



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Washington State Liquor and Cannabis Board

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: The purpose of this proposal is to establish a process and requirement for recalls of marijuana and marijuana products, and to provide guidance for marijuana businesses that wish to conduct market withdrawals. This proposal creates a new section in chapter 314-55 WAC. Marijuana licensees will have to comply with the new recall requirements and create a recall plan should they be subject to a recall event. Notification requirements are included, as well as reporting requirements should a recall be required.

Citation of existing rules affected by this order:

Repealed:

Amended:

Suspended:

Statutory authority for adoption: RCW 70.345.020 and 70.345.090

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 16-19-101 on September 21, 2016 (date).

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____

Address: _____ fax () _____

e-mail _____

Date adopted: November 16, 2016

NAME (TYPE OR PRINT)

Jane Rushford

SIGNATURE

TITLE

Chair

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: November 16, 2016

TIME: 11:40 AM

WSR 16-23-088

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

| | | | | | | |
|---|-----|-------|---------|-------|----------|-------|
| Federal statute: | New | _____ | Amended | _____ | Repealed | _____ |
| Federal rules or standards: | New | _____ | Amended | _____ | Repealed | _____ |
| Recently enacted state statutes: | New | _____ | Amended | _____ | Repealed | _____ |

The number of sections adopted at the request of a nongovernmental entity:

| | | | | | |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

The number of sections adopted in the agency's own initiative:

| | | | | | |
|-----|----------|---------|-------|----------|-------|
| New | <u>4</u> | Amended | _____ | Repealed | _____ |
|-----|----------|---------|-------|----------|-------|

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

| | | | | | |
|-----|----|---------|-------|----------|-------|
| New | __ | Amended | _____ | Repealed | _____ |
|-----|----|---------|-------|----------|-------|

The number of sections adopted using:

| | | | | | | |
|---------------------------------------|-----|-------|---------|-------|----------|-------|
| Negotiated rule making: | New | _____ | Amended | _____ | Repealed | _____ |
| Pilot rule making: | New | _____ | Amended | _____ | Repealed | _____ |
| Other alternative rule making: | New | _____ | Amended | _____ | Repealed | _____ |

**Chapter 314-35 WAC
VAPOR PRODUCTS**

NEW SECTION

WAC 314-35-010 Vapor products—Introduction. This chapter provides rules that apply in addition to those requirements regarding the manufacturers, distributors, and retail sellers of vapor products provided in chapter 70.345 RCW. Penalties for violations of this chapter and for violations of chapter 70.345 RCW are provided in chapter 70.345 RCW.

NEW SECTION

WAC 314-35-020 Vapor product licenses required—Licensing requirements, denials, suspensions, and revocations. (1) The vapor product license types are: Vapor product retailer's license, vapor product distributor's license, and vapor product delivery sale license. A vapor product retailer's license, vapor product distributor's license, or a vapor product delivery sale license is required to perform the functions of a vapor product retailer, vapor product distributor, or a vapor product delivery seller, respectively, whether or not the vapor product contains nicotine.

(2) A vapor product retailer's license, vapor product distributor's license, or a vapor product delivery sale license cannot be issued to a location that is a domicile.

(3) A person or entity must meet certain qualifications to receive a vapor product license, and must continue to meet those qualifications to maintain the license.

(4) No more than one license of each vapor product license type may be issued at a single location.

(5) A licensed location must be separated from other vapor product businesses and not accessible through neighboring businesses.

(6) For the purpose of reviewing an initial or renewal application for a vapor product license or considering the denial of a license application, the WSLCB may consider prior criminal conduct of the applicant and criminal history record within the five years prior to the date the application is received by the WSLCB. The WSLCB uses the following point system to determine a person's qualification for a license. The WSLCB will not normally issue a vapor product license to a person or entity that has accumulated eight or more points as determined in (a) through (e) of this subsection. If a case is pending for an alleged offense that would earn eight or more points in total for the applicant, the WSLCB will hold the application until the final disposition of the pending case. If the case does not reach final disposition within ninety days of application, the WSLCB may administratively close the application.

(a) Felony conviction within the five years immediately prior to application: Twelve points.

(b) Gross misdemeanor conviction for violation of chapter 82.24 or 82.26 RCW within the five years immediately prior to application: Twelve points.

(c) Other gross misdemeanor conviction within three years immediately prior to application: Five points.

(d) Misdemeanor conviction within three years immediately prior to application: Four points.

(e) Nondisclosure of any of the above: Four points each in addition to underlying points.

(7) For the purpose of reviewing an initial or renewal application for a vapor product license and considering the denial of a vapor product license application, the WSLCB will conduct an investigation of all applicants' liquor and cigarette and tobacco products law and rule administrative violation history. The WSLCB will not normally issue a vapor product license to a person or entity that has four or more violations within the two years prior to the date the application is received by the WSLCB.

(8) If the WSLCB makes an initial decision to deny a vapor product license or renewal, or suspend or revoke a license, for the reasons listed above or as provided in chapter 70.345 RCW, the applicant or licensee may request a hearing subject to the applicable provisions under chapter 34.05 RCW. Appeals under this section will be conducted under a brief adjudicative proceeding pursuant to WAC 314-42-110 through 314-42-130, and RCW 34.05.482 through 34.05.494.

NEW SECTION

WAC 314-35-030 Vapor product licensee recordkeeping requirements. (1) Vapor product distributors and manufacturers must keep complete and accurate records, including itemized invoices, at each place of business for that place of business of vapor products held, purchased, manufactured, brought in or caused to be brought in from without the state, or shipped or transported to retailers in this state, and of all sales of vapor products made. These records must show the names and addresses of purchasers, the inventory of all vapor products, and other pertinent papers and documents relating to the purchase, sale, or disposition of vapor products. All invoices and other records required by this section to be kept must be preserved for a period of five years from the date of the invoices or other documents or the date of the entries appearing in the records.

(2) Vapor product licensees must render with each sale of vapor products to persons other than ultimate consumers itemized invoices showing the seller's name and address, the purchaser's name and address, the date of sale, and all prices. Vapor product licensees must preserve legible copies of all such invoices for five years from the date of sale.

(3) Every licensed vapor product retailer must procure itemized invoices of all vapor products purchased. The invoices must show the seller's name and address, the date of purchase, and all prices and discounts.

(4) The licensed vapor product retailer must keep at each retail outlet copies of complete, accurate, and legible invoices for that retail outlet or place of business. All invoices required to be kept un-

der this section must be preserved for five years from the date of purchase.

NEW SECTION

WAC 314-35-040 Age-restricted vapor products retailer licensed locations. (1) Age-restricted vapor products retailer licensed locations must register as such with the WSLCB by indicating at the time of application or within ten days prior to becoming an age-restricted location. A vapor product retail licensee must inform the WSLCB in writing ten business days prior to a change in the age-restriction status. The appropriate form is available on the WSLCB web site.

(2) Holders of a vapor product retailer license where entry into the licensed premises is age-restricted to persons eighteen years of age or older must post signs provided by the WSLCB at each entrance point to indicate the premises is age-restricted. Such signs must not be removed at any time during opening hours of the licensed vapor products retail establishment.