

SENATE BILL REPORT

E2SHB 2870

As Passed Senate - Amended, March 9, 2020

Title: An act relating to allowing additional marijuana retail licenses for social equity purposes.

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).

Brief History: Passed House: 2/16/20, 55-41.

Committee Activity: Labor & Commerce: 2/25/20 [DPA, w/oRec].

Floor Activity:

Passed Senate - Amended: 3/09/20, 28-20.

Brief Summary of Amended Bill

- Establishes a Marijuana Social Equity Program (Program) that authorizes the Liquor and Cannabis Board (LCB) to issue previously forfeited, cancelled, and revoked marijuana retailer licenses to applicants disproportionately impacted by the enforcement of marijuana prohibition laws.
- Establishes a Technical Assistance Competitive Grant Program under the Department of Commerce to provide technical assistance grants to marijuana retail license applicants that submit a Social Equity Plan.
- Establishes a Marijuana Social Equity Task Force (Task Force) to make recommendations to the LCB, including to establish and develop the Program.
- Requires the Task Force to submit one or more reports to the Governor, LCB, and the Legislature by December 1, 2020, which must include a recommendation on whether to issue new marijuana licenses.
- Requires that any recommended increase in the statewide limit on the number of authorized retail outlets must be approved by the Legislature.
- Authorizes the LCB to adopt rules to implement the recommendations of the Task Force.
- Includes a null and void clause.

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.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass as amended.

Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Saldaña, Stanford, Walsh and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun and Schoesler.

Staff: Richard Rodger (786-7461)

Background: Marijuana Retail Licenses. The 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.

LCB must consult with the Office of Financial Management (OFM) to determine the maximum number of marijuana retail outlets that may be licensed in each county. When setting the maximum number of licenses, LCB and OFM must consider:

- 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.

Department of Commerce. The Department of Commerce (Commerce) is responsible for growing and improving jobs, as well as facilitating innovation in the state. Commerce provides business assistance and economic development services primarily through sector-based and cluster-based regional organizations to:

- generate greater local capacity to respond to economic growth and environmental challenges;
- promote partnerships and the use of intermediaries to achieve Commerce's goals; and
- leverage state resources.

Commerce is responsible for promoting community and economic development statewide by assisting communities to increase economic vitality and the quality of citizens' lives, and assisting the state's businesses to maintain and increase economic competitiveness while maintaining a healthy environment. Commerce's community and economic development efforts include, but are not limited to: increasing economic opportunity, engaging in business and trade development, and fostering the development of minority- and women-owned businesses.

Washington State Commission on African American Affairs. The Washington State Commission on African American Affairs (Commission) consists of membership appointed by the Governor. The Commission's powers and duties include examining and defining issues pertaining to the rights and special needs of the African American community, making recommendations to the Governor and state agencies on programs and laws, and advising the

Governor or agencies on the development of policies and programs relating to the needs of the African American community. The Commission must also advise the Legislature on issues of concern to the African American community in concert with the Governor.

Dedicated Marijuana Account. The Dedicated Marijuana Account is an appropriated account. All money received by LCB from marijuana-related activities must be deposited in this account. This money includes marijuana excise taxes collected from sales of marijuana and marijuana products, license fees, penalties, and forfeitures from marijuana producers, processors, researchers, and retailers. Money from the account are distributed to agencies, local governments, and to the 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 of Amended Bill: Marijuana Social Equity Program. A Marijuana Social Equity Program (Program) is established under LCB. From December 1, 2020, through July 1, 2028, marijuana retailer licenses that have been subject to forfeiture, revocation, or cancellation by LCB may be issued or reissued to a social equity applicant who meets the marijuana retailer license requirements. Marijuana retailer licenses, that were not previously issued by LCB, but could have been issued without exceeding the statewide limit, may be issued under the Program. It is the intent of the Legislature that implementation of the social equity program may not result in an increase in the number of marijuana retailer licenses above the limit on the number of marijuana retailer licenses in the state established by the LCB before January 1, 2020.

To be considered for a retail license, applicants must submit a Social Equity Plan and other LCB marijuana retailer license requirements to LCB. Persons 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.

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

LCB may adopt rules related to the issuance or reissuance of marijuana retail licenses under the Program. The rules may include strategies for receiving advice on the Program from individuals the Program is intended to benefit. The rules may also require licenses awarded be transferred or sold only to individuals or groups of individuals who comply with the requirements for initial licensure as a social equity applicant with a social equity plan.

The annual fee for issuance, reissuance, or renewal for any marijuana retailer license under the social equity provisions must be equal the current marijuana license fee.

Social Equity Plan, Goals, and Applicants. A Social Equity Plan (Plan) is a plan 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 on the disproportionate historical impacts of marijuana prohibition; and
- business plans involving partnerships or assistance to organizations or residents with connection to populations with a history of high rates of enforcement of marijuana prohibition.

If the application proposes ownership by more than one person, at least 51 percent of the proposed ownership structure must qualify as a social equity applicant. LCB may add additional plan components or requirements following consultation with certain marijuana social equity stakeholders.

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 areas subject to severe impacts from marijuana prohibition enforcement.

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 ten 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. LCB may further define criteria for what is considered a "disproportionately impacted area" after consultation with the Commission and other stakeholders.

Technical Assistance Program. A Marijuana Social Equity Technical Assistance Competitive Grant Program (Grant Program) is established under Commerce. The Grant Program must award grants on a competitive basis to marijuana retail license applicants who are social equity applicants submitting a Plan. Commerce must award grants primarily based on the strength of the Plan submitted by applicants, but they may also consider additional criteria deemed necessary or appropriate. Technical assistance activities eligible for funding under the 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 LCB.

The Grant Program is funded with a \$1.1 million annual appropriation from the Dedicated Marijuana Account.

Marijuana Social Equity Task Force. A Task Force is established 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, LCB, and the Legislature on policies that will facilitate the development of Program.

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 12 additional members of the Task Force, as specified. 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.

The Task Force is required to hold its first meeting by July 1, 2020 and is required to elect a chair from among its legislative members at the first meeting. A public comment period must be provided at every Task Force meeting. Staff support for the Task Force must be provided by Health Equity Council of the Governor's Interagency Council on Health Disparities; unless E2SHB 1783 is enacted by June 30, 2020, then responsibility for providing staff is transferred to the Office of Equity upon its request.

The Task Force must submit one or more reports on recommended policies that will facilitate the development of a marijuana social equity program in Washington to the Governor, LCB, and the Legislature by December 1, 2020. The task force is encouraged to submit individual recommendations, as soon as possible, to facilitate the board's early work to implement the recommendations.

The recommendations from the Task Force must include (1) recommendations regarding the factors the board must consider in distributing the licenses currently available from marijuana retailer licenses that have been subject to forfeiture, revocation, or cancellation by the board, or marijuana retailer licenses that were not previously issued by the board but could have been issued without exceeding the limit on the statewide number of marijuana retailer licenses; and (2) whether any additional marijuana licenses should be issued beyond the existing total amount of marijuana licenses. LCB may adopt rules to implement the recommendations of the Task Force; however, any recommended increase in the statewide limit on the number of authorized retail outlets must be approved by the Legislature. The Task Force expires June 30, 2022.

Appropriation: \$1.1 million is annual appropriated from the Dedicated Marijuana Account to the Department of Commerce.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill is becoming quite confusing, as people are for the provisions and then against them. We need to work further to refine this proposal and right the wrongs that have happened. The task force should be run by an independent entity to help build trust. The LCB supports this bill and understands the frustration with the minority community that was left out of the licensing for retail outlets. The bill is the result of collaboration and work by many stakeholders and agencies. The legislative task force can help structure the program and assist with making future changes.

CON: We are fighting for inclusiveness and have been neutral on these proposals in the past. We are opposed to the bill as it is insufficient. We have been pushed away and should have had the first licenses that were issued. I do not want this bill, but will join a lawsuit instead. We have lost trust with the LCB as this bill only proposes 12 additional licenses. Patients have seen zero social equity. The toxic culture of the LCB needs to be fixed and you should take the guns out of their untrained hands.

OTHER: A lot of language needs to be fixed in the bill and we want to work to fix it before it moves forward. The bill should allow licenses to be moved to willing communities and should not preempt local governments from allowing additional businesses.

Persons Testifying: PRO: Representative Eric Pettigrew, Prime Sponsor; Sami Saad, citizen; Ollie Garrett, Liquor and Cannabis Board.

CON: Aaron Barfield, Black Excellence In Cannabis; Peter Manning, Bella Sole; Jeff Oba, Bella Sole; Tyler Conway, Black Excellence In Cannabis; Maurice Gordon, Black Excellence In Cannabis; John Novak, Viper Pac. 420leaks.com.

OTHER: Joy Hollingsworth, Hollingsworth Cannabis; Commissioner Paula Sardinas, Commission on African American Affairs.

Persons Signed In To Testify But Not Testifying: No one.