

SENATE BILL REPORT

SB 5080

As of January 10, 2023

Title: An act relating to expanding and improving the social equity in cannabis program.

Brief Description: Expanding and improving the social equity in cannabis program.

Sponsors: Senators Saldaña, Conway, Frame, Hasegawa, Kuderer, Lovelett, Nguyen, Nobles and Stanford; by request of Liquor and Cannabis Board.

Brief History:

Committee Activity: Labor & Commerce: 1/10/23, 1/12/23.

Brief Summary of Bill

- Amends the definitions of disproportionately impacted area, social equity applicant, and social equity plan in the Cannabis Social Equity Program (Program).
- Incentivizes current cannabis licensees to submit a social equity plan to the Liquor and Cannabis Board (LCB) by providing a one-time, one-license annual fee reimbursement.
- Authorizes LCB to increase the number of available cannabis retailer licenses for the Program based on population data, and contains provisions regarding portability of Program licenses.
- Requires LCB to select a third-party contractor to review and score Program applications.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Matt Shepard-Koningsor (786-7627)

Background: Definitions. Disproportionately impacted area (DIA) means a census tract or

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comparable geographic area that has a high:

- poverty rate;
- participation in federal or state income-based programs;
- rate of unemployment; and
- rate of arrest, conviction, or incarceration related to the sale, possession, use, cultivation, manufacture, or transport of cannabis.

Social equity applicant (Applicant) means an applicant who:

- has at least 51 percent ownership and control by one or more individuals who have resided in a DIA for a period of time defined in the Liquor and Cannabis Board's (LCB) rules after consultation with other specified entities;
- has at least 51 percent ownership and control by at least one individual who has been convicted of a cannabis offense, a drug offense, or is a family member of such an individual; or
- meets criteria defined in LCB rules after consultation with other specified entities.

Social equity plan means a plan that addresses at least some of the elements in the Cannabis Social Equity Program (Program) and elements approved by LCB in consultation with the Social Equity in Cannabis Task Force (Task Force). A plan may include a statement of the Applicant's intent to satisfy the ownership requirement, how the Applicant receiving a license will meet social equity goals, the Applicant's personal or family history with cannabis and the criminal justice system, the composition of the workforce the Applicant intends to hire, neighborhood characteristics of the proposed business location, and business plans partnering or assisting organizations with connections to certain populations.

Cannabis Social Equity Program. The Program was established in 2020 and is administered by LCB. Under the Program, cannabis retailer licenses subject to forfeiture, revocation, or cancellation may be issued or reissued to Applicants meeting the requirements for a cannabis retailer license. Cannabis retailer licenses not previously issued by LCB, but could have been issued without exceeding the statewide limit established before January 1, 2020, may be issued under the Program. To be considered for a retailer license, the Applicant must submit a Social Equity Plan (Plan) with other required application materials. LCB may give priority to an Applicant based on the extent to which the application and Plan address specified social equity goals. LCB may deny an application under the Program if it determines the application does not meet social equity goals, social equity plan requirements, or other cannabis licensing requirements.

Liquor and Cannabis Board Rules. In October 2022, LCB adopted final rules regarding many aspects of cannabis licensing and social equity. On March 1, 2023, LCB is opening the application process for the Program, where it will issue 44 licenses that were forfeited, cancelled, revoked, or never issued. Applications will be opened for an initial 30-day period and an independent social equity contractor will evaluate and prioritize all applications received during that window based on how long an Applicant lived in a DIA, their history of drug or cannabis offenses, whether incarceration impacted their employment

or housing opportunities, and whether the Applicant owned or operated a medical cannabis dispensary or collective garden prior to July 1, 2016, and whether such operation was in a DIA. The rules allow social equity licenses currently designated to a specific city to be relocated anywhere in the county in which that city is located, but not moved outside of that county.

Social Equity in Cannabis Task Force. In concert with the Program, the Legislature established the Task Force in 2020 to advise the Governor, the Legislature, and LCB on policies facilitating the development of the Program. The Task Force includes members from the Legislature, ethnic agencies and commissions, state agencies, and industry representatives. On December 9, 2022, the Task Force submitted its final report to the Legislature which recommended, in part, that the Legislature should:

- reserve new cannabis licenses for Applicants through 2029;
- establish a policy goal that 50 percent of total licenses should be owned by social equity licensees by 2029;
- create additional retail licenses; and
- ensure social equity licenses are portable within the state, subject to local jurisdiction approval.

While the Task Force does not expire until June 2023, it has fulfilled its statutory duties and currently has no more meetings scheduled.

Cannabis License Fees. The application fee for a cannabis producer license, cannabis processor license, and cannabis retailer license is \$250. The annual fee for issuance and renewal of a cannabis producer, cannabis processor, and cannabis retailer's license is \$1,381. The same fee applies for any cannabis retailer license issued, reissued, or renewed under the Program. Separate fees apply for changes of location and ownership.

Summary of Bill: Definitions. DIA is amended to mean a census tract within Washington State where community members were more likely to be impacted by the War on Drugs, which is determined using a standardized statistical equation identifying areas of high unemployment, low income, and demographic indicators consistent with impacted populations. LCB must periodically assess these areas for demographic changes.

Social equity applicant is amended to mean an applicant who has at least 51 percent ownership and control by one or more individuals who meet at least two of the following qualifications:

- lived in a DIA for a minimum of five years between 1980 and 2010;
- has been arrested or convicted of a cannabis offense or has a family member who was; and
- had a household income in the year prior to submitting an application under the Program that was less than the median household income within Washington State as calculated by the U.S. Census Bureau.

Social equity plan elements are amended to reference a cannabis licensee instead of an Applicant and remove certain elements, including a statement of the Applicant's intent to satisfy the ownership requirement of the Program, the Applicant's personal or family history with cannabis and the criminal justice system, and neighborhood characteristics of the proposed business location.

Cannabis Social Equity Program. After January 1, 2024, all cannabis licensees are encouraged but not required to submit a social equity plan to LCB. If the cannabis licensee is not an Applicant and does not hold a current social equity license, LCB must reimburse, within 30 days, an amount equal to the annual cannabis license fee. LCB must only provide one reimbursement per licensee and only for one license in the case of a licensee holding numerous licenses.

As of January 2023, LCB may, in its sole discretion, increase the number of cannabis retailer licenses for the Program based on the most recent census data and the annual population estimates published by the Office of Financial Management (OFM). Each subsequent year, LCB must evaluate OFM's population estimates and determine whether new cannabis retailer licenses should be made available. All current social equity licenses issued under the Program may be located in any city, town, or county allowing cannabis retail business activity, regardless of whether the cannabis retailer license was originally allocated to or issued in another city, town, or county; and the maximum number of retail cannabis licenses established by LCB in each county. A new social equity license issued by LCB may not be relocated to a different city, town, or county after such issuance to a specific jurisdiction.

LCB must select a third-party contractor (TPC) to identify and score Applicants, using a scoring rubric developed by LCB. LCB must rely on the score provided by the TPC. LCB's discretion to deny an application under the Program based on not meeting social equity goals is conditioned upon the advice of the TPC.

Liquor and Cannabis Board Rules. LCB must adopt rules to implement the Program. Prior to adopting any relevant rules, LCB must consider advice on the Program from individuals the Program is intended to benefit. Rules may require social equity licenses to only be transferred to or assumed by Applicants for at least five years from licensure.

Cannabis License Fees. The annual fee for issuance, reissuance, or renewal of any cannabis license under the Program is waived until December 31, 2029.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony (January 10, 2023): PRO: This bill creates a social equity program that is functional and provides pathways of opportunity. This bill creates more flexibility to assist individuals harmed by the War on Drugs and provides LCB the opportunity to adjust over time. This bill creates a voluntary submission process for social equity plans, which is focused on all licensees. This will hopefully bring all people into the social equity program as a broad approach. The 40 or so licenses currently available are not enough to increase equity in the market and this bill establishes needed licenses. This bill advances social equity and is in-line with recent ordinances passed by the City of Seattle. This bill is a step in the right direction. While we are in support of this bill, allowing current licensees to submit a social equity plan does not help the Black and Brown communities. Stronger language is encouraged to increase licenses based on the health of the market. This program should be overseen by the Office of African American Affairs or the Office of Equity. 100 producer/processor licenses should be added to this bill.

OTHER: While we support the process to increase the number of retailer licenses, we do believe the authority rests with the Legislature. It is in the spirit of the law now and we want to reaffirm that. We want some mechanism in the bill to be portable but prevent saturation in particular areas. We want to make sure LCB considers spatial distribution in issuing social equity licenses and involve local governments in that discussion. This bill does not include anything on residential cannabis gardening, which was recommended by the task force. This should be included.

Persons Testifying (Labor & Commerce): PRO: Senator Rebecca Saldaña, Prime Sponsor; Micah Sherman, Washington Sun and Craft Grower's Association (WSCA); peter manning, Black Excellence in cannabis; Damian Mims, Black excellence in Cannabis; Mike Asai, Black Excellence In Cannabis; Ollie Garrett, Washington State Liquor and Cannabis Board; Justin Nordhorn, Washington State Liquor and Cannabis Board; Ahmed King, Black Excellence in Cannabis; Josh Warren, Emerald City Collective; Keith Blocker, Tacoma City Council; Samir Junejo, City of Seattle.

OTHER: Paul Jewell, Washington State Association of Counties; Adán Espino Jr, Craft Cannabis Coalition; Vicki Christophersen, Washington CannaBusiness Association; DON SKAKIE, HOMEGROW WASHINGTON.

Persons Signed In To Testify But Not Testifying (Labor & Commerce): PRO: Jonathan Gee; Council Member Keith Blocker, Tacoma City Council; Burl Bryson; Tyler Conway; Derek Dukes; Albert Hunter, Black excellence in Cannabis; jacq sutton, Black Excellence in Cannabis.

CON: john Worthington.

Staff Summary of Public Testimony (Labor & Commerce) (January 12, 2023): PRO: This bill puts us on a path to correct the failed policies of Initiative 502. We still have an

industry that is 98 percent White-owned. This bill is about economic empowerment because when people in communities of color do well, people in all communities do better. The 44 retail licenses allotted to social equity applicants accounts for around 8 percent of all retail licenses. This is not equity. Washington's cannabis market makes up around 2 percent of total state revenue, more stores equals more revenue.

OTHER: Testifier asks, "Who do I talk to about price misrepresentation?"

Persons Testifying (Labor & Commerce): PRO: Paula Sardinas, WA Build Back Black Alliance.

OTHER: Evan Briggs.

Persons Signed In To Testify But Not Testifying (Labor & Commerce): No one.