



## **Frequently Asked Questions about I-502 Licensing\***

**Topic:** Initiative 502

**Date:** Feb 19, 2013

### **Timeline**

#### **When will the WSLCB issue marijuana licenses?**

The WSLCB remains on track to begin issuing producer and processor licenses in March.

#### **Will the licenses be issued all at once?**

No. Due to the high volume of applications and the complexity of the investigative process, we will be issuing licenses as they are completed for the next several months.

#### **When does the WSLCB expect to finish issuing licenses?**

Each license application is unique and its completion date is based largely on the readiness of the individual applicant. Not every applicant is prepared to open immediately so it could take several months issue all licenses.

#### **When will recreational marijuana retail stores be open for business?**

After the WSLCB issues licenses the industry itself will dictate when stores will have product based on how long it takes someone to grow a crop, process it and move it to retail. We expect that the first retail outlets will be open for business this summer.

### **Moratoriums**

#### **Will the WSLCB issue licenses in areas with moratoriums and/or bans?**

Yes. The LCB will issue licenses to all qualified applicants regardless of local moratoria or bans.

#### **Why are you issuing licenses in areas with moratoriums and/or bans?**

There is nothing in I-502 (the law) that allows for the WSLCB to deny a license to a qualified applicant.

#### **Does my license allow me to operate in an area with a moratorium and/or ban?**

No. Like any other business, marijuana must be in compliance with local laws and regulations. A state license does not constitute permission to operate.

#### **Couldn't the WSLCB add additional criteria in rule to prevent issuing licenses in areas with bans?**

The WSLCB cannot give itself powers that are not specifically granted to it by law. Since the law does not provide them with the option of denying qualified applicants they cannot do so by rule.

## **By issuing licenses in areas with moratoriums and bans is the WSLCB challenging the recent formal opinion of the Attorney General?**

No. The non-binding AGO Opinion states that local governments and jurisdictions have the ability to regulate within their jurisdictions. However, it does not prevent the state from issuing licenses in those areas.

## **Production Reductions**

### **How many producer licenses can I have?**

Entities may possess one producer license. Those entities that have applied for more than one producer license will have the option of withdrawing their other applications or the LCB can place their application in a “hold status” for up to one year or until the Board determines more marijuana producer licenses are needed.

### **Why did the WSLCB reduce the amount of producer licenses?**

The Board closed a 30-day application window for marijuana licenses on December 20, 2013. During that period the agency received 2,858 marijuana producer applications. The plant canopy of these applications far exceeds a manageable plant canopy set by the Board in its rules. Of these applications, over 900 are for more than one marijuana producer application. The rules currently allow for up to three licenses per licensee.

In an effort to meet a manageable plant canopy for marijuana production, the Board will file an interim policy that limits any qualified entity or principals within any entity to one marijuana producer license. If any entity or principal has more than one marijuana application pending, staff will contact the applicant and offer them the option of withdrawing their additional applications for a refund or having their additional applications held up to one year or until the Board determines more marijuana producer licenses are needed.

### **What is the LCB’s authority to reduce the amount of producer licenses?**

Both I-502 and the rules allow the Board broad authority to create a controlled marketplace for the production, processing and retailing of recreational marijuana. These changes were necessary to get the market up and running. As the licensed recreational system matures and more consumers transition from the illicit or grey market, the Board has the flexibility to increase production limits.

### **Why did you reduce the amount of producer licenses?**

The LCB received an extraordinary number of license applicants to produce marijuana – over 2,800. Most of the producer applications are the largest possible grow operations. In conversations with applicants, we know that:

- Many are not ready to reach the full potential of their grows that are permissible with their license.
- Many have applied for multiple licenses but only intend to use one until they have capital to expand to the other two.

The combination of these two factors created a barrier for the WSLCB to issue licenses. In order to move forward with issuing licenses the Board needed to address those two issues. Reducing the number of producers and their capacity fairly accomplishes that.

**Can I get my application fees refunded since the WSLCB will not be issuing those licenses?**

Fees that have been paid for licenses that will not be issued will be refunded to the applicant.

**Now that the total amount of producer licenses has been reduced can I grow at the maximum of my tier?**

No. All tiers will be temporarily reduced to 70 percent of the top of their tier. The Board may increase the production to full capacity allowed within its tier once the market is established and maturing.

**What other alternatives did the Board consider?**

- **Eliminating the two million sq ft. production canopy** –The Department of Justice was clear in its August memo that for states to be allowed to move forward with a recreational system they had to create a tightly controlled market and prevent diversion of marijuana to other states. This alternative would have increased the likelihood of diversion and leakage.
- **License the first applications ready up to two million sq ft and hold the rest indefinitely** – This alternative would have excluded a large portion of applicants who wanted to operate legally, forcing those people without a license to continue to participate in the black market.
- **Don't reduce licenses, just scale back production** - Not reducing the amount of producer licenses and just scaling back production would result in licensees being allowed to produce at a fraction of their capacity and not be commercially viable.

**Will the WSLCB also reduce the corresponding amount of processor licenses for those applicants who wanted to be producer/processors?**

No. The WSLCB will not be reducing the amount of processor licenses. Applicants will have the option of withdrawing their other applications or the LCB can place their application in a “hold status” for up to one year or until the Board determines more marijuana producer licenses are needed.

**The WSLCB is reducing licenses but even with the cut it still leaves a canopy of 11.8 million, why not get it down to two million?**

The Board expects other factors will further reduce the canopy down to two million. Currently 26 percent of applications fail to meet the requirements for licensure which will likely increase as more applications are processed. We anticipate a significant business failure rate – in Colorado approximately 50 percent of medical marijuana business failed within 18 months. Additionally bans, moratoriums and local regulations will prevent many businesses from opening. Finally, we are conducting a rolling open by issuing licenses as they are ready.

**Recreational marijuana stores in Colorado experienced shortages when they opened, doesn't cutting back the number of producer licenses mean the same thing will happen in Washington?**

No. Reducing the amount of licenses increases the amount of marijuana those licensees can grow but does not affect the total amount of marijuana produced. There will likely be shortages in the beginning as businesses find their footing and establish supply lines with one another. In Colorado the system is vertically integrated (retail outlets must sell at least 70% of their own product) meaning that they were limited to selling what they could produce on hand. Coupling that with high demand and very few stores being open and a shortage occurred.

**Why didn't the Board make this decision sooner?**

The Board had to wait until all applications were in the system so that they could look at the totality of applications. The large number of producer license applications necessitated a change.

\*These frequently asked questions are prepared to help explain the proposed Board action. These advance copies apply if the Board approves staff recommendations.

###