



Board Interim Policy BIP-06-2018

Subject: **Allowing marijuana licensees to spend their own money on their businesses prior to the Board vetting the funds**

Effective Date: December 12, 2018

Ending Date: Upon adoption of rules to implement this policy

Approved:

Jane Rushford, Board Chair

Ollie Garrett, Board Member

Russ Hauge, Board Member

Purpose:

Current Washington Administrative Code (WAC) 314-55-035(5)¹ requires all funds that a marijuana licensee plans to use in their business to be vetted by the Washington State Liquor and Cannabis Board (WSLCB) Licensing Division prior to investing the funds in the business. The intent of this rule is to ensure that licensees are meeting the WSLCB requirements to prohibit undue influence across tiers and prevent criminal enterprises from engaging in licensed marijuana businesses.

Prevetting funds can take 50 days or longer, depending on the complexity of the funding and the responsiveness of the applicants. The industry has asked us to address concerns about the length of time it takes for them to use their own funds to support their licensed marijuana businesses. In some cases, applicants need immediate access to funds to support their business expenses. While vetting the source of funds remains a high priority to the WSLCB, we recognize that we could allow applicants to invest their own money in their businesses at the same time we are vetting the source of funds.

To ensure that we are meeting the expectation that no criminal enterprises are engaged in the licensed marijuana business, the application will be changed to reflect that the licensee recognizes that no funds from criminal enterprises are permitted and that their license may be

¹ WAC 314-55-035 (5) "After licensure, a true party of interest, including financiers, must continue to disclose the source of funds for all moneys invested in the licensed business. The WSLCB must approve these funds prior to investing them into the business."

revoked “if the source of funds identified by the applicant to be used for the acquisition, startup and operation of the business is questionable, unverifiable, or determined by the WSLCB to be gained in a manner which is in violation of law” in accordance with WAC 314-55-050.

Policy Statement:

Until superseded by rule, the Board adopts the following language regarding the use of funds:

After licensure, a true party of interest, including financiers, must continue to disclose the source of funds for all moneys invested in the licensed business. If the source of funds is an identified owner on the license, the WSLCB will allow these funds to be used upon receipt of the application. The WSLCB will then investigate the source of funds. If the source of funds is questionable, unverifiable, or determined by the WSLCB to be gained in a manner which is in violation of law, the WSLCB may revoke the license.

The WSLCB must approve the use of funds from financiers who are not on the license before they may be invested into the business.

All other changes to the licensed business must receive prior approval from the WSLCB.



Liquor and Cannabis Board Interim Policy BIP-07-2018

Subject: WAC 314-55-105 Packaging and labeling requirements.

Effective Date: December 12, 2018

Ending Date: Upon adoption of rules to implement this policy

Approved:

Jane Rushford, Board Chair

Ollie Garrett, Board Member

Russ Hauge, Board Member

Purpose:

The purpose of this interim policy is to further clarify the phrase “false and misleading” regarding packaging and labeling of marijuana-infused products, and address concerns regarding packaging and labeling that is designed to mimic, imply or reference a product containing alcohol. An interim policy is necessary to clarify the rule for licensees, protect the public, and to reduce risk of accidental exposure to marijuana.

Policy Statement:

To comply with the labeling requirements described in WAC 314-55-105, labels affixed to a container or package containing usable marijuana, marijuana concentrates, and marijuana infused products sold at retail in Washington State must not:

- mimic, imply, represent or contain any statement, depiction, illustration, design, brand, or name of a product containing alcohol.

Product label design that mimics or implies that a marijuana product contains alcohol has been considered false and misleading, and increases public safety risk. Using the following words or references do not supersede the current rule. Words or references include, but are but not limited to:

- non-alcoholic;
- does not contain alcohol;
- not a beer;
- not a wine;
- not a spirit;
- 0% ABV.



Liquor and Cannabis Board Interim Policy BIP-10-2018

Subject: WAC 314-55-105 Packaging and labeling requirements

Effective Date: December 12, 2018

Ending Date: Upon adoption of rules to implement this policy

Approved:

Jane Rushford, Board Chair

Ollie Garrett, Board Member

Russ Hauge, Board Member

Background:

The Washington State Liquor and Cannabis Board (WSLCB) received complaints surrounding the approval of marijuana infused edible products that appeared to be especially appealing to youth and children. The complaints prompted the WSLCB to re-evaluate the approval process for these products.

The WSLCB received feedback from the industry that the packaging, labeling, and product review process lacked transparency and was hard to understand. The industry also viewed packaging, labeling, product decisions as arbitrary.

Purpose:

The purpose of this interim policy is to further clarify the procedures and processes for packaging, labeling, and product decisions for marijuana infused edible products. An interim policy is necessary to clarify the rules for licensees, protect the public, and to reduce risk of accidental exposure to marijuana infused edibles by youth and children.

Policy Statement:

The following requirements apply to all marijuana infused edible products and their packaging and labeling:

- Only colors and shapes from an approved list on the WSLCB website can be used.

- A white or cream background with brown or black lettering and up to three accent colors from the approved color list will be provided on the WSLCB website. A percentage or gradient of an approved color counts as one color.
- A grey or black background with brown or white lettering and up to three accent colors from the approved color list will be provided on the WSLCB website. A percentage or gradient of an approved color counts as one color.
- A tan or brown background with black or white lettering and up to three accent colors from the approved color list provided on the WSLCB website. A percentage or gradient of an approved color counts as one color.
- A full color photo or photo in the chosen accent color of the product is allowed.
- Packaging with a clear window is permitted.
- Company logos are permitted. Examples of allowable logo displays are available on the WSLCB website.

Issue Paper

Curbside Service for Grocery Stores

Date: October 31, 2018

Presented by: Janette Benham, Policy and Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the board to file revised proposed rules (2nd supplemental CR 102) to allow grocery stores to provide curbside service when customers order alcohol as part of an order placed online. Changes include the removal of the requirements that the person placing the order online is the same person picking up the order, and that all occupants of the vehicle are over twenty-one. Additional changes include changing the \$25 minimum grocery purchase to require that orders include at least \$25 of non-alcohol items, and clarification regarding pickup and pass-through windows.

Why is rule making necessary?

A petition for rulemaking was submitted by Deborah Herron, Walmart's Director of Public Affairs and State & Local Government. Walmart requested the Board open rulemaking to allow grocery stores to provide curbside service for customers participating in online ordering and pickup.

Background

Online programs allow customers to choose and order groceries online and pick them up curbside at the grocery store.

Permanent rules are needed to allow grocery stores to provide curbside service and ensure that guidelines are in place for this service.

What changes are being made?

Amended Section: WAC 314-11-015 What are my responsibilities as a liquor licensee? Amended language removes the prohibition on curbside service, but maintains and clarifies that liquor cannot be sold or served by drive-through service from pickup or pass-through windows. Additional clarifying and technical changes were made to this section.

New Section: WAC 314-03-400 Curbside Service This section outlines requirements for grocery stores that provide curbside service. Requirements include:

- Orders must include at least twenty five dollars of non-alcohol items.
- Orders must be delivered by an employee of the licensee to a vehicle parked in a designated pickup area on the licensed premises.

- Employees delivering orders to the customer's vehicle must be at least eighteen years of age and be trained on verifying ID, recognizing signs of intoxication, and preventing youth access.
- If ID cannot be verified, or if the driver appears intoxicated, the alcohol will not be sold and will be removed from the order.

WAC 314-11-015 What are my responsibilities as a liquor licensee? (1)(a) Liquor licensees are responsible for the operation of their licensed premises in compliance with the liquor laws and rules of the board (Title 66 RCW and Title 314 WAC). Any violations committed or permitted by employees will be treated by the board as violations committed or permitted by the licensee.

(b) The penalties for violations of liquor laws or rules are in: WAC 314-29-015 through 314-29-035, as now or hereafter amended, for licensees; and WAC 314-17-105 and 314-17-110, as now or hereafter amended, for employees who hold mandatory alcohol server training permits. These rules also outline aggravating and mitigating circumstances that may affect what penalty is applied if a licensee or employee violates a liquor law or rule.

(2) Licensees and their employees also have the responsibility to conduct the licensed premises in compliance with the following laws, as they now exist or may later be amended:

(~~(■)~~) • Titles 9 and 9A RCW, the criminal code laws;

(~~(■)~~) • Title 69 RCW, which outlines the laws regarding controlled substances; and

(~~(■—Titles)~~) • Chapters 70.155, 82.24 RCW, and RCW 26.28.080 which outline laws regarding tobacco.

(3) Licensees have the responsibility to control their conduct and the conduct of employees and patrons on the premises at all times. Except as otherwise provided by law, licensees or employees may not:

(a) Be disorderly or apparently intoxicated on the licensed premises;

(b) (~~(Permit)~~) Allow any disorderly person to remain on the licensed premises;

(c) Engage in or allow behavior that provokes conduct which presents a threat to public safety;

(d) Consume liquor of any kind while working on the licensed premises; except that:

(i) Entertainers per WAC 314-02-010 may drink while performing under the following conditions:

(A) Alcohol service must be monitored by MAST servers;

(B) Drinks must be served in unlabeled containers;

(C) Entertainers may not advertise any alcohol brands or products;

(D) Entertainers may not promote drink specials; and

(E) If any member of the entertainment group is under twenty-one years of age, alcohol may not be consumed by any member of the group while performing.

(ii) Licensed beer manufacturers and their employees may sample beer of their own manufacture for manufacturing, evaluating or pricing product in areas where the public is not served, so long as the licensee or employee does not become apparently intoxicated;

(iii) Licensed wine manufacturers and their employees may:

(A) Sample wine for manufacturing, evaluating, or pricing product, so long as the licensee or employee does not become apparently intoxicated; and the licensee or employee who is sampling for these purposes is not also engaged in serving alcohol to the public; and

(B) Sample wine of their own manufacture for quality control or consumer education purposes, so long as the licensee or employee does not become apparently intoxicated.

(e) Engage in, or (~~permit any employee or~~) allow others (~~person~~) to engage in, conduct on the licensed premises which is prohibited by any portion of Titles 9, 9A, or 69 RCW;

(f) Engage in (~~or permit any employee or other person to engage in~~) the consumption of any type of marijuana, usable marijuana, or marijuana-infused products in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee;

(g) ((Permit)) Allow any person to consume any type of marijuana, usable marijuana, or marijuana-infused products in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee;

(h) Allow any person consuming, or who has consumed (~~within~~) on any part of the licensed premises, any type of marijuana, usable marijuana, or marijuana-infused products to remain on any part of the licensed premises; or

(~~h~~) (i) Sell or serve liquor by means of ("drive-in" or by "curb service.") drive-through service from pickup or pass-through windows.

(4) Licensees have the responsibility to control the interaction between the licensee or employee and their patrons. At a minimum, licensees or employees may not:

(a) Solicit any patron to purchase any beverage for the licensee or employee, or allow a person to remain on the premises for such purpose;

(b) Spend time or dance with, or permit any person to spend time or dance with, any patron for direct or indirect compensation by a patron.

(~~e~~) See WAC 314-11-050 for further guidelines on prohibited conduct.

NEW SECTION

WAC 314-03-400 Curbside service. (1) Grocery stores that have the appropriate liquor licenses may provide curbside service to customers who order groceries online and pick them up in designated pickup areas outside of the grocery store. Curbside service in a designated pickup area must be administered pursuant to all applicable RCW and WAC provisions. Drive-through service from pickup or pass-through windows is prohibited.

(2) Curbside pickup of groceries that include spirits, beer, and wine are allowed under the following conditions:

(a) Orders must include at least twenty-five dollars of nonalcohol items.

(b) Orders must be delivered by an employee of the licensee to a vehicle parked in a designated pickup area owned or controlled by the licensee as part of the licensed premises.

(c) Employees delivering orders to the customer's vehicle and completing the sale must be at least eighteen years of age and be trained on verifying ID, recognizing signs of intoxication, and preventing youth access.

(d) If ID cannot be verified, or if the driver appears intoxicated, all alcohol will be removed from the order and the customer will not be charged for any removed products.