



Washington State Liquor and Cannabis Board

Topic: Petition for Adoption, Amendment, or Repeal of a State Administrative Rule – (WAC 314-55-570 – Social Equity in Cannabis Program)

Date: June 18, 2024

Presented by: Cassidy West, Policy & Rules Manager

Background

In May 2024, three separate petitions for adoption, amendment, or repeal of a state administrative rule were submitted to the WLCB requesting the board consider rulemaking to modify the social equity license mobility requirements in WAC 314-55-570 to allow social equity licensees, who applied under Engrossed Second Substitute House Bill (E2SSHB) 2870 (chapter 236, Laws of 2020, the same flexibility to locate their social equity retail license as social equity retail cannabis licenses to be issued under Engrossed Second Substitute Senate Bill (E2SSB) 5080 (chapter 2020, Laws of 2023). The Petitioners' requests are attached.

E2SSB 5080 amended RCW 69.50.335 to allow social equity applicant to locate their license in any city or town, or county in the state of Washington. Under the current rule requested to be amended, the license mobility requirements are more limited and reflect the requirements that were in place prior to the passage of passage of E2SSB 5080. Licenses issued under the previous legislation must locate the licensed business in the county where it was originally allocated and cannot relocate it outside of that county. Due to local zoning restrictions and bans that are in some of these counties, current license holders have had a difficult time securing a location for the retail outlet, and subsequently unable to open their retail outlet.

Petition Requests

On May 17th, 2024, Zachary Steve submitted a petition for rulemaking requesting the board consider rulemaking to amend [WAC 314-55-570\(4\)\(d\)](#) to allow all social equity license holders the flexibility to locate their license anywhere in the state of Washington (attached). On May 22nd, 2024, David Rose submitted a petition for rulemaking also requesting the rule be amended to allow additional license flexibility to current social equity license holders who have had a difficult time securing a location.

The third petition, received on May 27th, 2024, was submitted by Casey Calhoun who requested either amending WAC 314-55-570 to allow state-wide license mobility for all social equity applicants regardless of which legislation the license is used under, or to repeal the rule entirely. The Petitioner asserts that the current rules conflict with the current statute (RCW 69.50.335) that was amended by E2SSB 5080.

Summary of Relevant Legislation

SB 5052: Known as the Cannabis Patient Protection Act, enacted in 2015, regulated the medical cannabis system and integrated it with the recreational cannabis system established by Initiative I-502.

Key elements include:

1. **Regulatory Framework**: Established comprehensive regulations for medical cannabis.
2. **Licensing and Compliance**: Introduced licensing requirements for medical cannabis businesses to ensure product safety and consumer protection.
3. **Medical Endorsements**: Created a system for medical endorsements to allow recreational retailers to serve medical cannabis patients.

E2SSHB 2870: Enacted in 2020, established Washington State's Social Equity in Cannabis Task Force and the Social Equity Program to promote diversity in the cannabis industry. The bill aimed to address the disproportionate impacts of historical cannabis prohibition policies on marginalized communities.

Key elements include:

1. **Social Equity Program**: Offers cannabis licenses to applicants from communities disproportionately affected by cannabis prohibition.
2. **Task Force**: Established to make recommendations on the implementation of the social equity program.
3. **Funding and Support**: Provides grants and technical assistance to help social equity applicants navigate the licensing process and establish their businesses.

E2SSB 5080: Expands and enhances the social equity in cannabis program. The legislation, effective July 23, 2023, with certain provisions effective July 1, 2024, aims to further address historical disparities and systemic inequalities faced by communities disproportionately impacted by cannabis prohibition.

Key elements include:

1. **Expansion of Social Equity Program**: Broadens eligibility criteria for social equity applicants.
2. **License Flexibility**: Introduces greater flexibility in the location and establishment of cannabis businesses for social equity applicants.
3. **Technical Assistance Grants**: Provides grants to support social equity applicants in preparing and submitting their applications and developing sustainable business plans.
4. **Enhanced Support and Resources**: Allocates additional resources for ongoing support and training for social equity licensees.

Issue

Whether the Board should initiate the rulemaking process to consider amending or repealing [WAC 314-55-570\(4\)\(d\)](#) with regard to license mobility provision changes made in E2SSB 5080.

Analysis

When making a recommendation to the Board regarding a petition for rulemaking submitted, the Director's Office Staff considers the following factors to the extent practicable:

- LCB's statutory authority and obligations;
- Alignment with the Agency's policy goals and priorities;
- The immediacy of the safety, environmental, or security concern raised;
- Potential impact to public health outcomes;
- The potential impact on criminal activity;
- Level of public interest;
- Whether the problems or issues are already under consideration by the LCB in other rulemaking issues;
- Merits of the petition; and
- Equity impacts.

Statutory Authority

LCB has the statutory authority to consider the requested changes. Both HB 2870 and E2SSB 5080 grant the agency authority to establish rules implementing the social equity in cannabis program and these petitions relate to the design and functioning of the social equity program.

Conclusion

Rulemaking on implementing E2SSB 5080 is currently underway. The CR 101 was filed on November 8, 2023 as [WSR 23-23-062](#). Given that we are already engaged in the rulemaking process and stakeholder engagement to gather feedback about the Petitioners' requests has been planned, there is no need to conduct an analysis at this time. If accepted, the proposed change will be considered as part of our ongoing rulemaking activity.

Recommendation

For the reasons described above, Director’s Office staff recommend that consistent with RCW 34.05.330(1)(b), the Board accept the petitions for adoption, repeal or amendment of rules submitted on May 17, 22, and 28, 2024.

Board Action

After considering the information provided by the Director’s Office staff, the Board accepts/denies the petitions for rulemaking received on May 17, 22, and 28, 2024.

_____ Accept _____ Deny _____
David Postman, Chair Date

_____ Accept _____ Deny _____
Ollie Garrett, Board Member Date

_____ Accept _____ Deny _____
Jim Vollendroff, Board Member Date

Attachments:

- 1. Petition Emails and Forms.
- 2. Relevant Laws, Rules, and Legislation

Relevant Laws and Rules

Laws

[RCW 69.50.335\(1\)\(e\)](#) states that [a]t the time of licensure, all licenses issued under the social equity program under this section may be located in any city, town, or county in the state that allows cannabis retail, cannabis production, or cannabis processing business activities, as applicable, at the proposed location, regardless of:

(A) Whether a cannabis retailer license, cannabis producer license, or cannabis processor license was originally allocated to or issued in another city, town, or county; and

(B) The maximum number of retail cannabis licenses established by the board for each county under RCW [69.50.345](#).

[RCW 69.50.335\(4\)](#) states that the Board must adopt rules to implement this section.

Rules

[WAC 314-55-570\(4\)\(d\)](#) states regarding “License Mobility” that [s]ocial 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.

References

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Petitioner's Name: Zachary Steve

Name of Organization: Crystal Leaves

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2. Amend rule: WAC 314-55-570(4)(d)

I am requesting the following change: Current social equity retail license holders are not allowed to transfer their licenses to a different county than the one it was assigned in. This should be changed to allow the current social equity retail license holders the option to locate anywhere within the state of Washington. Out of the current social equity retail license holders only a few have secured locations. There is a current rule making process going on for a second round of social equity licenses. These licenses are expected to have the option to locate anywhere within the state of Washington. If the next round of social equity licensees is given this option, then WAC 314-55-570(4)(d) should be changed to allow the current round of social equity licensees to also have this option. There has been great hardship for this current round of social equity retail license holders with securing locations for a retail store in their assigned counties. Allowing the option to locate anywhere within the state of Washington for the next round of social equity licensees without granting that option for the current social equity licensees would create an advantage for the next round of social equity licensees while the current round of social equity licensees continue to struggle finding a location within their assigned county.



PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with [RCW 34.05.330](#), the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at <http://apps.leg.wa.gov/wac/default.aspx?cite=82-05>.

CONTACT INFORMATION *(please type or print)*

Petitioner's Name David Rose

Name of Organization Stateline Transport dba The Dutchie

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City Vancouver State WA Zip Code 98661

Telephone (503)516-0427 Email daverose23@gmail.com

COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: <http://www.leg.wa.gov/CodeReviser/Documents/RClis.htm>.

INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: Klickitat County

1. NEW RULE - I am requesting the agency to adopt a new rule.

The subject (or purpose) of this rule is: _____

The rule is needed because: _____

The new rule would affect the following people or groups: _____

2. AMEND RULE - I am requesting the agency to change an existing rule.

List rule number (WAC), if known: WAC 314-55-570(4)(d)

I am requesting the following change: for social equity license holders to have the option to relocate

This change is needed because: social equity license holders are struggling to find locations (see attachment)

The effect of this rule change will be: to allow social equity license holders to be able to open their stores.

The rule is not clearly or simply stated: _____

3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.

List rule number (WAC), if known: _____

(Check one or more boxes)

It does not do what it was intended to do.

It is no longer needed because: _____

It imposes unreasonable costs: _____

The agency has no authority to make this rule: _____

It is applied differently to public and private parties: _____

It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: _____

It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: _____

Other (please explain): _____

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Washington Cannabis Liquor & Cannabis Board
1025 Union Ave SE
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May 21,2024

Dear WCLB,

I am writing this letter to you in hopes to influence some changes to the current social equity program. I am a social equity license holder from the most recent round of licenses awarded. Most of the license holders from this round are unable to find locations due to local restrictions, zoning, prohibitions and moratoriums, 92% in fact. After a year in the process, these numbers are staggering.

Because of these road blocks, only 2 out of 46 licenses have locations at this time. I chose Klickitat county on my application. That county has an indefinite prohibition on any new cannabis retail stores. I have exhausted my efforts in that county and am unable to proceed any further at this time with trying to open a cannabis store in this area. I struggle today with wondering why the WCLB would be issuing licenses for counties that they know are not allowing more stores to open?

Many of the issues being faced are due to existing cannabis retail stores as well as many counties have placed prohibition on new retail stores or have reached their maximum number of retail locations allowed. Current ownership of cannabis retail licenses in Washington state is 90% white / caucasian. Please tell me where the social equity lies in the program at this time?

The main page of the WCLB states:

Cannabis Social Equity Program

The Cannabis Social Equity Program, established by Engrossed Second Substitute House Bill (E2SHB) 2870 in 2020, serves **to reduce barriers and promote equity and participation** in Washington State's adult-use cannabis market by those most adversely impacted by the War on Drugs.

In 2023, the legislature passed Senate Bill 5080, which made changes to the program and increased available retail licenses, as well as expanding the Social Equity in Cannabis program to include a limited number of producer and processor licenses.

The LCB's Social Equity Goals are to:

1. Increase the number of cannabis retailer, producer, and processor licenses held by applicants most harmed by the war on drugs; and
2. Reduce the accumulated harm suffered by individuals, families, and local areas subject to severe impacts from the historical application and enforcement of cannabis prohibition laws.

By Washington State Cannabis License Board definition, myself and 45 other recipients met all the requirements to receive the social equity retail license as we represent the most adversely affected by the war on drugs. Goal #1 states the WCLB goal is to increase the number of retailer licenses. Why does this goal not include ensuring we are able to put these licenses to use? Social equity is not just simply "awarding" these licenses. Social equity is giving us the tools, pathways and opportunities to foster economic growth and create pathways out of poverty for those of us most adversely affected by the war on drugs. After hours, weeks, and months of endless research, dead end contacts made, countless phone calls, sleepless nights and frustration beyond belief we are proposing a rule change to once again untie our hands. We are asking that the highlighted areas above, found on the WCLB website be afforded to us, as the name of the social equity program suggests.

We are asking for the following changes:

***all social equity retail licenses in Washington to be mobile ie; be able to move counties if restrictions, zoning, prohibition prohibits the licensee from successfully opening a location**

***social equity licenses be given preferential treatment and / or afforded all the amenities "grandfathered" to the existing license holders.**

If the true goal of this program is to promote social equity, then it is both a moral and practical obligation to rectify the disparities that currently exist in the cannabis retail location ownership in Washington State.

Thank you for considering these important issues. I look forward to seeing our State take meaningful action towards social equity in the cannabis industry.

Sincerely,

David Rose



PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

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CONTACT INFORMATION *(please type or print)*

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City Seattle State WA Zip Code 98126
Telephone 907-617-0673 Email caseydean003@gmail.com

COMPLETING AND SENDING PETITION FORM

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- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: <http://www.leg.wa.gov/CodeReviser/Documents/RClst.htm>.

INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: Liquor an Cannabis Board

1. NEW RULE - I am requesting the agency to adopt a new rule.

State wide cannabis license mobility for all Social Equity applicants with licenses issued between Dec 1st 2020 through July 1st 2032

The subject (or purpose) of this rule is: _____

The rule is needed because: ESSB 5080, filed May 2nd 2023, with an effective date of July 23rd 2023, expanded the Social Equity in Cannabis program, revising RCW 69.50.335 and adding the language of license mobility for all licenses issued under the Social Equity program

The new rule would affect the following people or groups: All Social Equity applicants with licenses issued between Dec 1st 2020 through July 1st 2032

2. AMEND RULE - I am requesting the agency to change an existing rule.

List rule number (WAC), if known: _____

I am requesting the following change: _____

This change is needed because: _____

The effect of this rule change will be: _____

The rule is not clearly or simply stated: _____

3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.

List rule number (WAC), if known: WAC 314-55-570 (4)(d)

(Check one or more boxes)

It does not do what it was intended to do.

Current existing law, RCW 69.50.335 (1)(e), overrules any WAC outlining license mobility structures in conflict with RCW 69.50.335 (1)(e)

It is no longer needed because: _____

It imposes unreasonable costs: _____

The agency has no authority to make this rule: Current statute in RCW 69.50.335 (1)(e) codifies the only current law on license mobility. All WACs must be in compliance with license mobility in RCW 69.50.335 (1)(e)

It is applied differently to public and private parties: _____

It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: RCW 69.50.335 (1)(e)

It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: _____

Other (please explain): WAC 314-55-570 (4)(d) is in conflict with the current law, RCW 69.50.335 (1)(e), ESSB 5080 expanded the rights of Social Equity program applicants to have full state wide license mobility. See attached

Petitioner's Name:

Casey Calhoun, Owner, Canna Craft

7357 30th AVE S.W.

Seattle, WA 98126

May 23rd, 2024

To the Honorable WSLCB Chair, David Postman,
the Honorable WSLCB Member Ollie Garrett,
the Honorable WSLCB Member Jim Vollendroff, and
the Honorable Policy and Rules Manager Cassidy West
PO Box 43080
Olympia, WA 98504

Subject: Petition for Adoption and Repeal of a State Administrative Rule

Good day to you, my name is Casey Calhoun, I am the owner of Canna Craft, a Social Equity Applicant and Stakeholder. I applied for a Social Equity Cannabis Retail License in April 2023 and I received a Preliminary Letter of Approval for a Cannabis Retailer Social Equity License in September 2023.

I am writing you today to petition for adoption and repeal of a state administrative rule, WAC 314-55-570(4)(d). This WAC is in conflict with the implementation of E2SSB 5080, specifically, the issue of license mobility within the state, that all licenses issued under the Social Equity program will have full license mobility with licenses issued between December 1st 2020 through July 1st 2032.

I have outlined my comments on license mobility below, with the current incompatibility between regulation and law, as I understand it, how it effects stakeholders, and what may to done to resolve the issue.

In regards to license mobility, an incompatibility between regulation and law currently exists in a Washington Administrative Code (WAC) that was enacted before E2SSB 5080 expanded the Social Equity Program. E2SSB 5080 passed the state legislator and is now codified in the Revised Code of Washington (RCW).

The WAC and RCW, that I believe are at odds with each other, are WAC 314-55-570 (4)(d) and RCW 69.50.335 (1)(e)(i);

*WAC 314-55-570 (4)(d) **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.*

RCW 69.50.335 (1)(e)(i) At the time of licensure, all licenses issued under the social equity program under this section may be located in any city, town, or county in the state that allows cannabis retail, cannabis production, or cannabis processing business activities, as applicable, at the proposed location, regardless of:

(A) Whether a cannabis retailer license, cannabis producer license, or cannabis processor license was originally allocated to or issued in another city, town, or county; and

(B) The maximum number of retail cannabis licenses established by the board for each county under RCW [69.50.345](#).

In my opinion, the new RCW supersedes the previous WAC, granting further opportunity, flexibility, and mobility to Social Equity Stakeholders who have yet to have their licenses issued.

I believe the clear intent of license mobility contained in E2SSB 5080 is to allow all licenses issued under the Social Equity Program full mobility within the State of Washington, contingent on local jurisdiction approval of retail, processor or producer cannabis licenses.

I also believe that the allowance for state wide license mobility contained in E2SSB 5080 and RCW 69.50.335 reflects the license mobility recommendations of the Social Equity Task Force's Final Report submitted to the WA Legislature and Governor on December 9, 2022.

The Social Equity Task Force’s Final Report recommendations to the Legislator for state wide mobility of Social Equity licenses is repeatedly and consistently published throughout their final report and can be found on pages;

- Pages 3 -4

“Recommendations to the Legislature: 4. Ensure that all licenses available for social equity retail licenses are not bound by county and can be used statewide in any county contingent on local jurisdiction approval.”

- Page 26

“ CURRENT LICENSE RECOMMENDATIONS, 3D. The Legislature should ensure that all licenses available for social equity retail licenses are not bound by county and can be used statewide in any county contingent on local jurisdiction approval.”

- Page 28

“Location Restrictions, All social equity licenses, including existing social equity licenses, should be given flexibility to locate in any jurisdiction that will permit them.”

- Page 40

“CONCLUSION, Immediately making existing licenses reserved for social equity available for use across the state contingent on local jurisdictional approval is crucial to this goal.”

I believe the clear and consistent recommendation for state wide license mobility for all licenses issued under the Social Equity Program by the Social Equity Task Force to the state legislator was heard loud and clear by the legislator and was then enacted into E2SSB 5080, now codified in RCW 69.50.335 with an effective date of July 23, 2023.

I believe the intent of the Social Equity's Final Report and E2SSB 5080 is clear, in that, "all licenses issued under the social equity program" may be located anywhere in the state regardless of whether a license was originally issued in another location and regardless of the maximum number of retail licenses established by the board for each county.

The effective date of E2SSB 5080 was implemented before any prospective Social Equity Applicants had licenses issued or had received preliminary approval. I believe the efforts and intent of the new law, E2SSB 5080, of expanding and improving the social equity program extends the ability of all social equity license recipients the right of full license mobility within the state.

Not having full license mobility within the state effects stakeholders, like myself, who have been granted preliminary letters of approval in counties where operation or opening of a retail license is prohibited and/or have permanent bans within the counties. Additionally, there are license allotments within WA counties with low populations that already contain established retail cannabis stores and the nearby populations wouldn't economically support additional retail stores to the point of viability.

Allowing full license mobility to all Social Equity applicants will allow more viability to Social Equity Stakeholders within the current well established I-502 market, as well as, fulfill the intent of license mobility by the Social Equity Task Force's Final Report and the expansion of WA State's Social Equity Program under E2SSB 5080.

To facilitate this license mobility change in the law I would like to respectively recommend that the board immediately

- Repeal WAC 314-55-570 (4)(d)
- Adopt no new rule that conflicts with the clear license mobility language of the current law contained in RCW 69.50.335(1)(e)
- Notify all Social Equity Program applicants, stakeholders, and recipients of preliminary letters of approval of their ability to move their licenses throughout the state, regardless of where the license was originally allocated and regardless of the current maximum number of retail cannabis licenses established by the board for each county.

In conclusion, there have been numerous bills expanding cannabis programs in Washington state, from the early medical days, to cannabis collectives, to recreational legalization, and now the Social Equity program. These programs change as the laws are repealed, expanded upon, and statutes are updated. Laws are different now, than then. We apply the laws that are currently in statute.

Full license mobility, for all Social Equity applicants, was the clear intent of the Social Equity Task Force's Final report.

Full license mobility for all Social Equity licenses is the clear intent of the current law contained in RCW 69.50.335.

When cannabis licensees are required to change or update their operating procedures, such as reporting requirements or labeling requirements or testing requirements due to a change in the statutes the WSLCB adheres to the new, revised, and current law and applies it to the licensees. I ask that this same adherence to the current statute be applied to license mobility.

I have attached, in hyperlinks to government websites, the [Social Equity Task Force's Final Report, E2SSB 5080](#), [WAC 314-55-570](#), and [RCW 69.50.335](#).

Thank you for your time and dedication to Washington State's Social Equity Program.

Please contact me with any questions or concerns.

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