

Kreye, Joseph

From: Hanaman, Cathlene
Sent: Thursday, March 21, 2019 9:38 AM
To: Kreye, Joseph
Subject: FW: Labor provisions & licensure process for AB-482
Attachments: Labor peace agreements & merit-based licensure process.pdf

From: Hanaman, Cathlene
Sent: Wednesday, March 13, 2019 5:18 PM
To: Kreye, Joseph <Joseph.Kreye@legis.wisconsin.gov>
Subject: FW: Labor provisions & licensure process for AB-482

Should this go in the licensing stuff?

From: Bagley, McKenzie <McKenzie.Bagley@legis.wisconsin.gov>
Sent: Wednesday, March 13, 2019 5:15 PM
To: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Subject: Labor provisions & licensure process for AB-482

Hi Cathlene,

Apologies to throw another request in your direction, but Rep. Sargent would like to add provisions to AB-482 regarding labor peace agreements, and a merit based licensure process that includes prioritizing licenses based on: labor standards, responsible business practices, consideration of environmental impact, and diversity goals.

Attached is a document from the UFCW that has suggestions and sample language that we were in agreeance with. We are happy to change things in accordance with what you think works best for the bill, and how the licensure process is currently set up within it.

Best,
McKenzie

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Wisconsin Marijuana Proposals – UFCW

Since a new marijuana industry will create many jobs and generate substantial revenue, it is imperative that, at the outset, the state sets a high bar for employers to ensure the jobs that are created are good for Wisconsin and its residents. That means the jobs should pay a living wage, provide health insurance for families, ensure stability and a career trajectory for workers, and be in safe, state of the art facilities.

LICENSE APPLICATION

Suggestions:

- *Requiring all licensees to be parties to labor peace agreements with bona fide labor unions to prevent labor strife in the industry and ensure stable jobs.*
- *Adding a merit-based point system for evaluating applications for all types of licenses that takes into account the impact each prospective business would have on the state. Specific criteria include history of regulatory compliance, labor standards, environmental practices, diversity, and community engagement.*

Explanation: The only way to ensure that the industry operates under labor-friendly standards from the onset is by requiring labor peace. Collective bargaining agreements ensure that workers have an independent voice and can speak out about any compliance concerns without fear of retaliation. Workers on the front line are often the first to note health, safety, and environmental problems. When they can speak out without the fear of retaliation, workers help with compliance efforts. Thus, such policies benefit workers, consumers, and regulators.

The UFCW believes that by implementing an application process that awards points to prospective licensees based on merit, Wisconsin will be able to more easily identify responsible operators who will adhere to the most progressive labor, workplace, and environmental standards. Further, it will encourage applicants to commit to these best practices.

Stronger wages and benefits will guarantee that cannabis industry jobs support, rather than exhaust, Wisconsin's social safety net, and that these jobs can sustain families long-term. This will also reduce turnover, thereby ensuring that skills which are learned in the industry legally are not exploited to support the unlawful production of marijuana in the state.

Evidence: Other states that require Labor Peace include: California¹ and New York.² The use of merit-based scoring rubrics to determine licensing is common practice. Selected examples of

¹ For medical, see: California BPC § 19322(6)(a) <http://codes.findlaw.com/ca/business-and-professions-code/bpc-sect-19322.html>. For recreational, see: CA 2017 SB 94 (signed 6/27/2017) § 35(5)(A) https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB94.

² New York 2013 A 6357 (signed 7/5/2014) § 3365(1)(a)(iii) <http://assembly.state.ny.us/leg/?bn=A06357E&term=2013&Summary=Y&Actions=Y&Votes=Y&Memo=Y&Text=Y>.

other states that have utilized scoring systems include: Washington,³ Minnesota,⁴ and Pennsylvania.⁵

Suggested labor peace language:

Definition: "Labor peace agreement" means an agreement between an entity and a labor organization that, at a minimum, protects the State's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts and any other economic interference with the licensed organization's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment.

Qualification for licensure: For an applicant with [xx] or more employees, the applicant shall attest that the applicant has entered into a labor peace agreement and will abide by the terms of the agreement. The applicant shall submit a copy of the page of the labor peace agreement that contains the signatures of the union representative and the applicant. Maintaining a labor peace agreement shall be an ongoing material condition of a marijuana business license.

Suggested point system criteria:

1.1 **Review Criteria.** The Department shall utilize the following to review applications for a registration certificate to operate a cannabis establishment as part of a competitive scoring process.

1.1.1 To receive a permit for growing, processing, or dispensing marijuana, the applicant must satisfy the Department that it will follow best practices for community engagement, consumer protection, food safety, worker safety, family supporting jobs, diversity, public safety, and environmental stewardship.

1.1.2 The Department shall rank all applications according to a point system established by the Department. All applications will be ranked from the most to the least points. If two or more eligible applicants have the same number of points, those applicants shall be grouped together and, if there are more eligible applicants in this group than the remaining number of available permits, the Department shall utilize a public lottery to determine which applicant(s) receive a registration(s).

1.1.3 In ranking applications, the Department shall give priority to the following.

³ Washington Uniform Controlled Substances Act § 69.50.345 <http://app.leg.wa.gov/RCW/default.aspx?cite=69.50.345>

⁴ Minnesota 2014 SF 2470 (signed 5/29/2014) § 5 (Subd.1)(c) <https://www.revisor.mn.gov/laws/?id=311&year=2014&type=0>.

⁵ See: p.8

http://www.health.pa.gov/_layouts/download.aspx?SourceUrl=http://www.health.pa.gov/My%20Health/Diseases%20and%20Conditions/M-P/MedicalMarijuana/Documents/Medical%20Marijuana%20Application_Instructions-Phase%201_b_17-Jan-17.docx

- (a) A social responsibility plan outlining diversity goals, including plans to recruit and hire people of color, women, and veterans, and to support their ownership and/or promotion within the organization, as well as the percent of employees it plans to hire from within the selected city or region of the state.
 - (1) Whether as part of the social responsibility plan, the company will publicly disclose once per year the pay ranges for all types of positions and seniority levels at the company, and will disclose the company's payroll data broken down by race, gender, and ethnicity.
- (b) An environmental and sustainability plan, including efforts it will take to minimize the carbon footprint, environmental impact, and resource needs of its facilities and other business operations, such as: plans to use renewable energy sources, minimize water usage, employ organic cultivation methods, and adopt other sustainable business practices.
- (c) A plan to provide a safe, healthy, and economically beneficial working environment for its employees, including, but not limited to:
 - (1) Whether the applicant plans to provide a living wage (at least two hundred percent of the Federal Poverty Level for a family of two) to its employees;
 - (2) Whether the applicant will provide employer-paid health insurance to its hourly employees and their dependents;
 - (3) Whether the applicant will provide a defined benefit pension plan to its hourly employees;
 - (4) Whether the applicant will provide at least five paid sick days annually to its hourly employees;
 - (5) Whether the applicant will provide at least four weeks of paid family leave to its hourly employees;
 - (6) Whether the applicant will regularly train employees on best workplace safety practices;
 - (7) Whether the applicant will provide educational opportunities for employee development, including across job classifications.
 - (8) Whether 80% or more of the employer's workforce will be working full-time (at least 35 hours per week) for the employer.
 - (9) Whether the applicant will offer part-time workers more work hours and the opportunity to work fulltime before hiring additional workers in similar positions to work those hours.

(10) Whether the applicant will notify workers of their work schedules at least 14 days in advance. The employer will not alter a worker's scheduled work hours within 14 days of schedule unless requested or volunteered by the worker.

- 1.1.4 To ensure the state's proprietary interests are protected, the Department shall ensure that every new and renewal registration certificate is issued to operators that have labor peace agreements with a bona fide labor organization that represents or is actively seeking to represent marijuana workers in the state.
- 1.1.5 The Department may inquire into and request other documents regarding all matters relating to the registration application.
- 1.1.6 The Department may deny an application based on a low score, prior violations in this or other jurisdictions, or if it determines that the applicant or its principal officers (including management employees) have violated any local, state, or federal tax, environmental, criminal, public safety, food safety, discrimination, human rights, workplace safety, labor, employment, or other laws relevant to the operation of its business.
- 1.1.7 The Department shall issue permits to the highest scoring qualified applicants whom it determines will be upstanding members of their local communities by protecting the environment, providing stable, family-supporting jobs to local residents, ensuring patient and worker safety, operating secure facilities, and upholding the laws of the jurisdictions in which they operate.

MARKETPLACE REGULATION

Suggestion: *Allowing for vertical integration within all types of marijuana production and retail licenses, while preventing any conflicts of interest with marijuana testing facilities.*

Explanation: The UFCW believes that the most effective way to create a healthy, sustainable industry that minimizes the potential diversion of cannabis to the black market is by allowing for vertical integration. Cultivation licensees who are permitted to sell products via subsidiary wholesale or retail operations have no incentive to sell anywhere else. Similarly, retail operators who are permitted to sell products that they have cultivated and processed themselves have no incentive to sell products that have been obtained elsewhere. Further, a vertically integrated industry will allow for considerably more clarity should law enforcement suspect wrongdoing at any point along the supply chain.

Evidence: Other states that permit vertical integration include: Massachusetts,⁶ Minnesota,⁷ and Florida.⁸

⁶ Massachusetts 2017 H 3818 (signed 7/28/2017) § 41 (Sec. 16) <https://malegislature.gov/Bills/190/H3818.pdf>.

⁷ Minnesota 2014 SF 2470 (signed 5/29/2014) § 9 (Subd. 1)(a) <https://www.revisor.mn.gov/laws/?id=311&year=2014&type=0>.

⁸ Florida 2017 SB 8-A (signed 6/23/2017) § 8(5)(a) <https://www.flsenate.gov/Session/Bill/2017A/8A/BillText/er/PDF>.



Wisconsin Cannabis Industry and Workers

As states and cities across the country continue to shape the emerging cannabis industry with new legislation and ballot initiatives, it is critical that leaders build the fundamental framework needed to ensure this growing industry supports the good-paying jobs our communities need.

Key Facts on the Cannabis Industry:

- The cannabis industry employs between **125,000 to 160,000 full-time workers**.
- Market projections show **340,000 full-time cannabis jobs will be created by 2022**, reflecting an **estimated growth of 21 percent per year**.
- Current **U.S. demand for cannabis is estimated to be \$52.5 billion**.

Legalizing Cannabis in Wisconsin:

Thirty-three states and the District of Columbia have passed laws that legalize cannabis in some form. However, Wisconsin has lagged behind despite the fact that in the 2018 general election nearly a million Wisconsin voters in 16 counties and two cities answered yes on nonbinding referendums that asked if cannabis should be legal for medical or recreational use.¹

Wisconsin has the highest percentage of incarcerated African American men among all 50 states. In Milwaukee County, where the population is about 66 percent white, 25 percent black, and nine percent Latino or Hispanic, about 86 percent of the people arrested for cannabis possession were African American, nine percent were white and 4 percent were Latino or Hispanic.² Legalizing cannabis and establishing a highly regulated industry with strong standards will make communities safer and it will protect the lives of thousands Americans who would otherwise be incarcerated for drug offenses.

Labor Peace Agreements in the Cannabis Industry Benefit Everyone

Labor Peace Agreements Ensure Quality Job Creation: The cannabis industry is a job generator. Without a merit-based licensing system that scores applicants on labor standards, there's no guarantee that these jobs will be well paid, safe, and family-sustaining jobs. Providing livable wages, health insurance, retirement benefits, and paid leave in excess of minimum requirements under state law will provide stability that will lessen turnover and reduce involvement in the underground market.

Labor Peace Ensures Public Health and Product Safety: Job standards also protect the health and welfare of workers and consumers, by requiring safe working conditions. A well trained workforce will be able to produce quality products that meet product safety standards. They will make sure that the establishment and equipment used is clean and safe.

Labor Standards Address Diversity: Standards can help address the existing disparities in the market by providing equal opportunities for women, people of color, LGBTQ individuals, veterans, and people with disabilities to own businesses or work within the industry.

¹ Wisconsin State Journal, Wisconsin voters embrace pot, (11/8/2018), https://madison.com/wsj/news/local/govt-and-politics/elections/wisconsin-voters-embrace-pot-nearly-million-vote-yes-on-medical/article_d92d07eb-c6d1-5a77-b083-667e92b3b27b.html#1

² Wisconsin Justice Initiative, (4/24/2018), <https://www.wjiinc.org/blog/two-years-of-pot-arrest-data-show-heavy-racial-bias>



Unionized Cannabis: Collective bargaining agreements ensure that workers have an independent voice and can speak out about any compliance concerns without fear of retaliation. Workers on the front line are often the first to note health, safety, and environmental problems.

UFCW and the Cannabis Industry:

Nationally, the United Food and Commercial Workers (UFCW) plays an integral leadership role in the development and stabilization of the emerging cannabis sector through its Cannabis Workers Rising campaign. UFCW believes that it is essential that the cannabis industry operates under labor-friendly standards so that the health and welfare of all consumers and workers are protected. Providing stronger wages and benefits will guarantee that cannabis industry jobs support, rather than exhaust, a state's social safety net, and that these jobs can sustain families long-term. Making this industry safe and stable will also help eliminate activities from the underground market. UFCW proposes including a labor peace agreement or collective bargaining and establishing a scoring system as part of the license application process.

For more information, contact UFCW State Legislative Representative Holly Biglow at hbiglow@ufcw.org.

The UFCW is the largest private sector union in the United States, representing 1.3 million professionals and their families in grocery stores, meatpacking, food processing, retail shops and other industries. Our members help put food on our nation's tables and serve customers in all 50 states, Canada and Puerto Rico.

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