



Notice of Permanent Rules – E2SSB 5080 – Social Equity in Cannabis Program

Concise Explanatory Statement

This concise explanatory statement concerns the Washington State Liquor and Cannabis Board's (LCB) adoption of rule amendments to the social equity in cannabis program ([WAC 314-55-570](#)) pursuant to [Engrossed Second Substitute Senate Bill \(E2SSB 5080\) \(chapter 220, Laws of 2023\)](#), related to expanding and improving the Social Equity in Cannabis Program.

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. The concise explanatory statement must be provided to any person upon request, or from whom the LCB received comment.

The LCB appreciates and encourages your involvement in the rule making process. If you have questions, please e-mail at rules@lcb.wa.gov.

Background and reasons for adopting these rules:

This legislation builds upon existing efforts to address disparities and injustices caused by the war on drugs, particularly in communities disproportionately impacted by cannabis prohibition and enforcement.

The primary goal of the legislation is to further promote equity within the cannabis industry by providing increased opportunities for individuals from these affected communities to obtain a cannabis license. The legislation mandates the creation of rules that enhance the participation of social equity applicants in the legal cannabis market. It provides the Washington State Liquor and Cannabis Board (LCB or Board) with the authority to clarify eligibility criteria established in E2SSB 5080, develop a scoring system for applications, and establish procedures for the application and licensing. The legislation specifically calls for prioritizing applicants who have been disproportionately affected by the enforcement of cannabis related laws.

The scope of this rulemaking under the legislation includes expanding the eligibility criteria to encompass a broader range of individuals impacted by the war on drugs. Refining the application process to be more inclusive and accessible, and improving the verification methods for eligibility. This includes a clear framework for evaluating and scoring applications, setting requirements for ownership and control, and implementing measures to verify the eligibility of applicants. The rules also establish guidelines for using affidavits and other documentation to support claims of eligibility, ensuring that the process is both rigorous and accessible.

By leveraging statutory authority under E2SSB 5080, the LCB aims to create a more inclusive cannabis industry that reflects the diversity of Washington State and provides meaningful opportunities for those who have been most affected by past cannabis laws. This rulemaking effort seeks to expand and improve the Social Equity in Cannabis Program, ensuring it effectively addresses the economic and social disparities faced by marginalized communities.

Detailed explanation of what changes the proposed rule makes can be found with the supplemental CR-102 materials.

Rulemaking history for this adopted rule:

CR 101 – filed November 8, 2023, as [WSR #23-23-062](#)

CR 102 – filed August 6, 2024, as [WSR #24-16-130](#)

Public hearing held September 11, 2024

Supplemental CR 102 – filed October 23, 2024, as [WSR #24-21-169](#)

Public Hearing held December 4, 2024

The effective date of this amended rule is January 18, 2025.

Two public comments were submitted on the rule proposal in the time leading up to the public hearing:

1. Brett Walker, via email on November 14, 2024

Hello,

My name is Brett Walker, I was awarded a social equity license in the first round. Lewis county is my location. After a year and a half I still haven't found a viable location to open a store. I have been following the rule change proposals and the way I understand it now is that I will be able to move counties Jan 1st 2026 as long as I have a rubric score higher than the lowest score in the county I wish to move to. If that is the case I have questions, one being will I lose my grant money if I have to go this route? Two, will there be a list of all social equity scores to compare mine to so I can look for a new county? three, what if I were to choose a county where there are no social equity winners? Would I automatically be accepted there? Four, if I were to find a county and a location that fit all criteria would I be able to use my grant money before it expires on that location getting it ready for the mobility date of Jan 1 2026? I hope all of these questions will be considered and be provided with answers in the final draft of the rules as I know there are many of us having the same issues with getting a store open in our awarded counties.

Another comment I would like to add is that holding mobility until Jan 1st 2026 in my opinion is extreme. I understand the arguments for it but the social equity round one winners will be at 2.5 years of waiting at that point. We were deemed to be the most affected and by making us wait that long again we will be pushed once again to the back of the line. I have been diligently searching for a viable location in my awarded county and can prove that if necessary to no avail. My family and I were ecstatic to have won this opportunity but it has

turned from joy to despair. We are grateful for what this program aims to accomplish and that we can be a part of it. We just hope to truly be given the chance to succeed.

Thank you,
Brett Walker

LCB response: The Director of Policy and External Affairs responded to this comment via an email response on November 15, 2024, but to summarize the content of the response:

1. The LCB does not administer the grant funds and cannot address issues with grants. These issues are best addressed to the Department of Commerce.
2. The LCB plans to publicly post the lowest qualifying score for each county, so license holders who have not found a location can know what score is needed to transfer their license to that county. This information will be presented so that no private information about the score holder will be publicly available, other than the score itself. If the desired county had no social equity licensees, there would be no minimum score to beat, and the final rules would not prevent relocation to that county.
3. While recognizing the commenter's opposition to the January 2026 effective date, the scores from a previous application do not bar someone from applying again, following the qualification changes made to state law. If an individual applies during the next application window and is awarded a license, they will be able to locate the newly issued license to any city, town, or county in the state, while maintaining the ability to change the designated location of their existing social equity license which has not opened for operation effective January 2026.
4. A successful application in the next application window will not adversely impact a license that has already been awarded.

Was the comment reflected in the adopted rule? No.

2. Casey Calhoun, via email on November 21, 2024

To LCB Rules staff,

From Casey Calhoun, Owner, Canna Craft
Caseydean003@gmail.com

Subject: Verbal Comments given to the LCB Board on November 20, 2024, Support for License Mobility for all

Good morning, Chair Postman board members Garret, Volendroff and LCB staff, my name is Casey Calhoun, I am a holder of a preliminary letter of approval for a social equity license in Klickitat County.

I wanted to offer my verbal comments today on the proposed rules to implement SB 5080, specifically the issue of license mobility. I will also be submitting written comments on the same issue in greater detail.

Securing a license location continues to be a problem for many licensees and I am concerned by the proposed rules for license mobility and I'm concerned that the LCB is constructing rules that are in direct conflict with statute, in that, *RCW 69.50.335 (1)(e)(i)* statute reads that *ALL licenses issued under the social equity program under this section may be located in any city, town, or county in the state.*

The current proposed rules create two different license mobility structures that restrict mobility for the first round of applicants, which will in fact NOT allow for full state wide mobility as is the clear intent of the law, the legislative intent, the Social Equity Tasks Forces' Final report, and the majority of stakeholder feedback in the last survey.

There isn't 2870 applicants and 5080 applicants, there is only one social equity program. SB 5080 EXSPANDED the programs license mobility for all social equity applicants with no statute language for different license mobility requirements

I would request that the LCB amend the Supplemental CR 102 and re-adopt the previously license mobility language of 90 days after the next round closes, that original applicants may apply for a change in location anywhere in the state.

I understand that no matter what rule is adopted, not everyone will be pleased and I should say I could benefit from full state wide license mobility, however I am not requesting favoritism or special treatment, I am only asking that the board not adopt rules that conflict with clear current statute language.

The board has yet another complicated rule making decision but the choice is simple, choose the clear legislative intent and adopt state wide license mobility for all.

Thank you all for your time and thank you all for your commendable patience throughout this process.

Best regards,
Casey Calhoun
Caseydean003@gmail.com

LCB response: The comments are appreciated and thank you for your feedback. While recognizing the commenter's opposition to the January 2026 effective date, the scores from a previous application do not bar someone from applying again, following the qualification changes made to state law. If an individual applies during the next application window and is awarded a license, they will be able to establish the location of their new license, from the 2025 application window, immediately.

The 90-day window would not necessarily be enough time for successful applicants under the second application period to determine whether they could find a location.

Was the comment reflected in the adopted rule? No.

During the public hearing held December 4, 2024, Peter Manning provided the following testimony:

Good morning, Board chair. I'm not sure who's still in that position. Ollie Garrett or Jim Vollendroff, but good morning to the board chairs. My name is Peter Manning and president of Black excellence in Cannabis.

I would like to say that we are pleased with the rubric the way it stands. It initially was this way to begin with. You guys decided to change it for whatever reason and we pushed back on it, the community at large and you changed it back. And you know, I don't know if that considers a victory or do I consider this a stall tactic. I just, listen, I'm just, this is where I'm at. I just want equity to be equitable.

I want to having to stop coming up here to the LCB telling LCB, hey, black people need to be included in the industry. It's just crazy man. I've been doing this for almost 10 years, man. 10, 10 years. You know, it's frustrating because it's like you, if you know something's broken, you know how to fix it. And we know that the system was broken to begin with.

And you know, then you villainize the people that bring it that to a light, they become the villain of saying that there needs to be correction and that's not fair to them. You know, there's rumor has it that Peter and Mike, Black Excellence in Cannabis is somehow, is trying to commandeer 100-something licenses like really is that even doable? Let alone, we can't even open up.

And the LCB needs to kick in the gear and help out with that because they create this madness to begin with. And you know, I'd like to say also, there was a lawsuit filed, it has merit. It's picked up by a major law firm. And I look at it and just to do the discovery, it's just unbelievable. I alluded to it, but actually someone came along and did their due diligence and found out it's actually true. Whites were given preferential treatment over the black and browns when whites had no qualifications.

That's sad. And here we go. We're stuck here with no movement. And there was a lot of people that were harmed back in 2015. This agency owes a lot of explanation and they need to make up for that. There was families affected.

And it's sad that the regulatory agency that's supposed to represent the entire state of Washington and all the people overlooked the people that they most impacted and profited off of during the war on drugs. It's sad. It's sad. Thank you.

LCB Response: The LCB appreciates the testimony and supporting feedback for the rubric. The LCB is unable to respond to comments on any pending or ongoing litigation.

Was the comment reflected in the adopted rule? No.

During the public hearing held December 4, 2024, Mike Asai provided the following testimony:

Good morning, Board members Garrett and Vollendroff and community.

My name is Mike Asai with Black Excellence in Cannabis. I want to echo some things that Peter said. The rubric, I guess is what it originally should have been. So we in our

organization are happy there. But I want to touch on, and I hope Justin Nordhorn is listening and as well as a Daniel.

The certificate holders, okay, you understand. And I understand it was law in 5080. And we were working to get rid of that in law. But that is law, okay. The issue is that we're double dipping now with certificate holders. They can reinstate their license and then they can apply again. We think that's just truly unfair. They should only be able to reinstate their license because me and others as a social equity applicant, I can only apply once. But back in 2015, 2016, under Senate Bill 5052, you can apply three times. So, you know, LCB, you created this thing where, okay, we'll give you a license for social equity, which is going to apply once. We think that is just an unfair situation, unfair system that you're creating here. And we think you definitely need to look into that because it's not in law of 5080, that social equity can only, applicants can only apply once, okay. And it's showing there because you guys are allowed certificate holders to apply twice.

Now, the other thing is, the dispensary versus, just formerly own a dispensary or collective garden. We believe there's still manipulation that can be there. The intent is former dispensary owners. And, you know, I'm telling you right now, there was growers that got in under this last round. People that had a collective garden. I believe the intent is former dispensary owners. So, I'm not sure how the third party vendor's going to look at that because somebody comes in with their incorporation that had marijuana cannabis, collective garden, that could have been a grow. So, what is the process to ensure that we are prioritizing former dispensary owners, because this goes back to Senate Bill 5052, back in 2015.

That's pretty much it.

Oh, last thing. You're giving credit for those who applied for 2870, but they get across the finish line. Okay. Understood. What about those who applied in 2015, under Senate Bill 5052, that's put applications in, they had a priority one, two or three, but they did not get across the finish line. There should be some credit for that. Thank you.

LCB Response: The language about collective gardens has been in WAC 314-55-570 since it was initially written in 2022 and has not been previously identified as an area of concern. Additionally, Washington state law has never distinguished between collective gardens and dispensaries.

Regarding title certificate holders, the final rules reflect the established LCB policy on license mobility for title certificate holders, assuming they do not separately apply for social equity licenses. Title certificate holders are not prohibited from applying for a new social equity license. As social equity license applicants, they will have the same opportunity for license mobility as all social equity license applicants.

Was the comment reflected in the adopted rule? No.

Were any changes made between the proposed and final adopted rules? Yes, the below minor wording changes were made:

WAC 314-55-570 Social equity in cannabis program			
Section	Proposed Rule (CR 102)	Final Rule (CR 103)	Reason for Change
(4)(a)(i)(B)	... The social equity contractor reserves the right to verify the authenticity...	...The social equity contractor <u>may</u> verify the authenticity ...	Technical wording change without changing effect.
(4)(a)(ii)(B)			