
SENATE BILL 5388

State of Washington

67th Legislature

2021 Regular Session

By Senator Saldaña

1 AN ACT Relating to social equity within the cannabis industry;
2 amending RCW 43.330.540, 69.50.335, and 69.50.336; providing an
3 expiration date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 43.330.540 and 2020 c 236 s 3 are each amended to
6 read as follows:

7 (1) The (~~marijuana~~) cannabis social equity technical assistance
8 competitive grant program is established and is to be administered by
9 the department.

10 (2) The (~~marijuana~~) cannabis social equity technical assistance
11 competitive grant program must award grants on a competitive basis to
12 (~~marijuana-retailer~~):

13 (a) Cannabis license applicants who are social equity applicants
14 submitting social equity plans under RCW 69.50.335; and

15 (b) Cannabis licensees holding a license on the effective date of
16 this section who meet the social equity applicant criteria under RCW
17 69.50.335.

18 (3) The department must award grants primarily based on the
19 strength of the social equity plans submitted by cannabis license
20 applicants and cannabis licensees holding a license on the effective
21 date of this section, but may also consider additional criteria if

1 deemed necessary or appropriate by the department. Technical
2 assistance activities eligible for funding (~~under the marijuana~~
3 ~~social equity technical assistance competitive grant program~~)
4 include, but are not limited to:

5 (a) Assistance navigating the (~~marijuana~~) cannabis retailer
6 licensure process;

7 (b) (~~Marijuana-business~~) Cannabis-business specific education
8 and business plan development;

9 (c) Regulatory compliance training;

10 (d) Financial management training and assistance in seeking
11 financing; and

12 (e) Connecting social equity applicants with established industry
13 members and tribal (~~marijuana~~) cannabis enterprises and programs
14 for mentoring and other forms of support approved by the
15 (~~Washington state liquor and cannabis~~) Washington state liquor
16 and cannabis board.

17 (~~(3)~~) (4) The department must create a pilot program by August
18 2, 2021, to provide technical assistance to cannabis retailers
19 holding a license on the effective date of this section who meet the
20 social equity applicant criteria under RCW 69.50.335.

21 (a) The department must allocate a minimum of \$150,000 for the
22 pilot program to provide technical assistance activities to include
23 infrastructure projects, technology upgrades, incubator and
24 mentorship programs, and supplies.

25 (b) Grant recipients under this subsection must demonstrate
26 completion of their project within 12 months of receiving a grant.

27 (5) Funding for the (~~marijuana~~) cannabis social equity
28 technical assistance competitive grant program must be provided
29 through the dedicated marijuana account under RCW 69.50.540.
30 Additionally, the department may solicit, receive, and expend private
31 contributions to support the grant program.

32 (~~(4)~~) (6) The department may adopt rules to implement this
33 section.

34 (7) For the purposes of this section, "cannabis" has the meaning
35 provided for "marijuana" under RCW 69.50.101.

36 **Sec. 2.** RCW 69.50.335 and 2020 c 236 s 2 are each amended to
37 read as follows:

38 (1) Beginning December 1, 2020, and until July 1, (~~(2028)~~) 2029,
39 (~~marijuana~~) cannabis retailer licenses that have been subject to

1 forfeiture, revocation, or cancellation by the board, or
2 ((marijuana)) cannabis retailer licenses that were not previously
3 issued by the board but could have been issued without exceeding the
4 limit on the statewide number of ((marijuana)) cannabis retailer
5 licenses established before January 1, 2020, by the board, may be
6 issued or reissued to an applicant who meets the ((marijuana))
7 cannabis retailer license requirements of this chapter.

8 (2) (a) In order to be considered for a retail license under
9 subsection (1) of this section, an applicant must be a social equity
10 applicant and submit a social equity plan along with other
11 ((marijuana)) cannabis retailer license application requirements to
12 the board. If the application proposes ownership by more than one
13 person, then at least fifty-one percent of the proposed ownership
14 structure must reflect the qualifications of a social equity
15 applicant.

16 (b) Persons holding an existing ((marijuana)) cannabis retailer
17 license or title certificate for a ((marijuana)) cannabis retailer
18 business in a local jurisdiction subject to a ban or moratorium on
19 ((marijuana)) cannabis retail businesses may apply for a license
20 under this section.

21 (3) (a) In determining the issuance of a license among applicants,
22 the board may prioritize applicants based on the extent to which the
23 application addresses the components of the social equity plan.

24 (b) The board may deny any application submitted under this
25 subsection if the board determines that:

26 (i) The application does not meet social equity goals or does not
27 meet social equity plan requirements; or

28 (ii) The application does not otherwise meet the licensing
29 requirements of this chapter.

30 (4) The board may adopt rules to implement this section. Rules
31 may include strategies for receiving advice on the social equity
32 program from individuals the program is intended to benefit. Rules
33 may also require that licenses awarded under this section be
34 transferred or sold only to individuals or groups of individuals who
35 comply with the requirements for initial licensure as a social equity
36 applicant with a social equity plan under this section.

37 (5) The annual fee for issuance, reissuance, or renewal for any
38 license under this section must be equal to the fee established in
39 RCW 69.50.325.

40 (6) For the purposes of this section:

1 (a) "Cannabis" has the meaning provided for "marijuana" under
2 this chapter.

3 (b) "Disproportionately impacted area" means a census tract or
4 comparable geographic area that satisfies the following criteria,
5 which may be further defined in rule by the board after consultation
6 with the commission on African American affairs and other agencies,
7 commissions, and ((stakeholders)) advocates as determined by the
8 board:

9 (i) The area has a high poverty rate;

10 (ii) The area has a high rate of participation in income-based
11 federal or state programs;

12 (iii) The area has a high rate of unemployment; and

13 (iv) The area has a high rate of arrest, conviction, or
14 incarceration related to the sale, possession, use, cultivation,
15 manufacture, or transport of ((marijuana)) cannabis.

16 ((~~b~~)) (c) "Social equity applicant" means:

17 (i) An applicant who has at least fifty-one percent ownership and
18 control by one or more individuals who have resided for at least five
19 ((of the preceding ten)) years during 1975 through 2015 in a
20 disproportionately impacted area; ((~~e~~))

21 (ii) An applicant who has at least fifty-one percent ownership
22 and control by at least one individual who has been convicted of a
23 ((marijuana)) cannabis offense, a drug offense, or is a family member
24 of such an individual; or

25 (iii) An applicant who meets criteria defined in rule by the
26 board after consultation with the commission on African American
27 affairs and other commissions, agencies, and advocates as determined
28 by the board.

29 ((~~e~~)) (d) "Social equity goals" means:

30 (i) Increasing the number of ((marijuana)) cannabis retailer
31 licenses held by social equity applicants from disproportionately
32 impacted areas; and

33 (ii) Reducing accumulated harm suffered by individuals, families,
34 and local areas subject to severe impacts from the historical
35 application and enforcement of ((marijuana)) cannabis prohibition
36 laws.

37 ((~~d~~)) (e) "Social equity plan" means a plan that addresses at
38 least some of the elements outlined in this subsection (6) ((~~d~~)) (e),
39 along with any additional plan components or requirements approved by

1 the board following consultation with the task force created in RCW
2 69.50.336. The plan may include:

3 (i) A statement that the social equity applicant qualifies as a
4 social equity applicant and intends to own at least fifty-one percent
5 of the proposed ((~~marijuana~~)) cannabis retail business or applicants
6 representing at least fifty-one percent of the ownership of the
7 proposed business qualify as social equity applicants;

8 (ii) A description of how issuing a ((~~marijuana~~)) cannabis retail
9 license to the social equity applicant will meet social equity goals;

10 (iii) The social equity applicant's personal or family history
11 with the criminal justice system including any offenses involving
12 ((~~marijuana~~)) cannabis;

13 (iv) The composition of the workforce the social equity applicant
14 intends to hire;

15 (v) Neighborhood characteristics of the location where the social
16 equity applicant intends to operate, focusing especially on
17 disproportionately impacted areas; and

18 (vi) Business plans involving partnerships or assistance to
19 organizations or residents with connection to populations with a
20 history of high rates of enforcement of ((~~marijuana~~)) cannabis
21 prohibition.

22 **Sec. 3.** RCW 69.50.336 and 2020 c 236 s 5 are each amended to
23 read as follows:

24 (1) A legislative task force on social equity in ((~~marijuana~~))
25 cannabis is established. The purpose of the task force is to make
26 recommendations to the board including but not limited to
27 establishing a social equity program for the issuance and reissuance
28 of existing retail ((~~marijuana~~)), processor, and producer cannabis
29 licenses, and to advise the governor and the legislature on policies
30 that will facilitate development of a ((~~marijuana~~)) cannabis social
31 equity program.

32 (2) The members of the task force are as provided in this
33 subsection.

34 (a) The president of the senate shall appoint one member from
35 each of the two largest caucuses of the senate.

36 (b) The speaker of the house of representatives shall appoint one
37 member from each of the two largest caucuses of the house of
38 representatives.

1 (c) The president of the senate and the speaker of the house of
2 representatives shall jointly appoint:

3 (i) One member from each of the following:

4 (A) The commission on African American affairs;

5 (B) The commission on Hispanic affairs;

6 (C) The governor's office of Indian affairs;

7 (D) An organization representing the African American community;

8 (E) An organization representing the Latinx community;

9 (F) A labor organization involved in the (~~marijuana~~) cannabis
10 industry;

11 (G) The liquor and cannabis board;

12 (H) The department of commerce;

13 (I) The office of the attorney general; and

14 (J) The association of Washington cities;

15 (ii) Two members that currently hold a (~~marijuana~~) cannabis
16 retail license; (~~and~~)

17 (iii) Two members that currently hold a producer (~~or processor~~)
18 license (~~or both~~); and

19 (iv) Two members that currently hold a processor license.

20 (3) In addition to the members appointed to the task force under
21 subsection (2) of this section, individuals representing other
22 sectors may be invited by the chair of the task force, in
23 consultation with the other appointed members of the task force, to
24 participate in an advisory capacity in meetings of the task force.

25 (a) Individuals participating in an advisory capacity under this
26 subsection are not members of the task force, may not vote, and are
27 not subject to the appointment process established in this section.

28 (b) There is no limit to the number of individuals who may
29 participate in task force meetings in an advisory capacity under this
30 subsection.

31 (c) A majority of the task force members constitutes a quorum. If
32 a member has not been designated for a position set forth in this
33 section, that position may not be counted for the purpose of
34 determining a quorum.

35 (4) The task force shall hold its first meeting by July 1, 2020.
36 The task force shall elect a chair from among its legislative members
37 at the first meeting. The election of the chair must be by a majority
38 vote of the task force members who are present at the meeting. The
39 chair of the task force is responsible for arranging subsequent
40 meetings and developing meeting agendas.

1 (5) Staff support for the task force, including arranging the
2 first meeting of the task force and assisting the chair of the task
3 force in arranging subsequent meetings, must be provided by the
4 health equity council of the governor's interagency council on health
5 disparities. (~~If Engrossed Second Substitute House Bill No. 1783 is~~
6 ~~enacted by June 30, 2020, then~~) The responsibility for providing
7 staff support for the task force must be transferred to the office of
8 equity created (~~by Engrossed Second Substitute House Bill No. 1783~~)
9 under chapter 43.06D RCW when requested by the office of equity.

10 (6) The expenses of the task force must be paid jointly by the
11 senate and the house of representatives. Task force expenditures are
12 subject to approval by the senate facilities and operations committee
13 and the house of representatives executive rules committee, or their
14 successor committees.

15 (7) Legislative members of the task force may be reimbursed for
16 travel expenses in accordance with RCW 44.04.120. Nonlegislative
17 members are not entitled to be reimbursed for travel expenses if they
18 are elected officials or are participating on behalf of an employer,
19 governmental entity, or other organization. Any reimbursement for
20 other nonlegislative members is subject to chapter 43.03 RCW.

21 (8) The task force is a class one group under chapter 43.03 RCW.

22 (9) A public comment period must be provided at every meeting of
23 the task force.

24 (10) The task force shall submit one or more reports on
25 recommended policies that will facilitate the development of a
26 (~~marijuana~~) cannabis social equity program in Washington to the
27 governor, the board, and the appropriate committees of the
28 legislature. The task force is encouraged to submit individual
29 recommendations, as soon as possible, to facilitate the board's early
30 work to implement the recommendations. The final recommendations must
31 be submitted by (~~December 1, 2020~~) January 10, 2022. The
32 recommendations must include:

33 (a) Factors the board must consider in distributing the licenses
34 currently available from (~~marijuana~~) cannabis retailer licenses
35 that have been subject to forfeiture, revocation, or cancellation by
36 the board, or (~~marijuana~~) cannabis retailer licenses that were not
37 previously issued by the board but could have been issued without
38 exceeding the limit on the statewide number of (~~marijuana~~) cannabis
39 retailer licenses established by the board before January 1, 2020;
40 (~~and~~)

1 (b) Whether any additional (~~marijuana~~) cannabis producer,
2 processor, or retailer licenses should be issued beyond the total
3 number of (~~marijuana~~) licenses that have been issued as of June 11,
4 2020. For purposes of determining the total number of licenses issued
5 as of June 11, 2020, the total number includes licenses that have
6 been forfeited, revoked, or canceled;

7 (c) The social equity impact of altering residential cannabis
8 agriculture regulations;

9 (d) The social equity impact of shifting primary regulation of
10 cannabis production from the board to the department of agriculture,
11 including potential impacts to the employment rights of workers;

12 (e) The social equity impact of removing nonviolent cannabis-
13 related felonies and misdemeanors from obtaining a cannabis license;

14 (f) Whether to create workforce training opportunities for
15 underserved communities to increase employment opportunities in the
16 cannabis industry;

17 (g) The social equity impact of reducing or ending the funding
18 directed to the Washington state patrol drug enforcement task force
19 under RCW 69.50.540 and redirecting an equivalent amount to a
20 cannabis social equity program; and

21 (h) The social equity impact of creating new cannabis license
22 types.

23 (11) The board may adopt rules to implement the recommendations
24 of the task force. However, any recommendation to increase the number
25 of retail outlets above the current statewide limit of retail
26 outlets, established by the board before January 1, 2020, must be
27 approved by the legislature.

28 (12) For the purposes of this section, "cannabis" has the meaning
29 provided for "marijuana" under this chapter.

30 (13) This section expires June 30, (~~2022~~) 2023.

31 NEW SECTION. Sec. 4. This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of
33 the state government and its existing public institutions, and takes
34 effect immediately.

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