

FINAL BILL REPORT

E2SHB 2870

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Synopsis as Enacted

Brief Description: Allowing the issuance and reissuance of marijuana retail licenses under the social equity program.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Pettigrew and Ryu; by request of Liquor and Cannabis Board).

House Committee on Commerce & Gaming
House Committee on Appropriations
Senate Committee on Labor & Commerce

Background:

Marijuana Retail Licenses.

The Liquor and Cannabis Board (LCB) is authorized to issue licenses to marijuana retailers to sell marijuana products and paraphernalia at retail to persons at least 21 years of age.

The LCB, in consultation with the Office of Financial Management (OFM), must adopt rules to determine the maximum number of marijuana retail outlets that may be licensed in each county. In determining the maximum number of licenses, the LCB and the OFM must take into consideration:

- population distribution;
- security and safety issues;
- the provision of adequate access to licensed sources of marijuana and marijuana products to discourage purchases from the illegal market;
- the number of retail outlets holding medical marijuana endorsements necessary to meet the medical needs of qualifying patients; and
- information contained in the medical marijuana authorization database.

Dedicated Marijuana Account.

The Dedicated Marijuana Account is an appropriated account. All moneys received by the LCB from marijuana-related activities must be deposited in this account. These moneys include marijuana excise taxes collected from sales of marijuana and marijuana products, license fees, penalties, and forfeitures from marijuana producers, processors, researchers, and retailers. Moneys from the account are distributed to agencies, local governments, and to the

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Basic Health Plan Trust Account. At the end of each fiscal year, unappropriated amounts in the Dedicated Marijuana Account are transferred to the State General Fund.

Summary:

Marijuana Social Equity Program.

The Marijuana Social Equity Program (Program) is established under the Liquor and Cannabis Board (LCB). From December 1, 2020, through July 1, 2028, marijuana retailer licenses that have been subject to forfeiture, revocation, or cancellation by the LCB may be issued or reissued to a social equity applicant who meets the requirements for the marijuana retailer license. In addition, marijuana retailer licenses that were not previously issued by the LCB, but could have been issued without exceeding the statewide limit established before January 1, 2020, may be issued under the Program.

A social equity applicant is an applicant with majority ownership and control by at least one individual who: (1) has resided in a disproportionately impacted area for at least five of the preceding 10 years; or (2) has been convicted of a misdemeanor marijuana offense or is a family member of such an individual.

A "disproportionately impacted area" is a census tract or comparable geographic area with a high rate of: (1) poverty and unemployment; (2) participation in income-based or state programs; and (3) arrest, conviction, or incarceration related to the sale, possession, use, cultivation, manufacture or transport of cannabis. The LCB may further define criteria for what is considered a "disproportionately impacted area" after consultation with the Washington State Commission on African American Affairs (Commission) and other stakeholders.

Application Materials. To be considered for a retail license, an applicant must submit a Social Equity Plan (Plan) and application materials required for the marijuana retailer license to the LCB. A person holding an existing marijuana retailer license or title certificate for a marijuana retailer business in a local jurisdiction subject to a ban or moratorium on marijuana retail businesses may apply for a license under the Program.

A Social Equity Plan is a plan submitted by an applicant of the Program that addresses some of the following elements:

- a statement that the applicant qualifies as a social equity applicant and intends to own at least 51 percent of the proposed marijuana retail business;
- a description of how issuing a marijuana retail license to the social equity applicant will meet social equity goals;
- the social equity applicant's personal or family history with the criminal justice system, including any offenses involving marijuana;
- the composition of the workforce the social equity applicant intends to hire;
- neighborhood characteristics of the location where the social equity applicant intends to operate, focusing especially on disproportionately impacted areas; and
- business plans involving partnerships or assistance to organizations or residents with connection to populations with a history of high rates of marijuana prohibition enforcement.

If an application includes a proposed business ownership structure of more than one person, at least 51 percent of the proposed ownership structure must qualify as a social equity applicant.

The LCB may add additional plan components or requirements following consultation with marijuana social equity stakeholders, including the Commission.

Prioritization Factors for License Issuance. In determining the issuance of a license among eligible applicants, the LCB may give priority to a social equity applicant based on the extent to which the application addresses the components of the Plan. The LCB may deny applications that do not meet the social equity goals or Plan requirements, or applicants that do not otherwise meet licensing requirements.

Social equity goals include: (1) increasing the number of marijuana retailer licenses held by social equity applicants from disproportionately impacted areas; and (2) reducing accumulated harm suffered by individuals, families, and local communities subject to the severe impacts from marijuana prohibition enforcement.

Rulemaking. The LCB may adopt rules related to the issuance or reissuance of marijuana retail licenses under the Program. The rules may include strategies for the LCB to receive Program advice from the individuals the Program is intended to benefit. The rules may also require that licenses awarded be transferred or sold only to individuals or groups of individuals who comply with initial licensure requirements under the Program.

Licensure Fee. The annual fee for the issuance, reissuance, or renewal for any marijuana retailer license under the Program must be equal to the license fee for marijuana retail licensees.

Technical Assistance Program.

A Marijuana Social Equity Technical Assistance Competitive Grant Program (Competitive Grant Program) is established under the Department of Commerce (Department).

The Competitive Grant Program requires the Department to award grants on a competitive basis to marijuana retail license applicants who are social equity applicants submitting a Plan under the Program. The Department must award grants primarily based on the strength of the Plan submitted by applicants, but they may also consider additional criteria as deemed necessary or appropriate. Eligible technical assistance activities under the Competitive Grant Program include:

- assistance navigating the marijuana retailer licensure process;
- marijuana-business specific education and business plan development;
- regulatory compliance training;
- financial management training and assistance in seeking financing; and
- connecting social equity applicants with established industry members, tribal marijuana enterprises, programs for mentoring, and other forms of support approved by the LCB.

The Competitive Grant Program is funded with a \$1.1 million annual appropriation from the Dedicated Marijuana Account. The Department may solicit, receive, and expend private contributions to support the Competitive Grant Program.

The Department may adopt rules to implement the Competitive Grant Program.

Marijuana Social Equity Task Force.

The Marijuana Social Equity Task Force (Task Force) is established. The purpose of the Task Force is to make recommendations to the LCB on, among other topics, establishing a program for the issuance and reissuance of existing marijuana retail licenses. The Task Force must also advise the Governor and the Legislature on policies that will facilitate the development of Program.

Task Force Members. The Task Force is composed of both legislative and non-legislative members. The President of the Senate and the Speaker of the House of Representatives jointly appoint the following members of the Task Force:

- a member of the Commission;
- a member of the Washington State Commission on Hispanic Affairs;
- a member of the Governor's Office of Indian Affairs;
- a member from an organization representing the African American community;
- a member from an organization representing the Latinx community;
- a labor organization involved in the marijuana industry;
- a member from the LCB;
- a member from the Department;
- a member from the Office of the Attorney General;
- a member of the Association of Washington Cities;
- two members that hold a marijuana retail license; and
- two members that hold a producer or processor license, or both.

The Chair of the Task Force may also invite additional individuals representing other sectors to the task force to participate in an advisory capacity in meetings, in consultation with the appointed members of the Task Force.

Reporting and Recommendations. The Task Force must submit a report, or multiple reports, on recommended policies that will facilitate the development of the Program in Washington. The Task Force is encouraged to submit individual recommendations as soon as possible to facilitate the LCB's early work to implement the recommendations. The final recommendations must be submitted to the Governor, the LCB, and the Legislature by December 1, 2020.

The recommendations from the Task Force must include:

- factors the LCB must consider in distributing available marijuana retailer licenses that have been subject to forfeiture, revocation, or cancellation by the LCB, or marijuana retailer licenses that were not previously issued by the LCB but could have been issued without exceeding the limit on the statewide number of marijuana retailer licenses; and
- whether any additional marijuana licenses should be issued beyond the existing total amount of marijuana licenses.

Rulemaking. The LCB may adopt rules to implement the recommendations of the Task Force. However, a Task Force recommendation to increase the number of retail outlets above the statewide limit must be approved by the Legislature

Additional Provisions. The Task Force is required to hold its first meeting by July 1, 2020. The Task Force is required to elect a Chair from among its legislative members at the first meeting. Staff support for the Task Force must be provided by the Health Equity Council of the Governor's Interagency Council on Health Disparities. If legislation is enacted creating an Office of Equity by June 30, 2020, then responsibility for providing staff support for the Task Force must be provided by the Office of Equity upon the request of the Office.

A public comment period must be provided at every Task Force meeting.

The Task Force expires June 30, 2022.

Votes on Final Passage:

House	55	41	
Senate	28	20	(Senate amended)
House	57	40	(House concurred)

Effective: June 11, 2020