

SENATE BILL REPORT

ESHB 1443

As of March 11, 2021

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

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).

Brief History: Passed House: 3/2/21, 60-37.

Committee Activity: Labor, Commerce & Tribal Affairs: 3/11/21.

Brief Summary of Bill

- Expands the purpose of the Task Force on Social Equity in Cannabis (task force).
- Modifies task force reporting requirements, including adding task force recommendation topics and extending the due date for the final task force recommendations to January 10, 2022.
- Expands eligible applicants under the Cannabis Social Equity Technical Assistance Grant Program.
- Requires the Department of Commerce to create a pilot program by October 2, 2021, to provide technical assistance to current cannabis retail licensees who meet social equity applicant criteria.

SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

Staff: Matt Shepard-Koningsor (786-7627)

Background: Marijuana Social Equity Program. The Marijuana Social Equity Program

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.

(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 by the LCB may be issued or reissued to a social equity applicant who meets the requirements for the license. In addition, marijuana retailer licenses that were 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 social equity program.

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. LCB may add additional plan components or requirements following consultation with marijuana social stakeholders, including the Commission on African American Affairs.

When determining the issuance of a license among eligible applicants, LCB may give priority to a social equity applicant based on the extent to which the application addresses the components of the plan. LCB may add additional plan components or requirements following consultation with certain stakeholders.

The social equity program expires July 1, 2028.

Social Equity Program Terminology. Certain terms and definitions are specified that, in part, determine applicant eligibility and prioritization of applications under the social equity program. A social equity applicant is an applicant with majority ownership and control by at least one individual who has resided in a disproportionately impacted area for at least five of the preceding ten years; or 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 poverty and unemployment; participation in income-based federal or state programs; and arrest, conviction, or incarceration related to the sale, possession, use, cultivation, manufacture, or transport of cannabis. LCB may further define criteria for what is considered a disproportionately impacted area after consultation with certain stakeholders.

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

Technical Assistance Competitive Grant Program. In 2020, the Marijuana Social Equity Technical Assistance Competitive Grant Program (technical assistance grant program) was established to award 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 (Commerce) administers the technical assistance grant program.

Commerce 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 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 to make recommendations to 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 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, which include:

- a member from the Commission on African American Affairs, 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 involved in the marijuana industry;
- a member from LCB, Commerce, 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 LCB must consider in distributing available marijuana retailer licenses that have been subject to forfeiture, revocation, or cancellation by LCB, or licenses that were not previously issued, but could have been without exceeding the statewide limit; and
- whether any additional licenses should be issued beyond the existing total.

The task force is encouraged to submit individual recommendations as soon as possible to facilitate LCB's early implementation work. The final recommendations must be submitted to the Governor, the Legislature, and LCB by December 1, 2020. The task force expires June 30, 2022.

Summary of Bill: Social Equity Program Modifications. The social equity program expires July 1, 2029.

Modifications to Social Equity 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 LCB, after consultation with certain commissions, agencies, and interested parties. An applicant who meets LCB-defined criteria is considered a social equity applicant. Any LCB rule adopted to define additional social equity applicant criteria must be done after consultation with certain commissions, agencies, and interested parties.

Technical Assistance Grant Program Modifications. Eligible applicants under the technical assistance grant program include all existing cannabis license holders and cannabis license applicants who meet social equity applicant criteria.

Commerce 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. Commerce must allocate a minimum of \$150,000 for the pilot program. Grants may be awarded to provide technical assistance for infrastructure projects, technology upgrades, incubator and mentorship programs, and supplies.

Grant recipients under the technical assistance grant program and the pilot program must demonstrate the project has been completed within 12 months of receiving a grant, unless a grant recipient requests, and Commerce approves, additional time to complete the project.

Social Equity Task Force Modifications. The purpose of the task force includes providing recommendations to LCB on the issuance of existing cannabis processor and producer licenses. The task force members include two processor and two producer licensees.

The task force must 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 LCB to the Washington State Department of Agriculture, 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 the 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. The task force expires June 30, 2023.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Due to the pandemic, the work of the task force was delayed. The bill extends important aspects of the cannabis social equity program. The bill reflects inputs heard from the community around the scope of the task force. The bill extends the progress made in cannabis social equity. When the bill passes, Washington will have one of the most productive and progressive cannabis social equity programs in the country and be a leader in the space. We want to work with all groups to make sure this is the best possible bill.

OTHER: Commerce is implementing the underlying grant program but will not be able to implement the pilot program until the task force has submitted recommendations.

Persons Testifying: PRO: Paula Sardinas, Washington Commission on African American Affairs.

OTHER: Jasmine Vasavada, Department of Commerce.

Persons Signed In To Testify But Not Testifying: No one.