FINAL BILL REPORT
E2SSB 5080

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Synopsis as Enacted

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

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Saldaña, Conway, Frame, Hasegawa, Kuderer, Lovelett, Nguyen, Nobles and Stanford; by request of Liquor and Cannabis Board).

Senate Committee on Labor & Commerce
Senate Committee on Ways & Means
House Committee on Regulated Substances & Gaming
House Committee on Appropriations

Background: Definitions. Disproportionately impacted area (DIA) means a census tract or 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 (Plan) means a plan that addresses at least some of the elements in the Social Equity in Cannabis Program (Program) and elements approved by LCB in consultation with the Social Equity in Cannabis Task Force (Task Force). A Plan may

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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.

<u>Social Equity in Cannabis Program.</u> 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 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, Plan requirements, or other cannabis licensing requirements.

<u>Liquor and Cannabis Board Rules.</u> In October 2022, LCB adopted final rules regarding many aspects of cannabis licensing and social equity. In March 2023, LCB opened the application process for the Program, where it will issue over 40 licenses that were forfeited, cancelled, revoked, or never issued. The application window closes on April 27, 2023, and an independent social equity contractor will evaluate and prioritize all applications received during the 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.

<u>Social Equity in Cannabis Task Force.</u> In conjunction 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 Social Equity Technical Assistance Grant Program. The Cannabis Social Equity Technical Assistance Grant Program (TA Grant Program) was established in 2020 to award grants to Applicants submitting a Plan under the Program and cannabis licensees holding a license issued after June 30, 2020, and before July 25, 2021, who meet certain social equity criteria. The Department of Commerce (Commerce) administers the TA Grant Program. Commerce must award grants for eligible technical assistance activities such as navigating the retail licensure process, regulatory compliance training, financial training, and others.

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.

Liquor and Cannabis Board Rules. In consultation with the Office of Financial Management, LCB must adopt rules determining the maximum number of retail outlets that may be licensed in each county. When making the determination, LCB must consider population distribution, security and safety issues, adequate access to cannabis products, and the number of retail outlets holding a medical cannabis endorsement necessary to meet the medical needs of qualifying patients.

Joint Legislative Audit and Review Committee. The Joint Legislative Audit and Review Committee (JLARC) is a committee comprised of an equal number of House and Senate members, Democrats and Republicans. JLARC conducts performance audits, program evaluations, sunset reviews, and other analyses. Assignments to conduct studies are made by the Legislature and JLARC itself. Based on these assignments, JLARC's non-partisan staff auditors, under the direction of the legislative auditor, independently seek answers to audit questions and issue recommendations to improve performance. JLARC's audits are directed to be independent, objective, and accurate.

Summary: 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. These areas must be determined in rule by LCB, in consultation with the Office of Equity, using a standardized statistical equation to identify areas with demographic indicators consistent with populations most impacted by the War on Drugs. LCB must periodically assess these areas for demographic changes in the composition of the population over time. DIA must include areas in the top 15th percentile in at least two of the following demographic indicators:

- the area has a high rate of people living under the federal poverty level;
- the area has a high rate of people who did not graduate from high school;
- the area has a high rate of unemployment; or

- the area has a high rate of people receiving public assistance.

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;
- 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; or
- is both a socially and economically disadvantaged individual as defined by the Office of Minority and Women's Business Enterprises.

The definition of Plan is moved to the definition section in the Uniform Controlled Substances Act, elements are amended to reference a cannabis licensee instead of an Applicant, and other elements are removed, 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.

Social equity goals is amended to include the goal of increasing the number of cannabis producer and cannabis processor licenses held by Applicants from DIAs.

<u>Social Equity in Cannabis Program.</u> After January 1, 2024, all cannabis licensees are encouraged but not required to submit a 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 more than one.

For initial issuance only, social equity licenses may be located in any city, town, or county allowing cannabis retail, production, or processing business activity regardless of:
- whether the cannabis retailer, producer, or processor 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.

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.

Current Forfeited, Revoked, or Cancelled Licenses. Until July 1, 2032, in addition to the current cannabis retailer licenses available under the Program, LCB may issue or reissue the following licenses that were forfeited, revoked, or cancelled to an Applicant under the

Program:

- up to 100 cannabis processor licenses immediately; and
- beginning January 1, 2025, up to ten cannabis producer licenses, which must be issued in conjunction with a cannabis processor license.

An Applicant is no longer required to include a Plan in their application materials to receive a forfeited, revoked, cancelled, or unissued license.

New Cannabis Retailer and Producer Licenses. Every three years until July 1, 2032, LCB may, with the approval of the Legislature through the passage of a bill, increase the number of cannabis retailer and cannabis producer licenses for the Program based on the most recent census data and the annual population estimates published by the Office of Financial Management. In addition, between January 1, 2024, and July 1, 2032, LCB may issue up to 52 cannabis retailer licenses under the Program.

Cannabis Social Equity Technical Assistance Grant Program. To qualify for a grant, a cannabis licensee must hold a license issued between April 1, 2023, and July 1, 2024.

Cannabis License Fees. The annual fee for issuance, reissuance, or renewal of any cannabis license under the Program is waived until July 1, 2032.

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. When determining the maximum number of retail outlets licensed in counties, LCB must consider written input from an incorporated city or town, or county legislative authority when evaluating concerns related to outlet density. LCB may adopt rules identifying how local jurisdiction input on outlet density will be evaluated. An incorporated city or town, or county legislative authority may enact an ordinance prescribing outlet density limitations, which may not affect licenses issued before the ordinance's effective date. LCB must adopt rules establishing a threshold of the number of licenses created in the Program that can be located in each county.

Objections from Local Authorities. LCB may not issue a cannabis retail license for any premises not currently licensed if:

- LCB receives a written objection from the legislative authority of an incorporated city or town, or county legislative authority, relating to the physical location of the proposed premises;
- the objection is received by LCB within 20 days of notifying the incorporated city or town, or county legislative authority of the proposed cannabis retail location; and
- the objection is based on a preexisting local ordinance limiting outlet density in a specific geographic area.

A preexisting local ordinance is an ordinance enacted and in effect before the date the Applicant applies for a cannabis retail license to LCB, identifying the premises proposed to be licensed. A local government may not object to the physical location of a proposed premises based on an ordinance enacted after the date the Applicant applies to LCB.

Joint Legislative Audit and Review Committee Report. JLARC must review prior canopy studies completed by LCB and examine whether current levels of cannabis production align with market demand and capacity, including the impact of any additional cannabis producer licenses granted under the legislation. JLARC must report results of their review to the Governor and Legislature by June 30, 2025.

Votes on Final Passage:

Senate	32	15	
House	60	38	(House amended)
Senate	31	16	(Senate concurred)

Effective: July 23, 2023
July 1, 2024 (Section 5)