



## CR 102 Memorandum

### Implementing Substitute Senate Bill 5376 regarding sales of cannabis waste

Date: January 15, 2025  
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#### Background

The Liquor and Cannabis Board (LCB) is proposing new and amended rule language in [WAC 314-55-097](#) to implement Substitute Senate Bill (SSB) 5376 ([chapter 243, Laws of 2024](#)) related to the sale of cannabis waste. SSB 5376 was codified as [RCW 69.50.3255](#) and took effect on June 6, 2024.

SSB 5376 allows for a licensed cannabis producer or licensed cannabis processor to sell cannabis plant waste that has a THC concentration of 0.3% or less, such as cannabis plant roots and stalks, to a person who is not cannabis licensee under certain conditions, as follows:

- The cannabis waste is not designated as hazardous waste;
- The licensee notifies the board and the Washington State Department of Agriculture (WSDA) before the sale; and
- The licensee makes all sales available to the public on an equal and nondiscriminatory basis.

SSB 5376 specifically defines “cannabis waste” as solid waste generated during cannabis production or processing that has a THC concentration of 0.3% or less. Also, SSB 5376 specifies cannabis waste does not include “hemp” or “industrial hemp,” which have existing definitions in RCW 15.140.020. For rule clarity, the proposed rule language includes a proposed definition of “sellable cannabis waste” to differentiate between this cannabis waste and other types of cannabis waste that may be hazardous or contain a THC concentration of 0.3% or above.

The current rules in WAC 314-55-097 require cannabis waste that is not classified as dangerous or hazardous to be made unusable before disposal. To render cannabis waste unusable, it must be ground up and mixed with other materials to at least 50% non-cannabis content. This requirement for disposal remains for cannabis waste that is neither classified as dangerous or hazardous, nor sold as “sellable cannabis waste.”

The CR 101 for this rulemaking was filed on May 22, 2024, [WSR 24-11-158](#), and one public comment was received during the informal comment period following the filing of

the CR 101 and ending July 23, 2024. That single stakeholder comment is attached as Attachment A.

## **Stakeholder Engagement**

On September 4, 2024, the LCB held a virtual public stakeholder meeting regarding selling cannabis waste under SSB 5376. The September 4, 2024 meeting was recorded and the recording is available for viewing online at this [link](#). The September 4, 2024 stakeholder meeting also included a PowerPoint presentation on the rulemaking project that is available at this [link](#). Several licensees commented on topics including:

- Reporting a minimum price or price of \$0 for cannabis was sold from a licensee to a non-licensee.
- The continuing requirements to combine cannabis waste with inert material for disposal, and possible removing that requirement in the future through legislation.
- Other waste issues for cannabis licensees – electronic waste, packaging, etc.
- Allowances for cannabis licensees to sell their cannabis waste to other cannabis licensees, without grinding or mixing.
- Carbon footprint of cannabis production.
- Reporting requirements for sales of cannabis waste.

## **Estimated Costs of Compliance**

Under the Regulatory Fairness Act (RFA) in chapter 19.85 RCW, agencies are required to consider the costs that complying with the proposed rules will impose on businesses, unless the proposed rules are subject to an exemption to this requirement. The CR 102 form describes these exemptions in more detail. The proposed rule amendments do not impose any significant regulatory burden on licensees, nor does it change, modify, add cost, or otherwise alter the disposal requirements for other categories of cannabis waste. The new option for licensed cannabis producers and processors to sell qualifying cannabis waste is voluntary, and sales of cannabis waste are not required by the proposed rules.

Although proposed rule amendments do not disproportionately affect small businesses, for transparency to determine if the proposed rules impose any significant regulatory burden on licensees, LCB applied a default cost of compliance (\$100) to consider whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3). This amount represents the following:

\$100 for two hours of labor to pre-report sales of cannabis waste to WSDA prior to sale.

\$100 for two hours of labor to pre-report sales of cannabis waste to LCB prior to sale.

LCB applied a default estimated compliance cost when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW

19.85.020(3). This estimate is a reasonable estimate for costs affiliated with any additional work to report the sales of cannabis waste to department of agriculture and the LCB. This cost was estimated to be \$200.00. This is well below the minor cost calculated to be \$2,387.54 and \$2,284.65 respectively for indoor and outdoor cannabis producers, which is explained in great deal in the Small Business Economic Impact Statement (SBEIS) section of the CR 102 form filed today.

## **Rule Necessity**

The purpose of this rule proposal is to make amendments to WAC 314-55-097 to implement Substitute Senate Bill 5376 (chapter 243, Laws of 2024), regarding allowing sale of cannabis waste by licensed cannabis producers and processor to persons who are not cannabis licensees.

## **Description of Rule Changes**

The proposed amendments to the existing rule make the following changes in WAC 315-55-097:

- Update the title of the section to include cannabis waste sales.
- Define the term “sellable cannabis waste” for the purposes of WAC 314-55-097.
- Designate that “sellable cannabis waste” does not include "hemp" or "industrial hemp," as defined in RCW 15.140.020.
- Reiterate that cannabis plant material that has a THC concentration greater than 0.3 percent is considered cannabis under RCW 69.50.101 and is therefore not eligible for designation as “sellable cannabis waste”.
- Require cannabis licensees and certified laboratories to evaluate cannabis waste consistent with both chapters 70A.300 RCW and 173-303 WAC to determine if cannabis waste is designated as dangerous or hazardous as defined in those chapters. If the waste is designated as dangerous or hazardous as defined in chapters 70A.300 RCW or 173-303 WAC, it must be stored, managed, and disposed of consistent with those chapters.
- Designate the required conditions under which a cannabis producer or processor licensee may sell the “sellable cannabis waste” to a person who is not a cannabis licensee, including the following reporting:
  - Pre-sale notice to WSDA and LCB of “sellable cannabis waste”;
  - Reporting the quantity of sellable cannabis waste;
  - Reporting the sale price of the cannabis waste; and
  - The name and contact information of the buyer.
- Designate that the sale of sellable cannabis waste must be conducted in a manner that is open and accessible to all members of the public without discrimination.
- Designate that cannabis waste will not leave the state of Washington as part of the sale or delivery.

- Designate the required conditions under which a cannabis licensee may sell “sellable cannabis waste” to another cannabis licensee, including the following:
  - Both the selling and purchasing licensees must notify the LCB of the intended sale;
  - The notice must identify:
    - The quantity of sellable cannabis waste;
    - The sale price; and
    - The intended use of the sellable cannabis waste.
  - Both licensees must maintain accurate records of all sales of sellable cannabis waste;
  - Such records shall be provided to LCB upon request.
- Reorganizes rule language concerning disposal guidelines and record keeping requirements for cannabis licensees.
- States that LCB can conduct inspections and audits to ensure compliance with the rule and provides that there may be penalties for non-compliance.
- Other minor edits for organization and rule clarity.

**Attachments:**

Attachment A: CR 101 Informal Comment Table