



Date: September 23, 2015

To: Jane Rushford, Board Chair
Ruthann Kurose, Board Member
Russ Hauge, Board Member

From: Karen McCall, Agency Rules Coordinator

Copy: Rick Garza, Agency Director
Justin Nordhorn, Chief of Enforcement
Becky Smith, Licensing Director

Subject: **Small Business Economic Impact Statement
Implementation of 2015 Marijuana Legislation**

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement:

Title 314-55 WAC Marijuana Licenses, Application Process, Requirements and Reporting

1. Description of reporting, record keeping and other compliance requirements of the proposed rule: The following additions have been made to the rules:

- a) Any vehicle assigned to transport marijuana is considered an extension of the licensed premises. This allows enforcement explicit authority to monitor vehicles transporting marijuana. No real change for business owners
- b) New applicants for marijuana licenses and applicants who change their location must post a notice on their premises notifying the public that they intend to sell marijuana at that location.
- c) New applicants and their financiers must maintain residency in Washington for 6 months prior to applying. Previous requirement was 3 months.
- d) Local authorities may adopt ordinances reducing the one thousand foot rule for restricted entities except for elementary and secondary schools and playgrounds. Applicants must provide proof of ordinances if restricted entities are less than one thousand feet from the proposed premises.
- e) Outdoor producers must be physically separated from other outdoor grows by a minimum of 20 feet. They cannot share walls and fences.



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- f) Prohibits characterizing flavor for marijuana infused inhalants related to fruit, chocolate, vanilla, honey, candy, cocoa, or dessert. May use mint flavors.
- g) Adds a free medical endorsement for retailers to sell marijuana for medical use. Applicants must:
 - i. Follow all rules adopted by the Department of Health (DOH)
 - ii. Have a consultant on staff in compliance with DOH rules
 - iii. Maintain an assortment of medical marijuana –in the second year, the retailer must have not less than 25% of products designated for medical use
 - iv. Enter qualifying patients into a database established by DOH
 - v. Issue recognition cards to qualifying patients
 - vi. Keep copies of patients' recognition cards, marijuana provided free to patients, and tax exempt sales records for 3 years.
- h) Specifies prohibited plant growth regulators.
- i) Eliminates tax payments for marijuana producers and processors (increases exempt taxes for retailers from 25-37%).
- j) Include types of solvents used for extraction on retail labels.
- k) Penalties for failure to comply with rules have been modified.
- l) Adds a transportation license for marijuana.

2. Kinds of professional services that a small business is likely to need in order to comply with such requirements:

- a) Training for medical marijuana rules to be provided by a DOH contractor.

3. Costs of compliance for businesses, including costs of equipment, supplies, labor and increased administrative costs:

- b) Medical marijuana retailers will have to have a printer, a laminator, and a bar code scanner to create and check registration cards.
- c) Medical marijuana retailers will need to send their staff for consultation training by a DOH contractor.

4. Will compliance with the rules cause businesses to lose sales or revenue?

No, businesses that choose to have a medical marijuana retail license are likely to increase sales and revenue. However, introducing more stores may have an impact on sales for existing retail stores.

5. Costs of compliance for small businesses compared with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules using one or more of the following as a basis for comparing costs:

- a. Cost per employee;
- b. Cost per hour of labor; or



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- c. Cost per one hundred dollars of sales
- d. Business card laminator: \$35 on Amazon--\$17 per 25 laminate inserts
- e. Printers: \$25-\$100 on Amazon
- f. Bar code scanners: \$18-\$50 on Amazon
- g. Costs of consultant class—to be determined by DOH

All of the marijuana businesses are virtually small businesses. The additional costs above are the same for all businesses, regardless of size.

6. Steps taken by the agency to reduce the costs of the rule on small businesses, or reasonable justification for not doing so:

The legislature mandated the changes for medical marijuana. DOH has done an excellent job reducing costs to agencies.

7. A description of how the agency will involve small businesses in the development of the rule:

Most marijuana businesses are small businesses. They are invited to provide feedback to the rules during the rulemaking process.

8. A list of industries that will be required to comply with the rule:

All licensed marijuana producers, processors, retailers, and transporters will be required to comply with these rules.

9. An estimate of the number of jobs that will be created or lost as a result of compliance with the proposed rule:

Indeterminate—it is likely that adding medical marijuana to the legal marketplace will create a high number of additional jobs. We are working with a consultant to evaluate the approximate increase in business when medical marijuana is added to the legal market.

WAC 314-55-310 Transportation license.

1. Description of reporting, record keeping and other compliance requirements of the proposed rule:

Marijuana Transportation licensees are allowed to physically transport or deliver marijuana products between marijuana businesses within the state. Licensees must:

- a) Apply for and be issued a transportation license from the WSLCB.
- b) Have a transport manifest.
 - Information must be kept with the product at all times.



c) Records of transportation:

- Kept for minimum of three years.
- Copies of transportation manifest for all deliveries
- transportation log documenting the chain of custody
- Bank statements
- Accounting and tax records
- Records of financial transactions
- Employee records

d) Transportation of Product.

- Only transportation licensee or employee, over 21, may transport marijuana.
- Marijuana must be in sealed packaging or container.
- Sealed packages or containers cannot be opened during transport
- Marijuana must be in locked, safe and secure storage compartment that is secured to the inside of the vehicle.
- Product must be delivered or returned to shipper within 24 hours from time of pickup
- Live plants may be transported in a fully enclosed trailer or secured area within the inside of the van or box truck.
- All transport vehicles assigned to transport is an extension of the licensed premises and subject to inspection by enforcement officer of the WSLCB.

2. Kinds of professional services that a small business is likely to need in order to comply with such requirements:

The type of professional services needed to comply with the obligations discussed in question one would be bookkeeping and accounting. Businesses may also need legal assistance for business purposes.

3. Costs of compliance for businesses, including costs of equipment, supplies, labor and increased administrative costs:



Indeterminate – There are currently no legally established marijuana transportation licenses in the state.

Transportation license will need vehicles and employees for transport; they may also need administrative personnel for routine business practice to include creating manifest and using the traceability system.

4. Will compliance with the rules cause businesses to lose sales or revenue?

Indeterminate – There are currently no legally established marijuana transportation licenses in the state. Rules were drafted based on similar business practices of current marijuana producers, processors and retailers.

5. Costs of compliance for small businesses compared with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules using one or more of the following as a basis for comparing costs:

- a. Cost per employee;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales

Indeterminate – There are currently no legally established marijuana transportation licenses in the state. The transportation license rules were established to align it with the existing marijuana rules for producer, processors and retailers.

6. Steps taken by the agency to reduce the costs of the rule on small businesses, or reasonable justification for not doing so:

The requirements in the rules are designed to comply with section 501 of the SHB 2136 mandate.

7. A description of how the agency will involve small businesses in the development of the rule:

Stakeholders will be able to comment on the proposed rules during the rulemaking process.

8. A list of industries that will be required to comply with the rule:

All licensed marijuana transportation licensees will be required to comply with these rules.

9. An estimate of the number of jobs that will be created or lost as a result of compliance with the proposed rule:

Indeterminate – There are currently no legally established marijuana transportation licenses in the state. The number of jobs created or lost will depend on the number of applications received and licenses issued.



WAC 314-55-515 to WAC 314-55-540 Administrative Penalty Guidelines for Marijuana Business

1. Description of reporting, record keeping and other compliance requirements of the proposed rule:

When it is believed that a licensee has committed a violation of the WSLCB statute or regulation, an administrative violation notice (AVN) is issued. A recommended penalty accompanies the violation. The WSLCB has divided the penalty structure into five Groups.

1. Public safety
2. Regulatory
3. License violations
4. Marijuana producer and processor violations
5. Transportation

Penalty guidelines for each group were revamped to include the following:

- Added a Group five violation list to include the new Transportation license.
- Defining inventory as it pertains to destruction
- Eliminated suspension times from producers and processors
- Added violation types to distinguish violations from each other
- Eliminated duplicate violations in multiple categories
- Brought penalties in line with other offenses

2. Kinds of professional services that a small business is likely to need in order to comply with such requirements:

The type of professional services needed to comply with the obligations discussed in question one would be legal assistance for violation defense. However, legal assistance is not required in order to negotiate or contest a violation.

3. Costs of compliance for businesses, including costs of equipment, supplies, labor and increased administrative costs:

None, unless there is a violation of statutes and rules apply. The licensee will pay a fine, suspension and/or destruction of product.



4. Will compliance with the rules cause businesses to lose sales or revenue?

Penalties can cause a business to lose sales or revenue; however the draft rules align with the previous rules and their intent, as most monetary penalties remain the same. New violation types align with current violation category.

5. Costs of compliance for small businesses compared with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules using one or more of the following as a basis for comparing costs:

- a. Cost per employee;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales

None. Penalties are the same regardless of the size of the business.

6. Steps taken by the agency to reduce the costs of the rule on small businesses, or reasonable justification for not doing so:

The WSLCB took into account the extent of retail penalties compared to non-retail penalties. We cannot stop growth of plants without destroying them. WSLCB eliminated the suspension option for non-retail licensees.

7. A description of how the agency will involve small businesses in the development of the rule:

Stakeholders will be able to comment on the proposed rules during the rulemaking process.

8. A list of industries that will be required to comply with the rule:

All licensed marijuana licensees will be required to comply with these rules.

9. An estimate of the number of jobs that will be created or lost as a result of compliance with the proposed rule:

None