



**Liquor and Cannabis Board Third Revised Interim Policy
BIP-05-2018**

Subject: Implementation of Cannabis Packaging and Labeling Rules Changes

Effective Date: July 17, 2019

Ending Date: Upon the effective date rules to implement this policy or Board action rescinding this policy.

Approved:

Jane Rushford, Chair

Ollie Garrett, Board Member

Russ Hauge, Board Member

Purpose:

This third revised Interim Policy describes a “phase-in” period to packaging and labeling rules that became effective January 1, 2019. This “phase-in” period allows implementation flexibility intended to mitigate industry compliance impact and cost prior to the July 1, 2020, effective date.

Licensees must fully comply by July 1, 2020 with the January 1, 2019 packaging and labeling rules.

The WSLCB acknowledges that packaging and labeling requirements described in rule that became effective January 1, 2019 may result in compliance costs and impacts to licensees. The WSLCB further acknowledges that many processors purchase packaging and labeling material in bulk to reduce costs (approximately 6 months on average). Additional "phase-in" time will allow licensees to cycle through existing inventory as business and other adjustment are completed to assure compliance. Additionally, optional allowances noted below are designed to reduce costs related to processes required for labeling retailer business/trade name and UBI on packages, and impacts on label "real estate."



Policy Statement:

Effective July 1, 2020, licensees are required to comply with packaging and labeling rules as adopted by the Board through interim policy on May 2, 2018, December 12, 2018, January 9, 2019, and July 17, 2019.

- 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 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 choose to include the above information on labels under the current rule requirements or the new rule requirements.



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

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

Effective Date: July 17, 2019

Ending Date: Upon the effective date rules to implement this policy or Board action rescinding 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 must fully comply with this policy by July 1, 2020.

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 Second Revised 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: July 17, 2019

Ending Date: Upon the effective date rules to implement this policy or Board action rescinding 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 must fully comply with this policy until January 1, 2020, the effective date of ESSB 5298 (Chapter 393, Laws of 2019).

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 Second Revised Interim Policy BIP-09-2018

Subject: WAC 314-55-077 Marijuana processor license

Effective Date: July 17, 2019

Ending Date: Upon the effective date rules to implement this policy or Board action rescinding 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 disbursement throughout the product.

Licensees must fully comply with this policy by July 1, 2020.

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, and removal of the word “throughout” as it relates to homogenization. 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 sections of WAC 314-55-077 are amended as follows:

(8) Marijuana infused edible products in solid or liquid form must:

(a) Be homogenized to ensure uniform disbursement of cannabinoids;

(9) 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. For purposes of this rule, “dull” is defined as a color low in saturation and low in lightness. Marijuana infused edibles that are brightly colored or similar to commercially available products intended for or that are targeted to youth or children are prohibited. Marijuana infused products that are especially appealing to children are prohibited.



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

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

Effective Date: July 17, 2019

Ending Date: Upon the effective date rules to implement this policy or Board action rescinding 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 regarding 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 must fully comply with this policy by July 1, 2020.

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 are 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.



Washington State
Liquor and Cannabis Board

Date: July 17, 2019

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

From: Kathy Hoffman, Policy and Rules Coordinator

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

Subject: **Approval for filing a pre-proposal statement of inquiry (CR 101) to consider creating a new section of chapter 314-55 WAC to establish a voluntary compliance program for marijuana licensees.**

The WSLCB is considering creating a new section of rule in chapter 314-55 WAC that will establish a voluntary compliance program for marijuana licensees consistent with the mandates of Engrossed Senate Substitute Bill (ESSB) 5318 (Chapter 394, Laws of 2019).

Process

The Policy and 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 pre-proposal statement of inquiry was presented at the Board meeting on July 17, 2019, and is attached to this order.

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

July 17, 2019	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101). LCB provides notice to stakeholders.
September 4, 2019	Code Reviser publishes notice.
October 4, 2019	End of written comment period
January 22, 2020	Board is asked to approve filing of CR102 rule proposal.
March 18, 2020	End of written comment period
March 18, 2020	Public hearing held

April 15, 2020	Board is asked to adopt rules
April 15,2020	Agency sends notice to those who commented at the public hearing and in writing.
April 15, 2020	Agency files adopted rules with the Code Reviser (CR 103)
May 16, 2020	Rules are effective (31 days after filing)*

*Unless otherwise provided.

_____ 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

Voluntary Compliance Program

Date: July 17, 2019

Presented by: Kathy Hoffman, Policy and Rules Coordinator

Description of the Issue

The Washington State Liquor and Cannabis Board (Board) enforcement division is responsible for a variety of activities related to the regulation of marijuana in Washington State. These activities include, but are not limited to conducting compliance checks, inspections, following up on complaint investigations, and verifying license site locations, consistent with provisions described in chapter 69.50 RCW and chapter 314-55 WAC.

In the five years since the first marijuana licenses were issued, the marijuana market, industry, and authorizing environment have matured. Although the Board designed the current regulatory structure to align with I502's direction to bring marijuana "under a tightly regulated, state-licensed system similar to that for controlling hard alcohol," it is appropriate to reevaluate that conservative system, including compliance, education, and enforcement activities.

The Board began to consider revisions to existing enforcement guidelines by initiating a formal rule inquiry under WSR #18-22-099 in October, 2018. Those efforts were extended by the passage of Engrossed Substitute Senate Bill (ESSB) 5318 during the 2019 regular session of the Washington State legislature. While ESSB 5318 provided direction for enforcement guideline redesign, it also provided a framework to perfect and expand existing programs for compliance education for licensed marijuana businesses and their employees. Rules developed under the provisions of ESSB 5318 are required to include a voluntary compliance program created in consultation with licensed marijuana businesses and their employees, and must include recommendations on abating violations described in chapter 69.50 RCW and chapter 314-55 WAC.

This Issue Paper requests approval from the Board to file a CR 101 that will begin the process of developing and establishing a voluntary compliance program as set forth in ESSB 5318.

Reasons why rules may be needed:

Rules may be needed for the following reason:

1. ESSB 5318 (Chapter 394, Laws of 2019) involving marijuana licensee compliance and enforcement will become effective July 28, 2019. Among other revisions, ESSB 5318 amended RCW 69.50.342, and created a new section describing a program where a licensee may request advice and

consultation by Board enforcement. Advice and consultation services requested under this statutory provision are limited to the matters specified in the request affecting the interpretation and applicability of the standards described in chapter 69.50 RCW to the conditions, structures, machines, equipment, apparatus, devices, materials, methods, means, and practices of the licensee's licensed premises. The Board is required to establish such a program consistent the amendments of this legislation.

Process

The rule making process begins by announcing LCB's intent to consider changes to existing rules by filing a CR 101 form. This allows staff, stakeholders, industry partners, and all members of the authorizing environment to begin discussing proposed rule changes. At the CR 101 stage of the rulemaking process, no proposed language is offered. Any interested party may comment on the subject of this possible rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule activity pertaining to this preproposal inquiry. The notice will identify the public comment period and where comments can be sent.