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## Commerce & Gaming Committee

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### HB 2035

**Brief Description:** Establishing a behavioral health prevention and equity impact framework for the Washington state liquor and cannabis board.

**Sponsors:** Representatives Davis, Valdez, Ortiz-Self, Orwall, Senn, Taylor, Wicks, Harris, Ryu, Simmons, Walen, Dolan and Callan.

#### Brief Summary of Bill

- Establishes a framework for the Liquor and Cannabis Board (LCB) to consider behavioral health prevention and equity principles in strategic planning, decision processes, budget development, and when taking significant agency actions.
- Requires the LCB to: (1) develop a prevention and equity impact implementation plan; (2) create an equitable community engagement plan; and (3) conduct a behavioral health prevention and equity impact assessment when taking significant agency action.
- Establishes the Behavioral Health Prevention and Equity Impact Council (Council) to advise the LCB on incorporating behavioral health prevention and equity impact principles into agency activities.
- Establishes the Washington Behavioral Health Disparities Map, which must be developed and maintained by the Department of Health in consultation with the Council and others.
- Requires consultation with federally recognized Indian tribes.

**Hearing Date:** 1/25/22

**Staff:** Peter Clodfelter (786-7127)

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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 part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

The Washington State Liquor and Cannabis Board (LCB) consists of three members who are appointed by the Governor and confirmed by the Senate for six-year terms. The LCB is responsible for implementing, administering, and enforcing laws and rules related to: (1) the manufacture, distribution, and sale of beer, wine, spirits, and other liquor; (2) the production, processing, and sale of cannabis; (3) the manufacture, distribution, and sale of cigarettes and tobacco products; and (4) the distribution and sale of vapor products.

As of fiscal year 2021 the LCB licenses and regulates over 26,600 liquor licensees, over 1,800 cannabis licensees, over 5,900 tobacco/cigarette licensees, and over 3,900 vapor product licensees. The LCB's current structure includes a Director, a Deputy Director, as well as the following divisions or departments: (1) Licensing and regulation; (2) Communications; (3) Enforcement and education; (4) Policy and external affairs; (5) Legislative relations; (6) Human resources; (7) Information technology; and (8) Financial services.

## **Summary of Bill:**

### Legislative Findings, Intent, and Definitions.

Legislative findings and intent are included, as well as definitions of the following terms: (1) Behavioral health prevention; (2) Board; (3) Council; (4) Equitable distribution; (5) Equity impact; (6) Evidence-based; (7) Overburdened community; (8) Significant agency action; (9) Tribal lands; (10) Vulnerable populations; and (11) Washington behavioral health disparities map.

### Framework for the Liquor and Cannabis Board.

A new framework is established for the Liquor and Cannabis Board (LCB) to consider behavioral health prevention and equity principles in strategic planning, decision processes, and when taking significant agency actions after July 1, 2024. The new framework applicable to the LCB would require the following agency actions:

- *Implementation Plan.* The LCB must include a behavioral health prevention and equity impact implementation plan within the LCB's strategic plan, which includes, among other information: (1) agency-specific goals and actions to increase equity and mitigate behavioral health impacts of agency actions; (2) metrics to track and measure accomplishments of the agency goals and actions; and (3) methods to embed equitable community engagement with, and equitable participation from, members of the public, into agency practices for soliciting and receiving public comment.
- *Equitable Community Engagement Plan.* The LCB must create and adopt an equitable community engagement plan that describes how the LCB will engage with overburdened communities, vulnerable populations, communities of color, youth, families, and the prevention community as the LCB evaluates new and existing activities and programs. The plan must include how the LCB will identify and prioritize these populations and

communities, best practices for outreach and communication to overcome barriers to engagement, and other information.

- *Impact Assessments.* When considering significant agency action initiated after July 1, 2024, the LCB must conduct a behavioral health prevention and equity impact assessment to inform and support the LCB's consideration of overburdened communities, vulnerable populations, communities of color, youth, families, and the prevention community, and to assist with the reduction of substance-related harms and the identification and reduction of behavioral health disparities. By July 1, 2025, the LCB must consider its activities and identify and apply impact assessments to any actions that the LCB identifies as significant that are in addition to the significant agency actions identified in the legislation. Significant agency actions identified in the legislation are the following: (1) the development and adoption of rules; (2) the development and adoption of interpretive policy statement; and (3) the submission of agency request legislation to the Office of the Governor or the Office of Financial Management for approval.
- *Budgets and Funding.* The LCB must incorporate behavioral health prevention and equity impact principles into the LCB's decision processes for budget development, making expenditures, and granting or withholding benefits, subject to additional requirements and goals included in the legislation.
- *Consultation with Tribes.* The LCB must consult with federally recognized Indian tribes on implementing the legislation and must develop a consultation framework in coordination with tribal governments that includes best practices, protocols for communication, and collaboration with federally recognized Indian tribes. It is specified that the legislation is not intended to direct, authorize, or encourage the LCB to collect, maintain, or provide data related to sacred sites, traditional cultural properties, burial grounds, and other tribal sites protected by federal or state law.

#### The Washington Behavioral Health Disparities Map.

In consultation with the Behavioral Health Prevention and Equity Impact Council (Council), the Department of Health (DOH) must develop and maintain the Washington Behavioral Health Disparities Map (Map). The DOH must consult with tribes, interested partners, members of overburdened communities and vulnerable populations, communities of color, and other agencies. The Map must include the following information:

- the location of alcohol, tobacco, cannabis, and vapor product licensees and especially areas of high concentration of those licensees;
- the location of cannabis advertising, including billboards;
- available data on the prevalence rate of mental health and substance use disorders;
- data from the Healthy Youth Survey, including rates of youth use across substances, rates of access to substances, and youth perception of harm associated with substances;
- proximity to behavioral health treatment;
- socioeconomic factors, including race, English language proficiency, education level, poverty rate, and unemployment rate;

- access to protective factors for youth, including community centers and after-school programs;
- the location of community prevention and wellness initiative coalitions; and
- the location of schools that have a drug and alcohol prevention and intervention specialist.

The Map must include tools to track changes in mental health and substance use disorder disparities over time in an interactive, regularly updated display and measure the link between overall behavioral health disparity map ranks, behavioral health prevalence data, vulnerable populations characteristics, socioeconomic data, and human health data. The DOH must document and publish a summary of the regular updates and revisions to the Map as the new data becomes available.

At least every three years, the DOH must comprehensively evaluate the Map to ensure that the most current modeling and methods available to evaluate impacts are being used. The DOH must also develop technical guidance for the LCB and other interested agencies that includes an online training video describing how to use the Map's features, access source data, and that also provides an explanation of limitations. The DOH must provide support and consultation to the LCB and other interested agencies on the use of the Map by Washington tracking network staff.

#### Behavioral Health Prevention and Equity Impact Council.

The Behavioral Health Prevention and Equity Impact Council (Council) is established to advise the LCB on incorporating behavioral health prevention and equity impact principles into agency activities. The Council consists of 15 members appointed by the Secretary of the Health Care Authority who are well-informed regarding, and committed to, behavioral health prevention and equity impact principles who, to the greatest extent practicable, represent diversity in race, ethnicity, age, gender, sexuality, and geography. The LCB is a nonvoting, ex-officio liaison to the Council. The Health Care Authority convenes the first Council meeting by January 1, 2024. Reporting requirements obligate the LCB to annually update the Council on the LCB's work to implement the legislation.

#### Appeals.

Generally, the actions and duties included in the legislation are not subject to appeal. However, decisions on the designation of significant agency actions may be appealed, as well as impact assessments for which there is an associated agency action that may also be appealed. Appeals of impact assessments must be of the impact assessment together with the accompanying agency action. It is specified that nothing in the legislation may be construed to create a new private right of action other than as described above.

**Appropriation:** None.

**Fiscal Note:** Requested on January 19, 2022.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.