



Washington State
Liquor and Cannabis Board

Date: August 21, 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
 Megan Duffy, Deputy Director
 Justin Nordhorn, Chief of Enforcement
 Becky Smith, Licensing Director

Subject: **Adoption of final rules (CR 103) regarding acceptable forms of identification – amending WAC 314-11-025**

The rules coordinator requests that the board approve final rulemaking (CR 103) and adopt rules amending WAC 314-11-025 regarding acceptable forms of identification.

The board was briefed on the rulemaking background and held a public hearing on August 7, 2019. 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 and file the rules with the Office of the Code Reviser. The effective date of the rules will be September 21, 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

Acceptable Forms of Identification – Tribal ID

WAC 314-11-025

Date: August 21, 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 (WSLCB) proceed with final rulemaking (CR 103) to revise WAC 314-11-025 regarding acceptable forms of identification.

Why is rule making necessary?

Rulemaking was initiated as a result of legislative inquiries that began with contact from a tribal member of a federally recognized tribe located outside of Washington.

What changes are being made?

WAC 314-11-025 What are the acceptable forms of identification?

The section was revised to:

- Allow consideration of tribal enrollment cards from federally recognized Indian tribes located outside of Washington as acceptable forms of identification to verify a person's age for alcohol sales, service, consumption, and possession;
- Add the process for tribes to request consideration of enrollment cards as acceptable forms of identification. The process is one we currently utilize and was added to the rule for clarification purposes; and
- Make technical changes and clarify the rule language to ensure requirements are clear for all acceptable identification types.

Public Comment

After filing the first CR 102 and proposed revisions on April 17, 2019, the WSLCB received a request to consult with tribes. We withdrew the CR 102 and engaged in consultation with several tribes. After further revising the rule, a supplemental CR 102 was filed on June 12, 2019. A public hearing was held on August 7, 2019. No one testified at the public hearing.

Six written comments were received and are summarized in the Concise Explanatory Statement, which is available on the WSLCB's website under the Laws and Rules tab. Several tribes we consulted with were concerned that currently approved tribal IDs may have to be resubmitted for consideration. The currently approved tribal IDs will remain approved and will not have to be resubmitted for consideration.

WAC 314-11-025 What are the (~~forms of~~) acceptable forms of identification? (1) (~~Following are the~~) Acceptable forms of identification (~~that are acceptable~~) to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol must include:

(a) The identification holder's photo;

(b) The identification holder's date of birth; and

(c) The identification holder's signature, except on federally issued identification where a visible signature is not required.

(2) If the identification has an expiration date, it cannot be used to verify age after the expiration date.

(3) Acceptable forms of identification include:

(a) A driver's license, instruction permit, or identification card of any state, (~~or~~) province of Canada, (~~from a~~) U.S. territory, or the District of Columbia, or an "identocard" issued by the Washington state department of licensing per RCW 46.20.117;

(b) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents (~~, which may include an embedded, digital signature in lieu of a visible signature~~);

(c) A passport, passport card, or NEXUS card;

(d) A Merchant Marine identification card issued by the United States Coast Guard; (~~and~~) or

(e) An enrollment card issued by the governing authority of a federally recognized Indian tribe (~~located in Washington~~), if the enrollment card incorporates reasonable security features (~~comparable~~) sufficient to deter counterfeiting, which may include features similar to those (~~implemented~~) used by the department of licensing for standard Washington driver's licenses.

~~((2) If the identification document has an expiration date, a person may not use the document after the expiration date to verify his or her age.))~~

(i) An enrollment card must be approved by the board's enforcement division prior to use as an acceptable form of identification. The tribe may request approval by submitting the following for review and inspection:

(A) A letter requesting approval and describing the security features of the enrollment card;

(B) A physical sample of an enrollment card; and

(C) For tribes located outside of Washington, a contact phone number where enforcement officers may call at any time to verify the validity of the enrollment card.

(ii) After review and inspection, the board's designee will send a letter approving or denying the enrollment card as an acceptable form of identification.

(iii) The board may rescind approval if the enrollment card no longer meets the requirements of this section.



Liquor and Cannabis Board Interim Policy BIP-14 -2019

Subject: BIP 05-2018; BIP 07-2018; BIP 08-2018; BIP 09-2018; and BIP 10-2018 as they relate to WAC 314-55-077 - Marijuana processor license, and WAC 314-55-105 and WAC 314-55-155, related to useable marijuana, marijuana concentrates, and marijuana-infused products packaging and labeling.

Effective Date: August 21, 2019

Ending Date: Upon the effective date of 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:

Between June 7, 2018 and July 17, 2019, the Washington State Liquor and Cannabis Board (WSLCB) approved and revised the following Board Interim Policies (BIP) regarding implementation of cannabis packaging and labeling rules, and marijuana-infused edible products:

- **BIP 05-2018** regarding the implementation of cannabis packaging and labeling rules changes.
- **BIP 07-2018** regarding packaging and labeling requirements, specifically, clarification of the phrase “false and misleading” concerning packaging and labeling of marijuana-infused products, and packaging and labeling designed to mimic, imply or reference a product containing alcohol.
- **BIP 08-2018** regarding usable marijuana, marijuana concentrates, and marijuana-infused products packaging and labeling, specifically, clarification of the phrase “curative or therapeutic effects.”
- **BIP 09-2018** regarding marijuana processor license, specifically, the scope of rule language requiring that both marijuana-infused solid edibles and liquid

products be homogenized to ensure uniform disbursement throughout the product.

- **BIP 10-2018** regarding marijuana packaging and labeling requirements, specifically, marijuana infused edible colors and shapes.

Each of these BIP require that licensees must fully comply with each policy by July 1, 2020.

However, since WSLCB licensed marijuana retailers will no longer be able to accept products with labels that are noncompliant with BIP 05-2018, 07-2018, 08-2018, 09-2018 and 10-2018 after July 1, 2020, WSLCB licensed marijuana retailers will need additional time to sell through, or “sell down” marijuana products with labels that were compliant with requirements in effect prior to July 1, 2020.

Purpose:

The purpose of this interim policy is to establish a time period to allow WSLCB licensed marijuana retailers to sell through, or “sell down” marijuana products with labels approved prior to July 1, 2020.

Policy Statement:

On July 1, 2020, WSLCB licensed marijuana retailers will no longer be allowed to accept products with labels that do not comply with BIP 05-2018, 07-2018, 08-2018, 09-2018 and 10-2018. WSLCB licensed marijuana retailers have until **January 1, 2021** to sell through, or “sell down” products subject to BIP 05-2018, 07-2018, 08-2018, 09-2018 and 10-2018.

WSLCB licensed marijuana retailers who are still in possession of these products on or after January 1, 2021 may return the products to the WSLCB licensed processor consistent with the requirements of WAC 314-55-077, or dispose of the products consistent with WAC 314-55-7-079(13) and WAC 314-55-097.