tax period in Seattle; or

3. The employee is not primarily assigned to any place of business for the tax period, the employee does not perform 50 percent or more of the employee's service in any one city, and the employee resides in Seattle.

"Primarily assigned" means the business location of the taxpayer where the employee performs the employee's duties.

"Remuneration" has the same meaning as that term is defined in RCW 50A.05.010.

"Tax on corporate payroll" means the payroll expense tax imposed by this Chapter 5.38.

"Taxpayer" means any person who engages in any business in Seattle or who performs any act for which a tax is imposed under this Chapter 5.38.

5.38.030 Tax imposed-Rate

A. A tax on corporate payroll is hereby levied upon and shall be collected from every person engaging in business within Seattle.

B. The amount of the tax on corporate payroll due shall be the payroll expense of the business for the tax period, subject to any deductions authorized under this Chapter 5.38, and multiplied by a rate of 1.30 percent.

C. The tax imposed by this Chapter 5.38 is levied on businesses. A business may not make any deductions from employees' compensation to pay for this tax.

5.38.040 Allocation and apportionment

A. The Director may adopt procedures to allow taxpayers who have payroll expenses consisting of work done and services provided within and outside Seattle to use a representative test period or conduct a survey based on factual data to arrive at a formula with which to calculate the percentage of payroll expense attributable to Seattle. Any formula so established will be subject to review and correction by the Director.

B. If the payroll expense as defined in Section 5.38.020 does not fairly represent the extent of the compensation paid by the taxpayer to its employees that is attributable to work performed or services rendered in Seattle, the taxpayer may petition the Director for, or the Director may require, the employment of another

method to effectuate an equitable allocation and apportionment.

C. Nothing in this Chapter 5.38 shall be construed as requiring the payment of any tax for engaging in business when such payment would be in violation of the Constitution or a statute of the United States or of the Constitution or a statute of the State of Washington. Notwithstanding anything to the contrary herein, if imposition of the City's tax would place an undue burden upon interstate commerce or violate other constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the City's tax, and still apply the City's tax to as much of the taxpayer's activities as may be subject to the City's taxing authority.

D. Businesses engaging temporary or contracted employees shall report and pay the tax on the payroll expense of such temporary or contracted employees, whether or not they are from an employment agency.

5.38.050 Exemptions from the tax on corporate payroll

A. The following are exempt from the tax on corporate payroll:

1. Any business having payroll expense, as defined under subsection 5.38.020, of \$7,000,000 or less in the most recent complete calendar year.
2. Any business engaged in business in Seattle as a grocery business.
3. Any business having a formally recognized exemption from income tax pursuant to Sections 501(c), 501(d), or 401(a) of the Internal Revenue Code of 1986, as amended, as qualified by Sections 502, 503, and 504 of the Internal Revenue Code of 1986, as amended.
4. Any individual who is an independent contractor for purposes of the business license tax under Section 5.45.090.S and whose compensation is included in the payroll expense of another business subject to the tax imposed by Section 5.38.030.
5. Businesses that are preempted from taxation by cities pursuant to federal or state statutes or regulations, including, but not limited to, the following:
 - a. Insurance businesses and their agents as defined by RCW 48.01.050 and 48.17.010,

respectively, and whose total revenue is exempt from the business license tax per Chapter 5.45.

b. Businesses that only sell, manufacture, or distribute motor vehicle fuel as defined in RCW 82.38.020 and exempted under RCW 82.38.080.

c. Businesses that only distribute or sell liquor as defined in RCW 66.04.010 and exempted in RCW 66.08.120.

d. Federal and state government agencies and any local governmental entity.

B. Beginning on January 1, 2022, and on January 1 of every year thereafter, the Director shall adjust the amount of the exemption in subsection 5.38.050.A.1 as follows:

1. The amount shall increase commensurate with the rate of growth of the prior year's June-to-June consumer price index (CPI-U) for the Seattle-Tacoma-Bellevue area as published by the United States Department of Labor;

2. If the annual change in the CPI-U is negative, no adjustment to the amount must be made; and

3. The amount calculated shall be rounded to the nearest whole dollar.

5.38.060 Tax on corporate payroll-When due

The tax on corporate payroll imposed by this Chapter 5.38 shall be due and payable in accordance with Section 5.55.040. The tax on corporate payroll shall be due and payable on an annual basis for 2020 and the measure of the tax shall be prorated based on the effective date of the tax. For years subsequent to 2020, the tax on corporate payroll shall be due quarterly. Notwithstanding Section 5.55.040, the tax due for 2020 and 2021 shall be payable on the same date that the tax payment for the fourth quarter of 2021 is due. The Director may use discretion to assign businesses to an annual reporting period. Forms for such filings shall be prescribed by the Director. Persons discontinuing their business activities in Seattle shall report and pay the tax on corporate payroll at the same time as they file their final business license tax return under Chapter 5.45.

5.38.070 Tax in addition to other license fees or taxes

The tax imposed herein shall be in addition to any license fee or tax imposed or levied under any other law,

statute, or ordinance whether imposed or levied by the City, the State, or other governmental entity or political subdivision.

5.38.080 Tax part of operating overhead

It is not the intention of this Chapter 5.38 that the taxes herein levied upon persons engaging in business be construed as taxes upon the customers of such businesses, but that taxes shall be levied upon, and collectible from, the person engaging in the business activities herein designated and that such taxes or fees shall constitute a part of the operating overhead or cost of doing business of such persons.

5.38.090 Rules and regulations

The Director shall adopt, publish, and enforce rules and regulations not inconsistent with this Chapter 5.38 for the purpose of carrying out the provisions of this Chapter 5.38, including but not limited to rules to determine the payroll expense attributable to work performed and services rendered by employees in Seattle.

Section 3. Section 5.30.010 of the Seattle Municipal Code, last amended by Ordinance 125934, is amended as follows:

5.30.010 Definition provisions

The definitions contained in this Chapter 5.30 shall apply to the following chapters of the Seattle Municipal Code: Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.38 (Tax on Corporate Payroll), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.47 (Heating Oil Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), 5.53 (Sweetened Beverage Tax), and 5.55 (General Administrative Provisions) unless expressly provided for otherwise therein, and shall also apply to other chapters and sections of the Seattle Municipal Code in the manner and to the extent expressly indicated in each chapter or section. Words in the singular number shall include the plural and the plural shall include the singular. Words in one gender shall include all other genders.

Section 4. Subsections 5.30.060.B and 5.30.060.C of the Seattle Municipal Code, which section was last

amended by Ordinance 125934, is amended as follows:

5.30.060 Definitions, T-Z

* * *

B. “Taxable gross income of the business and the value of products,” as used in Section 5.55.030 to determine the business license tax certificate fee, and “taxable gross income” ((means)) mean the taxpayer’s total amount of gross proceeds of sale, gross income of the business, and the value of products, less any deductions available to the taxpayer under Chapter 5.45.

C. “Taxpayer” means any “person,” as herein defined, required by Chapter 5.55 to have a business license tax certificate, or liable for any license, tax, or fee, or for the collection of any tax or fee, under Chapters 5.32 (Revenue Code), 5.35 (Commercial Parking Tax), 5.38 (Tax on Corporate Payroll), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.47 (Heating Oil Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), and 5.53 (Sweetened Beverage Tax), or who engages in any business or who performs any act for which a tax or fee is imposed under those chapters.

* * *

Section 5. Section 5.55.010 of the Seattle Municipal Code, which was last amended by Ordinance 125934, is amended as follows:

5.55.010 Application of chapter stated

Unless expressly stated to the contrary in each chapter, the provisions of this Chapter 5.55 shall apply with respect to the licenses and taxes imposed under this Chapter 5.55 and Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.38 (Tax on Corporate Payroll), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.47 (Heating Oil Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), 5.53 (Sweetened Beverage Tax), and under other titles, chapters, and sections in such manner and to such extent as indicated in

each such title, chapter, or section.

Section 6. Subsection 5.55.040.A of the Seattle Municipal Code, which section was last amended by Ordinance 125934, is amended as follows:

5.55.040 When due and payable-Reporting periods-Monthly, quarterly, and annual returns-Threshold provisions-Computing time periods-Failure to file returns p

A. Other than any annual license fee or registration fee assessed under this Chapter 5.55, the taxes imposed by Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.38 (Tax on Corporate Payroll), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.47 (Heating Oil Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), and 5.53 (Sweetened Beverage Tax) shall be due and payable in quarterly installments. The Director may use discretion to assign businesses to a monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes imposed by subsections 5.52.030.A.2 and 5.52.030.B.2 for punch boards and pull-tabs shall be due and payable in monthly installments. Tax returns and payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

* * *

Section 7. Subsection 5.55.060.A of the Seattle Municipal Code, which section was last amended by Ordinance 125934, is amended as follows:

5.55.060 Records to be preserved-Examination-Inspection-Search warrants-Estoppel to question assessment

A. Every person liable for any fee or tax imposed by this Chapter 5.55 and Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, and 5.53 shall keep and preserve, for a period of five years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and

reports made by the person. All books, records, papers, invoices, ticket stubs, vendor lists, gambling games, and payout information, inventories, stocks of merchandise, and other data, including federal income tax and state tax returns, and reports needed to determine the accuracy of any taxes due, shall be open for inspection or examination at any time by the Director or a duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent. For the purposes of this Section 5.55.060, for the tax imposed by Chapter 5.53, "business premises" means wherever the person's business records and tax documents are maintained and does not mean every site owned or operated by the person.

* * *

Section 8. Subsection 5.55.150.E of the Seattle Municipal Code, which section was last amended by Ordinance 125934, is amended as follows:

5.55.150 Appeal to the Hearing Examiner

* * *

E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest, or penalty due either by affirming, reversing, or modifying an action of the Director. Reversal or modification is proper if the Director's assessment or refund denial violates the terms of this Chapter 5.55, or Chapters 5.30, 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, or 5.53.

* * *

Section 9. Section 5.55.165 of the Seattle Municipal Code, which section was last amended by Ordinance 125934, are amended as follows:

5.55.165 Director of Finance and Administrative Services to make rules

The Director of Finance and Administrative Services shall have the power and it shall be the Director's duty, from time to time, to adopt, publish, and enforce rules and regulations not inconsistent with this Chapter 5.55, with Chapters 5.30, 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.47, 5.46, 5.48, 5.50, 5.52, or 5.53, or with law for the purpose of carrying out the provisions of such chapters, and it shall be unlawful to violate or fail to comply

with any such rule or regulation.

Section 10. Subsections 5.55.220.A and 5.55.220.B of the Seattle Municipal Code, which section was last amended by Ordinance 125934, are amended as follows:

5.55.220 Unlawful actions-Violation-Penalties

A. It shall be unlawful for any person subject to the provisions of this Chapter 5.55 or Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, and 5.53:

1. To violate or fail to comply with any of the provisions of this Chapter 5.55, or Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, and 5.53, or any lawful rule or regulation adopted by the Director;

2. To make or manufacture any license required by this Chapter 5.55 except upon authority of the Director;

3. To make any false statement on any license, application, or tax return;

4. To aid or abet any person in any attempt to evade payment of a license fee or tax;

5. To refuse admission to the Director to inspect the premises and/or records as required by this Chapter 5.55, or to otherwise interfere with the Director in the performance of duties imposed by Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, and 5.53;

6. To fail to appear or testify in response to a subpoena issued pursuant to Section 3.02.120 in any proceeding to determine compliance with this Chapter 5.55 and Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, and 5.53;

7. To testify falsely in any investigation, audit, or proceeding conducted pursuant to this Chapter 5.55;

8. To continue to engage in any business activity, profession, trade, or occupation after the revocation of or during a period of suspension of a business license tax certificate issued under Section 5.55.030; or

9. In any manner, to hinder or delay the City or any of its officers in carrying out the provisions of this Chapter 5.55 or Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, and 5.53.

B. Each violation of or failure to comply with the provisions of this Chapter 5.55, or Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, or 5.53 shall constitute a separate offense. Except as provided in subsection 5.55.220.C, any person who commits an act defined in subsection 5.55.220.A is guilty of a gross misdemeanor, punishable in accordance with Section 12A.02.070. The provisions of Chapters 12A.02 and 12A.04 apply to the offenses defined in subsection 5.55.220.A, except that liability is absolute and none of the mental states described in Section 12A.04.030 need be proved.

* * *

Section 11. Subsection 5.55.230.A of the Seattle Municipal Code, which section was last amended by Ordinance 125934, is amended as follows:

5.55.230 Denial, revocation of, or refusal to renew business license tax certificate

A. The Director, or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any business license tax certificate or amusement device license issued under the provisions of this Chapter 5.55. The Director, or the Director's designee, shall notify such applicant or licensee in writing by mail in accordance with Section 5.55.180 of the denial of, revocation of, or refusal to renew the license and on what grounds such a decision was based. The Director may deny, revoke, or refuse to renew any business license tax certificate or other license issued under this Chapter 5.55 on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.
2. The licensee has failed to comply with any provisions of this Chapter 5.55.
3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, or 5.53.
4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.

* * *

Section 12. Subsection 6.208.020.A of the Seattle Municipal Code, which section was last amended by Ordinance 125934, is amended as follows:

6.208.020 Denial, revocation of, or refusal to renew business license

A. In addition to any other powers and authority provided under this Title 6, the Director, or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any business license issued under the provisions of this Chapter 6.208. The Director, or the Director's designee, shall notify such applicant or licensee in writing by mail of the denial, revocation of, or refusal to renew the license and on what grounds such a decision was based. The Director may deny, revoke, or refuse to renew any license issued under this Chapter 6.208 on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.
2. The licensee has failed to comply with any provisions of this Chapter 6.208.
3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, or 5.52.
4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.
5. The property at which the business is located has been determined by a court to be a chronic nuisance property as provided in Chapter 10.09.
6. The applicant or licensee has been convicted of theft under subsection 12A.08.060.A.4 within the last ten years.
7. The applicant or licensee is a person subject within the last ten years to a court order entering final judgment for violations of chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207, and the judgment was not satisfied within 30 days of the later of either: a. The expiration of the time for filing an appeal from the final judgment order under the court rules in effect at the time of the final judgment order; or b. If a timely appeal is made, the date of the final resolution of that appeal and any subsequent appeals resulting in final judicial affirmation of the findings of violations of chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206

or 29 U.S.C. 207.

8. The applicant or licensee is a person subject within the last ten years to a final and binding citation and notice of assessment from the Washington Department of Labor and Industries for violations of chapters 49.46, 49.48, or 49.52 RCW, and the citation amount and penalties assessed therewith were not satisfied within 30 days of the date the citation became final and binding.

9. Pursuant to subsections 14.16.100.A.4, 14.17.075.A, 14.19.100.A.4, 14.20.080.A.4, 14.22.115.A.4, and 14.23.115.A.4, the applicant or licensee has failed to comply, within 30 days of service of any settlement agreement, with any final order issued by the Director of the Office of Labor Standards, or any final order issued by the Hearing Examiner under Chapters 14.16, 14.17, 14.19, 14.20, 14.22, and 14.23 for which all appeal rights have been exhausted, and the Director of the Office of Labor Standards has requested that the Director deny, refuse to renew, or revoke any business license held or requested by the applicant or licensee. The denial, refusal to renew, or revocation shall remain in effect until such time as the violation(s) under Chapters 14.16, 14.17, 14.19, 14.20, 14.22, and 14.23 are remedied.

10. The business is one that requires an additional license under this Title 6 and the business does not hold that license.

11. The business has been determined under a separate enforcement process to be operating in violation of law.

* * *

Section 13. Severability. If any part, provision, or section of this ordinance is held to be void or unconstitutional, all other parts, provisions, and sections of this ordinance not expressly so held to be void or unconstitutional shall continue in full force and effect.

Section 14. Effective date of tax. Sections 1 through 13 of this ordinance shall take effect on June 1, 2020.

Section 15. Based on the findings of fact set forth in Section 1 of this ordinance, the Council finds and

declares that this ordinance is a public emergency ordinance, which shall take effect immediately and is necessary for the protection of the public health, safety, and welfare.

Section 16. By reason of the findings set out in Section 1 of this ordinance, and the emergency that is hereby declared to exist, this ordinance shall become effective immediately upon its passage by a 3/4 vote of the Council and its approval by the Mayor, as provided by Article IV, subsection 1.1 of the Charter of the City.

Passed by a 3/4 vote of all members of the City Council the _____ day of _____, 2020, and signed by me in open session in authentication of its passage this _____ day of _____, 2020.

President _____ of the City Council

Approved by me this _____ day of _____, 2020.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2020.

Monica Martinez Simmons, City Clerk

(Seal)