



Washington State
Liquor and Cannabis Board

January 9, 2019

Office of the Code Reviser:

Pursuant to RCW 34.05.335 and WAC 1-21-060, the Liquor and Cannabis Board is withdrawing rulemaking for WSR 18-01-057 (CR 101) relating to the placement and storage of mini spirits bottles.

At this time the board will not pursue rulemaking on this subject. WSR 18-16-040 (Supplemental CR 102) and WSR 18-08-090 (CR 102) are also being withdrawn in a separate notification.

Jane Rushford

Chair



Washington State
Liquor and Cannabis Board

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At this time the board will not pursue rulemaking on this subject. WSR 18-01-057 (CR 101) is being withdrawn in a separate notification.

Jane Rushford

Chair



Washington State Liquor and Cannabis Board

Date: January 9, 2019

To: Jane Rushford, Board Chair
Ollie Garrett, Board Member
Russ Hauge, Board Member

From: Janette Benham, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director
Justin Nordhorn, Chief of Enforcement
Becky Smith, Licensing Director

Subject: **Approval for filing a pre-proposal statement of inquiry (CR 101) to review and update chapter 314-05 WAC regarding special occasion licenses**

This rulemaking is part of the ongoing rules review process and will clarify requirements for special occasion license applications. Revisions will also include general clarifying and technical updates to chapter 314-05 WAC.

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 was presented at the Board meeting on January 9, 2019, and is attached to this order.

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

January 9, 2019	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
February 6, 2019	Code Reviser publishes notice and LCB sends notice to rules distribution list
March 8, 2019	End of written comment period
March 20, 2019	Board is asked to approve filing the proposed rules (CR 102 filing)
April 3, 2019	Code Reviser publishes notice, LCB sends notice to rules distribution list
May 1, 2019	Public Hearing held
May 1, 2019	End of written comment period
May 29, 2019	Board is asked to adopt rules
May 29, 2019	Agency sends notice to those who commented both at the public hearing and in writing.
May 29, 2019	Agency files adopted rules with the Code Reviser (CR 103)
June 29, 2019	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

Issue Paper

Special Occasion Licenses – Rules Review

Date: January 9, 2019

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 the first stage of rule making (CR 101) to review and update chapter 314-05 WAC – Special Occasion Licenses.

Why is rule making necessary?

As part of the ongoing rules review process, revisions are necessary to clarify requirements for special occasion license applications. Revisions will also include general clarifying and technical updates to chapter 314-05 WAC.

Process

The rule making process begins by announcing the Liquor and Cannabis Board'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 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: January 9, 2019

To: Jane Rushford, Board Chair
Ollie Garrett, Board Member
Russ Hauge, Board Member

From: Janette Benham, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director
Justin Nordhorn, Chief of Enforcement
Becky Smith, Licensing Director

Subject: Adoption of final rules (CR 103) to allow liquor licensed grocery stores to provide curbside service – amending WAC 314-11-015 and adding a new section as WAC 314-03-400

The rules coordinator requests that the board approve final rulemaking (CR 103) and adopt rules amending WAC 314-11-015 and adding WAC 314-02-400 as a new section.

The board was briefed on the rulemaking background and heard public comment on this rulemaking. An issue paper and the text of the rules is attached.

If approved, the rules coordinator will send an explanation of the rulemaking to all people who submitted comments. After sending this explanation, the rules coordinator will file the rules with the Office of the Code Reviser. The effective date of the rules will be August 1, 2019.

_____ 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

Curbside Service

Date: January 9, 2019

Presented by: Janette Benham, Policy and Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to recommend that the Washington State Liquor and Cannabis Board proceed with final rulemaking (CR 103) to allow grocery stores to provide curbside service when customers order alcohol as part of an order placed online. The rules ensure that grocery stores and customers have requirements in place for this service. Requirements include:

- Prohibiting drive-through service from pickup or pass-through windows
- Requiring that orders include at least twenty-five dollars of non-alcohol items
- Vehicles must be parked in designated pickup areas owned or controlled by the licensee.
- Employees delivering orders 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, all alcohol will be removed from the order.
- The effective date of the rules revisions will be August 1, 2019. The interim policy allowing curbside service will remain in effect until then.

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.

Public Comment

June 13, 2018 public hearing

Six people testified at the hearing. Seven written comments were received.

October 3, 2018 public hearing

Two people testified at the hearing. Four written comments were received.

December 12, 2018 public hearing

Three people testified at the hearing. Two written comments were received.

Public comments, testimony, and the board's responses are summarized in the Concise Explanatory Statement, which is available on the LCB's website under the Laws and Rules tab.

What changes are being made?

WAC 314-11-015: This section was amended to provide clarifying and technical changes and to allow curbside service. Updates also prohibit drive-through service from pickup or pass-through windows.

WAC 314-03-400 (New Section): This section was added to outline requirements for curbside service of orders that contain alcohol.

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.



Liquor and Cannabis Board Second Revised Interim Policy BIP-05-2018

Subject: **Implementation of Cannabis Packaging and Labeling Rules Changes**

Effective Date: January 9, 2019

Ending Date: Upon the effective date of rules to implement this policy.

Approved:

Jane Rushford, Chair

Ollie Garrett, Board Member

Russ Hauge, Board Member

Purpose:

This second revised Interim Policy details the requirements and allowances the WSLCB will use to allow licensees to “phase-in” the new packaging and labeling rule requirements. This “phase-in” period will allow implementation flexibility while reducing impacts and costs to the industry prior to the January 1, 2020, effective date when all new requirements must be followed.

Licensees will have until January 1, 2020, to submit marijuana infused edible packaging and labeling in compliance with the new requirements for approval by the board.

The WSLCB is using this approach as we understand that packaging and labeling requirements changes pose impacts to the industry logistically, as well as the understanding that many processors purchase large quantities of packaging and labeling materials at a time to reduce costs (approximately 6 months on average). This approach will allow licensees to "phase-in" packaging and labeling that adheres to the new requirements as they cycle through existing inventory. Additionally, other optional allowances are provided to assist in reducing costs related to processes required for labeling retailer business/trade name and UBI on packages and impacts on label "real estate."



Policy Statement:

Effective January 1, 2020, licensees **MUST** use new packaging and labeling rule requirements as adopted by the Board through interim policy on May 2, 2018, December 12, 2018 and January 9, 2019.

Effective June 7, 2018, licensees may use the following options to “phase-in” the new packaging and labeling requirements. **This is only allowed until January 1, 2020, when the new requirements must be followed.**

- Licensees may choose not to include the following optional information under either the current rule requirements or the new rule requirements:
 - Retailer business/trade name and UBI
 - Harvest date (where required in current rules)
 - “Best by” date
 - Manufactured date
- The above items were selected as optional requirements under the new rule requirements because this information can be gathered from data in the traceability system. Additionally, inclusion of unique identifiers in the traceability system and on labels will allow the WSLCB and licensees to trace products back to their source in cases where a recall may be necessary without the above information included on the label.
- Licensees may still choose to include the above information on labels under either the current rule requirements or the new rule requirements.



Liquor and Cannabis Board Revised Interim Policy BIP-07-2018

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

Effective Date: January 9, 2019

Ending Date: Upon the effective date 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.

Licensees will have until January 1, 2020, to submit all packaging and labeling with the new requirements for products approved under the old requirements for approval by the board.

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-08-2018

Subject: **WAC 314-55-105 and WAC 314-55-155**
Usable marijuana, marijuana concentrates, and marijuana-infused products packaging and labeling

Effective Date: January 9, 2019

Ending Date: Upon the effective date 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 “curative or therapeutic effects” regarding packaging and labeling of usable marijuana, marijuana concentrates, and marijuana-infused products. This policy also clarifies the phrase “curative or therapeutic effects” regarding advertising requirements and promotional items.

Licensees will have until January 1, 2020, to submit all packaging and labeling with the new requirements for products approved under the old requirements for approval by the board.

Policy Statement:

In addition to the labeling requirements described in WAC 314-55-105, and the advertising requirements described in WAC 314-55-155, marijuana advertising and the labels affixed to the container or package containing usable marijuana, marijuana concentrates, and marijuana infused products sold at retail in the Washington State must not contain:

- any statement or reference of the product having an effect on the body or mind;
- any statement or reference that the product produces a useful or favorable result or effect; or
- any statement or reference that the product impacts the health of the consumer.

Words such as, but not limited to; relief, remedy, healing, curative, remedial, medicinal, restorative, beneficial, corrective, wellness, well-being, salutary, salubrious, and support are prohibited. Including the phrase, "This product is not approved by the FDA to treat, cure, or prevent any disease" does not supersede the rules.



Liquor and Cannabis Board Interim Policy BIP-09-2018

Subject: WAC 314-55-077 Marijuana processor license

Effective Date: January 9, 2019

Ending Date: Upon the effective date 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.

Additionally, there was industry concern regarding the scope of rule language requiring that both marijuana-infused solid edibles and liquid products be homogenized to ensure uniform dispursement throughout the product.

Licensees will have until January 1, 2020, to submit all packaging and labeling with the new requirements for products approved under the old requirements for approval by the board.

Purpose:

The purpose of this interim policy is to further clarify the procedures and processes for packaging, labeling, product decisions for marijuana infused edible products, and removal of the word "throughout" as it relates to homogenization. An interim policy is necessary to 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:

WAC 314-55-077 includes the following requirements:

5(c) Marijuana-infused solid edible products must be homogenized to ensure uniform disbursement of cannabinoids in the product.

6(d) Marijuana-infused liquid edibles must be homogenized to ensure uniform disbursement of cannabinoids in the product.

WAC 314-55-077 (9) is amended to read:

- A marijuana processor is limited in the types of food or drinks they may infuse with marijuana. Prohibited items include, but are not limited to:
- Marijuana infused products that require cooking or baking by the consumer;
- Marijuana infused products must be dull in color and not coated in sugar, sprinkles, or other embellishments;
- Marijuana infused edibles that are brightly colored or similar to commercially available products intended for or that are targeted to youth or children;
- Marijuana infused products that are especially appealing to children.

For purposes of this rule, “Dull” is defined as a color low in saturation and low in lightness.



Liquor and Cannabis Board Revised Interim Policy BIP-10-2018

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

Effective Date: January 9, 2019

Ending Date: Upon the effective date 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.

Licensees will have until January 1, 2020, to submit marijuana infused edible packaging and labeling in compliance with new requirements for approval by the board.

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.
- Packaging and Labeling background color must be white, cream, grey, black, tan or brown. Up to three accent colors from the approved color list provided on the WSLCB website is allowed. A percentage or gradient of an approved color counts as one color.
- Packaging and Labeling font color must be one of the approved colors provided on the WSLCB website. Font color counts as one of the three accent colors.
- A full color photo or photo in a 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

Vapor Products Rules.

Date: November 28, 2018

Presented by: Karen McCall, Policy and Rules Coordinator

Description of the Issue

This Issue Paper requests approval from the Board to file proposed rules (CR 102) 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.

What changes are being made?

New Section. WAC 314-23-015 Definitions. Added definitions for “domicile” and “manufacture”.

Amended Section. WAC 314-35-020 Vapor product licenses required – Licensing requirements, denials, suspensions, and revocations. Added licensing requirements and qualifications for vapor products.

New Section. WAC 314-35-027 What persons or entities have to qualify for a vapor products license? Added language regarding true parties of interest.

Amended Section. WAC 314-35-040 Age-restricted vapor products retailer licensed locations. Included language that

vapor products licensed locations that allow vapor product sampling must be restricted to persons age 18 or older at all times.

New Section. WAC 314-35-050 Vapor product license suspensions. Added language regarding vapor product license suspensions and revocations.

New Section. WAC 314-35-130 Group 1 violations against public safety. Added public safety violations and penalties.

New Section. WAC 314-35-140 Group 2 regulatory violations. Added regulatory violations and penalties.

New Section. WAC 314-35-150 Group 3 license violations. Added license violations and penalties.

NEW SECTION

WAC 314-35-015 Definitions. The following definitions apply to this chapter in addition to the definitions provided in RCW 70.345.010:

(1) "Domicile" means a person's true, fixed, primary permanent home and place of habitation and the tax parcel upon which it is located. It is the place where a person intends to remain and where the person expects to return when the person leaves without intending to establish a new domicile elsewhere.

(2) "Manufacture" as defined in RCW 70.345.010, to include to make, modify, mix, process, label, repack, or relabel a vapor product substance.

AMENDATORY SECTION (Amending WSR 16-23-088, filed 11/16/16, effective 12/17/16)

WAC 314-35-020 Vapor product licenses required—Licensing requirements, denials, suspensions, and revocations. (1) The vapor product license types are: Vapor product retailer's license, vapor product distributor's license, and vapor product delivery sale license. A vapor product retailer's license, vapor product distributor's license, or a vapor product delivery sale license is required to perform the functions of a vapor product retailer, vapor product distributor, or a vapor product delivery seller, respectively, whether or not the vapor product contains nicotine. A vapor product manufacturer must hold a vapor product distributor license if the manufacturer sells vapor products to persons other than ultimate consumers or is engaged in the business of selling vapor products in Washington state and brings or causes to be brought into this state from outside the state any vapor products for sale consistent with RCW 70.345.010 (7) and (9).

(2) A vapor product retailer's license, vapor product distributor's license, or a vapor product delivery sale license cannot be issued to a location that is a domicile.

(a) The Washington state liquor and cannabis board (WSLCB) will not approve any vapor product license for a location where WSLCB access without notice or cause is limited or to a mobile facility.

(b) Any vapor product license that is issued to a domicile or any other location inconsistent with this section in error will be revoked.

(3) A person or entity must meet certain qualifications as specified in this chapter and chapter 70.345 RCW to receive a vapor product license, and must continue to meet those qualifications to maintain the license.

(4) No more than one license of each vapor product license type may be issued at a single location.

(5) A licensed location must be separated from other vapor product businesses and not accessible through neighboring businesses.

(6) For the purpose of reviewing an initial or renewal application for a vapor product license or considering the denial of a license application, the WSLCB may consider prior criminal conduct of the applicant and criminal history record within the five years prior

to the date the application is received by the WSLCB. The WSLCB uses the following point system to determine a person's qualification for a license. The WSLCB will not normally issue a vapor product license to a person or entity that has accumulated eight or more points as determined in (a) through (e) of this subsection. If a case is pending for an alleged offense that would earn eight or more points in total for the applicant, the WSLCB will hold the application until the final disposition of the pending case. If the case does not reach final disposition within ninety days of application, the WSLCB may administratively close the application.

(a) Felony conviction within the five years immediately prior to application: Twelve points.

(b) Gross misdemeanor conviction for violation of chapter 82.24 or 82.26 RCW within the five years immediately prior to application: Twelve points.

(c) Other gross misdemeanor conviction within three years immediately prior to application: Five points.

(d) Misdemeanor conviction within three years immediately prior to application: Four points.

(e) Nondisclosure of any of the above: Four points each in addition to underlying points.

(7) For the purpose of reviewing an initial or renewal application for a vapor product license and considering the denial of a vapor product license application, the WSLCB will conduct an investigation of all applicants' liquor and cigarette and tobacco products law and rule administrative violation history. The WSLCB will not normally issue a vapor product license to a person or entity that has four or more violations within the two years prior to the date the application is received by the WSLCB.

(8) The WSLCB may conduct a final inspection of the proposed licensed business to determine if the applicant has complied with all the requirements of the license requested.

(9) A license may not be transferred or relocated without prior approval by the WSLCB.

(a) A licensee must notify the WSLCB at least ten business days before any ownership changes or location changes of the licensed vapor products business. Failure to do so without applying for a separate license for a new location will be treated as operating without a license.

(b) A licensee that fails to notify the WSLCB prior to moving a location may be suspended until such time that the new location meets the conditions required for a vapor products license.

(c) Prior approval may be sought by contacting enforcement by email at enfcustomerservice@lcb.wa.gov or by phone at 360-664-9878.

(10) As a condition of licensure, all vapor products licensees must:

(a) Keep premises where vapor products are stored, manufactured, and offered for sale in a clean and sanitary condition; and

(b) Label all packages and containers that contain nicotine with the nicotine content of the product until such time that the product is packaged and labeled in finished packaging for sale consistent with the packaging and labeling requirements in RCW 70.345.075.

(11) If the WSLCB makes an initial decision to deny a vapor product license or renewal, or suspend or revoke a license, for the reasons listed above or as provided in chapter 70.345 RCW, the applicant or licensee may request a hearing subject to the applicable provisions under chapter 34.05 RCW. Appeals under this section will be conducted

under a brief adjudicative proceeding pursuant to WAC 314-42-110 through 314-42-130, and RCW 34.05.482 through 34.05.494.

NEW SECTION

WAC 314-35-027 What persons or entities have to qualify for a vapor product license. A vapor product license must be issued in the name(s) of the true party(ies) of interest. The Washington state liquor and cannabis board (WSLCB) may conduct a financial investigation as well as a criminal background check of all true parties of interest listed on the license.

(1) True parties of interest. For purposes of this section:

True Party of Interest	Persons To Be Qualified
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability limited partnership	<ul style="list-style-type: none">• All general partners and their spouses.• All limited partners and spouses.
Limited liability company	<ul style="list-style-type: none">• All members and their spouses.• All managers and their spouses.
Privately held corporation	<ul style="list-style-type: none">• All corporate officers (or persons with equivalent title) and their spouses.• All stockholders and their spouses.
Publicly held corporation	All corporate officers (or persons with equivalent title) and their spouses. All stockholders and their spouses.
Multilevel ownership structures	All persons and entities that make up the ownership structure (and their spouses).
Any entity or person (inclusive of financiers) that are expecting a percentage of the profits in exchange for a monetary loan or expertise. Financial institutions are not considered true parties of interest.	Any entity or person who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year. Any entity or person who exercises control over the licensed business in exchange for money or expertise. For the purposes of this chapter:

True Party of Interest	Persons To Be Qualified
	<ul style="list-style-type: none"> • "Gross profit" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business. • "Net profit" means gross sales minus cost of goods sold.
Nonprofit corporations	All individuals and spouses, and entities having membership rights in accordance with the provisions of the articles of incorporation or the bylaws.

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensation; or the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(3) Persons who exercise control of business. The WSLCB may conduct an investigation of any person or entity who exercises any control over the applicant's or licensee's business operations. This may include a financial investigation and/or a criminal history background check.

AMENDATORY SECTION (Amending WSR 16-23-088, filed 11/16/16, effective 12/17/16)

WAC 314-35-040 Age-restricted vapor products retailer licensed locations. (1) Age-restricted vapor products retailer licensed locations must register as such with the WSLCB by indicating at the time of application or within ten days prior to becoming an age-restricted location. A vapor product retail licensee must inform the WSLCB in writing ten business days prior to a change in the age-restriction status. The appropriate form is available on the WSLCB web site.

(2) Holders of a vapor product retailer license where entry into the licensed premises is age-restricted to persons eighteen years of age or older must post signs provided by the WSLCB at each entrance point to indicate the premises is age-restricted. Such signs must not be removed at any time during opening hours of the licensed vapor products retail establishment.

(3) All vapor product licensed locations that allow vapor product sampling as allowed under the requirements provided in RCW 70.345.100, must be restricted to persons age eighteen and over at all times.

NEW SECTION

WAC 314-35-050 Vapor product license suspensions. (1) The board may revoke or suspend a retailer, distributor, or delivery seller license issued under chapter 70.345 RCW and this chapter upon sufficient cause showing a violation of chapter 70.345 RCW or this chapter that qualifies for a suspension.

(2) Any retailer license issued under chapter 82.24 or 82.26 RCW to a person whose vapor product retailer license or licenses have been suspended or revoked for violating RCW 26.28.080 must also be suspended or revoked during the period of suspension or revocation under this section and RCW 70.345.170.

(3) Any person whose license or licenses have been revoked under this section may reapply to the board at the expiration of two years of the license or licenses, unless the license was revoked pursuant to RCW 70.345.180 (2)(e). The license or licenses may be approved by the board if it appears to the satisfaction of the board that the licensee will comply with the provisions of this chapter.

(4) A person whose license has been suspended or revoked may not sell vapor products or permit vapor products to be sold during the period of suspension or after revocation on the premises occupied by the person or upon other premises controlled by the person or others or in any other manner or form. If the suspension or revocation involves licenses issued under chapter 82.24 or 82.26 RCW, the person is prohibited from selling cigarette and tobacco products consistent with WAC 314-34-020.

(5) On the date a vapor product license suspension goes into effect a WSLCB enforcement officer will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the WSLCB due to a violation of a WSLCB law or rule.

(6) During the period of vapor product license suspension, the licensee and employees:

(a) Are required to maintain compliance with all applicable vapor product laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice;

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the WSLCB's suspension notice.

(7) During the period of vapor product license suspension:

(a) A vapor product licensee may not operate his/her business.

(b) There is no sale, delivery, service, consumption, manufacturing, removal, or receipt of vapor products.

(8) If the WSLCB makes an initial decision to deny a vapor product license or renewal, or suspend or revoke a license, for the reasons listed above or as otherwise provided in this chapter or chapter

70.345 RCW, the applicant or licensee may request a hearing subject to the applicable provisions under chapter 34.05 RCW. Appeals under this section will be conducted under a brief adjudicative proceeding pursuant to WAC 314-42-110 through 314-42-130, and RCW 34.05.482 through 34.05.494.

(9) Any determination and order by the board, and any order of suspension or revocation by the board of the license issued under chapter 70.345 RCW or this chapter, or refusal to reinstate a license or licenses after revocation is reviewable by an appeal in the superior court of Thurston County. The superior court must review the order or ruling of the board and may hear the matter de novo, having due regard to the provisions of this chapter and the duties imposed upon the board.

NEW SECTION

WAC 314-35-130 Group 1 violations against public safety. Group 1 violations are considered the most serious because they present a direct threat to public safety. The Washington state liquor and cannabis board (WSLCB) may exceed penalties set forth in this section consistent with RCW 70.345.180 based on aggravating circumstances. The WSLCB may reduce or waive either the penalties or the suspension or revocation of a license, or both, as set forth in this chapter and chapter 70.345 RCW based on mitigating circumstances as provided in RCW 70.345.180(11).

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window	5th Violation in a three-year window
Allowing minors to frequent age-restricted vapor products retailer licensed locations. WAC 314-35-040	\$200 monetary penalty	\$600 monetary penalty	\$2,000 monetary penalty and a 6-month suspension	\$3,000 monetary penalty and a 12-month suspension of the license	Revocation of license with no possibility of reinstatement for 5 years
Sales to a minor by an unlicensed person. RCW 70.345.180 (5) and (6)	\$50 monetary penalty	\$100 monetary penalty	\$100 monetary penalty	\$100 monetary penalty	\$100 monetary penalty
Failure to properly label vapor products. RCW 70.345.075	\$200 monetary penalty	\$600 monetary penalty	\$2,000 monetary penalty and a 6-month suspension of the license	\$3,000 monetary penalty and a 12-month suspension of the license	Revocation of license with no possibility of reinstatement for 5 years
Prohibited vapor packaging. RCW 70.345.130	\$200 monetary penalty	\$600 monetary penalty	\$2,000 monetary penalty and a 6-month suspension of the license	\$3,000 monetary penalty and a 12-month suspension of the license	Revocation of license with no possibility of reinstatement for 5 years
Possession of, sale, or offer for sale CBD vapor products or vapor products containing a cannabidiol. RCW 70.345.030(4)	\$200 monetary penalty	\$600 monetary penalty	\$2,000 monetary penalty and a 6-month suspension of the license	\$3,000 monetary penalty and a 12-month suspension of the license	Revocation of license with no possibility of reinstatement for 5 years

NEW SECTION

WAC 314-35-140 Group 2 regulatory violations. Group 2 violations are violations involving general regulation and administration of vapor product licenses.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window	5th Violation in a three-year window
Vapor products purchased from unlicensed source. WAC 314-35-140	\$200 monetary penalty	\$600 monetary penalty	\$2,000 monetary penalty and a 90-day license suspension	\$3,000 monetary penalty and a 6-month license suspension	Revocation of license with no possibility of reinstatement for 5 years
Records: Improper recordkeeping. WAC 314-35-030	\$100 monetary penalty	\$300 monetary penalty	\$1,000 monetary penalty and a 30-day license suspension	\$3,000 monetary penalty and a 90-day license suspension	Revocation of license with no possibility of reinstatement for 5 years
Signs: Failure to post required signs. WAC 314-35-040 and/or RCW 70.345.070	\$100 monetary penalty	\$300 monetary penalty	\$1,000 monetary penalty and a 30-day license suspension	\$3,000 monetary penalty and a 90-day license suspension	Revocation of license with no possibility of reinstatement for 5 years
Failure to register as age restricted. WAC 314-35-040	\$100 monetary penalty	\$300 monetary penalty	\$1,000 monetary penalty and a 30-day license suspension	\$3,000 monetary penalty and a 90-day license suspension	Revocation of license with no possibility of reinstatement for 5 years

NEW SECTION

WAC 314-35-150 Group 3 license violations. Group 3 violations are violations involving licensing requirements, license classification, and special restrictions.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window	5th Violation in a three-year window
True party of interest violation. WAC 314-35-130 and/or RCW 70.345.020	\$200 monetary penalty	\$600 monetary penalty	\$2,000 monetary penalty and a 90-day license suspension	\$3,000 monetary penalty and a 6-month license suspension	Revocation of license with no possibility of reinstatement for 5 years
Failure to furnish required documents. WAC 314-35-030	\$200 monetary penalty	\$600 monetary penalty	\$2,000 monetary penalty and a 90-day license suspension	\$3,000 monetary penalty and a 6-month license suspension	Revocation of license with no possibility of reinstatement for 5 years

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window	5th Violation in a three-year window
Misrepresentation of fact. WAC 314-35-020 and/or RCW 70.345.020	\$200 monetary penalty	\$600 monetary penalty	\$2,000 monetary penalty and a 90-day license suspension	\$3,000 monetary penalty and a 6-month license suspension	Revocation of license with no possibility of reinstatement for 5 years