

# SENATE BILL REPORT

## SB 6393

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As of January 23, 2020

**Title:** An act relating to cannabis industry workplace standards.

**Brief Description:** Concerning cannabis industry workplace standards.

**Sponsors:** Senators Conway, Saldaña, Keiser, Hasegawa, Van De Wege, Wilson, C. and Nguyen.

**Brief History:**

**Committee Activity:** Labor & Commerce: 1/23/20.

**Brief Summary of Bill**

- Establishes a point threshold that marijuana licensees must meet, where adopting certain business practices, employee benefits, and policies equate to certain point values, in order to renew a producer, processor, retailer, or transportation license.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Staff:** Jarrett Sacks (786-7448)

**Background:** The Liquor and Cannabis Board (LCB) licenses and regulates marijuana businesses including marijuana producers, marijuana processors, marijuana retailers, and marijuana transportation licensees.

When reviewing license applications, including for license renewal, the LCB may consider any prior criminal conduct of an applicant, including an administrative violation history record with the LCB and a criminal history record information check. During the license issuance and renewal process, the LCB gives notice of the license application to the applicable local government, tribe, or port authority, which may file written objections against the applicant or the premises. When objections are filed, the LCB has discretion to hold a hearing. If the LCB makes an initial decision to deny a license or renewal based on the written objections, the applicant may request a hearing pursuant to the Administrative Procedures Act, and the LCB must defend the decision.

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*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.*

The LCB has discretion in granting or denying license issuance or license renewal. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted to the LCB from the relevant local government. In determining whether to grant or deny a license or renewal of any license, the LCB must give substantial weight to local government objections based upon chronic illegal activity associated with the applicant's operations of the premises or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** In order to renew a marijuana producer, processor, retailer, or transportation license, a licensee with 20 or more employees must demonstrate that it has in place business practices, employee benefits, or policies sufficient to earn 100 points from the following list of practices, benefits, and policies:

Living Wage (20 points). Providing at least 85 percent of full-time and part-time employees with a living wage is 20 points. A living wage is at least 150 percent of the state minimum wage.

Health and Safety Plan (20 points). Establishing and administering a workplace health and safety plan is 20 points. The plan must include monthly meetings between management and employees where employees may report health and safety issues.

Health Care Coverage (up to 30 points). Offering at least 85 percent of full-time and part-time hourly employees health care coverage under a health benefits plan is 20 points. A health benefits plan is a silver or higher level essential health benefits package under federal law, or an equivalent plan. Offering health care coverage that is fully-paid by the employer is an additional five points. Offering a health benefits plan with vision and dental coverage is also an additional five points.

Retirement Benefits (15 points). Offering at least 85 percent of full-time and part-time hourly employees employer-provided retirement benefits is 15 points.

Code of Conduct (20 points). Establishing and administering a code of conduct that includes a sexual harassment prevention policy and an anti-retaliation policy is 20 points.

Community Engagement Program (20 points). Establishing and administering a community engagement program is 20 points. A community engagement program is policies or practices regarding how a licensee will engage, communicate, and collaborate with neighboring businesses, residents, local governments, and persons in the community and must include a process for communicating public safety or other concerns. A program may include the creation of, or participation in, an incubator program to increase participation of persons of color, women, veterans, persons with disabilities, and other persons;

Social Equity Program (20 points). Participating in a social equity program is 20 points. A social equity program is a program intending to address the disproportionate impact that the historical criminalization of marijuana had on persons and communities of color by providing opportunities for ownership, employment, and advancement in the marijuana industry to such

persons and communities. A social equity program may also encourage participation of persons of color, women, veterans, and persons with disabilities. For a licensee relying on participation in a social equity program for points, the licensee must include with the renewal application a narrative of 2500 words or less establishing a goal of diversity in ownership, management, employment, and contracting that ensures diverse participants have equity of opportunity in the industry.

Labor Peace Agreement (50 points). Having in effect a labor peace agreement is 50 points. A labor peace agreement is an agreement between an employer and a labor organization in which the employer agrees to remain neutral or otherwise agrees to work with or provide information to the labor organization for the purpose of unionizing employees.

Collective Bargaining Agreement (70 points). Having in effect a collective bargaining agreement covering the licensee's employees is 70 points.

Employee Support Programs (20 points). Offering one or more of the following employee support programs is 20 points: a profit-sharing program, a childcare program, or a tuition reimbursement program.

Environmental Stewardship Program (15 points). Administering an environmental stewardship plan is 15 points. The plan must outline actions to minimize the licensee's carbon footprint, environmental impact, and resource needs, including policies for recycling marijuana packaging and seeking to minimize the amount of waste created by the licensee.

Security and Recordkeeping Plan (15 points). Establishing and administering a security and recordkeeping plan is 15 points. The plan must:

- be sufficient to comply with the security requirements established by the LCB;
- address recordkeeping, tracking and monitoring of inventory and quality control; and
- address destruction and disposal of marijuana product in accordance with LCB rules.

LCB Training (5 points). Having 85 percent of employees complete training provided by the LCB on compliance, safety, and preventing sales to minors is five points.

Other Employee Support Programs (10 points). Offering one or more of the following to employees is 10 points: an employee transportation subsidy, identity theft protection, life insurance, or an employee wellness program.

Business Location (5 points). Locating the licensed business in a community with an average income below three hundred percent the federal poverty level is five points.

If the LCB determines a licensee otherwise meets the requirements for license renewal, but has not earned at least 100 points, then the LCB must approve the renewal of the license on the condition that the licensee has one year to comply and earn at least 100 points. After the expiration of one year from the date a licensee is notified the licensee has not earned 100 points for license renewal, the LCB may suspend or revoke the license if the LCB determines the licensee still does not have in place business practices, employee benefits, or policies sufficient to earn at least 100 points.

The LCB is granted rule-making authority to implement the new requirement, and is provided with discretion in determining the manner in which licensees demonstrate compliance with the bill.

**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 Proposed Substitute:** PRO: The bill will encourage stronger labor practices in the industry. Some employers are abusive and fire employees for standing up for worker's rights and it is getting worse. The state needs to set basic standards for the industry. The bill will help build a safe and stable industry for the workers and consumers. All workers deserve the same treatment as those who work for employers with good labor standards. Three states have labor peace agreement requirements in statute. This bill is similar to practices in other states. The bill does not force employers to have collective bargaining agreements or health insurance, but makes it an option. The bill protects small employers by limiting it to those with more than 20 employees.

CON: The bill will cause people to lose their jobs and hurt small businesses while benefitting the larger companies. The bill mandates unionization and labor peace agreements and those should be negotiated between employers and employees freely. The bill is an overreach and hurts a fledgling industry. Businesses are already struggling to stay in business under the current regulatory framework and the bill will be piling on and be too much. The bill should not single out one particular industry for this type of regulation. It is hypocritical to do this to the cannabis industry and not restaurants. The point system needs restructuring and is so heavily weighted toward collective bargaining and labor peace that they are essentially mandatory. Many businesses cannot meet the requirements and will fold.

OTHER: The industry is challenged with overproduction and other issues. The other barriers need to be removed first. The point system can benefit the industry but needs restructuring.

**Persons Testifying:** PRO: Senator Steve Conway, Prime Sponsor; Matt Carroll, American Cannabis Workers Employee Association; Noni O'Reilly; Jahan Brooks, citizen; Gwendolyn Bush; Larry Brown, citizen; LaQuita Honeysucker, UFCW Int'l; Joe Martins, citizen; Josh Hymer, citizen; Amirah Harris, citizen; Chris Thompson, Liquor and Cannabis Board; Sarah Cherin, UFCW 21; Patricia Brown, citizen; Dacia Burley, citizen; Mark Riker, Washington Construction and Building Trades Council.

CON: Thomas Werth, Chief Executive, Top Shelf Cannabis; Duncan Hanron, Production Manager, Craft Elixirs; Daniela Bernhard, Uncle Ike's; Casey Jennett, Craft Elixirs / Kitchen Assistant; Julia Lee, Uncle Ike's; Kyle Capizzi, Executive Director, Craft Cannabis Coalition; Jim Mullen, Washington CannaBusiness Association; Aaron Bossett, Black Cannabis Commission; Bob Battles, Association of Washington Business.

OTHER: Jeremy Moberg, President, Washington Sungrowers Association.

**Persons Signed In To Testify But Not Testifying:** PRO: Celia Jackson, King County; Larry Brown, President, Washington State Labor Council, AFL-CIO; Celia Jackson, King County.

CON: Ian Eisenberg, Owner, Uncle Ike's; Daniel Fulcher, Processor, American Hash Makers; Maryam Mirnateghi, Canna West; Zahra Kohl, Owner, American Hash Makers; Andrew Kohl, Owner, American Hash Makers; Nina Perceful, citizen; Mariam James, citizen; Kristin Baldwin, The Cannabis Alliance; Eric Gaston, Member, Craft Cannabis Coalition; Kc Franks, Member, Craft Cannabis Coalition; Aaron Barfield, Bec; Will Houza, Organization for Black Affairs; Kerry Bennett, President, Canna Organix; Roger McMunn, Doghouse; James Johansen, Aardvark Engineering; Mark Ambler, Breeze Trees, LLC.

OTHER: Micah Sherman, Raven.