

HOUSE BILL REPORT

HB 1443

As Reported by House Committee On:
Commerce & Gaming

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

Brief Description: Concerning social equity within the cannabis industry.

Sponsors: Representatives Morgan, Wicks, Simmons, Berry, Johnson, J., Ramel, Kloba, Ryu, Peterson, Ormsby, Ortiz-Self, Harris-Talley and Macri.

Brief History:

Committee Activity:

Commerce & Gaming: 2/5/21, 2/12/21 [DPS].

Brief Summary of Substitute Bill

- Expands the purpose of the Task Force on Social Equity in Cannabis (Task Force) to include providing recommendations to the Liquor and Cannabis Board on the issuance of existing cannabis producer and processor licenses.
- Modifies Task Force reporting requirements, including adding topics to recommend and extending the final report due date to January 10, 2022.
- Expands eligible applicants under the Cannabis Social Equity Technical Assistance Grant Program to include all existing cannabis license holders and cannabis license applicants who meet social equity criteria.
- Requires the Department of Commerce to create a pilot program by October 2, 2021, to provide technical assistance to current cannabis retailer licensees who meet the social equity applicant criteria.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.

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 5 members: Representatives Kloba, Chair; Wicks, Vice Chair; Kirby, Morgan and Wylie.

Minority Report: Without recommendation. Signed by 4 members: Representatives MacEwen, Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Chambers and Vick.

Staff: Kyle Raymond (786-7190).

Background:

Marijuana Social Equity Program.

The Marijuana Social Equity Program (Program) was established in 2020 and is administered by the Liquor and Cannabis Board (LCB). Under the 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 marijuana retailer license. In addition, marijuana retailer licenses that were not previously issued by the LCB, but could have been issued without exceeding the statewide limit established before January 1, 2020, may be issued under the Program. The Program expires July 1, 2028.

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. The LCB may add additional Plan components or requirements following consultation with marijuana social equity stakeholders, including the Washington State Commission on African American Affairs (Commission on African American Affairs).

In determining the issuance of a license among eligible applicants, the LCB may give priority to a social equity applicant based on the extent to which the application addresses the components of the Plan. The LCB may deny applications that do not meet the social equity goals or Plan requirements, or applicants that do not otherwise meet licensing requirements.

Program Terminology. Certain terms and definitions are specified that, in part, relate to determining eligibility and prioritizing applications under the Program.

A "social equity applicant" is an applicant with majority ownership and control by at least one individual who: (1) has resided in a disproportionately impacted area for at least five of the preceding 10 years; or (2) 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: (1) poverty and unemployment; (2) participation in income-based or state programs; and (3) arrest, conviction, or incarceration related to the sale, possession, use, cultivation, manufacture, or transport of cannabis.

The LCB may further define criteria for what is considered a "disproportionately impacted area" after consultation with the Commission on African American Affairs and other stakeholders.

The "social equity goals" under the Program include: (1) increasing the number of marijuana retailer licenses held by social equity applicants from disproportionately impacted areas; and (2) reducing accumulated harm suffered by individuals, families, and local communities subject to the severe impacts from marijuana prohibition enforcement.

Technical Assistance Competitive Grant Program.

The Marijuana Social Equity Technical Assistance Competitive Grant Program (Technical Assistance Grant Program) was established in 2020 under the Department of Commerce (Department). The Technical Assistance Grant Program requires the Department to award grants on a competitive basis to marijuana retail license applicants who are social equity applicants submitting a Plan under the Program.

The Department 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 the 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. The purpose of the Task Force is to make recommendations to the 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 the Legislature on policies that will facilitate the development of Program. The Task Force expires June 30, 2022.

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, Washington State 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 representing the Latinx community;
- a labor organization involved in the marijuana industry;
- a member from the LCB, the Department, 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 Program in Washington. The recommendations from the Task Force must include:

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

The Task Force is encouraged to submit individual recommendations as soon as possible to facilitate the LCB's early work to implement the recommendations. The final recommendations must be submitted to the Governor, the LCB, and the Legislature by December 1, 2020.

The LCB may adopt rules to implement the recommendations of the Task Force. However, a Task Force recommendation to increase the number of retail outlets above the statewide limit must be approved by the Legislature.

Staff support for the Task Force must be provided by the Health Equity Council of the Governor's Interagency Council on Health Disparities, until the Office of Equity requests to take over Task Force staffing responsibility.

Summary of Substitute Bill:

Competitive Grant Program Modifications.

The eligible applicants under the Cannabis Social Equity Technical Assistance Competitive Grant Program (Technical Assistance Grant Program) include all existing cannabis license holders who meet social equity applicant criteria. In addition, cannabis license applicants who meet social equity applicant criteria are eligible applicants under the Technical Assistance Grant Program. The recipients of grants under the Technical Assistance Grant Program must demonstrate that the project has been completed within 12 months of

receiving a pilot program grant, unless a grant recipient requests, and the Department approves, additional time to complete the project.

The Department must create a pilot program by October 2, 2021, to provide technical assistance to current cannabis retailer licensees who meet the social equity applicant criteria. The Department must allocate a minimum of \$150,000 for the pilot program to provide technical assistance for infrastructure projects, technology upgrades, incubator and mentorship programs, and supplies. The recipients of grants must demonstrate that the project has been completed within 12 months of receiving a grant, unless a grant recipient requests, and the Department approves, additional time to complete the project.

Program Modifications.

The Program expiration date is July 1, 2029.

Modifications to 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 the LCB, after consultation with the Commission on African American Affairs and other commissions, agencies, and advocates as determined by the LCB, to be considered a social equity applicant.

An applicant who meets criteria defined in rule by the LCB is considered a social equity applicant. The rules defining additional criteria for being considered a social equity applicant must be done after consultation with the Commission on African American Affairs and other commissions, agencies, and advocates as determined by the LCB.

The entities the LCB must consult while further defining criteria for what is considered a "disproportionately impacted area" include commissions and advocates.

Social Equity Task Force Modifications.

The purpose of the Task Force also includes providing recommendations to the LCB on the issuance of existing cannabis processor and producer licenses.

The Task Force members include two processor and two producer licensee holders.

The Task Force must also 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 the board to the Washington State Department of Agriculture (WSDA), including potential impacts to the employment rights of workers;
- the social equity impact of removing nonviolent cannabis-related felonies and misdemeanors from obtaining 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 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; and
- the social equity impact of creating new cannabis license types.

The due date of the final Task Force recommendations is January 10, 2022.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the underlying bill:

- requires grant recipients of the Technical Assistance Grant Program to demonstrate completion of the project within 12 months of receiving a grant, unless a grant recipient requests, and the Department approves, additional time to complete the project;
- delays the start date of the pilot grant program under the Department to October 2, 2021;
- allows grant recipients of the pilot grant program to request additional time beyond the 12-month project completion requirement, which is subject to approval by the Department;
- provides that assistance navigating the licensure process is an eligible grant activity for all cannabis licensees, rather than a specified activity limited to retailer licensees, under the Technical Assistance Grant Program;
- modifies a social equity applicant criterion through providing that the period of time under which an applicant must have lived in a disproportionately impacted area to be considered a social equity applicant is defined by the LCB in rule after consultation with the Commission on African American Affairs and other commissions, agencies, and advocates, rather than specifying an applicant must live in a disproportionately impacted area for at least five years during 1975 through 2015; and
- removes the requirement that Task Force expenses must be jointly paid by the House of Representatives and Senate.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) The work of the Task Force was delayed due to the impacts from the pandemic,

which made the original reporting deadline unattainable. After meeting, the Task Force identified the limitations of the Task Force's authorizing legislation. The Task Force concluded that to provide a true, comprehensive social equity plan, expanding the scope of the Task Force work will be necessary.

The bill will address issues like gentrification and drug offenses of Program applicants. The bill will also allow the Task Force to make additional recommendations for the LCB to enact without requiring further legislation. Practicing equity in the cannabis industry is important for inclusion in the state.

The bill is the culmination of the Commission on African American Affairs's work conducting more than 300 interviews across the state with people who were left out of Initiative Measure No. 502. The bill also reflects the discussions that came out of the LCB listening sessions and Task Force meetings. From this work, it is clear that diversity, equity, and inclusion is needed in the cannabis industry.

This bill represents some of the best social equity cannabis policy across the country. This bill not only takes into consideration the unfair, predatory war on drugs that was predicated on the African American community, but it also takes into consideration that there are insufficient existing resources in the African American community to be competitive.

This bill is a healing process for the black community.

(Opposed) None.

(Other) The WSDA is supportive of this effort. Regulatory transfers between the WSDA and the LCB were not previously included in the work of the Task Force. The WSDA would like to be included in the conversation about a potential transfer of regulatory power to the WSDA when the Task Force reaches this topic.

Persons Testifying: (In support) Representative Morgan, prime sponsor; and Paula Sardinas, Washington Commission on African American Affairs.

(Other) Kelly McLain, Washington State Department of Agriculture.

Persons Signed In To Testify But Not Testifying: None.