
Commerce & Gaming Committee

HB 2022

Brief Description: Concerning social equity in the cannabis industry.

Sponsors: Representatives Wicks, Johnson, J., Berry, Taylor, Riccelli, Ryu, Sells, Macri, Bateman, Orwall, Ormsby, Lekanoff and Pollet.

Brief Summary of Bill

- Requires the Liquor and Cannabis Board to issue 38 new cannabis retailer licenses and 25 new cannabis producer/processor licenses each year between 2022 and 2029 to social equity applicants.
- Limits the issuance of cannabis producer, processor, retailer, and any new license types created through 2029 so licenses may only be issued to social equity applicants and, beginning in 2030, requires 50 percent of new cannabis licenses issued to be to social equity applicants.
- Authorizes cannabis licenses issued through the social equity program to be mobile and for premises in any local jurisdiction that permits the business activity.
- Reduces and eliminates certain distance restrictions in cannabis licensing for social equity licenses through 2029, and for all cannabis licenses beginning 2030.
- Changes the definition of "social equity applicant," waives the annual licensing fee for cannabis social equity licensees, eliminates the requirement to submit a social equity plan, and modifies cannabis excise tax distributions.

Hearing Date: 1/28/22

Staff: Peter Clodfelter (786-7127)

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

Background:

The Social Equity in Cannabis Task Force.

The Legislature established the Social Equity in Cannabis Task Force (SECTF) in 2020 (modified in 2021) to make recommendations to the Liquor and Cannabis Board (LCB) including on establishing a social equity program for the issuance and re-issuance of existing retail, processor, and producer cannabis licenses, and to advise the Governor and the Legislature on policies to facilitate development of a cannabis social equity program. The SECTF includes legislators, agency representatives, community members, and cannabis industry licensee representatives. The SECTF issued recommendations to the LCB and the Legislature in January 2022 and the work of the SECTF continues with a December 2022 due date for a report to the Governor, the LCB, and the Legislature.

Cannabis Licensing.

The Liquor and Cannabis Board (LCB) licenses and regulates cannabis producers, processors, and retailers. The annual license fee for each of those license types is \$1,381 per year. A cannabis research license, as well as a transportation license, is also available.

Generally, no cannabis license may be issued for any premises within 1,000 feet of the perimeter of the grounds of any of the following: (1) elementary or secondary school; (2) playground; (3) recreation center or facility; (4) child care center; (5) public park; (6) public transit center; or (7) library; or (8) any game arcade admission to which is not restricted to persons age 21 years or older. However, by enacting an ordinance and subject to certain limits, a city, county, or town may permit the licensing of premises within 1,000 feet but not less than 100 feet of those facilities, except elementary schools, secondary schools, and playgrounds. For licensed cannabis research facilities, a city, town, or county may reduce the distance to not less than 100 feet of all the specified facilities, subject to certain requirements.

In consultation with the Office of Financial Management, the LCB determines the maximum number of cannabis retail outlets that may be licensed in each county, taking into consideration: (1) population distribution; (2) security and safety issues; (3) the provision of adequate access to cannabis products to discourage purchases from the illegal market; and (4) the number of retail outlets holding a medical endorsement necessary to meet medical needs of qualifying patients. Originally, the LCB set a statewide limit of 334 retail licenses, which in 2015, following legislative action, was increased to 556 retail licenses. Retail licenses may not be moved out of the county in which they were allocated by the LCB.

There are currently over 1,000 businesses licensed as cannabis producers, processors, or as both producers and processors. Currently, except through the social equity program, the LCB is not accepting new applications for cannabis producer, processor, or retailer licenses. As a part of the social equity program, beginning December 1, 2020, until July 1, 2029, cannabis retailer licenses that have been subject to forfeiture, revocation, or cancellation by the LCB, or cannabis retailer licenses that were not previously issued by the LCB but could have been issued without exceeding the limit on the statewide number of cannabis retailer licenses established before

January 1, 2020, may be issued to social equity applicants.

Social equity applicants must submit a social equity plan and meet social equity goals along with other cannabis retailer license requirements. The LCB may adopt rules to implement the program and may require that licenses awarded through the program be transferred or sold only to individuals who comply with the requirements for initial licensure as social equity applicants with a social equity plan.

"Social Equity Applicant" Definition.

A "social equity applicant" is currently defined as the following:

- an applicant who has at least 51 percent ownership and control by one or more individuals who have resided in a disproportionately impacted area for a period of time defined in rule by the LCB after consultation with the Commission on African American Affairs and other commissions, agencies, and community members as determined by the LCB;
- an applicant who has at least 51 percent ownership and control by at least one individual who has been convicted of a cannabis offense, a drug offense, or is a family member of such an individual; or
- an applicant who meets criteria defined in rule by the LCB after consultation with the Commission on African American Affairs and other commissions, agencies, and community members as determined by the LCB.

"Disproportionately Impacted Area" Definition.

A "disproportionately impacted area" is currently defined as a census tract or comparable geographic area that satisfies the following criteria, which may be further defined in rule by the LCB after consultation with the Commission on African American Affairs and other agencies, commissions, and community members as determined by the LCB:

- the area has a high poverty rate;
- the area has a high rate of participation in income-based federal or state programs;
- the area has a high rate of unemployment; and
- the area has a high rate of arrest, conviction, or incarceration related to the sale, possession, use, cultivation, manufacture, or transport of cannabis.

"Social Equity Plan" Definition.

A "social equity plan" is currently defined as a plan that addresses at least some of the following elements, along with any additional plan components approved by the LCB following consultation with the SECTF:

- a statement that the applicant qualifies as a social equity applicant and intends to own at least 51 percent of the proposed cannabis retail business, or applicants representing at least 51 percent of the ownership of the proposed business qualify as social equity applicants;
- a description of how issuing a cannabis retail license to the applicant will meet social equity goals;
- the applicant's personal or family history with the criminal justice system including any offenses involving cannabis;
- the composition of the workforce the applicant intends to hire;

- neighborhood characteristics of the intended location, focusing especially on disproportionately impacted areas; and
- business plans involving partnerships or assistance to organizations or residents connected to populations with a history of high rates of enforcement of cannabis prohibition.

Cannabis Excise Tax Distributions.

Cannabis excise taxes and license fees are deposited in the Dedicated Marijuana Account and appropriations are directed to specific recipients and accounts through a formula. Within the current appropriations are \$1.65 million for FY 2022 and \$1.65 million for FY 2023 to the Department of Commerce to fund the cannabis social equity technical assistance grant program, and also \$163,000 for FY 2022 and \$159,000 for FY 2023 to the Department of Commerce to establish a roster of mentors as part of the cannabis social equity program.

Roster of Mentors.

The Department of Commerce may contract to establish a roster of mentors who are available to support and advise social equity applicants and licensees who meet social equity applicant criteria. Contractors must: (1) have knowledge and experience demonstrating their ability to effectively advise eligible applicants and licensees in navigating the state's licensing and regulatory framework or on producing and processing cannabis; (2) be a business that is at least 51 percent minority or woman-owned; and (3) meet reporting and invoicing requirements of the Department of Commerce.

Summary of Bill:

Cannabis Licenses for Qualifying Social Equity Applicants.

Beginning in calendar year 2022 and in each calendar year through 2029, the Liquor and Cannabis Board (LCB) must make available and issue:

- 38 new cannabis retailer licenses per calendar year to applicants who qualify as social equity applicants; and
- 25 new marijuana producer and/or processor licenses per calendar year to applicants who qualify as social equity applicants.

A restriction on not exceeding the statewide number of retail licenses established before January 1, 2020 is eliminated from the LCB's current authority to issue or reissue retailer licenses to social equity applicants.

Restrictions on Issuing Cannabis Licenses.

The LCB is prohibited from issuing new cannabis producer, processor, and retailer licenses through December 31, 2029, except for through the social equity program to social equity applicants. It is specified this restriction also applies to any new commercial cannabis license type that the Legislature may create in the future, through December 2029. Beginning January 2030, at least 50 percent of the total number of new licenses issued for cannabis producer, processor, retailer licenses, and any new commercial cannabis license types, must be issued to applicants who qualify as social equity applicants.

License Fees and License Mobility.

The annual fee is waived for issuance, reissuance, or renewal of cannabis licenses issued through the social equity program. All licenses issued through the cannabis social equity program are mobile and may be for premises in any county, city, or town that permits the cannabis business activity at the proposed location, regardless of the limit on the number of retail licenses per county otherwise established by the LCB.

Cannabis Licensing Distance Restrictions.

It is provided that the current distance restrictions on siting cannabis businesses do not apply to licenses issued through the social equity program, provided that no license may be for a premise within 500 feet of any elementary or secondary school. Beginning January 1, 2030, this change to distance requirements becomes effective for all cannabis licenses issued by the LCB.

"Social Equity Applicant" Definition.

The definition of "social equity applicant" is amended as follows:

- to require an applicant to reside in a disproportionately impacted area for at least 5 years out of the last 60 years, if qualifying based on living in a disproportionately impacted area for a specified time; and
- to specify that a person may qualify as a social equity applicant if they have at least 51 percent ownership and control by at least one individual who is a racial minority that available data shows was disproportionately harmed by the war on drugs as evidenced by rates of arrest for marijuana possession offenses.

The Office of Equity is added and the Commission on African American Affairs is removed from the agencies and community members that LCB must consult when defining further criteria in rule on qualifying as a social equity applicant.

Social Equity Plans.

The requirement that an applicant must submit a social equity plan is replaced with a requirement that an applicant must submit documentation to verify qualification status. References to social equity plans and certain references to social equity goals are eliminated.

Prioritizing Applications.

The Office of Equity and the Department of Commerce, in consultation with community organizations, must select a third party contractor to prioritize social equity applicants. The third-party contractor must prioritize applicants based on a scoring rubric recommended by the Social Equity in Cannabis Task Force and approved by the Office of Equity. The LCB must review applications based on the priority set by the third-party contractor.

Rules on License Transfer.

Rules adopted by the LCB must require that licenses awarded through the social equity program be transferred or sold only to individuals who comply with the requirements for initial licensure as a social equity applicant for a period of at least 5 years from the date of transfer or sale.

Agency Consultation.

The Office of Equity is added and the Commission on African American Affairs is removed from the agencies/commissions consulted on further defining the definition of "disproportionately impacted area." Also, to be a contractor on the roster of mentors available to support and advise social equity applicants/licensees, an additional requirement is added that a contractor must be approved through the Office of Equity.

Cannabis Excise Tax Distributions.

Appropriations are directed from the Dedicated Marijuana Account, on an annual basis, to the Department of Commerce, for grants, low-interest loans, and technical assistance for applicants and licensees in the cannabis social equity program. The existing cannabis social equity technical assistance grant program administered by the Department of Commerce is changed to the cannabis social equity grant, low-interest loan, and technical assistance program.

Appropriation: The following appropriations are required on an annual basis from the Dedicated Marijuana Account: (1) \$15 million to the Department of Commerce (Commerce) to fund cannabis social equity grants; (2) \$7.5 million annually to Commerce for low-interest loans to cannabis license applicants and licensees as part of the social equity program; and (3) \$1.1 million per year to Commerce to make available technical assistance to applicants and licensees within the cannabis social equity program, including for establishing the roster of mentors.

Fiscal Note: Preliminary fiscal note available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 4, relating to distance requirements in cannabis licensing, which takes effect January 1, 2030; and section 6, relating to the Liquor and Cannabis Board's rulemaking authority, which takes effect July 1, 2024.