

HOUSE BILL REPORT

HB 1940

As Reported by House Committee On:
Consumer Protection & Business

Title: An act relating to reducing barriers in Washington's cannabis industry.

Brief Description: Concerning the cannabis industry.

Sponsors: Representatives Morgan, Wylie, Reed, Parshley and Hill.

Brief History:

Committee Activity:

Consumer Protection & Business: 2/19/25, 2/21/25 [DP].

Brief Summary of Bill

- Removes the six-month residency requirement to authorize out-of-state ownership of licensed cannabis businesses.
- Authorizes the Liquor and Cannabis Board to impose additional licensing fees to recover costs incurred from investigating a nonresident required to be investigated.
- Exempts cannabis producers, processors, and retailers in the Cannabis Social Equity Program from the business and occupation tax, for the five years beginning after the licensee exceeds \$5,000 in sales revenues.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: Do pass. Signed by 8 members: Representatives Walen, Chair; Berry, Donaghy, Fosse, Morgan, Reeves, Ryu and Santos.

Minority Report: Do not pass. Signed by 3 members: Representatives Kloba, Steele and Volz.

Minority Report: Without recommendation. Signed by 4 members: Representatives

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.

McClintock, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Abbarno and Corry.

Staff: Peter Clodfelter (786-7127).

Background:

Cannabis Licensing and Residency Requirement.

Washington Initiative 502, passed in 2012, is administered to require all owners of licensed cannabis businesses to have lawfully resided in Washington for at least six months prior to applying for a cannabis license from the Liquor and Cannabis Board (LCB). Additionally, no cannabis license may be issued to a person under the age of 21 years, or to a partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under Washington law and unless all of the members are qualified to obtain a license. If a manager or agent conducts the business of a licensed cannabis establishment, the manager or agent must possess the same qualifications required of the licensee.

To apply for a cannabis producer, processor, or retailer license, there is a \$250 application fee, plus fees equivalent to \$1,381 for license issuance and annually for license renewal. When an application for a cannabis license is submitted to the LCB, the LCB may inspect the premises proposed to be licensed, and may inquire into all matters in connection with the construction and operation of the premises. The LCB conducts a financial investigation to determine the source of funds as well as a criminal history record information check. The LCB is not currently accepting applications for new cannabis producer, processor, or retailer licenses, other than at certain times through the Cannabis Social Equity Program (Program).

Business and Occupation Tax.

Licensed cannabis producers, processors, and retailers are subject to Washington's business and occupation tax (B&O tax) and no exemption currently exists related to their business activities.

Cannabis Social Equity Program.

The Program is administered by the LCB, and a Cannabis Social Equity Technical Assistance Grant Program (Grant Program) is administered by the Department of Commerce (Department). The Legislature directed the creation of the Program in 2020, which was developed with input from the Social Equity in Cannabis Task Force and the Office of Equity, and runs until July 1, 2032. The Dedicated Cannabis Account funds \$3 million annually to the Department for the Grant Program. The Department also maintains a roster of mentors.

Through the Program, certain cannabis retailer, producer, and processor licenses are available to social equity applicants. Initially, the Program was limited to the issuance or reissuance of cancelled cannabis retailer licenses or certain unissued cannabis retailer

licenses, and a first round of licensing for 45 available cannabis retailer licenses was conducted in 2024. While several retailer licenses have been issued through the Program and opened for business, other social equity applicants who received a preliminary letter of approval have been unable to secure a location or complete the licensing process to open for business.

In 2023 the Legislature expanded the Program to include making available cancelled cannabis producer and cannabis processor licenses to social equity applicants, and authorize additional cannabis retailer licenses for issuance in the Program. At any time through these provisions, the LCB may issue up to 100 cannabis processor licenses to social equity applicants. The LCB may also issue up to 10 cannabis producer licenses to social equity applicants in conjunction with a cannabis processor license. An additional 52 new cannabis retailer licenses were also authorized and made available pursuant to the legislation enacted in 2023.

The cannabis producer, processor, and additional retailer licenses made available under the 2023 legislation have not yet been issued. The LCB completed rulemaking updates to the Program effective January 18, 2025, which would govern future licensing activity through the Program.

Summary of Bill:

Cannabis Licensing and Residency Requirement.

The requirement for a person to have lawfully resided in Washington for at least six months prior to applying for a cannabis license from the LCB is eliminated. References to different specified business entities in the cannabis licensing statute are changed to "entity."

The LCB may impose additional licensing fees to recover additional costs incurred from investigating a nonresident required to be investigated. If, after reasonable efforts, the LCB is unable to investigate a nonresident required to be investigated, in accordance with the investigatory standards applicable to the investigation of a state resident, the LCB may deny a license or license renewal to an entity.

Business and Occupation Tax—Cannabis Social Equity Program.

An exemption from the B&O tax is provided to a cannabis producer, processor, or retailer, licensed by the LCB under the Program, for the five years beginning after the licensee exceeds \$5,000 in sales revenues. A tax preference performance statement is included. The tax preference expires July 1, 2038.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Washington is a national leader with cannabis policy, and the industry contributes over 2 percent to Washington's operating budget and is a driver of economic activity. But systemic barriers remain, especially for social equity applicants and businesses seeking to enter the market. The restriction on out-of-state investment is one of the biggest challenges. The six-month residency requirement is outdated, and limits competition and success. The bill is a critical step toward leveling the playing field. There is work remaining to refine the bill, to address zoning issues, and to ensure the existing five-license limit for ownership of retail licenses is not evaded through the use of management agreements. The Program is not working because of a detrimental lack of access to capital, and the state is giving people something they cannot use. There are investors ready and willing to partner with social equity licensees but they cannot do so because of the restriction. Opportunities to build generational wealth are being hindered. Significant work has been done in recent years to create a program to provide meaningful opportunities for several hundred entrepreneurs. Moving this bill will allow the currently authorized licensees in the Program to be operable. This bill also helps the industry at large. There is currently a contraction in Washington's cannabis market and without access to capital it will get worse. Companies and consortiums around the country are getting bigger and growing their businesses while Washington businesses are stuck in place. Years of work have gone into this policy. A restriction like the current residency requirement is unique and does not exist in any other industries. Only one other state has this restriction in their cannabis laws. A delayed effective date for the bill could alleviate some of the concerns and provide the industry time to prepare. Crowd funding, equity investments, and tools available in all other industries are currently blocked. The federal status of cannabis adds to the business expense for operators in the industry. While loans and traditional financing are available, these options are only available to those who have significant assets outside of the cannabis industry to secure the loans. Interest rates are often 50 percent higher than for noncannabis businesses. Cannabis businesses also are not able to use federal bankruptcy laws.

(Opposed) Where outside ownership exists in other states, there is market consolidation, market saturation, and price suppression, and wealthy individuals can exercise outsized influence on the industry. The residency requirement in current law serves to protect small- and medium-sized cannabis businesses. There are other ways to help the industry be successful instead of this proposed policy. Some opponents support the B&O tax exemption but oppose the out-of-state ownership provisions. Washington licensees who operate in other states allowing out-of-state ownership have seen firsthand the disruptive effect of allowing out-of-state ownership, where production rapidly increased and caused prices to fall to a level making it a challenge to sell above cost for businesses. There is

access to many forms of capital in Washington through banks, credit unions, and venture capital firms anywhere in the United States, through which loans are available. Black and Brown entrepreneurs have been excluded from the industry for 10 years, and oppose the bill. Out-of-state investment will harm the Program. While the proposed B&O tax exemption is appreciated, what would really help is an excise tax exemption for sales by businesses in the Program. The bill will only further strengthen the monopoly existing cannabis businesses hold. Real solutions, not empty gestures, and needed. The bill will open a floodgate for which Washington is unprepared. Out-of-state companies are willing to trade short-term profit losses in Washington for continued deal expansion nationally and this will harm Washington. Protect Washington's cottage industry for cannabis.

(Other) Cannabis businesses are divided on the current residency requirement, with some finding it valuable and others finding it overly restrictive. The pairing of the policies in this bill is fitting for the unique nature of the cannabis market. Further work could be done to ensure an equitable playing field, like examining the current use of management contracts by licensees to exercise outsized control in the market.

Persons Testifying: (In support) Representative Melanie Morgan, prime sponsor; Tedd Wetherbee, The Gallery; Paula Sardinias, FMS Global Strategies, LLC; Ezra Eickmeyer, Producers NW; Vicki Christophersen, Washington CannaBusiness Association; and Brooke Davies, Washington CannaBusiness Association.

(Opposed) Bethany Rondeaux, Falcanna; Justin Rondeaux; Trent Matson; Peter Manning, Black Excellence In Cannabis; Mike Asai, Black Excellence In Cannabis; and Jason Hutto, Cultivar Farms.

(Other) Caitlein Ryan, THE CANNABIS ALLIANCE; and Paul Brice.

Persons Signed In To Testify But Not Testifying: Andy Brassington, Evergreen Herbal; Jordan Zager, Dewey Botanicals/Dewey Cannabis Co.; Stanley Johnson; BRANDON PARK, DLH Ranch; Scott Waller, WASAVP - Washington Association for Substance Misuse and Violence Prevention; Haider Tareen, WCLA; TaraLyn Fray; Shea Hynes, Lux Pot Shop; Shawn DeNae Wagenseller, Washington Bud Company; Bill Wagenseller, Washington Bud Company; James Mullen, The Herbery; Jeff Anderson, The Evergreen Market; Rolando RO-Lando, Green Roads Cannabis; and Logan Bowers.