



## Notice of Permanent Rules to Implement 2015 Marijuana Legislation (Chapter 314-55 WAC)

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rulemaking.

Once persons who gave comment during this rulemaking have had a chance to receive this document, the Liquor and Cannabis Board will file the amended rules with the Office of the Code Reviser. These rule changes will become effective 31 days after filing (approximately June 18, 2016).

The Liquor and Cannabis Board appreciates your involvement in this rule making process. If you have any questions, please contact Karen McCall, Rules Coordinator, at (360) 664-1631 or e-mail at [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov).

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### What are the agency's reasons for adopting this rule?

Rules were needed to implement 2015 marijuana legislation and clarify existing marijuana rules.

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### Summary of all public comments received on this rule proposal.

**Comments received on the CR 102 (Proposed Rules) filed September 23, 2015, filed at WSR 15-19-166 including comments received at the six Public Hearings conducted November 3, 2015 through November 19, 2015:**

**Require all applicants for a marijuana retail license to show proof they are current in all state taxes to include the Department of Revenue, Labor & Industries and Employment Security. Comments were also received to not require applicants for a marijuana retail license to show proof they are current in all state taxes.**

**LCB response:** The proposed rules stated applicants must have a history of paying all applicable state taxes and fees. In the final rules adopted by the board the language spells out the department of revenue, labor and industries, and employment security.

**Establish a merit-based application process for marijuana retail applications.**

**LCB response:** The board has a merit-based application process.

**In addition to local authorities, send marijuana application notices to all regulatory agencies for input.**

**LCB response:** RCW 69.50.331 requires the board to send the local jurisdiction notice of all marijuana applications. If other regulatory agencies within the local jurisdictions want notice it is the responsibility of the local jurisdiction to provide that notification.

**Require odor control be addressed in the Operating Plan.**

**LCB response:** The board has no authority over odor control within local jurisdictions. Odor control issues should be handled by local ordinances.

**Allow municipal corporations and special purpose districts to object to marijuana applications and renewals.**

**LCB response:** Anyone can submit an objection to a marijuana application. Objections to renewals must be submitted through the local jurisdiction.

**Don't allow cooperatives to grow marijuana outside in view of neighbors.**

**LCB response:** To obscure public view of the premises, outdoor marijuana production must be enclosed by a sight obscure wall or fence at least eight feet high.

**Allow producers to sell directly to consumers.**

**LCB response:** RCW 69.50.325 only allows a marijuana producer to sell marijuana plants, clones, and seeds to another marijuana producer or marijuana processor. Legislation passed in the 2016 legislative session require registered cooperative members to purchase marijuana plants, clones, and seeds from a marijuana producer. All other consumers must purchase marijuana products from a licensed marijuana retailer.

**Do not require employee birthdates on identification badges.**

**LCB response:** In the final rules adopted by the board birthdates on identification badges was removed. Licensees and employees must have their state issued identification available to verify the information on their badge is correct.

**Require tests for toxic pesticides and bloom fertilizers.**

**LCB response:** These issues are not addressed in this rulemaking but will be addressed in a future rulemaking.

**Do not allow any marijuana infused edibles that may be appealing to youth. Prohibit marijuana infused edible products that require cooking or baking.**

**LCB response:** Current rules do not allow any marijuana infused edible products that are especially appealing to children. The final rules adopted by the board prohibit marijuana infused edibles that require cooking or baking.

**Increase the size of warning labels on marijuana product packaging.**

**LCB response:** This issue was not part of this rulemaking but may be addressed in a future rulemaking.

**Do not consider financiers true parties of interest.**

**LCB response:** The final rules adopted by the board do not consider financiers true parties of interest unless they receive a percentage of the profit from the licensed marijuana business or they exercise control over the business.

**Allow out of state financiers for marijuana businesses. Don't allow out of state financiers for marijuana businesses.**

**LCB response:** The final rules adopted by the board allow out of state financiers that meet the required qualifications. Out of state financiers are prohibited from receiving a percentage of the profits or having any control of the business.

**Oppose retesting marijuana product after 30 days if not processed.**

**LCB response:** The final rules adopted by the board removed the retesting requirement.

**Oppose the 24 hour quarantine for marijuana being shipped from processor to processor or processor to retailer.**

**LCB response:** The 24 hour quarantine is required to allow enforcement to inspect product before shipping.

**Oppose packaging for single serving marijuana infused edibles. It is too costly.**

**LCB response:** Single serving packaging for marijuana infused edibles was not part of this rulemaking. This requirement was adopted by the board in May 2015. Single serving packages was required to minimize youth access to marijuana infused edible products.

**Request all marijuana applicants provide information on employee compensation, benefits, and working conditions. Oppose this requirement.**

**LCB response:** The final rules adopted by the board includes language in the operating plan regarding employee compensation and benefits. The information requested are "Yes" or "No" questions and will not determine license issuance.

**Labs need to be more regulated.**

**LCB response:** The rules adopted by the board contains reasons the board may revoke the certificate of the third party lab. Lab proficiency testing rules are being developed in a future rulemaking.

**Opposition to more retail stores. Support of more retail stores. Limit the number of retail stores.**

**LCB response:** RCW 69.50.345 directs the board to reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. The board relied on a report from Botec that determined the size of the medical market in Washington and the projected number of retail stores that would be needed.

**Allow more producers. Do not cap the marijuana plant canopy.**

**LCB response:** RCW 69.50.345 required the board to reconsider the amount of plant canopy needed to provide product for the recreational and medical markets. The board tasked the UW-based Cannabis Law and Policy Project (CLPP) with calculating the “grow canopy,” or square footage, required to supply the state’s medical marijuana market as it becomes folded into the state’s retail system. The group’s report estimated that between 1.7 and 2 million square feet of plants is needed to satisfy the medical marijuana market, and concluded that the 12.3 million square feet of canopy currently approved by the LCB is enough to supply the state’s total marijuana market.

**Oppose the twenty foot distance requirement between outdoor producers.**

**LCB response:** The board policy has required the twenty foot distance between producers since the first applications were processed. The policy is now formalized in rule.

**Allow CO2 extraction for cooperatives.**

**LCB response:** The rules adopted by the board allow cooperatives to use CO2 extraction in a closed loop system as referenced in WAC 314-55-104.

**The Public Posting Notice should be larger than 8 ½ inches by 11 inches.**

**LCB response:** The public posting notice for marijuana licenses is the same size as the notices for liquor applications.

**Allow samples for “budtender employees”. Increase quality control samples. Increase samples to retailers.**

**LCB response:** The final rules adopted by the board contain a new section, WAC 314-55-096 dedicated to samples. Educational sampling is part of the rule and allows a processor to provide educational samples for retailers to give to their budtender employees for educational purposes. Quality control samples were increased. Samples to retailers were increased.

**Allow marijuana processors to give promotional items to marijuana retailers.**

**LCB response:** Promotional items between a marijuana processors and marijuana retailers is prohibited in RCW 69.50.328. SSB 6341 passed in the 2016 legislation session which allows a marijuana producer or processor to provide marijuana retailers with branded promotional items which are of nominal value. "Nominal value" is defined to mean an item with a value of \$30 or less. The items must be used by

the retailer in a manner consistent with its license and may only contain imprinted advertising matter of the producer or processor. Producers and processors may not provide the item directly to retail customers and the items must not be targeted to or appeal principally to youth. Marijuana producers and processors may also provide personal services for marijuana retailers.

**Prohibit online advertising.**

**LCB response:** RCW 69.50.369 allows advertising with the following exceptions:

- (a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;
- (b) On or in a public transit vehicle or public transit shelter; or
- (c) On or in a publicly owned or operated property.

**Oppose requirement that the board must approve any added financiers.**

**LCB response:** All financiers must have criminal background checks and their finances must be verified before they are allowed to become a financier to a marijuana business.

**Oppose “tied house” prohibitions between producers and processors.**

**LCB response:** Money and money’s worth prohibitions exist to prevent undue influence and coercion between the tiers.

**Don’t allow local jurisdictions to lower the 1000 foot buffer between marijuana businesses and areas where children are present.**

**LCB response:** RCW 69.50.331 allows a city, county, or town to permit the licensing of premises within one thousand feet but not less than one hundred feet of the perimeter of the grounds of a recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction’s civil regulatory enforcement, criminal law enforcement interests, public safety, or public health. It does not include elementary schools, secondary schools, or playgrounds.

**The definition of “licensed premises” is too broad.**

**LCB response:** The definition of “licensed premises” was revised in the final rules adopted by the board.

**Allow intellectual property agreements.**

**LCB response:** Intellectual property agreements are allowed as long as payment is not a percentage of the marijuana business profits or control over the licensed business.

**Allow the use of terpenes, cannabinoids, and characterizing flavors in the production of marijuana products**

**LCB response:** The final rules adopted by the board do not prohibit the use of terpenes, cannabinoids, and characterizing flavors in the production of marijuana products.

**Allow marijuana retailers to sell marijuana plants, clones, and seeds to qualified patients. Where will cooperative members purchase marijuana plants?**

**LCB response:** Marijuana retailers are prohibited from selling marijuana plants, clones, and seeds. HB 2520, passed in the 2016 legislative session, requires registered cooperative members to purchase marijuana plants, clones, and seeds from a marijuana producer.

**Oppose residual solvent testing for concentrates.**

**LCB response:** The final rules adopted by the board do not require residual solvent testing for concentrates.

**Allow 48 hours for delivery of marijuana products. Twenty four hours is not sufficient time to delivery products from one side of the state to the other.**

**LCB response:** The final rules adopted by the board allow 48 hours for delivery of product.

**Oppose language requiring a marijuana retailer with a medical marijuana endorsement to carry a minimum amount of medical marijuana products.**

**LCB response:** The final rules adopted by the board removed this requirement.

**Don't require cooperative members to participate in growing plants. Don't require the cooperative to be located in a member's domicile. 8:00 am is too early for the board to conduct an inspection of a cooperative.**

**LCB response:** RCW 69.51A.250 set the requirements for cooperatives. The board cannot remove the requirements set in the law. The rules states the board may inspect a cooperative between the hours of 8:00 am and 8:00 pm unless otherwise agreed upon by cooperative members.

**Retailers and their employees should not have access to patient health conditions.**

**LCB response:** RCW 69.50.375 requires marijuana retailers holding a medical marijuana endorsement demonstrate the ability to enter qualifying patients and designated providers into the medical marijuana authorization database created by the Department of Health and issue recognition cards in compliance with the Department of Health standards.

**Oppose the 1000 foot buffer for cooperatives.**

**LCB response:** RCW 69.51A.250 requires the 1000 buffer from the perimeter of the grounds of any elementary or secondary school, playground, recreation center or

facility, child care center, public park, public transit center, library, or any game arcade that admission to which is not restricted to persons aged twenty-one years or older. Cooperatives may not be located within one mile of a licensed marijuana retailer.

**Oppose the requirement that qualifying patients and designated providers must be entered in the medical marijuana authorization database.**

**LCB response:** RCW 69.51A.230 requires qualifying patients and designated providers be placed in the medical marijuana authorization database to register a cooperative with the board, receive a sales tax break on medical marijuana products, and to be allowed to possess larger amounts of marijuana products.

**Allow marijuana licensees to pay for products using a money transmitter.**

**LCB response:** The final rules adopted by the board allow marijuana licensees to pay for products using a money transmitter.

**The board needs to allow cooperatives to sell excess marijuana to others (like the current practice).**

**LCB response:** RCW 69.51A.250 clearly states qualifying patients or designated providers who participate in a cooperative may not sell, donate, or otherwise provide marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to a person who is not participating in the cooperative.

**Allow marijuana retailers to accept returns for defective products.**

**LCB response:** The final rules adopted by the board allow a marijuana retail licensee to accept returns of open marijuana products if the product is returned in the original packaging with the lot, batch, or inventory ID number fully legible.

**Allow dispensaries to stay in business as they currently operate.**

**LCB response:** 2SSB 5052 banned collective gardens effective July 1, 2016, and the law authorizing them will be repealed effective July 1, 2016.

**The board needs to create a Marijuana Advisory Council with marijuana industry members.**

**LCB response:** The board is considering this option.

**Marijuana retail applications for current medical marijuana dispensaries should all be priority one.**

**LCB response:** RCW 69.50.331 created the priority requirements for marijuana applications. If an applicant meets the requirements of a priority one application they will be processed as a priority one.

**Comments received on Supplemental CR 102 filed January 6, 2016, filed as WSR 16-02-128 including comments from the Public Hearing held February 10, 2016:**

**Allow samples for “budtender employees”. Increase quality control samples. Increase samples to retailers. Do away with all samples.**

**LCB response:** The final rules adopted by the board contain a new section, WAC 314-55-096 dedicated to samples. Educational sampling is part of the rule and allows a processor to provide educational samples for retailers to give to their budtender employees for educational purposes. Quality control samples were increased. Samples to retailers were increased.

**Allow out of state financiers for marijuana businesses. Don’t allow out of state financiers for marijuana businesses.**

**LCB response:** The final rules adopted by the board allow out of state financiers that meet the required qualifications. Out of state financiers are prohibited from receiving a percentage of the profits or having any control of the business.

**The definition of “licensed premises” is too broad.**

**LCB response:** The definition of “licensed premises” was revised in the final rules adopted by the board.

**Lower the marijuana excise tax.**

**LCB response:** The marijuana excise tax is set in law. The board cannot change the marijuana excise tax by rule.

**Oppose requirement that the board must approve any added financiers.**

**LCB response:** All financiers must have criminal background checks and their finances must be verified before they are allowed to become a financier to a marijuana business.

**Allow producers to sell directly to consumers.**

**LCB response:** RCW 69.50.325 only allows a marijuana producer to sell marijuana plants, clones, and seeds to another marijuana producer or marijuana processor. HB 2520, passed in the 2016 legislative session, requires registered cooperative members to purchase marijuana plants, clones, and seeds from a marijuana producer. All other consumers must purchase marijuana products from a licensed marijuana retailer.

**Oppose “tied house” prohibitions between producers and processors.**

**LCB response:** Money and money’s worth prohibitions exist to prevent undue influence and coercion between the tiers.

**Oppose Mr. Yuk sticker requirement on marijuana infused edibles. Marijuana is not poison.**

**LCB response:** The final rules adopted by the board removed this requirement. The board is committed to working with the Poison Center on a symbol for marijuana products to identify the products as dangerous to youth. The board will address this issue in a separate rulemaking.

**Allow the use of a URL on labels for the information currently required in accompanying materials for marijuana products.**

**LCB response:** The current rules on accompanying materials allow for the use of a URL in place of printed material.

**Oppose the twenty foot distance requirement between outdoor producers.**

**LCB response:** The board policy has required the twenty foot distance between producers since the first applications were processed. The policy is now formalized in rule.

**Oppose the requirement that marijuana product labels list all pesticides used on the product.**

**LCB response:** Pesticide information has always been required in accompanying materials for marijuana products. The rules adopted by the board requires this information to be included on the label of all marijuana products to ensure the customer sees the information.

**Oppose the changes to the penalty structure for producer and processor licensees. Destruction of inventory will cause businesses to fail.**

**LCB response:** Destruction of inventory was added as penalties because suspending a producer or processor license was not feasible. The final rules adopted by the board replaced destruction of inventory with monetary penalties for producer and processor licensees.

**Oppose the priority system for marijuana retail license applications. Marijuana retail applications for current medical marijuana dispensaries should all be priority one.**

**LCB response:** RCW 69.50.331 created the priority requirements for marijuana applications. If an applicant meets the requirements of a priority one application they will be processed as a priority one.

**Opposition to more retail stores. Support of more retail stores. Limit the number of retail stores.**

**LCB response:** RCW 69.50.345 directs the board to reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. The board relied on a report from Botec that determined the size of the medical market in Washington and the projected number of retail stores that would be needed.

**Oppose the 24 hour quarantine for marijuana being shipped from processor to processor or processor to retailer.**

**LCB response:** The 24 hour quarantine is required to allow enforcement to inspect product before shipping.

**Do not require employee birthdates on identification badges.**

**LCB response:** In the final rules adopted by the board birthdates on identification badges was removed. Licensees and employees must have their state issued identification available to verify the information on their badge is correct.

**Do not allow any marijuana infused edibles that may be appealing to youth.**

**Prohibit marijuana infused edible products that require cooking or baking.**

**LCB response:** Current rules do not allow any marijuana infused edible products that are especially appealing to children. The final rules adopted by the board prohibit marijuana infused edibles that require cooking or baking.

**Require odor control be addressed in the Operating Plan.**

**LCB response:** The board has no authority over odor control within local jurisdictions. Odor control issues should be handled by local ordinances.

**Allow more producers. Do not cap the marijuana plant canopy.**

**LCB response:** RCW 69.50.345 required the board to reconsider the amount of plant canopy needed to provide product for the recreational and medical markets. The board received reports from Botec and the University of Washington on the amount of plant canopy needed. The number of producer licenses and plant canopy is adequate to fill those needs at this time.

**Don't allow cooperatives to grow marijuana outside in view of neighbors.**

**LCB response:** To obscure public view of the premises, outdoor marijuana production must be enclosed by a sight obscure wall or fence at least eight feet high.

**Oppose residual solvent testing for concentrates.**

**LCB response:** The final rules adopted by the board do not require residual solvent testing for concentrates.

**Allow 48 hours for delivery of marijuana products. Twenty four hours is not sufficient time to delivery products from one side of the state to the other.**

**LCB response:** The final rules adopted by the board allow 48 hours for delivery of product.

**Allow marijuana retailers to accept returns for defective products.**

**LCB response:** The final rules adopted by the board allow a marijuana retail licensee to accept returns of open marijuana products if the product is returned in the original packaging with the lot, batch, or inventory ID number fully legible.

**Allow marijuana processors to give promotional items to marijuana retailers.**

**LCB response:** Promotional items between a marijuana processors and marijuana retailers is prohibited in RCW 69.50.328. SSB 6341 passed in the 2016 legislation session which allows a marijuana producer or processor to provide marijuana retailers with branded promotional items which are of nominal value. "Nominal value"

is defined to mean an item with a value of \$30 or less. The items must be used by the retailer in a manner consistent with its license and may only contain imprinted advertising matter of the producer or processor. Producers and processors may not provide the item directly to retail customers and the items must not be targeted to or appeal principally to youth. Marijuana producers and processors may also provide personal services for marijuana retailers.

**Increase the size of warning labels on marijuana product packaging.**

**LCB response:** This issue was not part of this rulemaking but may be addressed in a future rulemaking.

**The advertising violation penalties are too low.**

**LCB response:** The advertising penalties are set in RCW 69.50.369. The board cannot change the advertising penalty amounts in rule. The penalty amounts must be changed through legislation.

**Allow organic product marketing.**

**LCB response:** Usable marijuana, marijuana concentrates, and marijuana-infused products may not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

**Don't allow cooperatives within 1000 feet of certain sensitive use areas.**

**LCB response:** RCW 69.51A250 states, "No cooperative may be located in any of the following areas:

- Within one mile of a marijuana retailer;
- Within 1000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or any game arcade that admission to which is not restricted to persons aged twenty-one years or older; or
- The area restricted by ordinance, if the cooperative is located in a city, county, or town that has passed an ordinance pursuant to RCW [69.50.331\(8\)](#); or
- Where prohibited by a city, town, or county zoning provision.

**Notify all property owners within 1000 feet of a proposed marijuana license site.**

**LCB response:** RCW 69.50.580 requires a notice to be displayed at the site within seven business days of the submission of the application to the board. The notice must contain contact information for the board where anyone can submit comments or concerns about the proposed business location.

**Require all local codes are complied with prior to issuing a marijuana license.**

**LCB response:** It is the responsibility of the local jurisdiction to ensure marijuana licensees have met all local codes. WAC 314-55-020 addresses the issue of local codes or ordinances. "The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances,

including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.”

**Allow producers to hold three separate producer licenses.**

**LCB response:** RCW 69.50.345 required the board to reconsider the amount of plant canopy needed to provide product for the recreational and medical markets. The board tasked the UW-based Cannabis Law and Policy Project (CLPP) with calculating the “grow canopy,” or square footage, required to supply the state’s medical marijuana market as it becomes folded into the state’s retail system. The group’s report estimated that between 1.7 and 2 million square feet of plants is needed to satisfy the medical marijuana market, and concluded that the 12.3 million square feet of canopy currently approved by the LCB is enough to supply the state’s total marijuana market.

**Allow an entity to hold more than three licenses.**

**LCB response:** This issue is not addressed in this rulemaking. If the board finds that more retail licenses are needed at a later date this issue may be considered.

**Add churches and other established religious institutions to the list of locations in the 1000 foot buffer areas.**

**LCB response:** This would take a legislative change. RCW 69.50.331 contains the locations within the 1000 foot buffer. The board cannot change law by rule.

**Allow neighborhood based institutions to object to marijuana applications and renewals.**

**LCB response:** Anyone can object to a marijuana application. RCW 314-55-160 outlines the process in which a person can object to a marijuana application. WAC 314-55-165 outlines the process for a local jurisdiction to object to a marijuana license renewal. Community members can object to the renewal of a marijuana license by submitting their objection to the local jurisdiction. The local jurisdiction has the responsibility of objecting to the renewal of the marijuana license.

**Create an “event permit” where cannabis will be consumed.**

**LCB response:** Permits or licenses involving marijuana require legislation. The law does not give the board authority to create additional marijuana licenses or permits.

**Broaden waste disposal methods.**

**LCB response:** This issue was not part of this rulemaking but it may be considered in future rulemakings.

**Allow application of certain plant growth regulators to marijuana plants.**

**LCB response:** WAC 314-55-084 addresses what products may be used in the production of marijuana.

**Increase the lot size for testing.**

**LCB response:** This issue was not part of this rulemaking but it may be considered in future rulemakings.

**Involve farmers in discussions on pesticide control and lab testing.**

**LCB response:** The board is working with members of all tiers of the marijuana industry on rulemakings in process at this time.

**Allow CO2 extraction for cooperatives.**

**LCB response:** The rules adopted by the board allow cooperatives to use CO2 extraction in a closed loop system as referenced in WAC 314-55-104.

**Request all marijuana applicants provide information on employee compensation, benefits, and working conditions. Oppose this requirement.**

**LCB response:** The final rules adopted by the board includes language in the operating plan regarding employee compensation and benefits. The information requested are "Yes" or "No" questions and will not determine license issuance.

**Allow the use of terpenes, cannabinoids, and characterizing flavors in the production of marijuana products. Don't allow the use of terpenes, cannabinoids, and characterizing flavors in the production of marijuana products.**

**LCB response:** The final rules adopted by the board do not prohibit the use of terpenes, cannabinoids, and characterizing flavors in the production of marijuana products.

**Allow marijuana processors to give promotional items to marijuana retailers.**

**LCB response:** Promotional items between a marijuana processors and marijuana retailers is prohibited in RCW 69.50.328. SSB 6341 passed in the 2016 legislation session which allows a marijuana producer or processor to provide marijuana retailers with branded promotional items which are of nominal value. "Nominal value" is defined to mean an item with a value of \$30 or less. The items must be used by the retailer in a manner consistent with its license and may only contain imprinted advertising matter of the producer or processor. Producers and processors may not provide the item directly to retail customers and the items must not be targeted to or appeal principally to youth. Marijuana producers and processors may also provide personal services for marijuana retailers.

**The board needs to allow cooperatives to sell excess marijuana to others (like the current practice with collectives).**

**LCB response:** RCW 69.51A.250 clearly states qualifying patients or designated providers who participate in a cooperative may not sell, donate, or otherwise provide marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to a person who is not participating in the cooperative.

**Oppose the 1000 foot buffer for cooperatives.**

**LCB response:** RCW 69.51A.250 requires the 1000 buffer from the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or any game arcade that admission to which is not restricted to persons aged twenty-one years or older. Cooperatives may not be located within one mile of a licensed marijuana retailer.

**Allow minor children of a marijuana producer licensee to work the farm.**

**LCB response:** WAC 314-55-015 requires all employees working in a marijuana establishment be at least 21 years of age.

**Comments received on second Supplemental CR 102 filed March 23, 2016, filed as WSR 16-07-154 including comments from the Public Hearing held May 4, 2016:**

**Washington needs to create a marijuana a hospitality license.**

**LCB response:** Any new marijuana licenses will need to be done through legislation. The board cannot create marijuana licenses by rule.

**Oppose “tied house” prohibitions between producers and processors.**

**LCB response:** Money and money’s worth prohibitions exist to prevent undue influence and coercion between the tiers.

**Require odor control be addressed in the Operating Plan.**

**LCB response:** The board has no authority over odor control within local jurisdictions. Odor control issues should be handled by local ordinances.

**Allow municipal corporations and special purpose districts to object to marijuana applications and renewals.**

**LCB response:** Anyone can submit an objection to a marijuana application. RCW 314-55-160 outlines the process in which a person can object to a marijuana application. WAC 314-55-165 outlines the process for a local jurisdiction to object to a marijuana license renewal. Community members can object to the renewal of a marijuana license by submitting their objection to the local jurisdiction. The local jurisdiction has the responsibility of objecting to the renewal of the marijuana license.

**Commented [EJM(1):** Just made this the same as it was listed above for consistency.

**Support not requiring employee birthdates on identification badges.**

**LCB response:** In the final rules adopted by the board birthdates on identification badges was removed. Licensees and employees must have their state issued identification available to verify the information on their badge is correct.

**Support the revised definition of “licensed premises”.**

**LCB response:** The definition of “licensed premises” was revised in the final rules adopted by the board.

**Oppose Mr. Yuk sticker requirement on marijuana infused edibles. Marijuana is not poison.**

**LCB response:** The final rules adopted by the board removed this requirement. The board is committed to working with the Poison Center on a symbol for marijuana products to identify the products as dangerous to youth. The board will address this issue in a separate rulemaking.

**Oppose the monetary penalties for producer and processor licensees. Support the changes to the penalty structure for producer and processor licensees. Monetary penalties are better than destruction of inventory.**

**LCB response:** The final rules adopted by the board replaced destruction of inventory with monetary penalties for producer and processor licensees.

**Allow out of state financiers for marijuana businesses. Don't allow out of state financiers for marijuana businesses.**

**LCB response:** The final rules adopted by the board allow out of state financiers that meet the required qualifications. Out of state financiers are prohibited from receiving a percentage of the profits or having any control of the business.

**Request all marijuana applicants provide information on employee compensation, benefits, and working conditions. Oppose this requirement.**

**LCB response:** The final rules adopted by the board includes language in the operating plan regarding employee compensation and benefits. The information requested are "Yes" or "No" questions and will not determine license issuance.

**Broaden waste disposal methods.**

**LCB response:** This issue was not part of this rulemaking but it may be considered in future rulemakings.

**Allow marijuana retailers to accept returns for defective products.**

**LCB response:** The final rules adopted by the board allow a marijuana retail licensee to accept returns of open marijuana products if the product is returned in the original packaging with the lot, batch, or inventory ID number fully legible.

**Allow samples for "budtender employees". Increase quality control samples. Increase samples to retailers. Do away with all samples.**

**LCB response:** The final rules adopted by the board contain a new section, WAC 314-55-096 dedicated to samples. Educational sampling is part of the rule and allows a processor to provide educational samples for retailers to give to their budtender employees for educational purposes. Quality control samples were increased. Samples to retailers were increased.

**Allow marijuana processors to give promotional items to marijuana retailers.**

**LCB response:** Promotional items between a marijuana processors and marijuana retailers is prohibited in RCW 69.50.328. SSB 6341 passed in the 2016 legislation

session which allows a marijuana producer or processor to provide marijuana retailers with branded promotional items which are of nominal value. "Nominal value" is defined to mean an item with a value of \$30 or less. The items must be used by the retailer in a manner consistent with its license and may only contain imprinted advertising matter of the producer or processor. Producers and processors may not provide the item directly to retail customers and the items must not be targeted to or appeal principally to youth. Marijuana producers and processors may also provide personal services for marijuana retailers.

**Don't allow local jurisdictions to lower the 1000 foot buffer between marijuana businesses and areas where children are present.**

**LCB response:** RCW 69.50.331 allows a city, county, or town to permit the licensing of premises within one thousand feet but not less than one hundred feet of the perimeter of the grounds of a recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health. It does not include elementary schools, secondary schools, or playgrounds.

**Support the twenty foot distance requirement between outdoor producers.**

**LCB response:** The board policy has required the twenty foot distance between producers since the first applications were processed. The policy is now formalized in rule.

**Do not allow any marijuana infused edibles that may be appealing to youth. Prohibit marijuana infused edible products that require cooking or baking.**

**LCB response:** Current rules do not allow any marijuana infused edible products that are especially appealing to children. The final rules adopted by the board prohibit marijuana infused edibles that require cooking or baking.

**Opposition to more retail stores. Support of more retail stores. Limit the number of retail stores.**

**LCB response:** RCW 69.50.345 directs the board to reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. The board relied on a report from Botec that determined the size of the medical market in Washington and the projected number of retail stores that would be needed.

**Increase the lot size for testing.**

**LCB response:** This issue was not part of this rulemaking but it may be considered in future rulemakings.

**Oppose quarantines for marijuana being shipped or destroyed.**

**LCB response:** The quarantines are required to allow enforcement to inspect before shipping or destruction.

**The board needs to create a Marijuana Advisory Council with marijuana industry members.**

**LCB response:** The board is considering this option.

**Provide additional education and guidance to marijuana licensees.**

**LCB response:** The board has scheduled educational forums throughout the state beginning May 24, 2016.

**Address traceability system problems (BioTrack).**

**LCB response:** This is not part of the rulemaking. Traceability system problems are being addressed as the board is made aware of them. System upgrades is an on-going effort.

**Involve farmers in discussions regarding pesticide control and lab testing.**

**LCB response:** The board has a work group including marijuana licensees from all tiers and lab representatives to develop rules on lab testing and quality assurance testing rules review.

**Written public comments delivered to the board should be posted online.**

**LCB response:** This issue was not part of the rulemaking. The board is looking at options to post the entire rulemaking file online.

**Phone-in access to board meetings should be made available.**

**LCB response:** The board is exploring a web access to board meetings.

**Prohibit marijuana signs on the streets.**

**LCB response:** RCW 69.50.369 allows advertising with the following exceptions:

- (a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;
- (b) On or in a public transit vehicle or public transit shelter; or
- (c) On or in a publicly owned or operated property.

**Additional safety labels on marijuana products may be too expensive for small producer/processors.**

**LCB response:** The cost of "Mr. Yuk" stickers was approximately one cent per sticker. The cost of any safety label the board may require at a future date will be taken into consideration.

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**WAC Changes**

See attached.