



Boston City Council

Committee on Jobs, Wages & Workforce Development
Frank Baker, *Chair*

Report of Committee Chair

December 12, 2016

Dear Councilors:

The Boston City Council's Committee on Jobs, Wages & Workforce Development was referred the following:

Docket # 1206 Order for a hearing to discuss strategies for ensuring equity in marijuana licensing.

This matter was sponsored by Boston City Councilor Ayanna Pressley and referred to the Committee on September 14, 2016. The Committee on Jobs, Wages, and Workforce Development held a public hearing on October 24, 2016, and a working session was held on December 6, 2016.

During the hearing and subsequent working session, the Committee heard specific recommendations from a wide range of local and national policy leaders, cannabis industry business representatives, patient advocates, and community stakeholders.

The attached special report of the Committee summarizes the recommendations for developing an equitable recreational marijuana licensing system in the Commonwealth of Massachusetts.

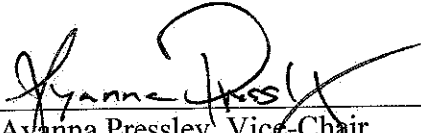
Committee Chair Recommended Action

As Chair and Vice-Chair of the Committee on Jobs, Wages & Workforce Development, we ask the City Clerk to submit a copy of the attached report to Mayor Martin Walsh, Governor Charlie Baker, State Treasurer Deborah Goldberg, Senate President Stanley Rosenberg, Speaker of the House Robert DeLeo, and the Massachusetts Black and Latino Legislative Caucus, and that a copy of it be **PLACED ON FILE.**



Frank Baker, Chair

Jobs, Wages & Workforce Development



Ayanna Pressley, Vice-Chair

Jobs, Wages & Workforce Development

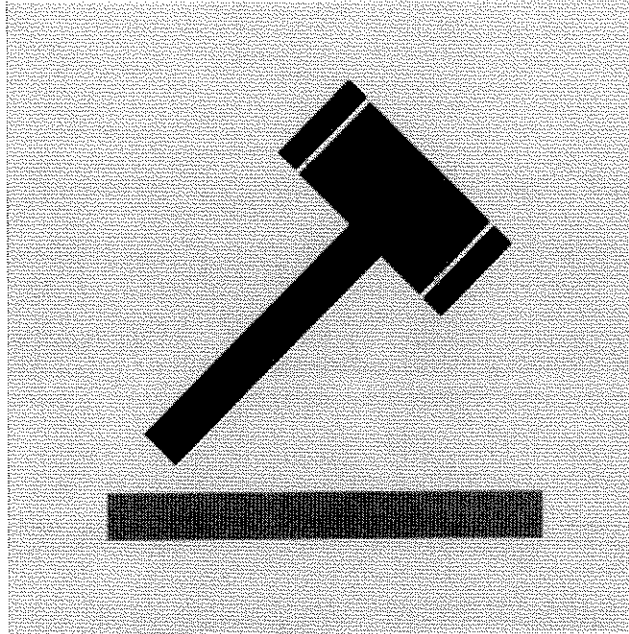
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BOSTON, MA

Boston City Council Committee on Jobs, Wages, and Workforce Development

Recommendations for Ensuring Racial Equity in Marijuana Licensing



Report to the Members of the Boston City Council, Mayor Walsh, Governor Charlie Baker, State Treasurer Deborah Goldberg, Senate President Stanley Rosenberg, Speaker of the House Robert DeLeo, and the Massachusetts Black and Latino Legislative Caucus

December 14, 2016

Presented for the Committee by Councilor Ayanna Pressley, Vice-Chair

CONTEXT

On November 8th, 2016 Ballot Question 4: “An Initiative Petition for A Law Relative to the Regulation and Taxation of Marijuana” was passed by voters in Massachusetts 54% to 46%. This law directs the State Treasurer’s Office to establish a Cannabis Control Commission to oversee the licensing of all recreational marijuana businesses, and includes a provision - the first of its kind in the nation – requiring the Commission to develop “procedures and policies to promote and encourage full participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities.”

While there is no publicly available data on diversity in retail and dispensary ownership and workforce nationally, extensive interviews conducted by BuzzFeed reporter Amanda Chicago Lewis, paints the grim picture that of the 25 states that have legalized recreational or medical marijuana, fewer than one percent of licensed dispensaries and retail stores are owned and operated by people of color.¹

This year, Massachusetts and California became the first states to pass legalization laws that prevent those with low-level drug offenses from being prohibited from job and ownership opportunities in this emerging industry.² This is a critical first-step to righting the wrongs of the failed War on Drugs that disproportionately impacts people of color and low-income individuals.

Yet no state has passed and successfully implemented laws or regulations to ensure racial equity in workforce and enterprise opportunities in the marijuana industry. Massachusetts is once again poised to be a leader.

As such, the Boston City Council Committee on Jobs, Wages, and Workforce Development convened one public hearing on October 24th, 2016 and one public Working Session on December 6th, 2016, to gather recommendations to ensure racial equity in marijuana licensing. These matters were sponsored by Councilor At-Large Ayanna Pressley, founder and Chair of the Committee on Healthy Women, Families, and Communities, and Vice-Chair of the Committee on Jobs, Wages, and Workforce Development.

¹ Lewis, Amanda Chicago, March 2016. “How Black People Are Being Shut Out of America’s Weed Boom: Whitewashing the Green Rush. BuzzFeed. https://www.buzzfeed.com/amandachicagolewis/americas-white-only-weed-boom?utm_term=.qk76A5pQr#.xmllkjDo6

² Massachusetts Question 4 language as passed: (4) an individual who will be a controlling person of the proposed marijuana establishment has not been convicted of a felony or convicted of an offense in another state that would be a felony in the commonwealth, ***except a prior conviction solely for a marijuana offense or solely for a violation of section 34 of chapter 94C of the General Laws, unless the offense involved distribution of a controlled substance, including marijuana, to a minor.*** (bold and italics added)

WHY DOES EQUITY MATTER?

The recreational marijuana industry is a billion-dollar industry. In 2015, in Denver, Colorado alone, there was nearly \$30 million in marijuana revenue³ and 460 distinct marijuana businesses.⁴ Wanda James, President of Cannabis Global Initiative, Denver, CO testified that these businesses directly employ 25,000 people daily, and tourism has increased by 40%; yet, there are only two African American owners who oversee three sites.

In addition, while Massachusetts decriminalized the use of marijuana in 2008 and legalized medical use of marijuana in 2012, racial disparities in enforcement still persist, and in some cases, are increasing. As cited by the ACLU of Massachusetts⁵, the disparity in marijuana possession arrest rates by race increased five years after decriminalization, even though Black and white people sell and use marijuana at similar rates. In some communities in the Commonwealth, the disparity has doubled. Lifetime barriers are begin at the moment of arrest, when a criminal record is created. Criminal records affect access to employment, housing, and some educational loans.

Finally, in Boston specifically, we have growing income inequality, which exacerbates financial barriers to participation in this industry. The 2015 Federal Reserve Report “The Color of Wealth in Boston” revealed the following disparities by race for families in Boston⁶:

- Percent of Families with Savings accounts: White 73.7%, Black 55.1%
- Percent of Families Owning Stocks: White 39.5%, Black 9.6%
- Percent of Families Who Own Homes: 79.1% White, Black 33.8%
- Median Liquid Assets: White \$25,000, Black \$700

As with any industry, we must be intentional about developing policies and procedures that ensure everyone has an equitable opportunity to contribute and participate. State and City leaders must consider emerging trends but also past housing, job, community development, banking, and education policies that have led to systemic disenfranchisement of people of color and contribute to access barriers today.

³ <https://www.denvergov.org/content/denvergov/en/denver-marijuana-information/statistics/revenue-and-sales.html>

⁴ <https://www.denvergov.org/content/denvergov/en/denver-marijuana-information/statistics/licensing-and-locations.html>

⁵ ACLU of Massachusetts, October 2016. The War on Marijuana in Black and White: A Massachusetts Update. <https://aclum.org/wp-content/uploads/2016/10/TR-Report-10-2016-FINAL-with-cover.pdf>

⁶ The Federal Reserve, March 2015. The Color of Wealth in Boston.

RECOMMENDATIONS

This report outlines some of the recommendations made by local and national experts, as well as community advocates and stakeholders (See Appendix A for Panelist list). This is an emerging industry and the use of the term ‘expert’ should be defined broadly. The panelists and community residents should continue to be actively engaged as policies and procedures are developed. This is by no means an exhaustive list, and it is critical that we work intentionally to expand and grow the list of experts and community residents involved.

These recommendations are being provided to support the Governor, State Treasurer’s Office, State Legislature, Massachusetts Black and Latino Legislative Caucus, as well as the Boston City Council, Boston Planning and Development Agency, Zoning Board of Appeals, and Office of Economic Development as they develop marijuana licensing policies and procedures. The recommendations should be utilized in conjunction with ongoing publicly-sponsored and community-based meetings, as well as individual and small-group engagement with all relevant stakeholders.

Implementing these recommendations is just a first-step toward ensuring the income and wealth building promise of this emerging billion-dollar industry are equitably realized by all, particularly those systematically targeted and harmed by prohibition and the War on Drugs.

Through intentional government and community collaboration, we can make it clear that the Commonwealth of Massachusetts and the City of Boston foster rich, diverse business environments open and available to all.

Recommendations for the Treasurer’s Office and Cannabis Control Commission (CCC)

- Recruitment for the CCC should be promoted broadly as this is an emerging industry and ‘experts’ are hard to define.
- At least 1 member should be a person of color from an impacted community with deep experience, relationships, and understanding of impacted communities. The definition of ‘from the community’ can include geographically, returning citizen, and recognizable community leadership.
- All members of the Commission should be committed to the regulatory process and implementing the law in a timely manner per the will of the people.
- All members of the Commission should be accountable for inclusion and equity.
- The Commission should develop clear and transparent procedures for collecting demographic data for all applicants and develop a tracking and public reporting system that at minimum:
 - Collects and tracks applicants by race, gender, city/town of applicant and outcome for every job type.
 - Collects and tracks gender and race data of the employees of all license holders.

- Requests voluntary submission of demographic data by ancillary companies.
- The Commission should develop an application point system that incentivizes diversity (see Appendix B provided by Dr. G. Malik Burnett) such as:
 - Points for diversity in ownership structure.
 - Points for diversity hiring plans, including plans to recruit and hire from within communities disproportionately affected by the War on Drugs (required by law).
- Develop an equity impact analysis - or require applicants to include an equity impact analysis in their application - that will evaluate the potential impact the applicant's business will have on communities disproportionately impacted by marijuana prohibition and the War on Drugs.
- Conduct application information meetings in neighborhoods and communities, with additional resources and time dedicated to communities disproportionately impacted by the War on Drugs.
- Criminal records should not be a barrier to business ownership or employment.
- Convene a working group to develop equity-based policies and procedures for license allocation to ensure racial and gender equity but also support for local and small business enterprises. This working group should consider ways to ensure that ownership be at parity with demographics of the State, as well as towns/cities.
- Convene a working group to address financial barriers to access, including application fees, simplification of application process, access to capital, credit scores.
- As the Commission creates guidelines, protocols, and penalties for retail shops, (e.g. serving minors), the system should be identical to the rules/penalties for liquor stores and bars.
- Develop procedures to ensure equitable distribution of licenses across the Commonwealth.

Recommendations for the Governor and State Legislature

- Develop programs to ensure racial and gender equity in ancillary businesses providing services to dispensaries, including but not limited to lawyers, data tracking software companies, and communication firms.
- Develop/fund police training programs on implicit racial bias, implementation of the new law, and reducing the criminalization of marijuana use.
- Develop programs to reduce financial barriers to entry such as access to capital, tax exempt bonds, and credit scores.
- Develop/fund reentry programs for people transitioning out of prison and develop ways for these individuals to be connected with employers in the marijuana industry.
- Develop/fund workforce development and job placement programs.
- Pass a law and/or develop/fund programs to expunge records for prior marijuana-related convictions.

- Develop/fund community programs to bring illegal market participants into the legal market.
- Dedicate funds and/or partner with colleges and universities to conduct research and training programs.

Recommendations for the City of Boston

- Develop/fund police training programs on implicit racial bias, implementation of the new law, and reducing the criminalization of marijuana use.
- Ensure that the Boston Police Department follows the will of the voters – no arrests for adult recreational use, and other marijuana-related crimes should be lowest priority, and discretion and diversion should be used when working with youth.
- If the City of Boston passes a 2% local tax on cannabis, as allowed for under the law, earmark revenue to job training programs both specific to the marijuana industry and in general, as well as to the construction of community-based assets in communities most impacted by marijuana prohibition and the War on Drugs.
- Develop a Zoning Code working group to identify opportunities to support equity and make recommendations about City policies and procedures that:
 - Ensure full local control;
 - Ensure equitable distribution of licenses and access across the City;
 - Consider how restrictions impact access for business owners and consumers;
 - Develop a robust community process;
 - Explore the creation of economic impact zones;
 - Allocate a percentage of licenses to communities and groups disproportionately impacted by the War on Drugs; and
 - Consider whether residency requirements are helpful to increasing racial equity.

Appendix A. Panelist List (from Oct 24th hearing and Dec 6th working session)

- Matt Allen, MS, Director, Field Department, ACLU of Massachusetts
- Dr. G. Malik Burnett MD, MBA, MPH, Johns Hopkins School of Public Health, Washington DC
- Gabriella Cartagena, UMass Boston Student, BPS graduate, member of Cannabis Cultural Association, and co-Founder of Weed Talk
- Adler Eliacin, Bay State Holistic, a certified Massachusetts MBE
- Sonia Espinosa, Co-Founder, Cannabis Cultural Association, Massachusetts
- Adam Fine, Attorney, Vicente Sederberg
- Rahsaan Hall, Esq., Director of Racial Justice Program, ACLU of Massachusetts
- Wanda James, President, Cannabis Global Initiative, Denver, CO
- Kamani Jefferson, Cannabis Cultural Association
- Marcus Johnson-Smith, co-Founder Kush Groove
- Alex Kreit, Visiting Professor, Boston College Law School
- Jaime Lewis, Mountain Medicine, Colorado/Boston
- Michael Latulippe, Development Director, Massachusetts Patient Advocacy Alliance
- Shanel Lindsay, President, Ardent Cannabis
- Will Luzier, Campaign Manager, Yes on 4
- Kiara Mark, fellow, Boston Ujima Project, Frohighness (social media education)
- Nichole Snow, Executive Director, Massachusetts Patient Advocacy Alliance
- Shaleen Title, Founding Board Member, Minority Cannabis Business Association
- Jeremy Thompson, Haley House
- Various community residents and activists

Appendix B. Sample Local Support Scoring System Rubric for Greater Diversity and Inclusion - Developed by Dr. G. Malik Burnett MD, MBA, MPH, Johns Hopkins School of Public Health, Washington DC

The Commission shall establish an application process for granting medical marijuana growers licenses in which applications are reviewed, evaluated, and ranked based on the following weighted criteria:

- (1) Operational factors will be afforded **40 percent** weight, including:*
 - (a) A detailed operational plan highlighting demonstrated experience on the applicant's executive management team in the cultivation of commercial medical cannabis; and **(15 points)***
 - (b) Summaries of policies and procedures for: **(10 points)***
 - (i) Cultivation;*
 - (ii) Growth;*
 - (iii) Processing; and*
 - (iv) Packaging;*
 - (c) A list of proposed medical cannabis varieties proposed to be grown with proposed cannabinoid profiles, including: **(10 points)***
 - (i) Varieties with high cannabidiol content; and*
 - (d) A detailed plan evidencing how the grower will distribute to dispensaries and processors; and, **(5 points)***
- (2) Racial and Ethnic Diversity Factors will be afforded **20 percent** weight, including:*
 - (a) A business with greater than 51% ownership comprised of individuals from populations most negatively impacted by the historical criminal penalties associated with cannabis prohibition **(10 points)***
 - (b) A business with 40% or greater ownership comprised of individuals from populations most negatively impacted by the historical criminal penalties associated with cannabis prohibition **(5 points)***
 - (c) A business with 30% or greater ownership comprised of individuals from populations most negatively impacted by the historical criminal penalties associated with cannabis prohibition **(5 points)***
- (3) Business and economic factors will be afforded **15 percent** weight, including:*
 - (a) A business plan demonstrating a likelihood of success, a sufficient business ability and experience on the part of the applicant, and providing for appropriate employee working conditions, benefits and training; **(5 points)***
 - (b) A detailed human resources plan evidencing how the applicant will ensure racial and ethnic diversity in one third of the company's hiring, promotion and subcontracting of services **(5 points)***
 - (c) Demonstration of adequate capitalization; **(2.5 points)***
 - (d) A detailed plan evidencing how the grower will enforce the alcohol and drug free workplace policy. **(2.5 points)***
- (4) Safety and Security factors will be afforded **15 percent** weight, including:*
 - (a) A detailed plan or information describing the security features and procedures; **(5 points)***

- (b) A detailed plan describing how the grower will prevent diversion; (5 points)*
- (c) A detailed medical cannabis waste disposal plan; (1.5 points)*
- (d) Detailed plan describing safety procedures; (1.5 points)*
- (e) A detailed inventory control plan; and (1 point)*
- (f) A detailed quality control plan; (1 point)*
- (5) Additional factors that will be afforded 10 percent weight, including:*
 - (a) Demonstrated Maryland residency among the owners and investors; (5 points)*
 - (b) Evidence that applicant is not in arrears regarding any tax obligation in Maryland and other jurisdictions; (5 points)*