

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. ~~These areas are determined using a standardized statistical equation to identify areas of high unemployment, low income, and demographic indicators consistent with populations most impacted by the war on drugs, including areas with higher rates of arrest for drug charges.~~ The board will provide maps to identify disproportionately impacted areas. The maps will reflect Census 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 15th 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, applicant 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 ~~applicant's~~ home or where the relationship creates an expectation that the registrant ~~applicant~~ care for the individual ~~person~~ and that individual depends on the applicant for care, or that the individual care for the registrant ~~applicant~~ and that the registrant ~~applicant~~ depends on the individual for care.

(c) "**Household Median household income**" means the gross most recent median household income for the previous calendar year and includes within the sum state of the income received in the previous calendar year ~~Washington as calculated by all household members aged 15 years and older before taxes and deduction~~the United States Census Bureau.

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

(e) "**Median household income**" means the median income for households in Washington for the previous calendar year, as determined by the United States Census Bureau.

(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~~securing a grant from the department of commerce and/or a location, and additional information that may be necessary for continuing with other necessities to complete the licensing application process.~~

(g) "**Social equity program applicant**" means a an individual or entity person(s) that who receives a preliminary

letter of approval to apply for ~~meets the requirements of the~~
social equity licensing program.

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

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

(~~±~~j) "**Social equity registrant**" means any individual or entity that registers to be evaluated for the social equity program. Qualification is evaluated based on the registrant's application materials submitted to the social equity contractor. 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.

~~"Social equity plan" means a plan that addresses the following elements including, but not limited to:~~

~~(i) A description of how issuing a cannabis retail license to the social equity applicant will meet social equity goals as described in statute;~~

~~(ii) The social equity applicant's personal or family history with the criminal justice system, including any offenses involving cannabis; and~~

~~(iii) Business plans involving partnerships or assistance to organizations or residents with connections or contributions to populations with a history of high rates of enforcement of cannabis prohibition.~~

~~(j) "**Social equity title certificate holder**" means a cannabis retail license title certificate holder that meets the requirements of a social equity program applicant as determined by the social equity contractor, and is unable to open for business in the city or county where the cannabis retail license is located.~~

(2) **Registering for the social equity program.** Registration through a designated portal is required prior to submitting application materials to the social equity contractor. 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.

(24) **Qualifying for the social equity program**~~Social equity applicant requirements.~~

~~(a) To qualify be considered for the social equity program under this chapter and RCW 69.50.335, the criteria provided in this subsection following requirements must be met. by each applicant: Social equity applicants with the highest scores will be prioritized 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.~~

~~(ba) At least a 51 percent ownership. An applicant must have 51% ownership and control by one or more individuals. Each individual comprising the 51% majority, must meet at least two of the four qualifications below: ~~or controlling interest, in the applicant, must be held by a person, or persons, who has or have resided in Washington state for six months prior to the application date, consistent with RCW 69.50.331, and meets at least two of the following qualifications:~~~~

~~(i) **Qualification 1:** Resided in a disproportionately impacted area (DIA) ~~The social equity applicant or applicants have lived in a disproportionately impacted area 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.~~;~~ ~~or~~

(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.

(B) Affidavits may be used as a supplemental document to demonstrate the registrant meets the qualifications under (4) (a) (i) of this subsection, provided that the affidavit is accompanied by other 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.

(ii) **Qualification 2:** Been ~~The social equity applicant or a family member of the applicant has been arrested or convicted for~~ of a cannabis offense; or.

(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 ~~The social equity applicant's~~ household income ~~in the year prior to submitting the application~~ ~~was~~ less than the median household income within the state of Washington as determined ~~calculated~~ by the United States Census Bureau for the calendar year preceding the date of application.

(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.

~~(35) Registering for the social equity program Social equity application process.~~

~~(a) **Application window.**~~

~~(i) The registration board will open the application window will be open for an initial period of 30 calendar days.~~

~~(ii) At its sole discretion, the The board may reopen the registration application window:~~

~~(A) After conducting an initial evaluation that considers market demand, impacts related to license density, and availability of licenses. of applications is received and locations are still available; or~~

~~(B) If additional allotments become available after the initial application window has closed pursuant to RCW 69.50.335.~~

~~(b) **Initial application requirements.**~~

~~(i) The social equity application must be submitted electronically through the department of revenue's business licensing online application system.~~

~~(ii) The social equity applicant must apply to the department of revenue's business licensing service within the 30-day application window. All required information must be~~

~~completed on the application and payment must be submitted within the 30-day application window for the application to be accepted.~~

~~(iii) The social equity applicant, whether applying as a person, persons, or entity, may apply for a cannabis license only once during each application window described in subsection (4)(c) of this section.~~

~~(iv) An application to reinstate the license of a social equity title certificate holder will not be considered a new social equity license application. The social equity title certificate holder may submit an application for a social equity license and an application to reinstate their existing license through the social equity program.~~

~~(v) A location address is not required at the time of application.~~

~~(e6) **Social equity contractor review.** After ~~Once~~ the registration application window is closed, the social equity contractor will provide the registrant with directions for submitting social equity program application materials and~~

~~verification documents. evaluate and prioritize all applications received within the 30-day application window.~~

~~(i)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. The social equity applicant must select one county where they wish to operate their business and notify the social equity contractor of their selection in the form and manner required by the social equity contractor.~~

~~(ii) The social equity applicant must submit documentation verifying the eligibility requirements described in (c) (D) (viii) of this subsection to the social equity contractor in the form and manner required by the social equity contractor.~~

~~(iii) Examples of documentation that may verify eligibility requirements include, but are not limited to:~~

~~(A) School records, rental agreements, utility bills, mortgage statements, loan documents, bank records, or tax returns that show the applicant's address(es), or a signed declaration that includes the applicant's address(es) indicating that the applicant resided in a DIA; or~~

~~(B) The applicant's arrest or conviction records, or family member's arrest or conviction records and an affirmation of the familial relationship signed by the applicant and the family member; or~~

~~(C) The applicant's tax returns demonstrating their income for the prior year; or~~

~~(D) Any other documentation that verifies the eligibility requirements described in (c) (D) (viii) of this subsection.~~

~~(iv) If additional materials are needed, the social equity applicant will receive a letter electronically from the social equity contractor directing the applicant to submit additional application materials directly to the social equity contractor.~~

~~(v) The social equity applicant must submit complete and accurate additional application materials directly to the social equity contractor within 15 business days of the date of the~~

~~letter. It is the responsibility of the social equity applicant to comply with the application requirements in this section and ensure the application is complete, accurate, and successfully submitted to the social equity contractor.~~

~~(vi) If the application is determined to be incomplete by the social equity contractor, the social equity applicant will be provided with 14 days to submit a complete application. The social equity contractor will score the application based on the materials submitted within the time frame.~~

~~(vii) The social equity contractor will review the application materials, including the social equity plan provided by the social equity applicant to determine if the applicant meets the requirements of a social equity applicant.~~

~~(viii) After the social equity contractor determines that the requirements have been met, the social equity contractor will score social equity applications using the following scoring rubric to prioritize social equity applicants:~~

(b) **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.

(c) **Scoring rubric.** The social equity contractor will prioritize social equity program registrants based on the below scoring rubric criteria. The total score will be based on a cumulative total, adding together the highest achieved score for each of the 7 categories:

Social Equity Application Scoring Rubric		
Category	Eligibility Requirements	Point Scale
	1. Lived in a disproportionately impacted area (DIA) <u>1-5 years = 15 points</u> <u>6-10 years = 20 points</u> <u>11+ years = 40 points</u>	40
	1a. How long have you lived in a DIA? <u>5y - 10y = 20 points</u> <u>10+ years = 40 points</u>	40
	2. Convicted of a drug offense? (Self) = <u>5 points</u> <u>Convicted of a cannabis offense? (Self) = 40 points</u>	10 40
	2a. Convicted of a cannabis offense? (Self)	40
	3. Convicted of a drug offense? (Family) = <u>5 points</u> <u>Convicted of a cannabis offense? (Family) = 20 points</u>	5 20
	3a. Convicted of a cannabis offense? (Family)	5
	4. If you were convicted of a cannabis offense, what type of sentence did you receive: Fine = 10 points <u>Served probation or Confined to home = 20-30 points</u> Confined to home = 40 points Served time in jail or prison = 80 points	80
	5. Did you or your family member's incarceration keep you from getting employment?	5
	6. Did you lose your home or ability to purchase a home or rent a home as a result of your convictions or arrests?	5

Social Equity Application Scoring Rubric		
Category	Eligibility Requirements	Point Scale
	75. Is your household income less than the median household income within the state of Washington as calculated by the United States Census Bureau?	40 30
	86. Owned Did you own or operate a medical cannabis dispensary or collective garden, licensed as a business, prior to July 1, 2016 (10 points)? = 5 points or Owned Did you own and operate a medical cannabis dispensary or collective garden licensed as a business in a DIA (30 points)? = 25 points	40 30 in a DIA 25
	97. <u>Applied during the HB 2870 social equity application window, qualified as a social equity applicant, but were not eligible to be issued a license</u> Have you held or do you currently hold 51 percent majority/controlling interest of a state cannabis (marijuana) retailer license? No = 10 points Yes = 0 points	40 15
	Total Maximum Points	310 250 points

(i)d) **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 calendar days after being provided the preliminary score.

~~The social equity contractor will provide the board with a list of eligible and scored social equity applicants.~~

~~(x) Neither the social equity contractor nor its employees shall benefit from any license or licenses granted as a result of their review.~~

~~(d) (i) **Board review.** Social equity applicants that are scored highest by the social equity contractor within the county selected by the social equity applicant will be processed by the board.~~

~~(ii) **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.~~

~~In the event of a tie, the board will use a double blind lottery conducted by an independent third party to identify the application(s) that will be processed.~~

~~(f) **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.

(g) **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.

(h) **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.

(7) **Board notification.**

(ea) **Preliminary letter of approval.** Once the social equity applications that will be processed are identified as described in this section, eligible social equity applicants will be issued a preliminary letter of approval.

(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 or the social equity registrant was not selected in a lottery to determine which registrants could move forward.

(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.

~~(4) **Additional provisions.**~~

~~(a) **Time restrictions.** There are no time restrictions for a social equity applicant to select and secure a location.~~

~~(b) **Ownership changes.** Social equity applicants may not make ownership changes to an application after the application has been reviewed, scored, and prioritized by the social equity contractor.~~

~~(e8) **Social equity applicants may apply for a social equity license once per application window.** 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.

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

~~If a social equity applicant applies more than once, the board will accept only the first application.~~

(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.

~~**License mobility.** Social equity licenses that are currently designated to specific cities may be located anywhere within the county in which the city is located. However, the license may not be transferred outside of that county.~~

~~(e) **Qualifying for the social equity program will not result in or guarantee cannabis business license approval.**~~

~~Social equity applicants must meet all license qualifications in WAC 314-55-077 and this chapter to receive a license.~~

(f) **License transfer and assumption.** Licenses awarded under this section may not be transferred or assumed within the first year of the license being issued. Once permitted, licenses ~~Licenses~~ awarded under this section may only be transferred to or assumed by individuals or groups of individuals who meet the definition of a social equity program applicant for a period of five years from the date of the initial license was approved.

(g) **Appeals.** An applicant or licensee may request an administrative hearing to contest the withdrawal, denial, nonrenewal, or revocation of a license pursuant to chapter 34.05 RCW. A request for a hearing must be made in writing and received by the board no later than 20 days after the date the notification of withdrawal, denial, nonrenewal, or revocation was mailed to the applicant or licensee.

(59) ~~**Social equity title certificate holders**~~ **Title Certificate Holders**. ~~A title~~ Title certificate ~~Certificate holder~~ 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. ~~that meets the requirements of a social equity program applicant as determined~~

~~by the social equity contractor may reinstate their retail cannabis license anywhere within the county that they hold their title certificate.~~

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

(b) Title certificate holders that meet the requirements of a social equity applicant 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.

10) 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.

~~(6) **Application withdrawal.** The board will withdraw a social equity application if:~~

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

~~(b) The social equity program application materials are not timely received by the social equity contractor;~~

~~(c) The social equity applicant is not selected to continue with the licensing application process; or~~

~~(d) The social equity applicant(s) requests withdrawal of the social equity program application at any time in the application process. The social equity applicant(s) must request withdrawal in writing. The voluntary withdrawal of a social equity program application does not result in a hearing right.~~

[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.]