

**WAC 314-55-570 Social equity in cannabis program.**

(1) **Definitions.**

(a) "**Disproportionately impacted area (DIA)**" means a census tract within Washington state where community members were more likely to be impacted by the war on drugs. The board will provide maps to identify disproportionately impacted areas. The maps will reflect Census tracts from different time periods to account for gentrification. These areas are determined using a standardized statistical equation to identify areas in the top 15<sup>th</sup> percentile in at least two of the following demographic indicators of populations most impacted by the war on drugs:

(i) The area has a high rate of people living under the federal poverty level;

(ii) The area has a high rate of people who did not graduate from high school;

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

(iv) The area has a high rate of people receiving public assistance.

(b) "**Family member**" means:

(i) A biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom the social equity registrant, as defined in this subsection below, stands in loco parentis (in place of the parent), is a legal guardian, or is a de facto parent, regardless of age or dependency status;

(ii) Grandchild, grandparent, parent, or sibling of a child as defined in (b)(i) of this subsection;

(iii) Spouse or domestic partner;

(iv) Any individual who regularly resides in the registrant's home or where the relationship creates an expectation that the registrant care for the person and that individual depends on the registrant for care, or that the individual care for the registrant and that the registrant depends on the individual for care.

(c) "**Household income**" means the gross income for the previous calendar year and includes the sum of the income received in the previous calendar year by all household members aged 15 years and older before taxes and deductions.

(d) "**Median household income**" means the most recent median income for households in Washington, as determined by the United States Census Bureau.

(e) "**Person**" means a real human being, distinguished from a corporation, company, or other business entity.

(f) "**Preliminary letter of approval**" means an approval letter issued to a social equity program applicant. The letter may be used for the purposes of applying for funding and/or a location, and additional information necessary for continuing with the licensing application process.

(g) "**Social equity registrant**" means a person(s) or entity that registers to be evaluated for the social equity program. Qualification is evaluated based in the registrant's application materials submitted to the social equity contactor. If a registrant is deemed qualified for the social equity program and selected to move forward, the registrant becomes a social equity applicant, as defined in this subsection.

(h) "**Social equity program applicant**" means a person(s) or entity that receives a preliminary letter of approval to apply for the social equity licensing program.

(i) "**Social equity contractor**" means a third party responsible for reviewing and scoring social equity program applications to identify which applicants qualify to apply for a social equity license.

(j) "**Social equity licensee**" means a person or entity that holds a social equity cannabis license or any person or entity who is a true party of interest in a social equity in cannabis license as described in WAC 314-55-035.

(2) **Registering for the social equity program.** A person must register through the designated portal. If two or more individuals are registering as a single applicant, only one individual may fill out the registration form on behalf of the other individuals who are applying.

(a) **Registration window.** The registration window(s) will be open for 30 calendar days. The board may reopen the registration window after conducting an evaluation that considers market demand, impacts related to license density, and availability of licenses.

(3) **Social equity application process.** After the registration window closes, the social equity contractor will

provide the registrant with directions for submitting social equity program application materials and verification documents.

(a) **Submission requirements.** Social equity program application materials must be submitted directly to the social equity contractor in the form, manner, and timeframe required by the social equity contractor. Application materials submitted after the specified timeframe will not be reviewed or scored. Registrants are responsible for ensuring the application is complete, accurate, and successfully submitted.

(4) **Qualifying for the social equity program.** To qualify for the social equity program under this chapter and RCW 69.50.335, the criteria provided in this subsection must be met. Social equity applicants with the highest scores will be prioritized by the social equity contractor to proceed with the social equity license application process. The social equity contractor will provide the board with a list of the selected registrants that may move forward in the application process as an applicant.

(a) **51 percent ownership.** An applicant must have 51% ownership and control by one or more person(s) and each person

comprising the 51% majority must meet at least two of the four qualifications below:

(i) **Qualification 1:** Currently live or previously lived in a disproportionately impacted area (DIA) in Washington state for a minimum of five years any time between 1980 and 2010. Time spent living in a DIA does not need to be consecutive.

(A) Proof of address documentation that may demonstrate currently living or having lived in a DIA, include, but are not limited to documents such as: Bank statements, lease agreements, home insurance or car policy, Federal or state tax returns that show the address for each year, utility bills, employment records, school records, voter registration. Any combination of documents may be utilized to demonstrate the qualification.

(ii) **Qualification 2:** Been arrested or convicted for a cannabis offense, or family member of the registrant has been arrested or convicted for a cannabis offense.

(A) Documentation to demonstrate the qualification may include but are not limited to documents that contain details such as the date of the arrest or conviction, the charges, and the law enforcement agency involved. Examples of documents may

include, but are not limited to the following: arrest records from the agency that made the arrest, booking reports, bail papers, police reports or police logs, court documents (e.g., arrest warrants, charging documents, or minutes from the arraignment), criminal history records, news reports to establish the event, witness testimonies, online inmate locator services for the family member, legal representation who can provide details about the arrest or conviction, court mandated community service paperwork, court mandated paperwork, or background checks. Any combination of documents may be utilized to demonstrate the qualification.

(B) Affidavits may be used as a supplemental document to demonstrate an arrest or conviction was a cannabis offense provided that the affidavit is accompanied by court records that provide evidence of an arrest or conviction for a schedule 1 drug offense. Court records include but are not limited to, arrest records, charging documents, plea agreements, court orders, or sentencing documents. The social equity contractor reserves the right to verify the authenticity and accuracy of the submitted affidavit and supporting documentation. Additional

documentation or evidence may be requested to support the claims made in the affidavit. Failure to provide truthful information or to comply with the verification request may be considered a misrepresentation of fact, under WAC 314-55-050, WAC 314-55-073, or WAC 314-55-505.

(iii) **Qualification 3:** Had a household income less than the median household income within the state of Washington as calculated by the United States Census Bureau for the previous calendar year.

(A) Proof of household income documentation include, but are not limited to, documents such as: Federal tax return, W-2 forms issued by an employer that shows annual wages and taxes withheld, 1099-NEC forms, bank statements showing consistent deposits, employer income verification letter stating your salary and terms of employment, unemployment benefits statements, court ordered agreements, annuity statements from an insurance company showing regular annuity payments, workers' compensation letter from an employer or insurance company detailing workers' compensation payments, profit or loss statements for self-employed individuals, a statement showing



business income and expenses. Any combination of documents may be utilized to demonstrate the qualification.

(iv) **Qualification 4:** Is both socially and economically disadvantaged as defined by the office of minority and women's business enterprises.

(A) Examples of documentation to demonstrate the qualification may include, but are not limited to, those identified by the office of minority and women's business enterprises for certification. Any combination of documents may be utilized to demonstrate the qualification.

(4) **Social equity contractor review.** The social equity contractor will request verifying documents to determine eligibility. The social equity contractor will determine which documentation is sufficient to demonstrate eligibility.

(a) **Who is eligible to be scored:** Scoring by the social equity contractor will be limited to each registrant who meet two out of the four required social equity program qualifications.

(b) **Scoring rubric.** The social equity contractor will prioritize social equity program registrants based on the following scoring rubric criteria:

| <b>Social Equity Application Scoring Rubric</b> |  |                          |
|---|--|--------------------------|
| <b>Category</b>                                 | <b>Eligibility Requirements</b>  | <b>Point Scale</b>       |
| 1   | Lived in a disproportionately impacted area (DIA)<br><i>1-5 years:</i><br><i>6-10 years:</i><br><i>11+ years:</i>  | 15<br>20<br>40           |
| 2   | Applicant arrested or convicted of a cannabis offense.   | 40                       |
| 2a.   | Family member arrested or convicted of a cannabis offense.   | 15                       |
| 3   | Applicant arrested or convicted of a drug-related offense.<br><i>This is for a non-cannabis drug offense.</i>  | 15                       |
| 3a.   | Family member arrested or convicted of a (non-cannabis) drug-related offense.  | 5                        |
| 4   | If you were convicted of a cannabis offense, what type of sentence did you receive?<br><i>Fine:</i><br><i>Served Probation or Home Confinement:</i><br><i>Served time in jail or prison:</i>   | 10<br>30<br>80           |
| 5   | Is your household income less than the median household income within the state of Washington as calculated by the U.S. Census Bureau?   | 15                       |
| 6   | <b>a.</b> Did you own a medical cannabis dispensary or collective garden, licensed as a business prior to July 1, 2016?<br>or<br><b>b.</b> Did you own a medical cannabis dispensary or collective garden licensed as a business in a DIA? | If a. : 10<br>If b. : 30 |
| 7   | Did you apply, qualify, and receive a score during the last Social Equity application window under HB2870 but not move forward to the application process?   | 15                       |

|                      |  |     |
|----------------------|--|-----|
|                      |  |     |
| Total Maximum Points |  | 255 |

(c) **Preliminary score.** Upon initial assessment of the social equity program application materials, the social equity contractor will provide the registrant with a preliminary score, along with a comprehensive explanation of the score detailing the points allocated for each criterion.

(i) The registrant may submit additional documentation to potentially improve the final score. Documentation must be submitted in the form and manner specified by the social equity contractor no later than 21 days after being provided the preliminary score.

(d) **Final score.** Prior to issuing the final score, the social equity contractor may adjust the registrant's preliminary score based on a review of any additional documentation provided. The social equity contractor will notify registrants and qualified social equity applicants of the final score and include a detailed explanation of the scoring decision.

(e) **Prioritization.** Qualified registrants with highest final scores will be prioritized by the social equity contractor to be included on the list of social equity applicants who are selected to apply for a social equity license.

(f) **Double-blind lottery.** If a tie should occur among qualified registrants with identical scores, a double-blind lottery will be used to prioritize the social equity applicants who may proceed with applying for a social equity license. The double-blind lottery will be conducted by a third-party contractor who is separate from the social equity contractor reviewing and scoring the application.

(g) **Conflict of interest.** It is a conflict of interest and violation of this chapter if the social equity contractor, the third-party contractor conducting the double-blind lottery, or employees of any contractor benefit from any social equity license granted under this section. Any conflicts of interest between a contractor and applicant or cannabis licensee may result in the denial of an application or a revocation of the cannabis license.

(5) **Board notification.**

(a) **Preliminary letter of approval.** Social equity applicants that are scored highest and prioritized by the social equity contractor will be processed by the board and provided with a preliminary letter of approval. Only qualified applicants who receive a preliminary letter of approval from the board may apply for a social equity license.

(b) **Withdrawal letter.** The board will issue a withdrawal letter notifying registrants that are not eligible to apply for a social equity license if:

(i) The social equity program application or additional materials are determined to be incomplete or incorrect by the social equity contractor;

(ii) The social equity program application materials are not received by the social equity contractor in a timely manner;

(iii) The social equity registrant is not qualified for the social equity program based on the determination made by the social equity contractor;

(iv) The social equity registrant is deemed qualified for the social equity program but did not score high enough to be

prioritized, based on the score provided by the social equity contractor.

(v) The social equity registrant makes a voluntary request to the board, in writing, to voluntarily withdraw the social equity program application being reviewed and scored by the social equity contractor. The voluntary withdrawal of a social equity program application does not result in a hearing right.

(6) **Social equity license application.** Once the board issues the preliminary letter of approval, selected applicants may submit social equity license application materials to the board. Qualifying as a social equity applicant does not guarantee the issuance of a social equity license.

(a) **Licensing requirements.** To qualify for a social equity license, applicants must meet the licensing requirements provided in this chapter, RCW 69.50.331, and RCW 69.50.335. If the applicant submits more than one license application to the board, the board will only review the first application submitted.

(b) **Location and financing.** There are no time restrictions for when a social equity applicant must select and secure a location and/or financing.

(c) **County threshold.** The board will establish license thresholds for each county to ensure there is an adequate amount of access to licensed sources of cannabis, cannabis concentrates, usable cannabis, and cannabis-infused products to discourage purchases from the illegal market. The Board shall conduct a license threshold determination every three years, beginning July 1, 2029. In making its determination, the Board shall consider market conditions, economic trends, demographics, and other relevant factors. County thresholds will be publicly posted and updated every three years and will be accessible to all stakeholders and the general public via the internet.

(d) **License mobility.** Effective 90 days after the license application window closes in 2025, social equity applicants, who applied under chapter 236, Laws of 2020, and are unable to secure a location in the county where the license is allocated, may locate the initial license location to any city, town, or county in the state of Washington.

(e) **Local ordinance.** The board will substantially consider an objection from an incorporated city or town, or county for a proposed location of a social equity retail license if an ordinance limiting retail outlet density is in effect in the area prior to the board receiving the license application.

(f) **License transfer and assumption.** Social equity licenses awarded under this section may not be transferred or assumed within the first year of the license being issued. Once permitted, social equity licenses may only be transferred to or assumed by person(s) who qualify for the social equity program based on the qualification requirements in place at the time of the initial licensure and for a period of at least 5 years from the date the license was initially issued.

(g) **Appeals.** A social equity registrant or applicant who has been withdrawn or denied has the right to appeal the decision, except when the applicant or registrant requests the withdrawal. The appeal must be submitted within 20 days after being notified by the board.

(7) **Title certificate holders.** A "Title Certificate Holder" means a licensee who is unable to open for business in the city



or county where the cannabis retail license is located due to a ban or moratorium.

(a) Title certificate holders may reinstate their existing cannabis license anywhere in the county where the license was originally allocated.

(b) Title certificate holders may reinstate their existing license under the social equity program, effective 90 days after the license application window closes in 2025, and may relocate the title certificate privilege for an initial license location to any city, town, or county in Washington state. To reinstate a license under the social equity program, title certificate holders must register and submit application materials to the social equity contractor for an eligibility determination. Scoring by the social equity contractor is not required as part of eligibility determination.

(i) Prior to submitting application materials to the board to reinstate the license under the social equity program, the title certificate holders must have an established business entity structure that has been approved by the board.

(ii) An application to reinstate a license and application for a social equity license must be submitted to the board.

(iii) Neither a new location for the retail license in the county or financing are required at the time of the application to reinstate an existing cannabis license.

(11) **Social equity plan reimbursement.** All cannabis licensees with an active license may submit a social equity plan, as defined in RCW 69.50.101, to the board for a one-time reimbursement that equals the cost of the licensee's annual cannabis license renewal fee one per entity. The board will reimburse the licensee no later than 30 calendar days after the social equity plan has been received and verified.

(a) Reimbursements may only be provided to licenses that are currently operational, and not in the process of assumption, acquisition, or discontinuation of business activities.

(b) Social equity applicants or those who hold a social equity license are not required to pay a license renewal fee. [Statutory Authority: RCW 69.50.335, 69.50.336, 69.50.342, and 2022 c 16. WSR 22-21-058, § 314-55-570, filed 10/12/22, effective 11/12/22.]