



Liquor and Cannabis Board Interim Policy BIP-04-2018

Subject: Title Certificates for retail cannabis licensees in jurisdictions where ordinances prohibit cannabis sales

Effective Date:

Ending Date: Upon adoption of rules to implement this policy

Approved:

Jane Rushford, Board Chair

Russ Hauge, Board Member

Ollie Garrett, Board Member

Purpose:

Since the legalization of cannabis by the passage of Initiative 502 in 2012, some local jurisdictions have passed moratoria, bans, restrictive zoning laws, reduced allocations, and placed other prohibitions on the retail sale of cannabis. In some areas, these ordinances have prevented cannabis retail licensees from opening. Washington state law requires all cannabis licensees to have a qualifying location, security requirements, report sales, and maintain insurance.

Local authorities prohibit these stores from opening. State law requires the stores to follow all license requirements, whether they are able to open or not. To reduce the costs of maintaining license requirements, the Board will allow retail cannabis licensees who are legally prohibited from opening anywhere within their allotted jurisdiction to apply for a Title Certificate. Title Certificate holders will not be required to maintain **all** license requirements, but must meet the conditions specified in this Interim Policy. The Board will open rulemaking in conjunction with this Interim Policy, to establish permanent rules for Title Certificates.

Policy Statement:

Until superseded by rule, retail cannabis licensees who are located in jurisdictions that meet the following criteria may apply for a Title Certificate:

- A ban or moratorium that applies to the entire jurisdiction;
- Zoning rules that prohibit retail cannabis licensees from opening throughout the entire jurisdiction;
- Ordinances that prohibit retail cannabis licensees from opening without federal approval; or
- Ordinances with an allotment smaller than that of the WSLCB, and the jurisdiction met their allotment prior to the licensee being issued the license.

The Title Certificate eliminates the following license requirements for retail cannabis licensees to maintain:

- A physical location;
- Security cameras;
- Traceability;
- Annual license fees;
- Insurance requirements; and
- Sales reporting.

Applicants for the Title Certificate must maintain all license requirements until the WSLCB issues the Title Certificate. Licensees who fail to continue to meet all license requirements under chapter 69.50 RCW and 314-55 WAC prior to being issued a Title Certificate are subject to enforcement violations.

Title Certificates will be valid for a maximum of four years. After four years, the Board will reevaluate the need for Title Certificates.

Title Certificate requirements:

- The applicant must provide a letter to the WSLCB from their license jurisdiction attesting that there is no legal location available for retail cannabis licensees within the jurisdiction.
- The Board will confirm that there is no cannabis on the licensed premises before issuing a Title Certificate.
- The Title Certificate holder may only reinstate a cannabis license in the jurisdiction where the license was originally issued.
- Before the Board reinstates the license, the licensee must meet all license requirements under chapter 69.50 RCW and chapter 314-55 WAC.
- A Title Certificate holder may only hold a maximum of five retail licenses and Title Certificates combined.
- Title Certificate holders may not hold or have any interest in a producer or processor license.
- Title Certificate holders must continue to submit all changes to the business entity structure (ownership changes, adding or removing members) to the WSLCB for approval before making changes to the structure. Failure to report changes in the business entity structure may result in cancellation of your Title Certificate.
- The Title Certificate is not a license and the holder does not have the authority to sell or purchase cannabis until the holder reinstates license.
- Title Certificate holders may not sell cannabis. If a Title Certificate holder sells cannabis, they will be selling cannabis without a license. In addition to the criminal penalties for selling cannabis without a license, the WSLCB will revoke the Title Certificate.
- Title Certificate holders are required to have their license reinstated within 6 months of the jurisdiction allowing retail cannabis licensees, or they forfeit their Title Certificate.
- Title Certificate holders must immediately notify the WSLCB of any changes in the jurisdiction that would allow them to begin operating.

Transferring Titles:

- Title Certificates cannot be leased. Title Certificate holders may transfer their title to a qualified applicant with prior approval from the WSLCB. The certificate transfer applicant must apply to obtain the Title Certificate with the WSLCB Licensing and Regulation Division prior to the transfer and meet all qualifications in chapter 69.50 RCW and chapter 314-55 WAC for holding a license.
- All true parties of interest involved in the transfer must pass a background check, financial investigation, be up to date on all WSLCB taxes and fees, and meet residency requirements.
- Transferring the title does not extend the four-year period for the certificate.
- Title transfer applicants are required to pay any applicable fees (e.g. fingerprinting costs) related to the title transfer.
- Title transfer applicants must provide evidence from the Washington Secretary of State's Office that the business entity seeking to obtain the Title Certificate was formed in Washington State.
- Before the Board will approve a Title Certificate transfer, the transfer applicant must submit a notarized bill of sale that includes:
 - The type of property sold;
 - The purchase price and any other monies exchanged related to the transfer of the Title Certificate;
 - Signatures and dates for all true parties of interest on the original Title Certificate; and
 - All true parties of interest seeking to obtain the title.
- The WSLCB will conduct an investigation of all applicants, including all true parties of interest, cannabis law or rule administrative violation history. In accordance with WAC chapter 314-55-045, the WSLCB will not issue a Title Certificate to a person, or to an entity with a true party of interest who has:
 - Three or more safety violations;
 - Four or more regulatory violations; or
 - A pattern of disregard for license violations or for laws and rules.

Reinstating the license:

- Title Certificate holders must reinstate their license within 6 months of their assigned jurisdiction allowing retail cannabis licensees, or they forfeit their Title Certificate.
- Title Certificate holders may only reinstate their license within the jurisdiction where they were originally licensed.
- Title Certificate holders must meet all license requirements outlined in chapter 69.50 RCW and chapter 314-55 WAC before the WSLCB will reinstate the license.

The Title Certificates for applicants who are issued new licenses will be invalidated. Title Certificates holders cannot transfer the Title Certificate during the license application process.



Washington State
Liquor and Cannabis Board

Date: April 18, 2018

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 Cannabis Retail Title Certificate Rules.**

Some local jurisdictions have passed moratoria, bans, restrictive zoning laws, reduced allocations, and placed other prohibitions on the retail sale of cannabis. These ordinances have prevented some marijuana retail licensees from opening while state law and WSLCB rule requires that licensees maintain all license requirements to maintain a license. This rulemaking will address an option for these retail licensees that are unable to open to apply for a Title Certificate to preserve the opportunity to obtain a license regardless of maintaining a retail location.

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 April 18, 2018, and is attached to this order.

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

April 18, 2018	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
June 6, 2018	End of written comment period
June 13, 2018	Board is asked to approve filing the proposed rules (CR 102 filing)
August 1, 2018	Public Hearing held
August 1, 2018	End of written comment period
August 15, 2018	Board is asked to adopt rules

August 15, 2018	Agency sends notice to those who commented both at the public hearing and in writing.
August 15, 2018	Agency files adopted rules with the Code Reviser (CR 103)
September 16, 2018	Rules are effective (31 days after filing)*

*Unless otherwise provided by the Board.

_____ 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

Cannabis Retail Title Certificates.

Date: April 18, 2018

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 rules in chapter 314-55 WAC regarding Cannabis Retail License Title Certificates. Since the passage of Initiative 502 in 2012, some local jurisdictions have passed moratoria, bans, restrictive zoning laws, reduced allocations, and placed other prohibitions on the retail sale of cannabis. In some areas, these ordinances have prevented cannabis retail licensees from opening.

State law and WSLCB rules require stores to follow all license requirements, whether they are able to open or not, resulting in significant costs to retail licensees. To reduce the costs of maintaining license requirements under WSLCB rules, this rulemaking will provide an option for cannabis retail licensees who are legally prohibited from opening within their allotted jurisdiction to apply for a Title Certificate. Title Certificate holders will not be required to maintain all license requirements, but must meet the conditions specified in the rule provisions that will be created in this rulemaking.

Why is rule making necessary?

Rulemaking is necessary to allow options for retail licensees the ability to operate without the requirements of a physical location, insurance requirements, and other mandatory criteria under WSLCB rules when they are subject to local bans and moratoria preventing them from opening and running businesses. The provisions of this rulemaking will address options for Title Certificates as an alternative from maintaining a license for cannabis retail licensees subject to local authority prohibitions that prevent them from opening.

Process

The rule making process begins by announcing WSLCB'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: April 18, 2018

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

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

The Legislature passed a new statutory framework for vapor products in 2016, which the WSLCB promulgated initial rules for later the same year. Through implementing and enforcing laws and rules for a newly regulated product and licenses since implementation, the WSLCB has identified additional rulemaking needed to further refine and clarify existing requirements and address additional provisions needed in vapor products rules to ensure the proper functioning of the statutory and regulatory framework. The board may adopt rules regarding the regulation of the licenses under RCW 70.345.020(2).

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 October 18, 2017, and is attached to this order.

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

April 18, 2018	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
June 6, 2018	End of written comment period
June 13, 2018	Board is asked to approve filing the proposed rules (CR 102 filing)
August 1, 2018	Public Hearing held
August 1, 2018	End of written comment period
August 15, 2018	Board is asked to adopt rules
August 15, 2018	Agency sends notice to those who commented both at

	the public hearing and in writing.
August 15, 2018	Agency files adopted rules with the Code Reviser (CR 103)
September 16, 2018	Rules are effective (31 days after filing)*

*Unless otherwise provided by the Board.

_____ 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

Vapor Products Rules.

Date: April 18, 2018

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 vapor products rules in Chapter 314-35 WAC.

Why is rule making necessary?

The new statutory framework for vapor products became effective on June 28, 2016, and was codified in chapter 70.345 RCW. The WSLCB engaged in rulemaking to implement the new statutory framework for vapor products passed by the Legislature later the same year. The board may adopt rules regarding the regulation of the licenses under RCW 70.345.020(2).

WSLCB enforcement officers throughout the state of Washington have made contact at more than 1400 vapor product locations (licensed/unlicensed). During these contacts, the WSLCB identified a need for the development of changes to rules for vapor products licensees. Additional rulemaking is proposed to further refine and clarify existing requirements, as well as address other requirements needed as a result of what we have learned since the implementation of the new statutory and regulatory framework.

Process

The rule making process begins by announcing the WSLCB'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: April 18, 2018

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 proposed rules (CR 102) to revise WAC 314-12-035 Food service requirements for spirits, beer, and wine restaurants**

The proposed rules update meal and side dish requirements for spirits, beer, and wine restaurants to include culturally diverse entrees and entrees served without a side dish.

Process

The Rules Coordinator requests approval to file the proposed rules (CR 102) for the rule making described above. An issue paper on this rule was presented at the Board meeting on April 18, 2018, and is attached to this order.

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

February 21, 2018	Board approved filing the pre-proposal statement of inquiry (CR 101)
April 18, 2018	Board is asked to approve filing the proposed rules (CR 102 filing)
May 2, 2018	Code Reviser publishes notice, LCB sends notice to rules distribution list
May 30, 2018	Public Hearing held
May 30, 2018	End of written comment period
June 13, 2018	Board is asked to adopt rules
June 13, 2018	Agency sends notice to those who commented both at the public hearing and in writing.
June 13, 2018	Agency files adopted rules with the Code Reviser (CR 103)
July 14, 2018	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

Washington State Liquor and Cannabis Board

Issue Paper

Mini Spirit Bottles

Date: April 18, 2018

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 update meal requirements for spirits, beer, and wine restaurants to include culturally diverse entrees and entrees that aren't traditionally served with a side dish. The proposed rules require a menu with a minimum of eight entrees and the option of a side dish should the customer want one.

Why is rule making necessary?

Rulemaking is necessary to align meal requirements for spirits, beer, and wine restaurants with current business models and to include culturally diverse meal examples.

Background

The board adopted Interim Policy #01-2018 on February 21, 2018, which expands the examples of entrees to include culturally diverse options. The policy removes the requirement that side dishes be included with the entrée, but side dishes must be offered should the customer want one.

Permanent rules are needed to clarify and update meal requirements.

What changes are being made?

Amended Section: WAC 314-02-035 Food service requirements for spirits, beer, and wine restaurants Amended language to add culturally diverse examples of entrees and make side dishes optional, but available should the customer choose to order one.

WAC 314-02-035 What are the food service requirements for a spirits, beer, and wine restaurant license? (1) A spirits, beer, and wine restaurant licensee must serve at least eight complete meals. The board may make an exception to the eight complete meal requirement on a case-by-case basis. Establishments shall be maintained in a substantial manner as a place for preparing, cooking and serving of complete meals. For purposes of this title:

(a) "Complete meal" means an entree and at least one side dish. Side dishes are not required to be included with the entrée, however must be offered.

(b) "Entree" means the main course of a meal. Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, (~~hamburgers~~) burgers, pho, sushi, street tacos, tikka masala, quiche, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrees do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.

(c) Examples of side dishes are soups, vegetables, salads, potatoes, (~~french fries,~~) rice, fruit, and bread. Garnishes such as, but not limited to, pickles, salsa, and dips do not qualify as a side dish.

(2) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section.

(3) The complete meals must be prepared on the restaurant premises.

(4) A chef or cook must be on duty while complete meals are offered.

(5) A menu must be available to customers.

(6) The food items required to maintain the menu must be on the restaurant premises. These items must be edible.

(7) Restaurants that have one hundred percent dedicated dining area must maintain complete meal service any time liquor is available for sale, service, or consumption.

(8) Restaurants with less than one hundred percent dedicated dining area must maintain complete meal service for a minimum of five hours a day during the hours of 8:00 a.m. and 11:00 p.m., three days a week.

Limited food service, such as appetizers, sandwiches, salads, soups, pizza, (~~hamburgers~~) burgers, or fry orders, must be available outside of these hours. Snacks such as peanuts, popcorn, and chips do not qualify as limited food service.

(9) The hours of complete meal service must be conspicuously posted on the premises or listed on the menu. A statement that limited food service is available outside of those hours must also be posted or listed on the menu.

Washington State Liquor and Cannabis Board

Issue Paper

Self-Dispensing Beer and Wine Machines

Date: March 7, 2018

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 revised proposed rules (Supplemental CR 102) to allow the use of self-dispensing beer and wine machines by on-premises beer and wine licensees.

Why is rule making necessary?

A petition for rulemaking was submitted the liquor licensee of Tri-Cities Tap and Barrel, a tavern license. The licensee has requested the board open rulemaking to allow the use of self-dispensing wine machines in on-premises retail licensed locations. Comments received on the proposed rules are the reason for the revisions to these rules.

Background

The board adopted Interim Policy #01-2011 on February 2, 2011, which allows the use of self-dispensing wine machines for wine tastings at a winery premises with proper supervision.

The board also adopted Interim Policy #07-2011 on August 10, 2011, allowing the use of self-service beer taps at a liquor licensed premises.

Permanent rules are needed to clarify the requirements needed for licensee's to use self-dispensing beer and wine machines in their businesses.

What changes are being made?

New Section. WAC 314-12-085 Self-dispensing wine machines and self-service beer taps. Includes the requirements for on-premises licensees to use self-dispensing wine machines and self-service beer taps.

NEW SECTION

WAC 314-12-085 Self-dispensing wine machines and self-service

beer taps. (1) The requirements for an on-premises liquor licensee to use self-dispensing wine machines are as follows:

(a) The liquor licensee must maintain adequate staff to monitor for potential over service/consumption;

(b) Employees responsible for operating the self-dispensing machines must hold a class 12 or class 13 alcohol server permit;

(c) An employee must first check the customer's ID and check for signs of intoxication; and

(d) A service card to self-dispense must be purchased from an employee. The card may allow no more than a total of ten ounces dispensed in five ounce servings. No more than two cards may be purchased by any one customer at any time.

(2) The requirements for an on-premises liquor licensee to use self-service beer taps are as follows:

(a) The liquor licensee must maintain adequate staff to monitor for potential over service/consumption;

(b) Employees responsible for operating the self-service beer taps must hold a class 12 or class 13 alcohol server permit;

(c) An employee must first check the customer's ID and check for signs of intoxication prior to activating the system;

(d) The system must be programmed to automatically deactivate after the beer has been dispensed;

(e) The amount of beer purchased by any one customer at one time is twenty-four ounces dispensed in twelve ounce servings;

(f) Employees must have the ability to deactivate the system remotely, which allows the employee to control the amount of beer dispensed at all times.

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