



Final city business license model threshold

Business license and city B&O tax simplification

In the 2017 session, **EHB 2005** (RCW 35.90) passed requiring three actions by cities with business licenses and local B&O taxes. The law:

1. Requires cities with business licenses to establish a workgroup to create a model business license with a licensing threshold by July 2018 for adoption by all business license cities by January 1, 2019 (October 17, 2018 for BLS partner cities);
2. Requires all cities with business license to administer their business license through the state's Business Licensing System (BLS) by 2022 or FileLocal by 2020; and
3. Establishes a task force on local B&O tax service apportionment under RCW 35.102.130 to report to the Legislature by October 31, 2018.

Final model ordinance for local business licenses – minimum threshold

Cities were required to develop a model ordinance for business licensing by July 1, 2018. The ordinance includes a mandatory definition of “engaging in business” and a minimum threshold (or occasional sale) exemption to establish when out-of-town or transient businesses are required to be licensed. All business license cities must adopt it by the end of the year ([RCW 35.90.080](#)).

What is in the model?

The [model threshold](#) has two pieces: a model threshold and a definition of “engaging in business.”

1. The model business license threshold language would:
 - Apply a minimum threshold of \$2,000 per year in the city for businesses that do not have a location in the city;
 - Continue to require a license for businesses located in the city without regard to the threshold (unless the city chooses to exempt these businesses – see in-city business question below);
 - Allow cities the option to require registration with no fee for businesses under the threshold; and
 - Only apply to general business licenses, not regulatory licenses or local taxes.
2. The definition of “engaging in business” includes examples of what constitutes business activities in cities that would subject a business to license requirements, as well as those activities that would not. The model language is adapted from the definition that the 45 cities with local B&O taxes have already adopted for the definition of “engaging in business” in the B&O tax model ordinance.

What are the deadlines for all cities with business licenses to adopt the model?

Cities with a business license must adopt the model by January 1, 2019. However, cities that currently partner with the state's Business Licensing Service (BLS) for business licensing administration have a deadline of October 17, 2018, because they must provide BLS 75-day notice of any changes to their business licenses (including this mandatory change).

Where can I learn more about implementing the threshold?

AWC hosted a webinar to tell you everything you need to know to comply with the mandatory model threshold in August.

[Prepare to streamline your business license](#)

AWC also held a presentation on this topic at its [Annual Conference](#) in June and presented at the WFOA Annual Conference in September.

What happens if we don't enact the threshold by the deadline?

RCW 35.90.090 provides that a city cannot enforce its business license after January 1, 2019, until it has adopted the mandatory threshold.

RCW 35.90.090: “A city that has not complied with the requirements of this section by January 1, 2019, may not enforce its general business licensing requirements on any person until the date that the mandatory provisions of the model ordinance take effect within the city.”

What if my city wants a higher threshold?

Cities can choose to enact a higher threshold. The \$2,000 threshold level per city per year for out-of-city businesses is the minimum level that every city must enact.

What if my city wants to have a threshold that applies to in-city businesses in addition to the out-of-city business threshold?

The \$2,000 threshold level per city per year for out-of-city businesses is mandatory minimum threshold language that every city business license city must adopt, but the law does not impact the city's authority to have exemptions or other thresholds. Cities can choose to enact a separate threshold provision that applies to in-city businesses.

How will my city track compliance with the threshold?

The law does not change the city's authority to enforce business licenses, and the city will continue to use its current enforcement processes to track business license compliance.

Who should my city notify when the model is adopted?

BLS partner cities (by October 17): Send a completed Change Request Form to [BLS](#) notifying them which threshold option your city adopted, with a link to the adopted ordinance.

- [Option 1 form](#) for threshold exemption
- [Option 2 form](#) for no-fee license/registration

All other cities: Email [AWC](#) for our report to the Legislature due January 1, 2019.

How will businesses find out about the changes?

Consider providing information on changes to your business license by adding information to your license renewal letter, sending a letter to your potentially impacted businesses, updating information on your city's website, or presenting to your local chamber.

[Sample letter](#) cities can use to inform business licensees of the changes.

How was the business license threshold developed?

Section 8 of **EHB 2005** required cities to work through the Association of Washington Cities (AWC) to develop a model business license threshold by July 1, 2018 with a focus on determining a threshold for when a license should be required for out-of-city businesses. The bill also required input from the business community.

AWC convened a task force of city business license officials to begin drafting a model license threshold in August 2017. The group met monthly in person or via conference call to research city business license systems and existing options for establishing a model threshold and to review feedback on the proposed model from cities and the business community. AWC sent a survey to cities last fall on preferences for approaching the model threshold and sent a draft for review to cities in March 2018. In April-June 2018, AWC sent drafts of the model to the business community for comment, and the task force met in person with business community representatives.

In response to business community concerns about the level of the threshold, the committee proposed doubling its initial proposed level to \$2,000 per year in the city for businesses without a location in the city. The committee agreed to review the threshold level in four years when the model B&O tax model ordinance will also be due for review and more information on impacts of the license threshold is known. In late June, the committee finalized the model language.

Business license model threshold implementation timeline

July 2017 – EHB 2005 takes effect

August 2017 – First meeting of city workgroup

July 1, 2018 – Deadline for city work group to develop model ordinance with minimum threshold to get a license

August 8, 2018 – AWC webinar on implementing model threshold

October 17, 2018 – Deadline for current BLS partner cities to adopt model minimum threshold and notify DOR of changes to business license for threshold adoption

(Cities on BLS plan but not yet onboarded would have later deadline of January 1, 2019)

January 1, 2019 – Deadline for all other cities to adopt model minimum threshold

How many cities does this impact?

More than 230 cities issue local business licenses.

Where can I find more information on the Business Licensing Service or FileLocal?

Business licensing service: citypartners.dor.wa.gov

FileLocal: filelocal.org

What about the provision of EHB 2005 and the scope of work for the B&O service apportionment task force?

The two-factor formula for B&O tax service apportionment was required by RCW 35.102.130, effective in 2008. The two factors, payroll and service income, have complicated multi-part tests to determine how much of business service revenues should be apportioned to a city.

EHB 2005 created a seven-member task force to make recommendations to simplify two-factor service apportionment by October 2018 with the following members:

- One Department of Revenue, non-voting chair
- Three cities with local B&O taxes
- Three business representatives

The task force has been meeting monthly since August 2017, and the deadline submit a report to the Legislature is October 31, 2018. The city representatives are:

- Chris Bothwell, Lake Forest Park
- Joseph Cunha, Seattle
- Danielle Larson, Tacoma

How did this legislation come about?

During the 2016 legislative session, lawmakers passed [HB 2959](#), establishing a task force to evaluate options to continue local business tax and licensing simplification. On December 30, 2016, the task force released its final report on local tax and licensing simplification with four main recommendations. The task force did not recommend that all cities with a business license be required to participate in the state's Business Licensing Service, nor did it recommend any centralized collection of city B&O tax at the state level. However, some of the items recommended represented a significant compromise on the part of cities.

Where can I find more information on the 2016 task force?

The report included four recommendations related to licensing, establishing a business license threshold, recommending a task force on service income apportionment, and providing for data sharing between DOR and FileLocal. Read the [full report](#).

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