



Washington State
Liquor and Cannabis Board

Date: July 12, 2017

To: Jane Rushford, Board Chair
Ollie Garrett, Board Member
Russ Hauge, Board Member

From: Karen McCall, Agency Rules Coordinator

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

Subject: **Approval for filing a pre-proposal statement of inquiry (CR 101) to implement 2017 alcohol legislation**

Several alcohol bills passed during the 2017 legislative session. Rules are needed to implement the legislation.

Process

The Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. An issue paper was presented at the Board meeting on July 12, 2017, and is attached to this order.

If approved for filing, the tentative timeline for the rule making process is outlined below:

July 12, 2017	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
August 2, 2017	Code Reviser publishes notice, LCB sends notice to rules distribution list
September 2, 2017	End of written comment period
October 18, 2017	Board is asked to approve filing the proposed rules (CR 102 filing)
November 1, 2017	Code Reviser publishes notice, LCB sends notice to rules distribution list
December 13, 2017	Public Hearing held
December 13, 2017	End of written comment period
December 27, 2017	Board is asked to adopt rules
December 27, 2017	Agency sends notice to those who commented both at the public hearing and in writing.
December 27, 2017	Agency files adopted rules with the Code Reviser (CR 103)
January 27, 2017	Rules are effective (31 days after filing)

_____ Approve _____ Disapprove _____
Jane Rushford, Chair _____
Date

_____ Approve _____ Disapprove _____
Ollie Garrett, Board Member _____
Date

_____ Approve _____ Disapprove _____
Russ Hauge, Board Member _____
Date

Attachment: Issue Paper

Issue Paper

2016 Liquor Legislation Implementation

Date: July 12, 2017

Presented by: Karen McCall, Agency Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the Board to file the first stage of rule making (CR 101) to implement 2017 liquor legislation.

Why is rule making necessary?

New rules and revisions to current rules are needed to implement the following legislation that passed during the 2017 legislative session:

- **SHB 1038 Allows wineries to have four additional for sampling and sales (instead of two).**
- **SHB 1176 Allows a liquor licensee that is allowed to sell growlers of beer and cider to sell growlers of mead.**
- **2SHB 1351 Creates a new off-premises retail license that allows the sale of spirits, beer, and wine at retail in bottles, can, and original containers.**
- **HB 1718 Creates a wine auction permit.**
- **SHB 1902 Creates a caterer's endorsement for a tavern license.**
- **SSB5537 Authorizes licensed spirits distributors to sell spirits that cannot reasonably be sold in the normal course of business, directly to full-time employees of the distributor.**
- **SSB 5589 Distillery promotional items and spirits sampling.**
- **ESB 5834 Creates a new license for bonded spirits warehouses.**

Process

The rule making process begins by announcing LCB's intent to add and make changes to existing rules by filing a CR 101 form. This allows staff and stakeholders to begin discussing necessary rule changes. At the CR 101 stage of the process, no proposed language is offered. The public may comment on the subject of this rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule changes. The notice will identify the public comment period and where comments can be sent. Based on public input received, staff will draft proposed changes for presentation to the Board at the next phase of the rule making process.



Liquor and Cannabis Board Revised Interim Policy BIP-01-2017

Subject: **Registered Cooperatives Purchasing Direct from Licensed Producers**

Effective Date: July 23, 2017

Ending Date: Upon adoption of rules to implement this policy.

Approved:

Jane Rushford, Chair

Ollie Garrett, Board Member

Russ Hauge, Board Member

Purpose:

When SB 5052 passed during the 2015 legislative session, it created medical marijuana cooperatives allowing up to four patients to grow medicinal marijuana for their own use and included provisions for medical marijuana patients and their designated providers to grow plants for personal medical use. However, the bill did not provide a legal pathway for cooperatives, medical marijuana patients, or designated providers to acquire plants to grow in a cooperative or for personal medical use. Additionally, I-502 did not allow for the retail sale of plants directly to consumers. Legislation was passed in 2016 to allow members of a registered cooperative to purchase plants from licensed marijuana producers, but remained silent on the ability of other medical marijuana patients to acquire plants.

ESSB 5131 was passed by the Legislature in the 2017 session and amends several provisions in chapter 69.50 RCW to allow members of a registered cooperative, qualifying patients and designated providers to purchase immature marijuana plants or clones and seeds directly from licensed producers to provide legal access to marijuana immature plants or clones and seeds. The bill becomes effective July 23, 2017. This interim policy provides guidance and clarity to licensed producers, members of registered cooperatives, qualifying patients, and designated providers for the requirements for sales of marijuana immature plants or clones and seeds.

Policy Statement

(1) For the purpose of this Interim Policy, the following definitions apply as provided in ESSB 5131 as passed by the Legislature:

(a) “Designated provider” has the same meaning as provided in RCW 69.51A.010.

(b) “Immature plant or clone” means a marijuana plant or clone that has no flowers, is less than 12 inches in height, and is less than 12 inches in diameter.

(c) “Qualifying patient” has the same meaning as provided in RCW 69.51A.010.

(2) Medical marijuana patients who enter into the medical marijuana authorization database established and maintained by the Department of Health, receive a recognition card, and are members of a cooperative that has been granted a registration by the Washington State Liquor and Cannabis Board (WSLCB) may purchase immature plants or clones and seeds to be grown in the cooperative from a licensed marijuana producer.

(a) Members of a cooperative who wish to purchase plants from a licensed producer must provide proof of identification as provided in WAC 314-55-150, a valid recognition card, and a copy of the letter from the WSLCB confirming the person is part of a registered cooperative to be able to purchase immature plants or clones and seeds from a licensed producer.

(3) Qualifying patients and designated providers who hold a valid unexpired recognition card and have been entered into the medical marijuana authorization database established and maintained by the Department of Health, may purchase immature plants or clones and seeds from a licensed marijuana producer.

(a) Qualifying patients and designated providers who wish to purchase plants from a licensed producer must provide proof of identification as provided in WAC 314-55-150 and a valid unexpired recognition card to be able to purchase immature plants or clones and seeds from a licensed producer.

(4) Licensed producers must adhere to the requirements of WAC 314-55-083 when allowing entry to the licensed premises and conducting the sales with members of a registered cooperative, qualifying patients, and designated providers.

(5) Due to the 24-hour waiting period required under WAC 314-55-083 for all transfers of marijuana plants, members of a registered cooperative, qualifying patients, and designated providers who wish to purchase plants from a licensed producer must contact a licensed producer they wish to purchase from at least 24 hours in advance of arriving at the licensed producer’s place of business to ensure the producer has immature plants or clones or seeds available for sale and to allow for the required waiting period to pass prior to physically taking possession of marijuana plants, clones, or seeds to be purchased.

(6) Qualifying patients, designated providers, and a member of a registered cooperative listed on the letter from WSLCB confirming the registration of the cooperative must

personally go to the licensed producer to complete the purchase and transfer of any marijuana plants purchased.

(7) The physical transfer of immature marijuana plants or clones and seeds must take place on the premises of the licensed producer. Deliveries of marijuana plants by a licensed producer to members of a cooperative, qualifying patients, or designated providers are prohibited.

(8) Members of registered cooperatives, qualifying patients, and designated providers are limited to purchasing no more than the maximum amount that the medical marijuana patient's authorization form allows of any combination of immature plants or clones and seeds in a single sale or cumulative sales within a calendar month. It is the responsibility of the member of the registered cooperative, qualifying patient, or designated provider to ensure that they possess no more than the maximum number of plants allowed under their authorization forms and as provided in Chapter 69.51A RCW.

(9) Sales tax applies to sales of immature plants or clones and seeds by licensed producers to members of a registered cooperative. The marijuana excise tax does not apply to sales of immature plants or clones and seeds.



**Washington State
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Date: July 12, 2017

To: Jane Rushford, Board Chair
Ollie Garrett, Board Member
Russ Hauge, Board Member

From: Joanna Eide, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director
Peter Antolin, Deputy Director
Justin Nordhorn, Chief of Enforcement
Becky Smith, Licensing Director
Karen McCall, Agency Rules Coordinator
Peter Corier, Marijuana Examiners Unit

Subject: **Approval for filing a pre-proposal statement of inquiry (CR 101) for 2017 Marijuana Legislation Rules.**

The WSLCB is considering changes to rules in Chapter 314-55 WAC due to the passage of legislation affecting marijuana laws during the 2017 Legislative Session in ESSB 5131, SB 5130, and HB 1250. Other technical, clarifying, and needed changes to rules identified by staff and stakeholders will be addressed, incorporating the CR-101 filed as WSR 16-15-035 into this rulemaking.

Process

The Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. An issue paper on this rule was presented at the Board meeting on July 12, 2017, and is attached to this order.

If approved for filing, the tentative timeline for the rule making process is outlined below:

July 12, 2017	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
August 2, 2017	Code Reviser publishes notice, LCB sends notice to rules distribution list
September 27, 2017	End of written comment period
October 4, 2017	Board is asked to approve filing the proposed rules (CR 102 filing)
October 18, 2017	Code Reviser publishes notice, LCB sends notice to rules distribution list
November 15, 2017	Public Hearing held
November 15, 2017	End of written comment period

November 29, 2017	Board is asked to adopt rules
November 29, 2017	Agency sends notice to those who commented both at the public hearing and in writing.
November 29, 2017	Agency files adopted rules with the Code Reviser (CR 103)
December 30, 2017	Rules are effective (31 days after filing)*

*Unless otherwise provided.

_____ Approve _____ Disapprove _____
Jane Rushford, Chair _____
Date

_____ Approve _____ Disapprove _____
Ollie Garrett, Board Member _____
Date

_____ Approve _____ Disapprove _____
Russ Hague, Board Member _____
Date

Attachment: Issue Paper

Washington State Liquor and Cannabis Board

Issue Paper

2017 Marijuana Legislation Rules.

Date: July 12, 2017

Presented by: Joanna Eide, Policy and Rules Coordinator

Description of the Issue

This Issue Paper requests approval from the Board to file the first stage of rulemaking (CR 101) for changes to marijuana rules in Chapter 314-55 WAC as a result of legislation passed during the 2017 Legislative Session.

Why is rule making necessary?

Rulemaking is necessary to ensure that rules are consistent with changes to laws made by the Legislature during the 2017 Legislative Session in ESSB 5131, SB 5130, and HB 1250. Other technical, clarifying, and needed changes to rules identified by staff and stakeholders will be addressed, incorporating the CR-101 filed as WSR 16-15-035 into this rulemaking.

Process

The rule making process begins by announcing LCB's intent to add and make changes to existing rules by filing a CR 101 form. This allows staff and stakeholders to begin discussing necessary rule changes. At the CR 101 stage of the rulemaking process, no proposed language is offered. The public may comment on the subject of this rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule changes. The notice will identify the public comment period and where comments can be sent. Based on public input received, staff will draft proposed changes for presentation to the Board at the next phase of the rule making process.



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To: Jane Rushford, Board Chair
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From: Joanna Eide, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director
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 Justin Nordhorn, Chief of Enforcement
 Becky Smith, Licensing Director
 Karen McCall, Agency Rules Coordinator
 Peter Corier, Marijuana Examiners Unit

Subject: **Approval for filing a pre-proposal statement of inquiry (CR 101) for Marijuana Advertising Rules.**

The Legislature made significant changes to advertising restrictions and requirements for marijuana licensees with the passage of ESSB 5131, which will be effective on July 23, 2017. While rulemaking will not delay the effective date of the new changes to advertising restrictions and requirements, rule changes in Chapter 314-55 WAC are needed to provide further clarification to the new requirements and to adhere to legislative direction included in ESSB 5131.

Process

The Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. An issue paper on this rule was presented at the Board meeting on March 8, 2017, and is attached to this order.

If approved for filing, the tentative timeline for the rule making process is outlined below:

July 12, 2017	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
August 2, 2017	Code Reviser publishes notice, LCB sends notice to rules distribution list
August 30, 2017	End of written comment period
September 6, 2017	Board is asked to approve filing the proposed rules (CR 102 filing)
September 20, 2017	Code Reviser publishes notice, LCB sends notice to rules distribution list
October 18, 2017	Public Hearing held

October 18, 2017	End of written comment period
November 1, 2017	Board is asked to adopt rules
November 1, 2017	Agency sends notice to those who commented both at the public hearing and in writing.
November 1, 2017	Agency files adopted rules with the Code Reviser (CR 103)
December 2, 2017	Rules are effective (31 days after filing)*

*Unless otherwise provided.

_____ Approve _____ Disapprove _____
Jane Rushford, Chair Date

_____ Approve _____ Disapprove _____
Ollie Garrett, Board Member Date

_____ Approve _____ Disapprove _____
Russ Hague, Board Member Date

Attachment: Issue Paper

Washington State Liquor and Cannabis Board

Issue Paper

Marijuana Advertising Rules.

Date: July 12, 2017

Presented by: Joanna Eide, Policy and Rules Coordinator

Description of the Issue

This Issue Paper requests approval from the Board to file the first stage of rulemaking (CR 101) for changes to advertising rules in Chapter 314-55 WAC as a result of the passage of ESSB 5131 during the 2017 Legislative Session.

Why is rule making necessary?

The Legislature made significant changes to advertising restrictions and requirements for marijuana licensees with the passage of ESSB 5131, which will be effective on July 23, 2017. Guidance and information on the upcoming changes to the law was shared with licensees and stakeholders, and has been posted on the WLSCB's website. While rulemaking will not delay the effective date of the new changes to advertising restrictions and requirements, rule changes in Chapter 314-55 WAC are needed to provide further clarification to the new requirements and to adhere to legislative direction included in ESSB 5131.

Process

The rule making process begins by announcing LCB's intent to add and make changes to existing rules by filing a CR 101 form. This allows staff and stakeholders to begin discussing necessary rule changes. At the CR 101 stage of the rulemaking process, no proposed language is offered. The public may comment on the subject of this rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule changes. The notice will identify the public comment period and where comments can be sent. Based on public input received, staff will draft proposed changes for presentation to the Board at the next phase of the rule making process.



Washington State
Liquor and Cannabis Board

Date: July 12, 2017

To: Jane Rushford, Board Chair
 Ollie Garrett, Board Member
 Russ Hauge, Board Member

From: Joanna Eide, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director
 Peter Antolin, Deputy Director
 Justin Nordhorn, Chief of Enforcement
 Becky Smith, Licensing Director
 Karen McCall, Agency Rules Coordinator
 Melissa Norton, Public Records Officer

Subject: **Approval for filing a pre-proposal statement of inquiry (CR 101) for Public Records Rules.**

Changes to rules related to costs for providing public records are needed as a result of the passage of EHB 1595 (2017 c 304) during the 2017 legislative session. The WSLCB will conduct a review of Chapter 314-60 WAC, Public Records, in conjunction with this rulemaking to ensure the rules in this chapter are current, clear, and remain accurate.

Process

The Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. An issue paper on this rule was presented at the Board meeting on July 12, 2017, and is attached to this order.

If approved for filing, the tentative timeline for the rule making process is outlined below:

July 12, 2017	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
August 2, 2017	Code Reviser publishes notice, LCB sends notice to rules distribution list
September 1, 2017	End of written comment period
September 6, 2017	Board is asked to approve filing the proposed rules (CR 102 filing)
September 20, 2017	Code Reviser publishes notice, LCB sends notice to rules distribution list
October 18, 2017	Public Hearing held
October 18, 2017	End of written comment period
November 1, 2017	Board is asked to adopt rules

November 1, 2017	Agency sends notice to those who commented both at the public hearing and in writing.
November 1, 2017	Agency files adopted rules with the Code Reviser (CR 103)
December 2, 2017	Rules are effective (31 days after filing)*

*Unless otherwise provided.

_____ Approve _____ Disapprove _____
Jane Rushford, Chair _____
Date

_____ Approve _____ Disapprove _____
Ollie Garrett, Board Member _____
Date

_____ Approve _____ Disapprove _____
Russ Hague, Board Member _____
Date

Attachment: Issue Paper

Washington State Liquor and Cannabis Board

Issue Paper

Public Records Rules.

Date: July 12, 2017

Presented by: Joanna Eide, Policy and Rules Coordinator

Description of the Issue

This Issue Paper requests approval from the Board to file the first stage of rulemaking (CR 101) for changes to public records rules in Chapter 314-60 WAC.

Why is rule making necessary?

Rulemaking is necessary to adapt public records rules to changes to public records laws made by the Legislature as a result of the passage of EHB 1595 (2017 c 304) during the 2017 legislative session. The WSLCB will conduct a review of Chapter 314-60 WAC, Public Records, in conjunction with this rulemaking to ensure the rules in this chapter are current, clear, and remain accurate.

Process

The rule making process begins by announcing LCB's intent to add and make changes to existing rules by filing a CR 101 form. This allows staff and stakeholders to begin discussing necessary rule changes. At the CR 101 stage of the rulemaking process, no proposed language is offered. The public may comment on the subject of this rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule changes. The notice will identify the public comment period and where comments can be sent. Based on public input received, staff will draft proposed changes for presentation to the Board at the next phase of the rule making process.



**Washington State
Liquor and Cannabis Board**

Date: July 12, 2017

To: Jane Rushford, Board Chair
Ollie Garrett, Board Member
Russ Hauge, Board Member

From: Joanna Eide, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director
Peter Antolin, Deputy Director
Justin Nordhorn, Chief of Enforcement
Becky Smith, Licensing Director
Karen McCall, Agency Rules Coordinator
Melissa Norton, Public Records Officer

Subject: Approval to file an emergency rule related to public records costs.

This emergency rule is needed to adopt changes to costs for providing public records as a result of the passage of EHB 1595 (2017 c 304) during the 2017 legislative session. This emergency rule adopts the cost schedule in EHB 1595 section 3.

The emergency rule is necessary for the preservation of the public health, safety, and general welfare, and observing the time requirements for permanent rule making would be contrary to the public interest. The rule will become effective on July 23, 2017, to coincide with the effective date of EHB 1595 and will expire 120 days after filing on November 18, 2017, or when permanent rules (if permanent rulemaking is approved) on this topic become effective, whichever is sooner.

Process

The Policy and Rules Coordinator requests approval to file the emergency rule described above. An issue paper on this rule was presented at the Board meeting on July 12, 2017, and is attached to this order. The Policy and Rules Coordinator will request the permanent rulemaking process be initiated (CR-101) for public records rules in addition to this emergency rule.

If approved for filing, the timeline for this emergency rule is outlined below:

July 12, 2017	Board is asked to approve filing the Emergency Rule
July 21, 2017	Rules Coordinator files the Emergency Rule with the Code Reviser
July 23, 2017	The Emergency Rule becomes effective
November 18, 2017	The Emergency Rule expires*



Washington State Liquor and Cannabis Board

* Staff may request refiling of the emergency rule if permanent rulemaking (if approved by the Board) is not completed by the expiration date of this rule.

_____ Approve _____ Disapprove _____
Jane Rushford, Chair _____
Date

_____ Approve _____ Disapprove _____
Ollie Garrett, Board Member _____
Date

_____ Approve _____ Disapprove _____
Russ Hauge, Board Member _____
Date

Attachment: Issue Paper

Issue Paper

Emergency Rule – Public Records

Date: July 12, 2017

Presented by: Joanna Eide, Policy and Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the board to file an emergency rule related to public records costs as a result of the passage of EHB 1595 (2017 c 304) during the 2017 legislative session.

Why is rule making necessary?

This emergency rule is necessary due to changes in the law that will become effective on July 23, 2017, due to the passage of EHB 1595 by the 2017 Legislature. The WSLCB needs changes to rules for costs for public records in order to continue to assess costs for records when appropriate. The new provisions in EHB require the agency to either (1) calculate the actual costs of providing public records to requesters for each request, or, if calculating actual costs would be unduly burdensome, (2) charge up to the default amounts in section 3 of EHB 1595. The Public Records Act (Chapter 34.05 RCW) requires agencies to establish costs for providing public records in rule to be able to assess those costs, so emergency rules are needed to establish this until permanent rule changes can be completed.

Process

The emergency rule is necessary for the preservation of the public health, safety, and general welfare, and observing the time requirements for permanent rule making would be contrary to the public interest. The rule will become effective on July 23, 2017, to coincide with the effective date of EHB 1595 and will expire 120 days after filing on November 18, 2017, or when permanent rules (if permanent rulemaking is approved) on this topic become effective, whichever is sooner.

What are the changes?

New Section. WAC 314-60-095, Costs for providing public records.

The emergency rule adopts costs for providing public records through adapting the costs schedule included in EHB 1595 section 3. The rule makes it clear that no costs are assessed for records accessed through the WSLCB's website, unless requested to be provided by other means. The rule also provides an option for a requester to ask to receive an estimate of the applicable charges for a public records request before any copies are made, and the WSLCB will provide an opportunity for the requester to revise the request to reduce the number of copies to be made to reduce the charges if the requester chooses. The board

may require a deposit of up to ten percent of the cost of providing copies for a request, including a customized service charge.

NEW SECTION

WAC 314-60-095, Costs for providing public records.

This section supersedes costs for public records provisions in WAC 314-60-090.

The board finds it would be unduly burdensome to calculate the actual costs of providing public records to requesters, as the type of request, and staff time to copy and provide records vary widely. The board does not have the resources to conduct a study of these costs at this time.

The board does not charge any fee for access to or downloading records posted on its internet website prior to a request, unless the requester specifically requests that posted records be provided by other means, such as a printed copy or electronic copies provided by the board. The board intends to use the following fee schedule as set out in section 3 of EHB 1595 passed during the 2017 legislative session, to be codified in RCW 42.56.120, unless it determines in a later rulemaking that the actual costs of providing records exceeds the charges in the schedule below.

PRA Fee Schedule	
Copies:	
15 cents/page	Photocopies, printed copies of electronic records when requested by the requester, or for the use of agency equipment to make photocopies.
10 cents/page	Scanned records, or use of agency equipment for scanning.
5 cents/each 4 electronic files or attachment	Records uploaded to email, or cloud-based data storage service, or other means of electronic delivery.
10 cents per gigabyte	Records transmitted in electronic format or for use of agency equipment to send records electronically.
Actual cost	Digital storage media or devices.
Actual cost	Any container or envelope used to mail copies.
Actual cost	Postage or delivery charges.
Actual cost	Customized service charge (in addition to fees for copies – see copying fees above), if the board estimates that the request would require use of information technology expertise to prepare data compilations, or provide customized electronic access when such compilations and customized access services are not used by the agency for other agency purposes. The board will notify such requester of the customized service charge to be applied, why the charge applies, and an estimate of the cost of the charge, and will allow the requester to amend the request in order to avoid or reduce the cost of the customized service charge.
<i>The copy charges above may be combined to the extent more than one type of charge applies to copies responsive to a particular request</i>	
Option for Copies:	
Up to \$2 flat fee	As an alternative to the copy charges above, the board may charge a flat fee of up to \$2 for any request when the agency reasonably estimates and documents that the costs are equal to or more than \$2. If applied to the initial installment, additional flat fees will not be charged for subsequent installments.

If the requester asks the board to provide a summary of the applicable charges before any copies are made, the board will provide an estimate and will allow the requester to revise the request to reduce the number of copies to be made to reduce the charges. The board may require a deposit of up to ten percent of the cost of providing copies for a request, including a customized service charge.

Issue Paper

Rule Making on Chapter 314-03 WAC

Date: April 19, 2017

Presented by: Karen McCall, Agency Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the Board to file proposed rules (CR 102) for **Chapter 314-03 WAC – Allowed Activities**.

Why is rule making necessary?

As part of the Liquor and Cannabis Board's on-going rules review process, rules in this chapter have been reviewed for accuracy, clarity, and relevance. Rules were also needed to address the use of mobile applications to purchase alcohol. The board adopted an interim policy on this issue in November 2016.

What changes are being made?

Amended Section. WAC 314-03-020 Consumer orders, internet sales, and delivery for grocery stores and beer and wine specialty shops.

Added the requirements for the use of mobile applications for the purchase of beer and wine.

Amended Section. WAC 314-03-030 Consumer orders, internet sales, and delivery for spirits retail licensees. Added the requirements for the use of mobile applications for the purchase of spirits.

Amended Section. WAC 314-03-035 Consumer orders, internet sales, and delivery for on premises beer and/or wine liquor licenses. Added the requirements for the use of mobile applications for the purchase of beer and wine.

Amended Section. WAC 314-03-040 Consumer orders, internet sales, and delivery beer and/or wine gift delivery licenses. Added the requirements for the use of mobile applications for the purchase of beer and wine.

WAC 314-03-020 Consumer orders, internet sales, and delivery for grocery stores and beer and wine specialty shops. A grocery store or beer and wine specialty shop licensee may accept orders for beer or wine from, and deliver beer or wine to, customers.

(1) **Resale.** Liquor shall not be for resale.

(2) **Stock location.** Liquor must come directly from a licensed retail location.

(3) **How to place an order.** Liquor may be ordered in person at a licensed location, by mail, telephone or internet, or by other similar methods.

(4) **Sales and payment.**

(a) Only a licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a licensee, except for transmittal of payment through a third-party service. ~~((A third party service may not solicit customer business on behalf of a licensee.))~~ The use of internet or mobile applications for retail customers to purchase alcohol in Washington state are allowed under the following conditions:

(i) The sale must be made by the licensee;

(ii) The licensee processes payment for the sale; and

(iii) The liquor licensee pays the owner of the mobile application a service fee.

(b) All orders and payments shall be fully processed before liquor transfers ownership or, in the case of delivery, leaves a licensed premises.

(c) Payment method. Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.

(d) Internet. To sell liquor via the internet, a new license applicant must request internet-sales privileges in his or her application. An existing licensee must notify the board prior to beginning internet sales. A corporate entity representing multiple stores may notify the board in a single letter on behalf of affiliated licensees, as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

(5) **Delivery location.** Delivery shall be made only to a residence or business that has an address recognized by the United States postal service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(6) **Hours of delivery.** Liquor may be delivered each day of the week between the hours of six a.m. and two a.m. Delivery must be fully completed by two a.m.

(7) **Age requirement.**

(a) Per chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of liquor.

(b) A delivery person must verify the age of the person accepting delivery before handing over liquor.

(c) If no person twenty-one years of age or older is present to accept a liquor order at the time of delivery, the liquor shall be returned to the licensee.

(8) **Intoxication.** Delivery of liquor is prohibited to any person who shows signs of intoxication.

(9) **Containers and packaging.**

(a) Individual units of liquor must be factory sealed in bottles, cans or other like packaging. Delivery of growlers, jugs or other similar, nonfactory-sealed containers is prohibited. Delivery of malt liquor in kegs or other containers capable of holding four gallons or more of liquid is allowed, provided that kegs or containers are factory sealed and that the keg sales requirements (see WAC 314-02-115) are met prior to delivery. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a liquor package, delivered by a third party, must have language stating that:

(i) The package contains liquor;

(ii) The recipient must be twenty-one years of age or older; and

(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

(a) Records and files shall be retained at a licensed premises. Each delivery sales record shall include the following:

(i) Name of the purchaser;

(ii) Name of the person who accepts delivery;

(iii) Street addresses of the purchaser and the delivery location; and

(iv) Times and dates of purchase and delivery.

(b) A private carrier must obtain the signature of the person who receives liquor upon delivery.

(c) A sales record does not have to include the name of the delivery person, but it is encouraged.

(11) **Web site requirements.** When selling over the internet, all web site pages associated with the sale of liquor must display a licensee's registered trade name.

(12) **Accountability.** A licensee shall be accountable for all deliveries of liquor made on its behalf.

(13) **Violations.** The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement or restriction.

AMENDATORY SECTION (Amending WSR 12-23-003, filed 11/7/12, effective 12/8/12)

WAC 314-03-030 Consumer orders, internet sales, and delivery for spirits retail licensees. A spirit retail licensee may accept orders for spirits from, and deliver spirits to, customers.

(1) **Resale.** Spirits shall not be for resale.

(2) **Stock location.** Spirits must come directly from a licensed retail location.

(3) **How to place an order.** Spirits may be ordered in person at a licensed location, by mail, telephone, or internet, or by other similar methods.

(4) **Sales and payment.**

(a) Only a spirits retail licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not

do so on behalf of a spirits retail licensee, except for transmittal of payment through a third-party service. (~~A third party service may not solicit customer business on behalf of a spirits retail licensee.~~) The use of internet or mobile applications for retail customers to purchase alcohol in Washington state are allowed under the following conditions:

(i) The sale must be made by the licensee;

(ii) The licensee processes the payment for the sale; and

(iii) The liquor licensee pays the owner of the mobile application a service fee.

(b) All orders and payments shall be fully processed before spirits transfers ownership or, in the case of delivery, leaves a licensed premises.

(c) Payment method. Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.

(d) Internet. To sell spirits via the internet, a new spirits retail license applicant must request internet-sales privileges in his or her application. An existing spirits retail licensee must notify the board prior to beginning internet sales. A corporate entity representing multiple stores may notify the board in a single letter on behalf of affiliated spirits retail licensees, as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

(5) **Delivery location.** Delivery shall be made only to a residence or business that has an address recognized by the United States postal service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(6) **Hours of delivery.** Spirits may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(7) **Age requirement.**

(a) Under chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of liquor.

(b) A delivery person must verify the age of the person accepting delivery before handing over liquor.

(c) If no person twenty-one years of age or older is present to accept a liquor order at the time of delivery, the liquor shall be returned to the licensee.

(8) **Intoxication.** Delivery of liquor is prohibited to any person who shows signs of intoxication.

(9) **Containers and packaging.**

(a) Individual units of spirits must be factory sealed in bottles. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a liquor package, delivered by a third party, must have language stating that:

(i) The package contains liquor;

(ii) The recipient must be twenty-one years of age or older; and

(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

(a) Records and files shall be retained at the licensed premises. Each delivery sales record shall include the following:

- (i) Name of the purchaser;
 - (ii) Name of the person who accepts delivery;
 - (iii) Street addresses of the purchaser and the delivery location; and
 - (iv) Time and date of purchase and delivery.
- (b) A private carrier must obtain the signature of the person who receives liquor upon delivery.
- (c) A sales record does not have to include the name of the delivery person, but it is encouraged.
- (11) **Web site requirements.** When selling over the internet, all web site pages associated with the sale of liquor must display the spirits retail licensee's registered trade name.
- (12) **Accountability.** A spirits retail licensee shall be accountable for all deliveries of liquor made on its behalf.
- (13) **Violations.** The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement, or restriction.

AMENDATORY SECTION (Amending WSR 15-21-097, filed 10/21/15, effective 11/21/15)

WAC 314-03-035 Consumer orders, internet sales, and delivery for on-premises beer and/or wine liquor licensees. An on-premises beer and/or wine licensee may accept orders for beer or wine from, and deliver beer or wine to, customers.

- (1) **Resale.** Beer and wine shall not be for resale.
- (2) **Stock location.** Beer and wine must come directly from a licensed on-premises retail location.
- (3) **How to place an order.** Beer and wine may be ordered in person at a licensed location, by mail, telephone, internet, or by other similar methods.
- (4) **Sales and payment.**
 - (a) Only a licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a licensee, except for transmittal of payment through a third-party service. (~~(A third party service may not solicit customer business on behalf of a licensee.)~~) The use of internet or mobile applications for retail customers to purchase alcohol in Washington state are allowed under the following conditions:
 - (i) The sale must be made by the licensee;
 - (ii) The licensee processes the payment; and
 - (iii) The liquor licensee pays the owner of the mobile application a service fee.
 - (b) All orders and payments shall be fully processed before liquor transfers ownership or, in the case of delivery, leaves a licensed premises.
 - (c) Payment method. Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.
 - (d) Internet. To sell beer and wine via the internet, a new license applicant must request internet-sales privileges in his or her application. An existing licensee must notify the board prior to be-

ginning internet sales. A corporate entity representing multiple stores may notify the board in a single letter on behalf of affiliated licensees, as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

(5) **Delivery location.** Delivery shall be made only to a residence or business that has an address recognized by the United States Postal Service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(6) **Hours of delivery.** Beer and wine may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(7) **Age requirement.**

(a) Per chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of beer and wine.

(b) A delivery person must verify the age of the person accepting delivery before handing over beer and wine.

(c) If no person twenty-one years of age or older is present to accept a beer and wine order at the time of delivery, the beer and wine shall be returned to the licensee.

(8) **Intoxication.** Delivery of beer and wine is prohibited to any person who shows signs of intoxication.

(9) **Containers and packaging.**

(a) Individual units of beer and wine must be factory sealed in bottles, cans or other like packaging. Delivery of growlers, jugs or other similar, nonfactory sealed containers is prohibited. Delivery of malt liquor in kegs or other containers capable of holding four gallons or more of liquid is allowed, provided that kegs or containers are factory sealed and that the keg sales requirements (see WAC 314-02-115) are met prior to delivery. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a beer and wine package, delivered by a third party, must have language stating that:

(i) The package contains liquor;

(ii) The recipient must be twenty-one years of age or older; and

(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

(a) Records and files shall be retained at a licensed premises. Each delivery sales record shall include the following:

(i) Name of the purchaser;

(ii) Name of the person who accepts delivery;

(iii) Street addresses of the purchaser and the delivery location; and

(iv) Times and dates of purchase and delivery.

(b) A private carrier must obtain the signature of the person who receives beer and wine upon delivery.

(c) A sales record does not have to include the name of the delivery person, but it is encouraged.

(11) **Web site requirements.** When selling over the internet, all web site pages associated with the sale of beer and wine must display a licensee's registered trade name.

(12) **Accountability.** A licensee shall be accountable for all deliveries of beer and wine made on its behalf.

(13) **Violations.** The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery

privileges, or any combination thereof, should a licensee violate any condition, requirement or restriction.

AMENDATORY SECTION (Amending WSR 16-07-025, filed 3/9/16, effective 4/9/16)

WAC 314-03-040 Consumer orders, internet sales, and delivery for beer and/or wine gift delivery licenses. A beer and/or wine gift delivery licensee may accept orders for beer or wine from, and deliver beer or wine to, customers.

(1) **Resale.** Liquor shall not be for resale.

(2) **Stock location.** Liquor must come directly from a licensed retail location.

(3) **How to place an order.** Liquor may be ordered in person at a licensed location, by mail, telephone or internet, or by other similar methods.

(4) **Sales and payment.**

(a) Only a licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a licensee, except for transmittal of payment through a third-party service. ~~((A third party service may not solicit customer business on behalf of a licensee.))~~ The use of internet or mobile applications for retail customers to purchase alcohol in Washington state are allowed under the following conditions:

(i) The sale must be made by the licensee;

(ii) The licensee processes the payment; and

(iii) The liquor licensee pays the owner of the mobile application a service fee.

(b) All orders and payments shall be fully processed before liquor transfers ownership or, in the case of delivery, leaves a licensed premises.

(c) Payment method. Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.

(d) Internet. To sell liquor via the internet, a new license applicant must request internet-sales privileges in his or her application. An existing licensee must notify the board prior to beginning internet sales. A corporate entity representing multiple stores may notify the board in a single letter on behalf of affiliated licensees, as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

(5) **Delivery location.** Delivery shall be made only to a residence or business that has an address recognized by the United States postal service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(6) **Hours of delivery.** Liquor may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(7) **Age requirement.**

(a) Per chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of liquor.

(b) A delivery person must verify the age of the person accepting delivery before handing over liquor.

(c) If no person twenty-one years of age or older is present to accept a liquor order at the time of delivery, the liquor shall be returned to the licensee.

(8) **Intoxication.** Delivery of liquor is prohibited to any person who shows signs of intoxication.

(9) **Containers and packaging.**

(a) Individual units of liquor must be factory sealed in bottles, cans or other like packaging. Delivery of growlers, jugs or other similar, nonfactory sealed containers is prohibited. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a liquor package, delivered by a third party, must have language stating that:

(i) The package contains liquor;

(ii) The recipient must be twenty-one years of age or older; and

(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

(a) Records and files shall be retained at the licensed premises. Each delivery sales record shall include the following:

(i) Name of the purchaser;

(ii) Name of the person who accepts delivery;

(iii) Street addresses of the purchaser and the delivery location; and

(iv) Time and date of purchase and delivery.

(b) A private carrier must obtain the signature of the person who receives liquor upon delivery.

(c) A sales record does not have to include the name of the delivery person, but it is encouraged.

(11) **Web site requirements.** When selling over the internet, all web site pages associated with the sale of liquor must display a licensee's registered trade name.

(12) **Accountability.** A licensee shall be accountable for all deliveries of liquor made on its behalf.

(13) **Violations.** The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement or restriction.

Washington State Liquor Control Board

Issue Paper

Rule Making on WAC 314-40-040

Date: May 17, 2017

Presented by: Karen McCall, Agency Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the Board to file proposed rules (CR 102) to revise WAC 314-40-040.

Why is rule making necessary?

This rulemaking is the result of a petition for rulemaking submitted by the Aberdeen Elks Lodge #593. They are requesting the board increase the number of club membership drives allowed per calendar year.

What changes are being made?

Amended Section. WAC 314-40-040 Guest and courtesy cards – Visitors.

The number of membership drives was changed to 1 per quarter instead of 2 per year.

WAC 314-40-040 Guest and courtesy cards—Visitors. (1) Guest cards are intended for invited guests residing outside of the immediate area.

(a) Guest cards shall be issued no more than three times per year for a period not to exceed fourteen consecutive days, and must be numbered serially, with a record of the issuance of each such card to be filed in a manner as to be readily accessible to the agents of the board;

(b) Contestants in golf or tennis tournaments conducted on the grounds of a licensed club will be considered a visitor for the day(s) of the event.

(2) Visitors may be introduced when accompanied at all times by a member, who is not an on duty employee, and may remain as long as such member is present in the club. Any such visitor may only enjoy the privileges of the club six times in any one calendar year unless a different number of times is allowed in the club by-laws.

(3) Persons who are members in good standing of a national veterans organization may enjoy the privileges of any licensed club affiliated with any national veterans organization, and persons who are members in good standing of a national fraternal organization may enjoy the privileges of any club affiliated with that particular national fraternal organization if the bylaws of such clubs authorize reciprocal privileges. Subsections (1) and (2) of this section shall not apply to members of such organizations.

(4) Persons who are members in good standing of organizations licensed as private nonfraternal clubs may enjoy the privileges of other licensed nonfraternal clubs if the bylaws of such clubs authorize reciprocal privileges. Subsections (1) and (2) of this section shall not apply to members of such clubs.

(5) Courtesy cards may be issued to the adult members of the immediate family of any member with or without charge upon application being made to the club by the member.

(6) In order to recruit new members and build club membership, a private club may hold a public membership function for ~~((two))~~ one day~~((s))~~ per calendar ~~((year))~~ quarter where club liquor may be given or sold to those attending as a part of the membership drive activities. The function must be advertised as a membership drive. Membership drives may not be held on consecutive days.

(7) A person issued a guest card by the club manager pursuant to subsection (1) of this section may introduce visitors into the club provided:

(a) The visitors are accompanied at all times by the sponsoring guest card holder;

(b) The visitors remain in the club only as long as the sponsoring guest card holder is present; and

(c) The house rules or bylaws of the club provide guest card holders the privilege of introducing visitors into the club.



**Washington State
Liquor and Cannabis Board**

Date: May 31, 2017

To: Jane Rushford, Board Chair
Ollie Garrett, Board Member
Russ Hauge, Board Member

From: Joanna Eide, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director
Peter Antolin, Agency Deputy Director
Justin Nordhorn, Chief of Enforcement
Becky Smith, Licensing Director
Karen McCall, Agency Rules Coordinator
Peter Corier, Marijuana Examiners Unit

Subject: **Approval for filing proposed rules (CR 102) regarding producer licenses and other related rules.**

Rule changes are needed to allow producers to hold interests in up to 3 licenses through assumptions of existing licenses only, and to provide additional requirements on eligibility for those license assumptions and for license renewals. The proposed rules also include an increase from 2,000 sq. ft. of possible canopy to 4,000 sq. ft. maximum canopy for tier 1 producers. Additional changes are proposed to accommodate changes in circumstances and upcoming changes to laws that will be effective on July 23, 2017. A separate rulemaking is forthcoming to supplement the changes made in this rulemaking related to upcoming changes to the law.

Process




The Rules Coordinator requests approval to file the proposed rules (CR 102) for the rule making described above. An issue paper on these rule was presented at the Board meeting on May 31, 2017, and is attached to this order.

If approved for filing, the tentative timeline for the rule making process is outlined below:

March 8, 2017	Board approved filing the pre-proposal statement of inquiry (CR 101)
May 31, 2017	Board is asked to approve filing the proposed rules (CR 102 filing)
June 21, 2017	Code Reviser publishes notice
July 12, 2017	Public Hearing
July 12, 2017	End of written comment period
July 24, 2017	Board is asked to adopt rules*

July 24, 2017	Agency sends notice to those who commented both at the public hearing and in writing.
July 24, 2017	Agency files adopted rules with the Code Reviser (CR 103)
August 24, 2017	Rules are effective (31 days after filing)

*Tentative and subject to change

<input checked="" type="checkbox"/> Approve	<input type="checkbox"/> Disapprove	 Jane Rushford, Chair	<u>5-31-17</u> Date
<input checked="" type="checkbox"/> Approve	<input type="checkbox"/> Disapprove	 Ollie Garrett, Board Member	<u>5-25-2017</u> Date
<input checked="" type="checkbox"/> Approve	<input type="checkbox"/> Disapprove	 Russ Hauge, Board Member	<u>5/31/17</u> Date

Attachment: Issue Paper

Issue Paper

Producer Licenses and Tiers Rules

Date: May 31, 2017

Presented by: Joanna Eide, Policy and Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the Board to file proposed rules (CR 102) for new rules and amendments to rules in Chapter 314-55 WAC Marijuana Licenses, Application Process, Requirements, and Reporting regarding producer licenses and related rules.

Why is rule making necessary?

The WSLCB has heard concerns that small producers are struggling and an interest from the industry for licensees and true parties of interest to hold an interest in more than one producer license. Initially, WSLCB rules stated that a person or business entity may hold interest in up to three (3) producer licenses, which was later limited by a Board Interim Policy (BIP-02-2014) to interest in only one (1) license due to the high volume of producer license applications received and concerns about the level of canopy of marijuana grown in Washington State.

This proposal includes allowing interests in up to three (3) producer license through assumptions of existing licenses only, and adds additional requirements around violation history for license applications. If the increase to interests in producer licenses is approved by the Board, staff will coordinate rescinding the existing Board Interim Policy limiting persons or entities to interest in only one (1) license when the rule changes become effective.

Allowing interests in up to 3 licenses will allow greater flexibility for businesses to be able to “move up the ladder” of tiers by forming partnerships with other licensees if they choose or through assuming an additional, existing license. This will be easier to accomplish if licensees can hold interests in more than one license to accommodate buying and selling of businesses. Further, the market will control whether businesses can expand since many are not currently growing at capacity and readiness to acquire additional license interests can be determined by the licensee who is best suited to determine whether they are ready to expand. Lastly, the proposed changes in this rulemaking maintains the 3 tier structure.

The WSLCB considered adjustments to the tier structure of producer licenses as proposed by industry and through public comment. A full assessment of canopy impacts was done for each of these proposals, each of which involved increases to canopy of varying degrees. Many comments were received with concerns about canopy impacts. The WSLCB also understands that many producers are

not currently growing up to the maximum amount allowed under their license type.

At this time, the WSLCB proposes adjusting tier 1 producer licenses up to 4,000 square feet, which are currently limited to up to 2,000 square feet of canopy. No other adjustments or increases to canopy are included in this proposal. The WSLCB will continue to gather more data on canopy in Washington and may bring forward a proposal for more tier adjustments, if needed, at a later date. Many activities are currently underway to enhance WSLCB's understanding of existing canopy.

Other changes related to producer license rules needed as a result of changing circumstances and upcoming changes to laws are incorporated into this rulemaking. These changes are primarily technical and clarifying in nature, as well as changes required only as a result of 2017 legislation. It should be noted that many of these changes relate to voluntary or optional activities for producer licenses, such as sales of immature marijuana plants or clones and marijuana seeds to marijuana research licensees, qualified patients, or designated providers. Additional rulemaking already planned as a result of 2017 legislation will further provide provisions in rule for these activities, but minor changes were needed in this rulemaking for logistical purposes since a WAC may not be open in two rulemakings at once (codifying issues).

What changes are being proposed?

Amendatory Section. WAC 314-55-045, What marijuana law or rule violation history might prevent an applicant from receiving a marijuana license?

Proposed changes include new regulatory violation history considerations for new license applicants and license renewals. The point system included in the proposed changes is similar to point systems for other licenses the WSLCB regulates, and includes provisions related to considering verbal or written warnings when assessing applicants or current licensees. The title of the WAC is amended slightly to communicate that the requirements apply at initial licensure and at renewal. Provisions regarding unpaid fines for administrative violations are included so the WSLCB can take those into account when for license assumptions and license renewals.

Amendatory Section. WAC 314-55-075, What is a marijuana producer license and what are the requirements and fees related to a marijuana producer license?

- Added language regarding upcoming changes to law (effective July 23, 2017) that will allow producers to sell immature plants or clones and seeds to members of a registered cooperative, qualified patients, and designated providers. Provisions on how sales to qualified patients and

designated providers must occur will be addressed in a separate rulemaking.

- Removed language regarding the initial application window as it is now closed.
- Specified that the maximum amount of space for marijuana production cannot exceed the amount licensed. Current rule language states that it would be imposed at a later date. Setting the maximum amount at the amount licensed is a natural and logical limit.
- Clarified language regarding sight obscure fencing to provide clarity as some issues have been encountered with fencing and walls that are not sight obscure.
- Increased tier 1 producers from 2,000 sq. ft. maximum canopy to 4,000 sq. ft. maximum.

NOTE: As noted above, additional adjustments to other rules to accommodate the changes in this rulemaking will be made in the Technical/Clarifying Changes to Chapter 314-55 WAC Rulemaking and the upcoming 2017 Marijuana Legislation Rulemaking.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-045 What marijuana law or rule violation history might prevent an applicant from receiving or renewing a marijuana license? The WSLCB will conduct an investigation of all applicants' marijuana law or rule administrative violation history.

(1) The WSLCB will not normally issue a marijuana license to a person, or to an entity with a true party of interest, who has the following violation history((or to any person who has demonstrated a pattern of disregard for laws or rules.)):

Violation Type (see WAC 314-55-515)	Period of Consideration
<ul style="list-style-type: none"> • Three or more public safety violations; 	<ul style="list-style-type: none"> • Violations issued within three years of the date the application is received by the board's licensing and regulation division.
<ul style="list-style-type: none"> • Four or more regulatory violations; or 	
<ul style="list-style-type: none"> • One to four, or more license violations. 	<ul style="list-style-type: none"> • Violations issued within the last three years the true party(ies) of interest were licensed.

(2) The WSLCB will not normally issue or renew a marijuana license to an applicant or licensee who has accumulated eight or more points as indicated below:

Violation Type (See WAC 314-55-515 through 314-55-537)	Time Period During Which Points Will Be Assigned	Points Assigned
<u>Violations involving:</u> <ul style="list-style-type: none"> • <u>Diversion</u> • <u>Criminal conduct</u> • <u>True party of interest/undisclosed financiers</u> • <u>Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties</u> RCW 69.50.401 WAC 314-55-110 WAC 314-55-185 RCW 9A.76.020	<u>Five years</u>	<u>10 points</u>
<ul style="list-style-type: none"> • <u>Violations against public safety as prescribed in WAC 314-55-520</u> 	<u>Three years</u>	<u>4 points</u>
<ul style="list-style-type: none"> • <u>Traceability</u> • <u>Security</u> 	<u>Three years</u>	<u>3 points</u>

<u>Violation Type</u> (See WAC 314-55-515 through 314-55-537)	<u>Time Period During Which Points Will Be Assigned</u>	<u>Points Assigned</u>
• <u>Pesticides</u> WAC 314-55-083 WAC 314-55-084		
• <u>Other regulatory violations of chapter 69.50 RCW and/or 314-55 WAC</u>	<u>Three years</u>	<u>2 points</u>

(3) The WSLCB will not normally issue or renew a marijuana license to a person or entity who has demonstrated a pattern of disregard for laws or rules including, but not limited to, written or verbal warnings.

(4) The WSLCB will not normally issue or renew a marijuana license if the applicant or licensee has unpaid fines related to violations of rules under this chapter.

AMENDATORY SECTION (Amending WSR 16-19-102, filed 9/21/16, effective 10/22/16)

WAC 314-55-075 What is a marijuana producer license and what are the requirements and fees related to a marijuana producer license?

(1)(a) A marijuana producer license allows the licensee to produce, harvest, trim, dry, cure, and package marijuana into lots for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. A marijuana producer can also produce and sell:

(i) Marijuana plants, seed, and plant tissue culture to other marijuana producer licensees; ~~((and))~~

(ii) Immature marijuana plants or clones and marijuana seeds to members of a registered cooperative, qualified patients, or designated providers under the conditions provided in ((WAC 314-55-410)) this chapter; and

(iii) Immature marijuana plants or clones and marijuana seeds to a licensed marijuana researcher under the conditions provided in this chapter.

(b) Marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in nonrigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure commercial-grade security fence or wall ~~((or fence))~~ at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083. An outdoor grow must be physically separated at least twenty feet from another licensed outdoor grow. Outdoor grows cannot share common walls or fences.

(2) The application fee for a marijuana producer license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(3) The annual fee for issuance and renewal of a marijuana producer license is one thousand three hundred dollars. The WSLCB will

conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(4) (~~The WSLCB will initially limit the opportunity to apply for a marijuana producer license to a thirty day calendar window beginning with the effective date of this section. In order for a marijuana producer application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the WSLCB.~~) The application window for marijuana producer licenses is closed. The WSLCB may reopen the marijuana producer application window (~~after the initial evaluation of the applications received and~~) at subsequent times when the WSLCB deems necessary.

(5) Any entity and/or principals within any entity are limited to an interest, as defined in WAC 314-55-035(1), in no more than three marijuana producer licenses.

(6) The maximum amount of space for marijuana production (~~will be imposed at a later date~~) cannot exceed the amount licensed. Applicants must designate on their operating plan the size category of the production premises and the amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

(a) Tier 1 - (~~Less than two~~) Up to four thousand square feet;

(b) Tier 2 - (~~Two~~) Four thousand square feet up to ten thousand square feet; and

(c) Tier 3 - Ten thousand square feet up to thirty thousand square feet.

(7) The WSLCB may reduce a licensee's or applicant's square footage designated to plant canopy for the following reasons:

(a) If the amount of square feet of production of all licensees exceeds the maximum square feet the WSLCB (~~will~~) may reduce the allowed square footage by the same percentage.

(b) If fifty percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation the WSLCB may reduce the tier of licensure.

(8) If the total amount of square feet of marijuana production exceeds the maximum square feet, the WSLCB reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

(9) The maximum allowed amount of marijuana on a producer's premises at any time is as follows:

(a) Outdoor or greenhouse grows - One and one-quarter of a year's harvest; or

(b) Indoor grows - Six months of their annual harvest.



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington State Liquor and Cannabis Board

- Preproposal Statement of Inquiry was filed as WSR 17-07-036 on 3/8/17; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)

WAC 314-55-045, What marijuana law or rule violation history might prevent an applicant from receiving a marijuana license?
WAC 314-55-075, What is a marijuana producer license and what are the requirements and fees related to a marijuana producer license?

Hearing location(s):

Washington State Liquor and Cannabis Board
Board Room
3000 Pacific Ave SE
Olympia, WA 98504

Date: July 12, 2017 Time: 10:00 am

Submit written comments to:

Name: Joanna Eide, Policy and Rules Coordinator
Address: P.O. Box 43080
Olympia, WA 98504
e-mail rules@lcb.wa.gov
fax (360) 664-9689 by (date) July 12, 2017

Assistance for persons with disabilities: Contact

Joanna Eide by July 5, 2017

TTY () _____ or (360) 664-1622

Date of intended adoption: on or after July 26, 2017

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This rulemaking proposes to allow persons or entities to hold interests up to three (3) producer licenses, and to adjust the maximum square feet for tier 1 producers from 2,000 to 4,000. Other rule adjustments are made to ensure proper consideration of an applicant or renewing licensee's law, rule, and fine payment history, as well as other technical changes for clarity and to ensure rules accommodate upcoming changes in law.

Reasons supporting proposal: The WSLCB has heard concerns from smaller producers that they are unable to grow their business due to being limited to no more than 2,000 square feet of marijuana, and an interest for licensees to hold an interest in more than one producer license. Initially, WSLCB rules stated that a person or business entity may hold interest in up to three (3) producer licenses, which was later limited to interest in only one (1) license due to the high volume of producer license applications received. Rulemaking is required to accomplish these items, as well as ensure that rules accommodate changes as a result of the passage of ESSB 5131 during the 2017 legislative session that will become effective on July 23, 2017. Additional rulemaking needed for Legislative changes will occur in a separate rulemaking. Technical and clarifying changes are needed to ensure rules function properly, are clearly understood by licensees, and improve enforceability.

Statutory authority for adoption: RCW 69.50.342 and 69.50.345

Statute being implemented: RCW 69.50.342 and 69.50.345

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

DATE

June 7, 2017

NAME (type or print)

Jane Rushford

SIGNATURE

TITLE

Chair

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 07, 2017

TIME: 11:19 AM

WSR 17-12-116

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

Name of proponent: (person or organization) Washington State Liquor and Cannabis Board

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Joanna Eide, Policy and Rules Coord	3000 Pacific Ave SE, Olympia, WA 98504	(360) 664-1622
Implementation....Becky Smith, Licensing Director	3000 Pacific Ave SE, Olympia, WA 98504	(360) 664-1600
Enforcement..... Justin Nordhorn, Enforcement Chief	3000 Pacific Ave SE, Olympia, WA 98504	(360) 664-1726

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone _____

fax _____

e-mail _____

No. Explain why no statement was prepared.

See Attachment A.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain: A cost-benefit analysis was not required under RCW 34.05.328 because the proposed new rule does not qualify as a significant legislative rule or other rule requiring a cost benefit analysis under RCW 34.05328(5).