



**Washington State
Liquor and Cannabis Board**

June 22, 2016

Hunter G. Goodman
Secretary of the Senate
Post Office Box 40482
Olympia WA 98504-0482

Barbara Baker
House of Representatives Chief Clerk
Post Office Box 40600
Olympia, WA 98504-0600

Washington State Code Reviser
Post Office Box 40551
Olympia, WA 98504-0551

RE: ESSB 6328 – Vapor Products Notification

Dear Mr. Goodman, Ms. Baker and Washington State Code Revisers:

The purpose of this letter is to provide formal notice of the effective date of sections 5 through 10 and 28 of ESSB 6328 as required by section 32(2) of ESSB 6328, and the effective date of FDA regulations on vapor products as required under section 13(3)(a) of ESSB 6328.

Section 32(2) of ESSB 6328 provides: “The Washington state liquor and cannabis board must provide written notice of the effective date of sections 5 through 10 and 28 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.”

The Washington State Liquor and Cannabis Board (WSLCB) has worked with the Department of Revenue’s Business Licensing System (BLS) to create the paper and online application for vapor products licenses as provided in ESSB 6328. The application for licenses prescribed in ESSB 6328 will be available on August 1, 2016. For this reason, the provisions of sections 5 through 10 and 28 of ESSB 6328 will become effective on August 1, 2016, as the effective date of those sections were dependent on the availability of the license application.

Section 13 of ESSB 6328 creates labeling requirements for vapor products, including warnings regarding the harmful effects of nicotine, keeping the product away from children, that vaping is illegal for those under the age of eighteen, and the amount of nicotine in the product and the total volume of the liquid contents of the product. Section 13(3)(a) provides: “This section expires on the

effective date of the final regulations issued by the United States food and drug administration or by any other federal agency, when such regulations mandate warning or advertisement requirements for vapor products.”

The United States Food and Drug Administration (FDA) issued “deeming regulations” on May 5, 2016, that will become law on August 8, 2016. These regulations include labeling requirements for vapor products. However, the new labeling requirements in the FDA regulations will not be enforced until May 10, 2018.

Because Section 13(3)(a) states “when such regulations *mandate* warning or advertisement requirements for vapor products,” (emphasis added) the WSLCB interprets this to be the date in which those regulations will not only be effective, but enforced. For this reason, the WSLCB will implement this section and enforce the state law requirements until such time as the FDA enforces labeling and related requirements on vapor products.

It is important to note that the FDA regulations only apply to those vapor products that contain nicotine as the term is defined in the FDA’s regulations. The FDA regulations do not provide requirements for those vapor products that do not contain nicotine. Many vapor products that do not contain nicotine are available on the market today. ESSB 6328 will need to be fully implemented for those products since they fall outside the purview of the FDA’s regulations, and the labeling requirements in section 13 of ESSB 6328 will continue to apply to those vapor products that do not contain nicotine.

FDA regulations specifically prohibit tastings or sampling of tobacco products and vapor products that contain nicotine, while ESSB 6328 allows the tasting of vapor products within a location that holds a valid vapor products license. Because vapor products that do not contain nicotine fall outside the purview of the FDA regulations, tastings will be allowed in licensed adult-only facilities as provided in ESSB 6328 Sec. 19(1) for products that do not contain nicotine.

Sincerely,



Jane Rushford
Board Chair

Washington State Liquor and Cannabis Board



Ruthann Kurose
Board Member

Washington State Liquor and Cannabis Board

By E-mail and First Class Mail

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