
SECOND SUBSTITUTE HOUSE BILL 2870

State of Washington

66th Legislature

2020 Regular Session

By House Appropriations (originally sponsored by Representatives Pettigrew and Ryu; by request of Liquor and Cannabis Board)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to allowing additional marijuana retail licenses
2 for social equity purposes; amending RCW 69.50.540; adding new
3 sections to chapter 69.50 RCW; adding a new section to chapter 43.330
4 RCW; creating a new section; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that the history
7 of marijuana prohibition enforcement has created disproportionate
8 impacts, with the greatest harm falling upon communities of color.
9 For example, national data indicate that while African Americans and
10 white Americans have similar marijuana usage rates, African Americans
11 have been arrested at four times the rate of white Americans. Data
12 for Washington state also show disproportionate impacts across racial
13 and ethnic lines from marijuana prohibition enforcement. As a further
14 example, Latino and Native American Washingtonians were arrested for
15 marijuana possession 1.6 times more often than white residents
16 between 2000 and 2010. Even after Washington voters legalized
17 marijuana possession and use for adults, disproportionate impacts
18 continued, with arrests of African Americans in Washington for
19 possession remaining more than twice the arrest rate for white
20 residents, according to Washington State University research.

1 (2) General prohibition of marijuana possession and use by adults
2 in Washington ended when state voters enacted Initiative Measure No.
3 502 in 2012. When the state created a system for legal marijuana
4 production and retail sale, it was one of the first governmental
5 jurisdictions to face the challenge of creating a regulatory
6 structure for a controlled substance long-banned as an illegal and
7 dangerous drug. Social equity considerations were not fully
8 considered in licensing criteria for the newly created adult use
9 marijuana industry. Subsequently concerns have been widely expressed
10 about the absence of social equity in Washington's marijuana
11 industry.

12 (3) The legislature finds that social equity with respect to
13 marijuana requires not merely the elimination of legal prohibitions,
14 but also economic opportunities particularly for residents who come
15 from communities disproportionately impacted by historical marijuana
16 prohibition. The legislature intends that the marijuana industry be
17 reflective of the diverse population of the state and that it
18 provides economic opportunities for all communities while addressing
19 disproportionate impacts from prohibition. The legislature therefore
20 intends to establish a legislative task force on marijuana social
21 equity and make available currently unused licenses and provide
22 recommendations on providing new opportunities for marijuana retail
23 licenses to create a more diverse industry that reflects Washington's
24 social equity values.

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 69.50
26 RCW to read as follows:

27 (1) Until July 1, 2028, marijuana retailer licenses that have
28 been subject to forfeiture, revocation, or cancellation by the board,
29 or marijuana retailer licenses that were not previously issued by the
30 board but could have been issued without exceeding the limit on the
31 statewide number of marijuana retailer licenses established in rule
32 by the board, may be issued or reissued to an applicant who meets the
33 marijuana retailer license requirements of this chapter.

34 (2)(a) In order to be considered for a retail license under
35 subsection (1) of this section, applicants must submit a social
36 equity plan provided by the commission on African American affairs
37 along with other board marijuana retailer license requirements to the
38 relevant city, town, or county.

1 (b) Persons holding an existing marijuana retailer license or
2 title certificate for a marijuana retailer business in a local
3 jurisdiction subject to a ban or moratorium on marijuana retail
4 businesses may apply for a license under this section.

5 (3) (a) In determining the issuance of a license among applicants,
6 the board must give priority to those social equity applicants who
7 represent a race or gender that has experienced some form of
8 discrimination due to passive participation in a system of racial
9 exclusion under the judicial test of strict scrutiny. These
10 applicants must come from a city, town, or county with a history of
11 disparate impact. It may also prioritize applicants based on the
12 extent to which the application addresses the items required by the
13 social equity plan.

14 (b) The board may deny any application forwarded under this
15 subsection if the board determines that:

16 (i) The application does not meet social equity goals or does not
17 meet social equity plan requirements;

18 (ii) The application does not otherwise meet the licensing
19 requirements of this chapter; or

20 (iii) Additional marijuana retailer licenses are not needed to
21 meet social equity goals in that city, town, or county.

22 (4) The board may adopt rules to implement this section. Rules
23 may include strategies for receiving advice on the social equity plan
24 from communities the plan is intended to benefit. Rules may also
25 require that licenses awarded under this section be transferred or
26 sold only to individuals or groups of individuals who comply with the
27 requirements for initial licensure in the social equity plan under
28 this section.

29 (5) For the purposes of this section:

30 (a) "Social equity applicant" means:

31 (i) An applicant who has at least fifty-one percent ownership and
32 control by one or more individuals who have resided for at least five
33 of the preceding ten years in a disproportionately impacted area; or

34 (ii) An applicant who has at least fifty-one percent ownership
35 and control by at least one individual who has been convicted of a
36 misdemeanor marijuana offense that is eligible for a vacation of the
37 applicant's record of conviction for the misdemeanor marijuana
38 offense under RCW 9.96.060, or is a family member of an individual
39 impacted under this subsection.

40 (b) "Social equity goals" means:

1 (i) Increasing the number of marijuana retailer licenses held by
2 people of color, especially those from communities that are
3 underrepresented in the marijuana industry and whose communities have
4 suffered a disproportionate number of marijuana arrests beginning
5 January 1, 1988; and

6 (ii) Reducing disproportionate impacts from the historical
7 application and enforcement of marijuana prohibition laws.

8 (c) "Social equity plan" means a plan put forth by the Washington
9 state commission on African American affairs whose powers and duties
10 are inclusive of, but not limited to, advising the governor and state
11 agencies on the development and implementation of policies, plans,
12 and programs that relate to the special needs of African Americans.
13 If the application proposes ownership by more than one person, then
14 at least fifty-one percent of the proposed ownership structure must
15 reflect membership in communities of color. The plan must include:

16 (i) A statement that the social equity applicant belongs to one
17 or more communities of color and intends to own at least fifty-one
18 percent of the proposed marijuana retail business or applicants
19 representing at least fifty-one percent of the ownership of the
20 proposed business belong to one or more communities of color;

21 (ii) How issuing a marijuana retail license to the social equity
22 applicant will meet social equity goals;

23 (iii) The social equity applicant's personal history with the
24 criminal justice system including any offenses involving marijuana;

25 (iv) The composition of the workforce the social equity applicant
26 intends to hire, especially persons of color;

27 (v) Neighborhood characteristics of the location where the social
28 equity applicant intends to operate, focusing on the disproportionate
29 historical impacts of marijuana prohibition; and

30 (vi) Business plans involving partnerships or assistance to
31 organizations or residents with connection to populations with a
32 history of disproportionate impact and harm related to enforcement of
33 marijuana prohibition.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.330
35 RCW to read as follows:

36 (1) The technical assistance competitive grant program is
37 established and is to be administered by the department.

38 (2) The technical assistance competitive grant program must award
39 grants on a competitive basis to marijuana retailer license

1 applicants who are submitting social equity plans under section 2 of
2 this act. The department must award grants primarily based on the
3 strength of the social equity plans submitted by applicants but may
4 also consider additional criteria if deemed necessary or appropriate
5 by the department. Technical assistance activities eligible for
6 funding under the technical assistance competitive grant program
7 include:

8 (a) Assistance navigating the marijuana retailer licensure
9 process;

10 (b) Marijuana-business specific education and business plan
11 development;

12 (c) Regulatory compliance training;

13 (d) Financial management training and assistance in seeking micro
14 loans;

15 (e) The purchase of equipment, software, or facilities; and

16 (f) Connecting applicants with established industry members and
17 tribal marijuana enterprises and programs for mentoring and other
18 forms of support approved by the liquor and cannabis board and city,
19 town, and county authorities.

20 (3) Funding for the technical assistance competitive grant
21 program must be provided through the dedicated marijuana account
22 under RCW 69.50.540. Additionally, the department may solicit,
23 receive, and expend private contributions to support the grant
24 program.

25 (4) The department may adopt rules to implement this section.

26 **Sec. 4.** RCW 69.50.540 and 2019 c 415 s 978 are each amended to
27 read as follows:

28 The legislature must annually appropriate moneys in the dedicated
29 marijuana account created in RCW 69.50.530 as follows:

30 (1) For the purposes listed in this subsection (1), the
31 legislature must appropriate to the respective agencies amounts
32 sufficient to make the following expenditures on a quarterly basis or
33 as provided in this subsection:

34 (a) One hundred twenty-five thousand dollars to the health care
35 authority to design and administer the Washington state healthy youth
36 survey, analyze the collected data, and produce reports, in
37 collaboration with the office of the superintendent of public
38 instruction, department of health, department of commerce, family
39 policy council, and (~~state liquor and cannabis~~) board. The survey

1 must be conducted at least every two years and include questions
2 regarding, but not necessarily limited to, academic achievement, age
3 at time of substance use initiation, antisocial behavior of friends,
4 attitudes toward antisocial behavior, attitudes toward substance use,
5 laws and community norms regarding antisocial behavior, family
6 conflict, family management, parental attitudes toward substance use,
7 peer rewarding of antisocial behavior, perceived risk of substance
8 use, and rebelliousness. Funds disbursed under this subsection may be
9 used to expand administration of the healthy youth survey to student
10 populations attending institutions of higher education in Washington;

11 (b) Fifty thousand dollars to the health care authority for the
12 purpose of contracting with the Washington state institute for public
13 policy to conduct the cost-benefit evaluation and produce the reports
14 described in RCW 69.50.550. This appropriation ends after production
15 of the final report required by RCW 69.50.550;

16 (c) Five thousand dollars to the University of Washington alcohol
17 and drug abuse institute for the creation, maintenance, and timely
18 updating of web-based public education materials providing medically
19 and scientifically accurate information about the health and safety
20 risks posed by marijuana use;

21 (d) (i) An amount not less than one million two hundred fifty
22 thousand dollars to the ((state liquor and cannabis)) board for
23 administration of this chapter as appropriated in the omnibus
24 appropriations act;

25 (ii) Two million six hundred fifty-one thousand seven hundred
26 fifty dollars for fiscal year 2018 and three hundred fifty-one
27 thousand seven hundred fifty dollars for fiscal year 2019 to the
28 health professions account established under RCW 43.70.320 for the
29 development and administration of the marijuana authorization
30 database by the department of health;

31 (iii) Two million seven hundred twenty-three thousand dollars for
32 fiscal year 2020 and two million five hundred twenty-three thousand
33 dollars for fiscal year 2021 to the Washington state patrol for a
34 drug enforcement task force. It is the intent of the legislature that
35 this policy will be continued in the 2021-2023 fiscal biennium; and

36 (iv) Ninety-eight thousand dollars for fiscal year 2019 to the
37 department of ecology for research on accreditation of marijuana
38 product testing laboratories;

39 (e) Four hundred sixty-five thousand dollars for fiscal year 2020
40 and four hundred sixty-four thousand dollars for fiscal year 2021 to

1 the department of ecology for implementation of accreditation of
2 marijuana product testing laboratories;

3 (f) One hundred eighty-nine thousand dollars for fiscal year 2020
4 to the department of health for rule making regarding compassionate
5 care renewals;

6 (g) Eight hundred eight thousand dollars for fiscal year 2020 and
7 eight hundred eight thousand dollars for fiscal year 2021 to the
8 department of health for the administration of the marijuana
9 authorization database; ((and))

10 (h) ((~~(\$635,000 [six hundred thirty-five thousand dollars])~~)) Six
11 hundred thirty-five thousand dollars for fiscal year 2020 and
12 ((~~(\$635,000 [six hundred thirty-five thousand dollars])~~)) six hundred
13 thirty-five thousand dollars for fiscal year 2021 to the department
14 of agriculture for compliance-based laboratory analysis of pesticides
15 in marijuana((-)); and

16 (i) One million one hundred thousand dollars annually to the
17 department of commerce to fund the technical assistance competitive
18 grant program under section 3 of this act; and

19 (2) From the amounts in the dedicated marijuana account after
20 appropriation of the amounts identified in subsection (1) of this
21 section, the legislature must appropriate for the purposes listed in
22 this subsection (2) as follows:

23 (a) (i) Up to fifteen percent to the health care authority for the
24 development, implementation, maintenance, and evaluation of programs
25 and practices aimed at the prevention or reduction of maladaptive
26 substance use, substance use disorder, substance abuse or substance
27 dependence, as these terms are defined in the Diagnostic and
28 Statistical Manual of Mental Disorders, among middle school and high
29 school-age students, whether as an explicit goal of a given program
30 or practice or as a consistently corresponding effect of its
31 implementation, mental health services for children and youth, and
32 services for pregnant and parenting women; PROVIDED, That:

33 (A) Of the funds appropriated under (a) (i) of this subsection for
34 new programs and new services, at least eighty-five percent must be
35 directed to evidence-based or research-based programs and practices
36 that produce objectively measurable results and, by September 1,
37 2020, are cost-beneficial; and

38 (B) Up to fifteen percent of the funds appropriated under (a) (i)
39 of this subsection for new programs and new services may be directed

1 to proven and tested practices, emerging best practices, or promising
2 practices.

3 (ii) In deciding which programs and practices to fund, the
4 director of the health care authority must consult, at least
5 annually, with the University of Washington's social development
6 research group and the University of Washington's alcohol and drug
7 abuse institute.

8 (iii) For each fiscal year, the legislature must appropriate a
9 minimum of twenty-five million five hundred thirty-six thousand
10 dollars under this subsection (2)(a);

11 (b)(i) Up to ten percent to the department of health for the
12 following, subject to (b)(ii) of this subsection (2):

13 (A) Creation, implementation, operation, and management of a
14 marijuana education and public health program that contains the
15 following:

16 (I) A marijuana use public health hotline that provides referrals
17 to substance abuse treatment providers, utilizes evidence-based or
18 research-based public health approaches to minimizing the harms
19 associated with marijuana use, and does not solely advocate an
20 abstinence-only approach;

21 (II) A grants program for local health departments or other local
22 community agencies that supports development and implementation of
23 coordinated intervention strategies for the prevention and reduction
24 of marijuana use by youth; and

25 (III) Media-based education campaigns across television,
26 internet, radio, print, and out-of-home advertising, separately
27 targeting youth and adults, that provide medically and scientifically
28 accurate information about the health and safety risks posed by
29 marijuana use; and

30 (B) The Washington poison control center.

31 (ii) For each fiscal year, the legislature must appropriate a
32 minimum of nine million seven hundred fifty thousand dollars under
33 this subsection (2)(b);

34 (c)(i) Up to six-tenths of one percent to the University of
35 Washington and four-tenths of one percent to Washington State
36 University for research on the short and long-term effects of
37 marijuana use, to include but not be limited to formal and informal
38 methods for estimating and measuring intoxication and impairment, and
39 for the dissemination of such research.

1 (ii) For each fiscal year, except for the 2017-2019 and 2019-2021
2 fiscal biennia, the legislature must appropriate a minimum of one
3 million twenty-one thousand dollars to the University of Washington.
4 For each fiscal year, except for the 2017-2019 and 2019-2021 fiscal
5 biennia, the legislature must appropriate a minimum of six hundred
6 eighty-one thousand dollars to Washington State University under this
7 subsection (2)(c). It is the intent of the legislature that this
8 policy will be continued in the 2019-2021 fiscal biennium;

9 (d) Fifty percent to the state basic health plan trust account to
10 be administered by the Washington basic health plan administrator and
11 used as provided under chapter 70.47 RCW;

12 (e) Five percent to the Washington state health care authority to
13 be expended exclusively through contracts with community health
14 centers to provide primary health and dental care services, migrant
15 health services, and maternity health care services as provided under
16 RCW 41.05.220;

17 (f)(i) Up to three-tenths of one percent to the office of the
18 superintendent of public instruction to fund grants to building
19 bridges programs under chapter 28A.175 RCW.

20 (ii) For each fiscal year, the legislature must appropriate a
21 minimum of five hundred eleven thousand dollars to the office of the
22 superintendent of public instruction under this subsection (2)(f);
23 and

24 (g) At the end of each fiscal year, the treasurer must transfer
25 any amounts in the dedicated marijuana account that are not
26 appropriated pursuant to subsection (1) of this section and this
27 subsection (2) into the general fund, except as provided in (g)(i) of
28 this subsection (2).

29 (i) Beginning in fiscal year 2018, if marijuana excise tax
30 collections deposited into the general fund in the prior fiscal year
31 exceed twenty-five million dollars, then each fiscal year the
32 legislature must appropriate an amount equal to thirty percent of all
33 marijuana excise taxes deposited into the general fund the prior
34 fiscal year to the treasurer for distribution to counties, cities,
35 and towns as follows:

36 (A) Thirty percent must be distributed to counties, cities, and
37 towns where licensed marijuana retailers are physically located. Each
38 jurisdiction must receive a share of the revenue distribution under
39 this subsection (2)(g)(i)(A) based on the proportional share of the
40 total revenues generated in the individual jurisdiction from the

1 taxes collected under RCW 69.50.535, from licensed marijuana
2 retailers physically located in each jurisdiction. For purposes of
3 this subsection (2)(g)(i)(A), one hundred percent of the proportional
4 amount attributed to a retailer physically located in a city or town
5 must be distributed to the city or town.

6 (B) Seventy percent must be distributed to counties, cities, and
7 towns ratably on a per capita basis. Counties must receive sixty
8 percent of the distribution, which must be disbursed based on each
9 county's total proportional population. Funds may only be distributed
10 to jurisdictions that do not prohibit the siting of any state
11 licensed marijuana producer, processor, or retailer.

12 (ii) Distribution amounts allocated to each county, city, and
13 town must be distributed in four installments by the last day of each
14 fiscal quarter.

15 (iii) By September 15th of each year, the (~~state liquor and~~
16 ~~cannabis~~) board must provide the state treasurer the annual
17 distribution amount, if any, for each county and city as determined
18 in (g)(i) of this subsection (2).

19 (iv) The total share of marijuana excise tax revenues distributed
20 to counties and cities in (g)(i) of this subsection (2) may not
21 exceed fifteen million dollars in fiscal years 2018, 2019, 2020, and
22 2021, and twenty million dollars per fiscal year thereafter. It is
23 the intent of the legislature that the policy for the maximum
24 distributions in the subsequent fiscal biennia will be no more than
25 fifteen million dollars per fiscal year.

26 (~~For the purposes of this section, "marijuana products" means~~
27 ~~"useable marijuana," "marijuana concentrates," and "marijuana-infused~~
28 ~~products" as those terms are defined in RCW 69.50.101.~~)

29 NEW SECTION. **Sec. 5.** A new section is added to chapter 69.50
30 RCW to read as follows:

31 (1) A legislative task force on social equity in marijuana is
32 established. The purpose of the task force is to make recommendations
33 to the board including but not limited to establishing a social
34 equity program for the issuance and reissuance of marijuana licenses.

35 (2) The members of the task force are as provided in this
36 subsection.

37 (a) The president of the senate shall appoint one member from
38 each of the two largest caucuses of the senate.

1 (b) The speaker of the house of representatives shall appoint
2 one member from each of the two largest caucuses of the house of
3 representatives.

4 (c) The president of the senate and the speaker of the house of
5 representatives shall jointly appoint:

6 (i) One member from each of the following:

7 (A) The commission on African American affairs;

8 (B) The commission on Hispanic affairs;

9 (C) The governor's office of Indian affairs;

10 (D) An organization representing the African American community;

11 (E) An organization representing the Latinx community;

12 (F) The liquor and cannabis board;

13 (G) The office of the attorney general; and

14 (H) The association of Washington cities;

15 (ii) Two members that currently hold a marijuana retail license;

16 and

17 (iii) Two members that currently hold a producer or processor
18 license or both.

19 (3) In addition to the members appointed to the task force under
20 subsection (2) of this section, individuals representing other
21 sectors may be invited by the chair of the committee, in consultation
22 with the other appointed members of the task force, to participate in
23 an advisory capacity in meetings of the task force.

24 (a) Individuals participating in an advisory capacity under this
25 subsection are not members of the task force, may not vote, and are
26 not subject to the appointment process established in this section.

27 (b) There is no limit to the number of individuals who may
28 participate in task force meetings in an advisory capacity under this
29 subsection.

30 (c) A majority of the task force members constitutes a quorum. If
31 a member has not been designated for a position set forth in this
32 section, that position may not be counted for the purpose of
33 determining a quorum.

34 (4) The task force shall hold its first meeting by July 1, 2020.
35 The task force shall elect a chair from among its legislative members
36 at the first meeting. The election of the chair must be by a majority
37 vote of the task force members who are present at the meeting. The
38 chair of the task force is responsible for arranging subsequent
39 meetings and developing meeting agendas.

1 (5) Staff support for the task force, including arranging the
2 first meeting of the task force and assisting the chair of the task
3 force in arranging subsequent meetings, must be provided by senate
4 committee services and the house of representatives office of program
5 research.

6 (6) The expenses of the task force must be paid jointly by the
7 senate and the house of representatives. Task force expenditures are
8 subject to approval by the senate facilities and operations committee
9 and the house of representatives executive rules committee, or their
10 successor committees.

11 (7) Legislative members of the task force may be reimbursed for
12 travel expenses in accordance with RCW 44.04.120. Nonlegislative
13 members are not entitled to be reimbursed for travel expenses if they
14 are elected officials or are participating on behalf of an employer,
15 governmental entity, or other organization. Any reimbursement for
16 other nonlegislative members is subject to chapter 43.03 RCW.

17 (8) The task force is a class one group under chapter 43.03 RCW.

18 (9) A public comment period must be provided at every meeting of
19 the task force.

20 (10) The task force shall submit a report on recommended policies
21 that will facilitate the development of a marijuana social equity
22 program in Washington to the governor and the appropriate committees
23 of the legislature by December 1, 2020. The recommendations must
24 include whether any additional marijuana licenses should be issued
25 beyond the total amount of marijuana licenses that have been issued
26 as of the effective date of this section. For purposes of determining
27 the total amount of licenses issued as of the effective date of this
28 section, the total amount does include licenses that have been
29 forfeited, revoked, or canceled.

30 (11) The board may adopt rules to implement the recommendations
31 of the task force.

32 (12) This section expires June 30, 2028.

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