
Finance Committee

HB 2037

Brief Description: Modernizing adult use cannabis laws.

Sponsors: Representative Morgan.

Brief Summary of Bill

- 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.
- Exempts cannabis producers, processors, or retailers who obtain a license via transfer from a licensee under the Cannabis Social Equity Program from the business and occupation tax for five years.
- Removes the six-month residency requirement to authorize out-of-state ownership of licensed cannabis businesses.
- Increases license fees for cannabis businesses with out-of-state ownership.

Hearing Date: 3/25/25

Staff: Rachelle Harris (786-7137).

Background:

Licensed Cannabis Producers.

The Liquor and Cannabis Board (LCB) issues cannabis licenses in Washington. A cannabis producer license authorizes a licensee to produce, harvest, trim, dry, cure, and package cannabis into lots for sale at wholesale to cannabis processors and other cannabis producers. A cannabis processor license allows a licensee to process, package, and label cannabis products for sale at

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wholesale to other processors and cannabis retailers. A cannabis retailer's license allows holders to sell cannabis products at retail outlets.

Cannabis Licensing and Residency Requirement.

Owners of licensed cannabis businesses are required to have lawfully resided in Washington for at least six months prior to applying for a cannabis license from the 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 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 as well as for annual 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.

Cannabis Social Equity Program.

The Cannabis Social Equity Program (Program) is administered by the LCB, and a Cannabis Social Equity Technical Assistance Grant Program (Grant Program) is administered by the Department of Commerce (Commerce). 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 Commerce for the Grant Program. Commerce 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 Program 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 Program applicants and authorizing 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 Program 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.

A Cannabis Social Equity Program Applicant means 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 disproportionately impacted area in Washington 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 has been arrested or convicted of a cannabis offense;
- had a household income that was less than the median household income within the state of Washington as calculated by the United States Census Bureau; or
- is both a socially and economically disadvantaged individual as defined by the office of minority and women's business enterprises.

Agricultural Associations.

Agricultural associations (Associations) are informal or formal groups or entities created by farmers, planters, ranchers, dairy farmers, nut growers, or fruit growers to engage in activities such as setting prices or coordinated marketing. Associations may have marketing agencies in common and may enter into contracts or agreements. Associations must be operated for mutual benefit of all of the members. No member of an association is allowed more than one vote due to the amount of stock or membership capital he or she may own. Associations may not pay dividends on stock or membership capital in excess of 8 percent per year. Associations may not deal in the products of nonmembers in an amount greater in value than the amounts handled by it for members. The Attorney General may bring a complaint against an Association if he or she has reason to believe that an Association has monopolized or restrained trade to an extent that the price of their agricultural product has been unduly enhanced.

Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss.

A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing and wholesaling; and 1.5 percent (businesses with taxable income of less than \$1 million) or 1.75 percent (businesses with taxable income of \$1 million or more) for services and for activities not classified elsewhere. There are many specialized B&O tax rates and preferential rates that apply to specific business activities.

In addition, a taxpayer may be eligible to utilize other tax preferences, including credits and deductions, to reduce their tax liability.

Tax Preference Performance Statement.

Tax preferences confer reduced tax liability upon a designated class of taxpayers. These include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. There are over 700 tax preferences. Legislation that establishes or expands a tax preference must include a tax preference performance statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary of Bill:

B&O Exemptions for Certain Cannabis Licensees.

A B&O tax exemption is provided for cannabis producers, processors, or retailers licensed under the Program for five years after the licensee exceeds \$5,000 in sales revenues. This exemption expires July 1, 2039.

A B&O tax exemption is provided for cannabis producers, processors, or retailers who obtain a license via transfer from a licensee under the Program if the new licensee also meets the Program criteria for five years after obtaining the license. This exemption expires June 30, 2052.

A TPPS identifies both tax preferences as intended to provide tax relief for certain businesses or individuals. The public policy objective is to provide the preferences to a designated class of taxpayers related to the Program.

Residency Requirements and License Fees.

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. If, after reasonable efforts, the LCB is unable to investigate a nonresident 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.

The annual renewal fee for cannabis producer, processor, and retailer's licensees is increased to \$1,657 after the licensee submits a change of ownership for an owner who does not lawfully reside in Washington. The annual fee for a new cannabis producer's license is increased to \$1,657 if an owner does not lawfully reside in Washington.

A retail licensee and all other persons with a financial or ownership interest may not enter into an agreement that confers a financial interest across more than 5 retail cannabis licenses.

Cannabis Agricultural Associations.

Licensed cannabis producers may form agricultural associations to engage in certain business activities including collectively processing, handling, or marketing their products. For the purposes of licensed cannabis producers forming agricultural associations only, cannabis is considered an agricultural product.

Appropriation: None.

Fiscal Note: Requested on March 12, 2025.

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