
Regulated Substances & Gaming Committee

HB 1790

Brief Description: Expanding and improving the social equity in cannabis program.

Sponsors: Representatives Entenman, Wylie, Reeves, Macri, Stearns, Kloba, Ormsby and Pollet.

Brief Summary of Bill

- Modifies the Cannabis Social Equity Program (Program) including: (1) extending the Program's expiration; (2) adding cannabis producer and processor licenses to the Program; (3) authorizing additional cannabis retail licenses to be issued through the Program; (4) requiring a third-party contractor to score applicants; and (5) amending definitions.
- Authorizes licenses issued through the Program to be initially located in any city, town, or county that allows cannabis retail or processing business activities at the proposed location.
- Encourages all cannabis licensees to submit a social equity plan and provides a one-time reimbursement for the annual cost of a cannabis license for licensees submitting a plan.
- Waives annual license fees for licensees in the Program through December 31, 2029.

Hearing Date: 2/16/23

Staff: Peter Clodfelter (786-7127).

Background:

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.

Cannabis Social Equity Program.

The Legislature established the Social Equity in Cannabis Task Force (SECTF) in 2020 (modified in 2021) to make recommendations to the Washington State Liquor and Cannabis Board (LCB) including on establishing a Cannabis Social Equity Program (Program) for the issuance and re-issuance of existing retail cannabis licenses that have been cancelled, revoked, or never issued, and to advise the Governor and the Legislature on policies to facilitate development of the Program. The SECTF included legislators, agency representatives, community members, and cannabis industry licensee representatives. The SECTF issued recommendations to the LCB and the Legislature in January 2022 and in December 2022 submitted a final report and recommendations to the Governor, the LCB, and the Legislature.

In October 2022 the LCB finalized rules, effective November 2022, for the Program. The LCB announced in January 2023 that it is opening the application process for the Program for a 30-day window beginning March 1, 2023. About 44 retail cannabis licenses that were forfeited, cancelled, revoked, or never issued will be available in specific jurisdictions across Washington.

In determining the issuance of a license among applicants, the LCB may prioritize applicants based on the extent to which the application addresses the components of the social equity plan. The LCB may deny any application if the LCB determines that the application does not meet social equity goals, does not meet social equity plan requirements, or the application does not otherwise meet cannabis licensing requirements.

The LCB may adopt rules including strategies for receiving advice on the Program from individuals the Program is intended to benefit. Rules may also require that 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.

Program Definitions.

The term "disproportionately impacted area" (DIA) means 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.

The term "social equity applicant" is defined as:

- an applicant who has at least 51 percent ownership and control by one or more individuals who have resided in a DIA 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 board after consultation with the Commission on African American Affairs and other commissions, agencies, and community members as determined by the LCB.

The term "social equity plan" is defined as a plan that addresses at least some of the elements outlined below, along with any additional plan components or requirements approved by the LCB following consultation with the SECTF. The plan may include the following:

- a statement that the social equity 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 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 cannabis;
- 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 enforcement of cannabis prohibition.

The term "social equity goals" is defined as increasing the number of cannabis retailer licenses held by social equity applicants from DIAs and reducing accumulated harm suffered by individuals, families, and local areas subject to severe impacts from the historical application and enforcement of cannabis prohibition laws.

Cannabis License Fees.

The current annual license fee for issuance or renewal of a cannabis producer, processor, or retailer license is \$1,381. The same fee applies to a cannabis retailer license issued through the Program.

Summary of Bill:

Cannabis Social Equity Program.

The July 1, 2029, expiration date for the Cannabis Social Equity Program (Program) is extended to July 1, 2032. Issuing cannabis producer licenses and processor licenses is added to the Program. Until July 1, 2032, cannabis producer licenses and cannabis processor licenses that have been subject to forfeiture, revocation, or cancellation by the Washington State Liquor and Cannabis Board (LCB) may be issued or reissued to an applicant who meets licensing requirements. However, the LCB may not issue or reissue more than 100 cannabis producer licenses or 100 cannabis processor licenses.

Beginning January 1, 2023, and continuing every three years until July 1, 2032, the LCB may, with the approval of the Legislature through the passage of a bill, increase the number of cannabis retailer licenses for the social equity program based on the most recent census data available as of January 1, 2023, and the annual population estimates published by the Office of Financial Management. Additionally, beginning January 1, 2024, and until July 1, 2032, the LCB may issue up to 52 cannabis retailer license for Program in addition to the retailer licenses that were forfeited, revoked, cancelled, or were not previously issued but could have been issued.

At the time of licensure, all licenses issued through the Program may be located in any city, town, or county that allows cannabis retail or cannabis processing business activity at the proposed location, regardless of whether a cannabis retailer license or cannabis processor license was originally allocated to or issued in another city, town, or county and the maximum number of retail cannabis licenses established by the LCB for each county. After a social equity license has been issued for a specific location, the location of the licensed business may not be moved to a city, town, or county different from the city, town, or county for which it was initially licensed.

In determining the priority for issuance of a license among applicants, the LCB must select a third-party contractor to identify and score social equity applicants, using a scoring rubric developed by the LCB. The LCB must rely on the score provided by the third-party contractor in issuing licenses. The LCB may deny an application for a license if the LCB determines that, upon advice of the third-party contractor, the application does not meet the social equity licensing requirements or if the LCB determines the application does not otherwise meet general cannabis licensing requirements.

Prior to adopting rules, the LCB must (instead of may) consider advice on the Program from individuals the program is intended to benefit. The LCB's rules may require that licenses awarded through the Program may be transferred to or assumed (instead of sold) by individuals or groups of individuals who comply with the requirements for initial licensure as a social equity applicant for a period of at least five years from the date of initial licensure.

Program Definitions.

The definition of "disproportionately impacted area" (DIA) is modified to mean a census tract or comparable geographic area within Washington where community members were more likely to be impacted by the war on drugs. These areas must be determined in rule by the LCB, in consultation with the Office of Equity, using a standardized statistical equation to identify areas with demographic indicators consistent with populations most impacted by the war on drugs. These areas must be assessed to account for demographic changes in the composition of the population over time. DIAs must include census tracts or comparable geographic areas in the top 15th percentile in at least two of the following demographic indicators of populations most impacted by the war on drugs: (1) the area has a high rate of people living under the federal poverty level; (2) the area has a high rate of people who did not graduate from high school; (3) the area has a high rate of unemployment; or (4) the area has a high rate of people receiving

public assistance.

The definition of "social equity applicant" is modified to mean an applicant who has at least 51 percent ownership and control by one or more individuals who meet at least two of the following qualifications: (1) lived in a disproportionately impacted area in Washington for a minimum of five years between 1980 and 2010; (2) has been arrested or convicted of a cannabis offense or has a family member who has been arrested or convicted of a cannabis offense; (3) had a household income in the year prior to submitting an application that was less than the median household income within Washington as calculated by the United States Census Bureau; or (4) is both a socially and economically disadvantaged individual as defined by the Office of Minority and Women's Business Enterprises.

The definition of "social equity plan" is modified to require a statement that indicates how the cannabis licensee will work to promote social equity goals in their community, to eliminate a requirement that a plan must include information on the social equity applicant's personal or family history with the criminal justice system, and to eliminate a requirement that a plan must include information on neighborhood characteristics of the location where the social equity applicant intends to operate.

Cannabis License Fees.

The annual fee for issuance, reissuance, or renewal for a cannabis license issued through the Program must be waived through December 31, 2029.

After January 1, 2024, all cannabis licensees are encouraged but are not required to submit a social equity plan to the LCB. Upon confirmation by the LCB that a cannabis licensee who is not a social equity applicant, and who does not hold a social equity license, has submitted a social equity plan, the LCB must, within 30 days, reimburse the licensee an amount equal to the cost of the licensee's annual cannabis license renewal fee. However, the LCB may provide reimbursement one time only to a licensed entity and a licensed entity holding more than one cannabis license is eligible for reimbursement of the license renewal fee on only one license.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains multiple effective dates. Please see the bill.