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**SENATE BILL 5388**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Saldaña, Keiser, Nguyen, Stanford, and Wilson, C.

AN ACT Relating to social equity within the cannabis industry; amending RCW 43.330.540, 69.50.335, and 69.50.336; providing an expiration date; and declaring an emergency.

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

**Sec.**  RCW 43.330.540 and 2020 c 236 s 3 are each amended to read as follows:

(1) The ((~~marijuana~~)) cannabis social equity technical assistance competitive grant program is established and is to be administered by the department.

(2) The ((~~marijuana~~)) cannabis social equity technical assistance competitive grant program must award grants on a competitive basis to ((~~marijuana retailer~~)):

(a) Cannabis license applicants who are social equity applicants submitting social equity plans under RCW 69.50.335; and

(b) Cannabis licensees holding a license on the effective date of this section who meet the social equity applicant criteria under RCW 69.50.335.

(3) The department must award grants primarily based on the strength of the social equity plans submitted by cannabis license applicants and cannabis licensees holding a license on the effective date of this section, but may also consider additional criteria if deemed necessary or appropriate by the department. Technical assistance activities eligible for funding ((~~under the marijuana social equity technical assistance competitive grant program~~)) include, but are not limited to:

(a) Assistance navigating the ((~~marijuana~~)) cannabis retailer licensure process;

(b) ((~~Marijuana-business~~)) Cannabis-business specific education and business plan development;

(c) Regulatory compliance training;

(d) Financial management training and assistance in seeking financing; and

(e) Connecting social equity applicants with established industry members and tribal ((~~marijuana~~)) cannabis enterprises and programs for mentoring and other forms of support approved by the ((~~[Washington state liquor and cannabis]~~)) Washington state liquor and cannabis board.

((~~(3)~~)) (4) The department must create a pilot program by August 2, 2021, to provide technical assistance to cannabis retailers holding a license on the effective date of this section who meet the social equity applicant criteria under RCW 69.50.335.

(a) The department must allocate a minimum of $150,000 for the pilot program to provide technical assistance activities to include infrastructure projects, technology upgrades, incubator and mentorship programs, and supplies.

(b) Grant recipients under this subsection must demonstrate completion of their project within 12 months of receiving a grant.

(5) Funding for the ((~~marijuana~~)) cannabis social equity technical assistance competitive grant program must be provided through the dedicated marijuana account under RCW 69.50.540. Additionally, the department may solicit, receive, and expend private contributions to support the grant program.

((~~(4)~~)) (6) The department may adopt rules to implement this section.

(7) For the purposes of this section, "cannabis" has the meaning provided for "marijuana" under RCW 69.50.101.

**Sec.**  RCW 69.50.335 and 2020 c 236 s 2 are each amended to read as follows:

(1) Beginning December 1, 2020, and until July 1, ((~~2028~~)) 2029, ((~~marijuana~~)) cannabis retailer licenses that have been subject to forfeiture, revocation, or cancellation by the board, or ((~~marijuana~~)) cannabis retailer licenses that were not previously issued by the board but could have been issued without exceeding the limit on the statewide number of ((~~marijuana~~)) cannabis retailer licenses established before January 1, 2020, by the board, may be issued or reissued to an applicant who meets the ((~~marijuana~~)) cannabis retailer license requirements of this chapter.

(2)(a) In order to be considered for a retail license under subsection (1) of this section, an applicant must be a social equity applicant and submit a social equity plan along with other ((~~marijuana~~)) cannabis retailer license application requirements to the board. If the application proposes ownership by more than one person, then at least fifty-one percent of the proposed ownership structure must reflect the qualifications of a social equity applicant.

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

(3)(a) In determining the issuance of a license among applicants, the board may prioritize applicants based on the extent to which the application addresses the components of the social equity plan.

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

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

(ii) The application does not otherwise meet the licensing requirements of this chapter.

(4) The board may adopt rules to implement this section. Rules may include strategies for receiving advice on the social equity program from individuals the program is intended to benefit. Rules may also require that licenses awarded under this section 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 under this section.

(5) The annual fee for issuance, reissuance, or renewal for any
license under this section must be equal to the fee established in RCW
69.50.325.

(6) For the purposes of this section:

(a) "Cannabis" has the meaning provided for "marijuana" under this chapter.

(b) "Disproportionately impacted area" means a census tract or comparable geographic area that satisfies the following criteria, which may be further defined in rule by the board after consultation with the commission on African American affairs and other agencies, commissions, and ((~~stakeholders~~)) advocates as determined by the board:

(i) The area has a high poverty rate;

(ii) The area has a high rate of participation in income-based federal or state programs;

(iii) The area has a high rate of unemployment; and

(iv) The area has a high rate of arrest, conviction, or incarceration related to the sale, possession, use, cultivation, manufacture, or transport of ((~~marijuana~~)) cannabis.

((~~(b)~~)) (c) "Social equity applicant" means:

(i) An applicant who has at least fifty-one percent ownership and control by one or more individuals who have resided for at least five ((~~of the preceding ten~~)) years during 1975 through 2015 in a disproportionately impacted area; ((~~or~~))

(ii) An applicant who has at least fifty-one percent ownership and control by at least one individual who has been convicted of a ((~~marijuana~~)) cannabis offense, a drug offense, or is a family member of such an individual; or

(iii) 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 advocates as determined by the board.

((~~(c)~~)) (d) "Social equity goals" means:

(i) Increasing the number of ((~~marijuana~~)) cannabis retailer licenses held by social equity applicants from disproportionately impacted areas; and

(ii) Reducing accumulated harm suffered by individuals, families, and local areas subject to severe impacts from the historical application and enforcement of ((~~marijuana~~)) cannabis prohibition laws.

((~~(d)~~)) (e) "Social equity plan" means a plan that addresses at least some of the elements outlined in this subsection (6)((~~(d)~~))(e), along with any additional plan components or requirements approved by the board following consultation with the task force created in RCW 69.50.336. The plan may include:

(i) A statement that the social equity applicant qualifies as a social equity applicant and intends to own at least fifty-one percent of the proposed ((~~marijuana~~)) cannabis retail business or applicants representing at least fifty-one percent of the ownership of the proposed business qualify as social equity applicants;

(ii) A description of how issuing a ((~~marijuana~~)) cannabis retail license to the social equity applicant will meet social equity goals;

(iii) The social equity applicant's personal or family history with the criminal justice system including any offenses involving ((~~marijuana~~)) cannabis;

(iv) The composition of the workforce the social equity applicant intends to hire;

(v) Neighborhood characteristics of the location where the social equity applicant intends to operate, focusing especially on disproportionately impacted areas; and

(vi) Business plans involving partnerships or assistance to organizations or residents with connection to populations with a history of high rates of enforcement of ((~~marijuana~~)) cannabis prohibition.

**Sec.**  RCW 69.50.336 and 2020 c 236 s 5 are each amended to read as follows:

(1) A legislative task force on social equity in ((~~marijuana~~)) cannabis is established. The purpose of the task force is to make recommendations to the board including but not limited to establishing a social equity program for the issuance and reissuance of existing retail ((~~marijuana~~)), processor, and producer cannabis licenses, and to advise the governor and the legislature on policies that will facilitate development of a ((~~marijuana~~)) cannabis social equity program.

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

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

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

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

(i) One member from each of the following:

(A) The commission on African American affairs;

(B) The commission on Hispanic affairs;

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

(D) An organization representing the African American community;

(E) An organization representing the Latinx community;

(F) A labor organization involved in the ((~~marijuana~~)) cannabis industry;

(G) The liquor and cannabis board;

(H) The department of commerce;

(I) The office of the attorney general; and

(J) The association of Washington cities;

(ii) Two members that currently hold a ((~~marijuana~~)) cannabis retail license; ((~~and~~))

(iii) Two members that currently hold a producer ((~~or processor~~)) license ((~~or both~~)); and

(iv) Two members that currently hold a processor license.

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

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

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

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

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

(5) Staff support for the task force, including arranging the first meeting of the task force and assisting the chair of the task force in arranging subsequent meetings, must be provided by the health equity council of the governor's interagency council on health disparities. ((~~If Engrossed Second Substitute House Bill No. 1783 is enacted by June 30, 2020, then~~)) The responsibility for providing staff support for the task force must be transferred to the office of equity created ((~~by Engrossed Second Substitute House Bill No. 1783~~)) under chapter 43.06D RCW when requested by the office of equity.

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

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

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

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

(10) The task force shall submit one or more reports on recommended policies that will facilitate the development of a ((~~marijuana~~)) cannabis social equity program in Washington to the governor, the board, and the appropriate committees of the legislature. The task force is encouraged to submit individual recommendations, as soon as possible, to facilitate the board's early work to implement the recommendations. The final recommendations must be submitted by ((~~December 1, 2020~~)) January 10, 2022. The recommendations must include:

(a) Factors the board must consider in distributing the licenses currently available from ((~~marijuana~~)) cannabis retailer licenses that have been subject to forfeiture, revocation, or cancellation by the board, or ((~~marijuana~~)) cannabis retailer licenses that were not previously issued by the board but could have been issued without exceeding the limit on the statewide number of ((~~marijuana~~)) cannabis retailer licenses established by the board before January 1, 2020; ((~~and~~))

(b) Whether any additional ((~~marijuana~~)) cannabis producer, processor, or retailer licenses should be issued beyond the total number of ((~~marijuana~~)) licenses that have been issued as of June 11, 2020. For purposes of determining the total number of licenses issued as of June 11, 2020, the total number includes licenses that have been forfeited, revoked, or canceled;

(c) The social equity impact of altering residential cannabis agriculture regulations;

(d) The social equity impact of shifting primary regulation of cannabis production from the board to the department of agriculture, including potential impacts to the employment rights of workers;

(e) The social equity impact of removing nonviolent cannabis-related felonies and misdemeanors from obtaining a cannabis license;

(f) Whether to create workforce training opportunities for underserved communities to increase employment opportunities in the cannabis industry;

(g) The social equity impact of reducing or ending the funding directed to the Washington state patrol drug enforcement task force under RCW 69.50.540 and redirecting an equivalent amount to a cannabis social equity program; and

(h) The social equity impact of creating new cannabis license types.

(11) The board may adopt rules to implement the recommendations of the task force. However, any recommendation to increase the number of retail outlets above the current statewide limit of retail outlets, established by the board before January 1, 2020, must be approved by the legislature.

(12) For the purposes of this section, "cannabis" has the meaning provided for "marijuana" under this chapter.

(13) This section expires June 30, ((~~2022~~)) 2023.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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