

FINAL BILL REPORT

ESHB 1443

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Synopsis as Enacted

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).

House Committee on Commerce & Gaming

House Committee on Appropriations

Senate Committee on Labor, Commerce & Tribal Affairs

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 may be issued or reissued to social equity applicants meeting 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 Social Equity Program.

To be considered for a retail license, an applicant must submit a Social Equity Plan (Plan) with other required application materials. The Plan may include information about the applicant's qualifications as a social equity applicant, how the applicant will advance social equity goals, the applicant's personal or family history with the criminal justice system, and other specified information about the proposed business. The LCB may add additional Plan components or requirements following consultation with the Task Force on Social Equity in Marijuana (Task Force).

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

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the components of the Plan. The LCB may deny applications that do not meet social equity goals, Plan requirements, or other licensing requirements.

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 disproportionately impacted area criteria after consultation with the Washington State Commission on African American Affairs (Commission on African American Affairs) and other stakeholders.

The Social Equity Program expires July 1, 2028.

Marijuana Social Equity Technical Assistance Competitive Grant Program.

The Marijuana Social Equity Technical Assistance Competitive Grant Program (Technical Assistance Grant Program) was established in 2020 for the purpose of awarding 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 (Department) administers the Technical Assistance Grant 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.

Task Force on Social Equity in Marijuana.

The Task Force was established in 2020 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 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, and the Task Force is comprised of:

- 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 member from a labor organization involved in the marijuana industry;
- a member each 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 Social Equity 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 Task Force recommendations were required to 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 cannabis 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.

The Task Force expires June 30, 2022.

Summary:

Cannabis Social Equity Program.

A "social equity applicant" is an applicant:

- with majority ownership and control by at least one individual who resided 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 community members as determined by the LCB;
- with majority ownership and control by at least one individual who has been convicted of a misdemeanor marijuana offense or is a family member of such an individual; or
 - who meets criteria 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.

If the LCB further defines disproportionately impacted area criteria, the LCB must consult with the Commission on African American Affairs, commissions, agencies, and community members as determined by the LCB.

The Social Equity Program expires July 1, 2029.

Cannabis Social Equity Technical Assistance Grant Program.

The entities eligible to be awarded grants under the Technical Assistance Grant Program include:

- cannabis license applicants who are social equity applicants that submit a Plan; and
- cannabis licensees holding a license issued after June 30, 2020, and before July 25, 2021, who meet social equity applicant criteria.

The specification that the Technical Assistance Grant Program is a competitive grant program is removed.

Strengthening a social equity plan is a specified technical assistance activity eligible for funding under the Technical Assistance Grant Program.

Technical Assistance Grant Program grant recipients must demonstrate 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.

The Department may contract to establish a roster of mentors for the purpose of supporting and advising social equity applicants and current licensees who meet social equity applicant criteria. The contractors on the Department's roster of mentors must:

- have demonstrated knowledge and experience effectively advising eligible applicants and licensees 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 Department reporting and invoicing requirements.

Task Force on Social Equity in Cannabis.

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

The Task Force includes two members that hold a processor license and two members that hold a producer license.

The provision requiring expenses of the Task Force to be paid jointly by the Senate and the House of Representatives is removed.

The Task Force must provide additional recommendations, including:

- the social equity impact of altering residential cannabis agriculture regulations;
- the social equity impact of shifting primary regulation of cannabis production from the LCB 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 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 final Task Force recommendations must be submitted by December 9, 2022.

The Task Force expires June 30, 2023.

Votes on Final Passage:

House	60	37	
Senate	33	16	(Senate amended)
House	60	36	(House concurred)

Effective: July 25, 2021