

PROPOSED SUBSTITUTE BILL MEMORANDUM

To: Members of the Commerce and Gaming Committee

From: Kyle Raymond, Research Analyst

Re: **Proposed Substitute HB 1443 (H-0907.2)** - Cannabis Social Equity
Sponsored by Representative Morgan

Date: February 11, 2021

A brief summary of HB 1443:

- Expands the purpose of the Task Force on Social Equity in Cannabis (Task Force) to include providing recommendations to the Liquor and Cannabis Board (LCB) on the issuance of existing cannabis producer and processor licenses.
- Modifies Task Force reporting requirements, including adding recommendation topics and extending the final report due date to January 10, 2022.
- Expands eligible applicants under the Cannabis Social Equity Technical Assistance Grant Program (Competitive Grant Program) to include all existing cannabis license holders and cannabis license applicants.
- Requires the Department of Commerce (Commerce) to create a pilot program by August 2, 2021, to provide technical assistance to current cannabis retailer licensees who meet the social equity applicant criteria.

The proposed substitute (H-0907.2) makes the following changes to HB 1443:

- Requires grant recipients of the Competitive Grant Program to demonstrate completion of their project within 12 months of receiving a grant, unless a grant recipient requests, and the Commerce approves, additional time to complete the project.
- Delays the start date of the pilot grant program to October 2, 2021.
- Allows grant recipients of the pilot grant program to request additional time beyond the 12-month project completion requirement, which is subject to approval by Commerce.
- Provides that assistance navigating the licensure process is an eligible grant activity for all cannabis licensees, rather than a specified activity limited to retailer licensees, under the Competitive Grant Program.
- Modifies a social equity applicant criterion through providing that the period of time under which an applicant must have lived in a disproportionately impacted area to be considered a social equity applicant is defined by the LCB in rule after consultation with the Commission on African American Affairs and other commissions, agencies, and advocates, rather than specifying an applicant must live in a disproportionately impacted area for at least 5 years during 1975 through 2015.
- Removes the requirement that Task Force expenses must be jointly paid by the House and Senate.

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

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

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

18 (b) Grant recipients under this subsection (2) must demonstrate
19 completion of their project within 12 months of receiving a grant,
20 unless a grant recipient requests, and the department approves,
21 additional time to complete the project.

1 (3) The department must award grants primarily based on the
2 strength of the social equity plans submitted by cannabis license
3 applicants and cannabis licensees holding a license on the effective
4 date of this section, but may also consider additional criteria if
5 deemed necessary or appropriate by the department. Technical
6 assistance activities eligible for funding (~~(under the marijuana~~
7 ~~social equity technical assistance competitive grant program)~~)
8 include, but are not limited to:

9 (a) Assistance navigating the (~~(marijuana retailer)~~) cannabis
10 licensure process;

11 (b) (~~(Marijuana business)~~) Cannabis-business specific education
12 and business plan development;

13 (c) Regulatory compliance training;

14 (d) Financial management training and assistance in seeking
15 financing; and

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

21 (~~(+3)~~) (4) The department must create a pilot program by October
22 2, 2021, to provide technical assistance to cannabis retailers
23 holding a license on the effective date of this section who meet the
24 social equity applicant criteria under RCW 69.50.335.

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

29 (b) Grant recipients under this subsection (4) must demonstrate
30 completion of their project within 12 months of receiving a grant,
31 unless a grant recipient requests, and the department approves,
32 additional time to complete the project.

33 (5) Funding for the (~~(marijuana)~~) cannabis social equity
34 technical assistance competitive grant program must be provided
35 through the dedicated marijuana account under RCW 69.50.540.
36 Additionally, the department may solicit, receive, and expend private
37 contributions to support the grant program.

38 (~~(+4)~~) (6) The department may adopt rules to implement this
39 section.

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

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

5 (1) Beginning December 1, 2020, and until July 1, ~~((2028))~~ 2029,
6 ~~((marijuana))~~ cannabis retailer licenses that have been subject to
7 forfeiture, revocation, or cancellation by the board, or
8 ~~((marijuana))~~ cannabis retailer licenses that were not previously
9 issued by the board but could have been issued without exceeding the
10 limit on the statewide number of ~~((marijuana))~~ cannabis retailer
11 licenses established before January 1, 2020, by the board, may be
12 issued or reissued to an applicant who meets the ~~((marijuana))~~
13 cannabis retailer license requirements of this chapter.

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

22 (b) Persons holding an existing ~~((marijuana))~~ cannabis retailer
23 license or title certificate for a ~~((marijuana))~~ cannabis retailer
24 business in a local jurisdiction subject to a ban or moratorium on
25 ~~((marijuana))~~ cannabis retail businesses may apply for a license
26 under this section.

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

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

32 (i) The application does not meet social equity goals or does not
33 meet social equity plan requirements; or

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

36 (4) The board may adopt rules to implement this section. Rules
37 may include strategies for receiving advice on the social equity
38 program from individuals the program is intended to benefit. Rules
39 may also require that licenses awarded under this section be

1 transferred or sold only to individuals or groups of individuals who
2 comply with the requirements for initial licensure as a social equity
3 applicant with a social equity plan under this section.

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

7 (6) For the purposes of this section:

8 (a) "Cannabis" has the meaning provided for "marijuana" under
9 this chapter.

10 (b) "Disproportionately impacted area" means a census tract or
11 comparable geographic area that satisfies the following criteria,
12 which may be further defined in rule by the board after consultation
13 with the commission on African American affairs and other agencies,
14 commissions, and ~~((stakeholders))~~ advocates as determined by the
15 board:

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

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

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

20 (iv) The area has a high rate of arrest, conviction, or
21 incarceration related to the sale, possession, use, cultivation,
22 manufacture, or transport of ~~((marijuana))~~ cannabis.

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

24 (i) An applicant who has at least fifty-one percent ownership and
25 control by one or more individuals who have resided ~~((for at least~~
26 ~~five of the preceding ten years))~~ in a disproportionately impacted
27 area for a period of time defined in rule by the board after
28 consultation with the commission on African American affairs and
29 other commissions, agencies, and advocates as determined by the
30 board; ~~((or))~~

31 (ii) An applicant who has at least fifty-one percent ownership
32 and control by at least one individual who has been convicted of a
33 ~~((marijuana))~~ cannabis offense, a drug offense, or is a family member
34 of such an individual; or

35 (iii) An applicant who meets criteria defined in rule by the
36 board after consultation with the commission on African American
37 affairs and other commissions, agencies, and advocates as determined
38 by the board.

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

1 (i) Increasing the number of ((~~marijuana~~)) cannabis retailer
2 licenses held by social equity applicants from disproportionately
3 impacted areas; and

4 (ii) Reducing accumulated harm suffered by individuals, families,
5 and local areas subject to severe impacts from the historical
6 application and enforcement of ((~~marijuana~~)) cannabis prohibition
7 laws.

8 ((~~(d)~~)) (e) "Social equity plan" means a plan that addresses at
9 least some of the elements outlined in this subsection (6) ((~~(d)~~)) (e),
10 along with any additional plan components or requirements approved by
11 the board following consultation with the task force created in RCW
12 69.50.336. The plan may include:

13 (i) A statement that the social equity applicant qualifies as a
14 social equity applicant and intends to own at least fifty-one percent
15 of the proposed ((~~marijuana~~)) cannabis retail business or applicants
16 representing at least fifty-one percent of the ownership of the
17 proposed business qualify as social equity applicants;

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

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

23 (iv) The composition of the workforce the social equity applicant
24 intends to hire;

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

28 (vi) Business plans involving partnerships or assistance to
29 organizations or residents with connection to populations with a
30 history of high rates of enforcement of ((~~marijuana~~)) cannabis
31 prohibition.

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

34 (1) A legislative task force on social equity in ((~~marijuana~~))
35 cannabis is established. The purpose of the task force is to make
36 recommendations to the board including but not limited to
37 establishing a social equity program for the issuance and reissuance
38 of existing retail ((~~marijuana~~)), processor, and producer cannabis
39 licenses, and to advise the governor and the legislature on policies

1 that will facilitate development of a (~~marijuana~~) cannabis social
2 equity program.

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

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

7 (b) The speaker of the house of representatives shall appoint one
8 member from each of the two largest caucuses of the house of
9 representatives.

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

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

13 (A) The commission on African American affairs;

14 (B) The commission on Hispanic affairs;

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

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

17 (E) An organization representing the Latinx community;

18 (F) A labor organization involved in the (~~marijuana~~) cannabis
19 industry;

20 (G) The liquor and cannabis board;

21 (H) The department of commerce;

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

23 (J) The association of Washington cities;

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

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

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

29 (3) In addition to the members appointed to the task force under
30 subsection (2) of this section, individuals representing other
31 sectors may be invited by the chair of the task force, in
32 consultation with the other appointed members of the task force, to
33 participate in an advisory capacity in meetings of the task force.

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

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

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

5 (4) The task force shall hold its first meeting by July 1, 2020.
6 The task force shall elect a chair from among its legislative members
7 at the first meeting. The election of the chair must be by a majority
8 vote of the task force members who are present at the meeting. The
9 chair of the task force is responsible for arranging subsequent
10 meetings and developing meeting agendas.

11 (5) Staff support for the task force, including arranging the
12 first meeting of the task force and assisting the chair of the task
13 force in arranging subsequent meetings, must be provided by the
14 health equity council of the governor's interagency council on health
15 disparities. (~~(If Engrossed Second Substitute House Bill No. 1783 is~~
16 ~~enacted by June 30, 2020, then)) The responsibility for providing
17 staff support for the task force must be transferred to the office of
18 equity created (~~(by Engrossed Second Substitute House Bill No. 1783))~~
19 under chapter 43.06D RCW when requested by the office of equity.~~

20 (~~(6) ((The expenses of the task force must be paid jointly by the~~
21 ~~senate and the house of representatives. Task force expenditures are~~
22 ~~subject to approval by the senate facilities and operations committee~~
23 ~~and the house of representatives executive rules committee, or their~~
24 ~~successor committees.~~

25 ~~(7))~~ Legislative members of the task force may be reimbursed for
26 travel expenses in accordance with RCW 44.04.120. Nonlegislative
27 members are not entitled to be reimbursed for travel expenses if they
28 are elected officials or are participating on behalf of an employer,
29 governmental entity, or other organization. Any reimbursement for
30 other nonlegislative members is subject to chapter 43.03 RCW.

31 (~~(8))~~ (7) The task force is a class one group under chapter
32 43.03 RCW.

33 (~~(9))~~ (8) A public comment period must be provided at every
34 meeting of the task force.

35 (~~(10))~~ (9) The task force shall submit one or more reports on
36 recommended policies that will facilitate the development of a
37 (~~(marijuana))~~ cannabis social equity program in Washington to the
38 governor, the board, and the appropriate committees of the
39 legislature. The task force is encouraged to submit individual
40 recommendations, as soon as possible, to facilitate the board's early

1 work to implement the recommendations. The final recommendations must
2 be submitted by (~~December 1, 2020~~) January 10, 2022. The
3 recommendations must include:

4 (a) Factors the board must consider in distributing the licenses
5 currently available from (~~marijuana~~) cannabis retailer licenses
6 that have been subject to forfeiture, revocation, or cancellation by
7 the board, or (~~marijuana~~) cannabis retailer licenses that were not
8 previously issued by the board but could have been issued without
9 exceeding the limit on the statewide number of (~~marijuana~~) cannabis
10 retailer licenses established by the board before January 1, 2020;
11 (~~and~~)

12 (b) Whether any additional (~~marijuana~~) cannabis producer,
13 processor, or retailer licenses should be issued beyond the total
14 number of (~~marijuana~~) licenses that have been issued as of June 11,
15 2020. For purposes of determining the total number of licenses issued
16 as of June 11, 2020, the total number includes licenses that have
17 been forfeited, revoked, or canceled;

18 (c) The social equity impact of altering residential cannabis
19 agriculture regulations;

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

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

25 (f) Whether to create workforce training opportunities for
26 underserved communities to increase employment opportunities in the
27 cannabis industry;

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

32 (h) The social equity impact of creating new cannabis license
33 types.

34 (~~(11)~~) (10) The board may adopt rules to implement the
35 recommendations of the task force. However, any recommendation to
36 increase the number of retail outlets above the current statewide
37 limit of retail outlets, established by the board before January 1,
38 2020, must be approved by the legislature.

39 (~~(12)~~) (11) For the purposes of this section, "cannabis" has
40 the meaning provided for "marijuana" under this chapter.

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

2 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
3 preservation of the public peace, health, or safety, or support of
4 the state government and its existing public institutions, and takes
5 effect immediately.

--- **END** ---