

SENATE BILL REPORT

ESHB 1443

As Reported by Senate Committee On:
Labor, Commerce & Tribal Affairs, March 24, 2021

Title: An act relating to social equity within the cannabis industry.

Brief Description: Concerning social equity within the cannabis industry.

Sponsors: House Committee on Commerce & Gaming (originally sponsored by Representatives Morgan, Wicks, Simmons, Berry, Johnson, J., Ramel, Kloba, Ryu, Peterson, Ormsby, Ortiz-Self, Harris-Talley and Macri).

Brief History: Passed House: 3/2/21, 60-37.

Committee Activity: Labor, Commerce & Tribal Affairs: 3/11/21, 3/24/21 [DPA, DNP, w/oRec].

Brief Summary of Amended Bill

- Expands the purpose of the Task Force on Social Equity in Cannabis (task force).
- Modifies task force reporting requirements, including adding task force recommendation topics and extending the due date for the final task force recommendations to December 9, 2022.
- Expands eligible applicants and funding activities under the Cannabis Social Equity Technical Assistance Grant Program.
- Authorizes the Department of Commerce to contract to establish a roster of mentors to support and advise certain social equity applicants and licensees.

SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

Majority Report: Do pass as amended.

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.

Signed by Senators Keiser, Chair; Conway, Vice Chair, Labor; Stanford, Vice Chair, Commerce & Tribal Affairs; King, Ranking Member; Robinson and Saldaña.

Minority Report: Do not pass.

Signed by Senators Honeyford and Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senator Braun.

Staff: Matt Shepard-Koningsor (786-7627)

Background: Marijuana Social Equity Program. The Marijuana Social Equity Program (social equity program) was established in 2020 and is administered by the Liquor and Cannabis Board (LCB). Under the social equity program, 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 license. In addition, marijuana retailer licenses that were not previously issued by LCB, but could have been issued without exceeding the statewide limit established before January 1, 2020, may be issued under the social equity program.

To be considered for a retail license, an applicant must submit a social equity plan (plan) with other application materials. The plan includes information regarding the applicant's qualifications as a social equity applicant, how the applicant will advance social equity goals, and other specified business information. LCB may add additional plan components or requirements following consultation with marijuana social stakeholders, including the Commission on African American Affairs.

When determining the issuance of a license among eligible applicants, LCB may give priority to a social equity applicant based on the extent to which the application addresses the components of the plan. LCB may add additional plan components or requirements following consultation with certain stakeholders.

The social equity program expires July 1, 2028.

Social Equity Program Terminology. Certain terms and definitions are specified that, in part, determine applicant eligibility and prioritization of applications under the social equity program. A social equity applicant is an applicant with majority ownership and control by at least one individual who has resided in a disproportionately impacted area for at least five of the preceding ten years; or 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 poverty and unemployment; participation in income-based federal or state programs; and 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 certain stakeholders.

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

Technical Assistance Competitive Grant Program. In 2020, the Marijuana Social Equity Technical Assistance Competitive Grant Program (technical assistance grant program) was established to award grants on a competitive basis to marijuana retail license applicants who are social equity applicants submitting a plan under the social equity program. The Department of Commerce (Commerce) administers the technical assistance grant program.

Commerce 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 technical assistance 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 technical assistance grant program is funded with a \$1.1 million annual appropriation from the Dedicated Marijuana Account.

Social Equity Task Force. The Marijuana Social Equity Task Force (task force) was established in 2020 to make recommendations to 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 Legislature on policies that will facilitate the development of the social equity program.

The task force members are jointly appointed by the president of the Senate and the speaker of the House of Representatives, which include:

- a member from the Commission on African American Affairs, Commission on Hispanic Affairs, and the Governor's Office of Indian Affairs;
- a member from an organization representing the African American community and from an organization involved in the marijuana industry;
- a member from LCB, Commerce, and 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 task force must submit a report, or multiple reports, on recommended policies that will facilitate the development of the social equity program in Washington. The recommendations from the task force must include:

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

The task force is encouraged to submit individual recommendations as soon as possible to facilitate LCB's early implementation work. The final recommendations must be submitted to the Governor, the Legislature, and LCB by December 1, 2020. The task force expires June 30, 2022.

Summary of Amended Bill: Social Equity Program Modifications. The social equity program expires July 1, 2029.

Modifications to Social Equity Program Terminology. A conviction of a drug offense of an applicant, or family member of an applicant, is a qualifying factor to be considered a social equity applicant, subject to other conditions. An individual must have lived in a disproportionately impacted area for a period of time defined in rule by LCB, after consultation with certain commissions, agencies, and community members. An applicant who meets LCB-defined criteria is considered a social equity applicant. Any LCB rule adopted to define additional social equity applicant criteria must be done after consultation with certain commissions, agencies, and community members.

Technical Assistance Grant Program Modifications. Eligible applicants under the technical assistance grant program include existing cannabis license holders, holding a license issued after June 30, 2022, and before the effective date of the grant section, and cannabis license applicants who meet social equity applicant criteria.

Commerce may contract to establish a roster of mentors who are available to support and advise social equity applicants and current licensees who meet the social equity applicant criteria. Contractors must:

- have knowledge and experience in navigating the state's licensing and regulatory framework or on producing and processing cannabis;
- be a business that is at least 51 percent minority or woman-owned; and
- meet Commerce reporting and invoicing requirements.

Grant recipients under the technical assistance grant program must demonstrate the project has been completed within 12 months of receiving a grant, unless a grant recipient requests, and Commerce approves, additional time to complete the project.

Social Equity Task Force Modifications. The purpose of the task force includes providing recommendations to LCB on the issuance of existing cannabis processor and producer licenses. The task force members include two processor and two producer licensees.

The task force must provide recommendations on the following topics:

- the social equity impact of altering residential cannabis agriculture regulations;
- the social equity impact of shifting primary regulation of cannabis production from LCB to the Washington State Department of Agriculture, including potential impacts to the employment rights of workers;
- the social equity impact of removing nonviolent cannabis-related felonies and misdemeanors from the existing point system used to determine if a person qualifies for obtaining or renewing a cannabis license;
- whether to create workforce training opportunities for underserved communities to increase employment opportunities in the cannabis industry;
- the social equity impact of creating new cannabis license types; and
- recommendations for the technical assistance grant program.

The due date of the final task force recommendations is December 9, 2022. The task force expires June 30, 2023.

EFFECT OF LABOR, COMMERCE & TRIBAL AFFAIRS COMMITTEE AMENDMENT(S):

- Provides that cannabis licensees holding a license granted after June 30, 2020, and before the effective date of the grant section, who meet the social equity applicant criteria, are eligible for the technical assistance grant program.
- Adds "strengthening [a cannabis license applicant's and licensee's] social equity plan" to the list of technical assistance activities eligible for funding under the technical assistance grant program.
- Removes provisions requiring Commerce to create a technical assistance pilot program.
- Authorizes Commerce to contract to establish a roster of mentors available to support and advise social equity applicants and licensees, with specified contractor requirements.
- Clarifies that the task force report must include the social equity impact of removing nonviolent cannabis-related felonies and misdemeanors from the existing point system used to determine if a person qualifies for obtaining or renewing a cannabis license.
- Provides that the task force must provide recommendations for the technical assistance grant program in its reports to the Governor, Legislature, and LCB.
- Extends the date by which the task force must submit its final recommendations from January 10, 2022, to December 9, 2022.
- Provides that the task force is no longer required to report on the social equity impact

of reducing or ending the funding directed to the Washington State Patrol drug enforcement task force and redirecting an equivalent amount to a cannabis social equity program.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Engrossed Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Due to the pandemic, the work of the task force was delayed. The bill extends important aspects of the cannabis social equity program. The bill reflects inputs heard from the community around the scope of the task force. The bill extends the progress made in cannabis social equity. When the bill passes, Washington will have one of the most productive and progressive cannabis social equity programs in the country and be a leader in the space. We want to work with all groups to make sure this is the best possible bill.

OTHER: Commerce is implementing the underlying grant program but will not be able to implement the pilot program until the task force has submitted recommendations.

Persons Testifying: PRO: Paula Sardinias, Washington Commission on African American Affairs.

OTHER: Jasmine Vasavada, Department of Commerce.

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