



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.

<input checked="" type="checkbox"/> Accept <input type="checkbox"/> Deny	 David Postman, Chair	<u>6.18.2024</u> Date
<input checked="" type="checkbox"/> Accept <input type="checkbox"/> Deny	 Ollie Garrett, Board Member	<u>6.18.2024</u> Date
<input type="checkbox"/> Accept <input type="checkbox"/> Deny	<i>Not Present</i> Jim Vollendroff, Board Member	<u>6.18.2024</u> 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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