



As we enter the 2021 Legislative Session and as the Social Equity in Cannabis Task Force continues its critical effort, the Washington CannaBusiness Association (WACA) reemphasizes its support of the important work underway to address systemic inequity in the cannabis industry and shares a number of potential pathways for the Task Force and the legislature to consider in support of its goals.

WACA members are familiar with the complexities of establishing a regulated system in Washington - from economics to enforcement and an endless array of relevant policies in between. To our knowledge, the Task Force represents the first significant effort by WSLCB and legislative leadership to acknowledge social justice issues and the ongoing inequity facing Black and Brown people in regulated cannabis. WACA supported passage of HB 2870 to create the Task Force and hopes that momentum created by this work increases as we enter the 2021 Legislative Session. In this paper, we offer ideas based on our members' experience in Washington State and our committed ongoing work with the WSLCB and all stakeholders to help inform, improve, and strengthen the regulated cannabis industry in Washington and in particular, the inclusion of Black and Brown license-holders throughout the state.

The fact that systemic racism in public policymaking has gone unaddressed is evident across all aspects of our society. Identifying and eliminating inequity where it exists in public policy is late to occur, and new awareness of the unintended consequences of not explicitly prioritizing anti-racist policies is not an excuse for further delay. This is true of cannabis in Washington. The establishment of a fully regulated cannabis industry in Washington has been a bumpy road, whether it is in the rulemaking for the initial licensing process or broader and ongoing policymaking. The structure outlined in Initiative 502 to prevent a flood of cannabis businesses may have been well-intentioned, but the multiple rounds of allocation – from a lottery, to a prioritization method for existing medical cannabis businesses, including a market study indicating how many licenses were appropriate for Washington – strained a new system that did not take social inequity into account.

Over the last six years, WACA has advanced a variety of policy changes to Initiative 502 (I-502) to ensure that the regulatory environment is more reasonable for license holders. The complexities of the nascent industry, coupled with exorbitant costs, federal prohibition, and robust regulatory structures have made this a difficult industry in which to survive, let alone succeed. Many of WACA's Legislative Agendas dating back to 2015 can be [found here](#). A sample of policies that have not received much attention includes:

- 2015: HB 2136 corrected unfair triple taxation of cannabis licenses (originally introduced as WACA request SB 6062). The bill fixed the tax rate from Initiative 502 which levied a 25% tax on each producer, processor and retailer ultimately resulting in businesses being taxed

three times in a compounding manner. The final bill collapsed the tax to the current single, point of sale tax.

- 2015: SB 5051 (became a component of HB 2136) created a Transporter license allowing transportation of product to be conducted by third party common carrier.
- 2016: HB 2584 instituted new protections to support the safety and privacy of individuals applying for or holding an I-502 license issued by the Liquor and Cannabis Board.
- 2016: SB 6341 supported increased education about cannabis products between producers, processors, retailers, and consumers by allowing vendor days.
- 2018: HB 2474 removed the onerous requirement that the UBI number of the producer/processor be listed on every cannabis product label.
- 2019: ESSB 5318 addressed the unfair and aggressive manner in which WSLCB enforcement treated cannabis licensees.
- 2019: HB 1792 reduced penalties for retail store employees who inadvertently sell to a minor from a felony to a misdemeanor.

WACA is democratically-run. Each member business, regardless of size, ownership makeup, revenues, or location, represents one vote in determination of our legislative and regulatory priorities. The work of WACA over the years has been identified by members as necessary to upholding a new viable legal marketplace for cannabis that would be subject to significant taxation and regulation and that also reflects public expectations when I-502 was adopted into law. The intent of our work with lawmakers on behalf of our members is to support policies that will help reduce the size of the illicit marketplace by standing up a strong, viable, fully-regulated market. Our focus has been on product safety, taxation, enforcement, and a vibrant cannabis industry. Our efforts extend to Washington, D.C., where our advocacy and collaboration with a western states coalition of cannabis businesses as well as federal advocates at ATACH has placed the SAFE Banking Act in the spotlight where it is gaining momentum in Congress. Separate from the policy space, WACA established a Medical Access Fund (501c3) to help patients access products they need.

While we know our advocacy in the regulatory and legislative arenas was earnest and productive, we acknowledge there is much more to do in establishing a strong, viable, regulated market that is also equitable. We will move forward committed to using our experience and influence to improve what is still broken as part of the system in Washington State. What we offer for consideration aligns with our values as an organization and with our priorities for the cannabis marketplace in Washington.

Below are potential policy changes that may help to address inequity and systemic racism in cannabis.

- There are a host of opportunities specific to all license types. There should be licenses issued – including producer, processor, *and* retail licenses - with the goal of creating a more diverse and equitable industry. The number of licenses, who is awarded them, and the location, should be issued within context and understanding of what current license holders must commit to in order to operate. Furthermore, the establishment of the Task Force included

direction for the distribution of *unused* licenses. Remaining barriers to the allocation of existing, unused licenses should be identified and addressed immediately.

- Create a tax credit for licenses issued through social equity program.
- Utilize a portion of the excise tax revenues to create a fund dedicated to providing financial assistance to businesses who received a license through the equity program.
- Include social justice/equity criteria for all future policies.
- Bring Washington in line with almost every other regulated cannabis state and allow out-of-state capital for additional streams of revenue/funding given potentially “tapped out” in-state sources. Under current restrictions, unless an owner has access to considerable wealth, the startup and ongoing costs are often out of reach. A portion of out-of-state capital could be used to establish a fund to support business development for new entrants to the market as part of social equity efforts.
- Continue to uphold and implement all reform elements of WACA-driven ESSB 5318 which overhauled the WSLCB enforcement regime in 2019.
- Remove non-violent cannabis-related felonies/misdemeanors as a preclusion from obtaining a license.
- Invest in workforce training opportunities for underserved communities to increase employment opportunities in the cannabis industry.
- Authorize consumption lounges and the appropriate licenses for such through the Social Equity program.

Any public policy affecting cannabis in Washington will need to consider many factors, including:

- The cannabis industry faces a 37% excise tax that is highest in the country for our industry. This tax is felt at all points along the supply chain as the amount of tax places pressure on pricing from the producer to the retailer.
- Economic realities resulting from not being recognized by the federal government; standard incentives, tax write-offs from the IRS (280-e) and/or access to COVID-19 relief funds, traditional banking services, etc. These extraordinary financial burdens wreak havoc on cannabis start-ups and long-time license-holders alike.
- Bans/Moratoria still exist in many jurisdictions, creating significant barriers to finding locations to build a business.
- Local zoning rules make the availability of compliant locations very limited.

We submit this paper in good faith, with optimism for the work ahead, encouraged by the commitment, and humbled by what remains to be done. We are listening. We are working to understand what we don't yet know and endeavor to be a partner in this work. We remain open to collaboration and working with all to move this industry and our state forward.