



PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with [RCW 34.05.330](#), the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at <http://apps.leg.wa.gov/wac/default.aspx?cite=82-05>.

CONTACT INFORMATION *(please type or print)*

Petitioner's Name Marc Elkins
Name of Organization _____
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COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: <http://www.leg.wa.gov/CodeReviser/Documents/RClint.htm>.

INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: Liquor and Cannabis Board

1. NEW RULE - I am requesting the agency to adopt a new rule.

The subject (or purpose) of this rule is: _____

The rule is needed because: _____

The new rule would affect the following people or groups: _____

2. AMEND RULE - I am requesting the agency to change an existing rule.

List rule number (WAC), if known: WAC 314-55-570

I am requesting the following change: I request the LCB to amend the current Social Equity in Cannabis Program to prohibit any current cannabis retail license holder from participating or owning any interest in any SE licensed business or being a financier of any SE licensed business.

This change is needed because: The WAC's purpose based on the code's language is to support qualified individuals obtaining and keeping the SE license. Without the rule change, current license holders will support such SE licensees for 5 years and then move them out of the business.

The effect of this rule change will be: To ensure that the SE program and the WAC benefit the individuals that it targets by ensuring that the folks that the LCB seeks to assist in participating in the industry actually do participate and obtain 100% of the financial benefits as intended.

The rule is not clearly or simply stated: _____

3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.

List rule number (WAC), if known: _____

(Check one or more boxes)

It does not do what it was intended to do.

It is no longer needed because: _____

It imposes unreasonable costs: _____

The agency has no authority to make this rule: _____

It is applied differently to public and private parties: _____

It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: _____

It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: _____

Other (please explain): _____

SUPPLEMENTAL DOCUMENT IN SUPPORT OF REVISION TO WAC 314-55-570 (The Cannabis Social Equity Program) BY ELKGARD ENTERPRISES L.L.C

- 1. I am requesting the following change:** I request the LCB to amend the current Social Equity in Cannabis Program (“SE Program”) to prohibit any current cannabis retail license holder from participating or owning any interest in any SE licensed business or being a financier of any SE licensed business. There is clear support for the notion that current cannabis dispensary owners such as Main Street Marijuana have abused the SE Program by taking 49% minority ownership positions with applicants for the SE Program who have been granted an SE License. The WAC and the SE License application and granting process should be revised to eliminate existing license holders from participating in any way as they are not intended beneficiaries, and their participation dilutes the intended goal of solely benefiting individuals who have been harmed by the war on drugs or disproportionately disadvantaged by the historical application and enforcement of cannabis prohibition laws in the state of Washington. Otherwise, an existing license holder who is not a targeted beneficiary will simply induce or use an intended beneficiary for the minimum 5 year period that such beneficiary must hold the license, and then simply remove them from the business. This may create a short term benefit for the intended beneficiary but it most definitely creates both a short term and long term benefit for the established current license holders. This cannot be what the SE Program intended. Additionally, there are no rules as to whether these intended beneficiaries have a secondary contract with the current license holder who is obtaining this additional license by using the intended beneficiary that forces them to accept less than the actual business's net revenues through the imposition of usury fees, illusory licensing or franchising fees, and other similar punitive fees. This creates a lack of transparency in ensuring that the intended beneficiaries are actually obtaining the intended economic benefit from the SE program.
- 2. This change is needed because:** The WAC's purpose based on the plain meaning of the code's language is to support qualified individuals in obtaining and keeping the SE license. Without the rule change, current license holders will support such SE licensees for 5 years and then move them out of the business. SE qualifying individuals who initially applied at the very beginning of the I-502 for a lottery license and did not win showed an initial interest in the cannabis industry. They also displayed the willingness to perform the necessary legwork and research to obtain a license and be a license holder. The SE application process should reward this in its determination of who should receive an SE license by awarding up to 40% of available "points" that are scored in an application for this fact alone. Individual prior applicants that demonstrated a desire before special privileges and grants are being given away should move to the front of the line.
- 3. The effect of this rule change will be:** To ensure that the SE program and the WAC benefit the individuals that it targets by ensuring that the folks that the LCB seeks to assist in participating in the industry actually do participate and obtain 100% of the financial benefits as intended. At a minimum, if the LCB chooses to allow current license holders to be involved in the SE license award process as parties of interest, then the LCB should mandate an annual audit of every SE licensee's books to trace the distribution of profits to ensure that the SE is receiving a share of the profits that is proportional to the SE licensee's ownership interest. The audit should also ensure that there are no "side contracts" where the SE licensee is not receiving at least 51% of Net revenues. This includes any landlords who may be associated with the industry and are charging rents greater than 200% of the local standard lease/rental rates as a way to obtain an additional benefit at the expense of the SE licensee. Additionally, the LCB should ensure that an SE Licensee cannot change the jurisdiction in which the SE License can be deployed and used. If an SE Licensee wants to move jurisdictions after they receive the license, they should be required to go through the same process that any other license holder must go through. This is to prevent certain markets from being flooded or damaging the business of existing license holders who have operated

in a jurisdiction. This will also ensure pricing integrity and a healthy competitive landscape while maximizing tax revenues to the state of Washington. Finally, if a SE Licensee desires to monetize the license by selling it, they should be prohibited from selling the SE License to any currently licensed retailer holder with more than one store location, since that would run counter to the objectives of the LCB as it relates to the SE Program and ensuring that benefits of a SE License always flow to an individual defined under the WAC as a Social Equity Applicant. Otherwise, such transfers to current licensed retailers with multiple locations will perpetuate further monopolization of the industry that materially disadvantages smaller individually owned retail dispensaries. This material financial damage would occur by allowing larger retailers with multiple licenses to buy product much more cheaply, sell more cheaply, and hurt smaller retailers while also reducing tax revenues. To be clear, while the LCB has purportedly cracked down on this practice by applying the "same goods-same sale prices" law essentially for the first time in 2023, the practice is still rampant.