



**Washington State
Liquor and Cannabis Board**

November 13, 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: **Approval to file proposed rules (CR 102) regarding special occasion licenses – chapter 314-05 WAC**

The Rules Coordinator requests approval to file proposed rules (CR 102) for the rule making described above. The proposed rules revisions clarify requirements for special occasion licenses, including the application process, guidelines for special occasion events, and advertising requirements for special occasion events. Rules revisions will help ensure applicants and licensees operate under applicable statutory provisions and have clear guidelines in place. An issue paper outlining the changes is attached.

Process

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

November 13, 2019	<ul style="list-style-type: none">• CR 102 and proposed rules filed with the Office of the Code Reviser• WSLCB webpage updated and notice sent to the rules distribution list
December 4, 2019	Notice published by the Office of the Code Reviser in WSR # 19-23
January 8, 2020	Public Hearing held and end of written comment period
January 22, 2019	<ul style="list-style-type: none">• Board asked to adopt rules if no additional changes are made• Notice and Concise Explanatory Statement sent to those who commented both at the public hearing and in writing• CR 103 and adopted rules filed with the Office of the Code Reviser• WSLCB webpage updated and notice sent to the rules distribution list
February 22, 2020	Rules effective – Normally 31 days after filing the CR 103

X Approve _____ Disapprove Jane Rushford 11-13-19
Jane Rushford, Chair Date

X Approve _____ Disapprove Ollie Garrett 11-13-19
Ollie Garrett, Board Member Date

X Approve _____ Disapprove Russ Hauge 11/13/19
Russ Hauge, Board Member Date

Attachment: Issue Paper

Issue Paper

Special Occasion License – chapter 314-05 WAC

Date: November 13, 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 CR 102 with proposed revisions to chapter 314-05 WAC regarding special occasion licenses.

The proposed revisions:

- Remove unnecessary and outdated language;
- Make technical and clarifying changes;
- Clarify that a special occasion license is a retail license
- Update application requirements and add information from the online application
- Make updates to guidelines for special occasion events to provide clarity for applicants, licensees, and industry members; and
- Add statutory references to clarify requirements for alcohol and monetary donations, advertising, ticket and alcohol sales, and payment information.

Why is rule making necessary?

Rulemaking was initiated as part of the WSLCB rules review process.

Background

The WSLCB issues over six thousand special occasion licenses per year. Revisions and updates to the rules were necessary to ensure applicants, licensees, and industry members have clear and relevant rules in place for special occasion events.

Rules revisions will help ensure applicants and licensees operate under applicable statutory provisions for special occasion events.

In addition, revisions will hopefully have the added benefit of decreasing questions and phone calls to customer service and enforcement.

What changes are being made?

Amended Sections:

WAC 314-05-020 Special occasion license

WAC 314-05-025 Application process for a special occasion license

WAC 314-05-030 Guidelines for special occasion license events

WAC 314-05-035 Advertising and branded promotional items for special occasion events

AMENDATORY SECTION (Amending WSR 17-08-099, filed 4/5/17, effective 5/6/17)

WAC 314-05-020 ~~((What is a))~~ **Special occasion license((?)).** (1) Per RCW 66.24.380, a special occasion license allows a nonprofit organization to sell, at a specified date, time, and place:

(a) Spirits, beer, and wine by the individual serving and wine by the bottle for on-premises consumption; and

(b) Spirits, beer, and wine in original, unopened containers for off-premises consumption ~~((; and~~

~~((c) Wine in original, unopened containers for on-premises consumption if permission is obtained from the WSLCB prior to the event)).~~

(2) Special occasion licensees ~~((are limited to))~~ may have no more than twelve days of events per calendar year (see RCW 66.24.380(1) for an exception for agricultural fairs).

(3) The fee for ~~((this))~~ the special occasion license is ~~(((\$60))~~ sixty dollars per day, per event. ~~((Multiple))~~ Each additional alcohol service ~~((locations))~~ area at an event ~~((are))~~ is an additional sixty dollars per ~~((location))~~ day.

(4) ~~((Per RCW 66.24.375, all proceeds from the sale of alcohol at a special occasion event must go directly back into the nonprofit organization, except for reasonable operating costs for actual services performed at compensation levels comparable to like services within the state.~~

~~((5) A charitable nonprofit organization or a local winery industry association is not disqualified from obtaining a special occasion license even if its board members are also officers, directors, owners, or employees of either a licensed domestic winery or a winery certificate of approval holder. The charitable nonprofit organization must be registered under section 501 (c)(3) of the Internal Revenue Code, and the local wine industry association must be registered under section 501 (c)(6) of the Internal Revenue Code.~~

~~((6) If a winery is taking orders and accepting payment for product of its own production from consumers at a special occasion event to be delivered at a later date from one of its authorized locations, the special occasion shall include the name of the winery on the special occasion license application.))~~ A special occasion license is a retail liquor license. Nonprofit organizations must comply with applicable retail liquor license requirements when operating under the special occasion license.

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

WAC 314-05-025 **Application process for a special occasion license.** (1) Special occasion applications ~~((normally take))~~ must:

(a) Be submitted at least forty-five days ~~((to process. The liquor and cannabis board may not be able to process your application in time for your event if you do not apply at least forty-five days before the event.~~

~~((2))~~ prior to an event where no minors will attend; or

(b) Be submitted with an application addendum at least sixty days prior to an event where the applicant requests minors in attendance.

(2) Special occasion applications must include:

(a) Documentation verifying that the organization is a registered nonprofit;

(b) The name of any winery that will be taking orders at the event and accepting payment for wine of its own production to be delivered at a later date; and

(c) Any additional information requested by the board.

(3) Applications submitted less than the required forty-five or sixty days prior to the event may not be approved.

(4) Per RCW 66.24.010(8), ((when the liquor and cannabis board receives a special occasion application, it)) the board must send a notice to the local authority for each application received. The local authority has twenty days to respond ((with any input, and they may)) or request an extension for good cause.

((3) The liquor and cannabis)) (5) The board may ((run)) conduct a criminal history check on the organization's officers and/or managers.

((4) The liquor and cannabis board requires documentation to verify the organization is a bona fide nonprofit, who the true party(ies) of interest are in the organization, and that the organization meets the guidelines outlined in WAC 314-05-020 and 314-05-025.

(5) See chapter 314-07 WAC regarding possible reasons for denial of a special occasion license.)) (6) Special occasion licenses may be denied for reasons including, but not limited to, those outlined in chapter 314-07 WAC. Denials are subject to the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

WAC 314-05-030 Guidelines for special occasion license events.

(1) The special occasion license must be posted at each alcohol service area at the event.

(2) ((Special occasion licensees may get alcohol for the event only from the following sources:

(a)) Per RCW 66.28.070, all spirits, beer, and wine ((must be purchased at retail from)) purchased for the event by the special occasion licensee may only be purchased in the manufacturer's approved container or package from the following:

(a) A licensed off-premises retailer; ((from a spirits, beer, or wine))

(b) A distributor; ((from a distiller, a craft distiller,))

(c) A distillery or craft distillery;

(d) A domestic brewery((7)) or microbrewery((7-07));

(e) A winery ((acting as a distributor of its own product)); or ((from))

(f) A certificate of approval holder with a direct shipping to Washington retailer endorsement.

(3) Per RCW 66.28.310, special occasion licensees are allowed to pay for beer ((07)), wine, and spirits used for the special occasion event immediately following the end of the ((special occasion)) event((7-and

~~((b))~~).

(4) Per RCW 66.28.040, alcohol may be donated to special occasion licensees registered as 501(c)(3) and 501(c)(6) for the event as follows:

(a) In state breweries ((and wineries, out-of-state breweries and wineries holding a certificate of approval license, domestic distillers or an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may donate beer, wine, and spirits to special occasion licensees that are nonprofit 501 (c)(3) charitable organizations or nonprofit 501 (c)(6) organizations.

(3) Special occasion licensees may not advertise or sell alcohol below cost. If donated product is sold by the special occasion licensee, it may not be advertised or sold below the manufacturers' cost.

(4) Per RCW 66.28.310, alcohol manufacturers, importers and distributors may provide advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, but may not provide money, goods, or services to special occasion licensees.

(a) Wineries and distilleries may pour at any special occasion event) and beer certificate of approval holders may donate beer;

(b) In state wineries and wine certificate of approval holders may donate wine;

(c) An accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may donate spirits.

(5) Alcohol may not be provided, or advertised as being provided, free of charge at the special occasion event.

(6) Alcohol may not be sold, or advertised as being sold, below the manufacturer's cost at the special occasion event.

(7) If alcohol is auctioned at the event, the final sale price may not be below the manufacturer's cost.

(8) Tickets may be sold for the special occasion event.

(a) If the ticket fee includes alcohol for event attendees, the ticket must be sold directly by the nonprofit organization and may not be sold by a third party; and

(b) In order to ensure alcohol is not being given away or sold below the manufacturer's cost, if the ticket fee includes alcohol the total ticket fee must be above the manufacturer's cost of the included alcohol.

(9) Per RCW 66.24.375, no portion of the profits from special occasion events may be paid directly or indirectly to members, officers, directors, or trustees of the nonprofit organization except for services performed for the organization. Any compensation paid to officers and executives must be only for actual services and at levels comparable to the compensation for like positions within the state.

((b)) (10) Wineries ((or)), breweries ((that are)), and distilleries participating in a special occasion event may pay ((reasonable)) booth fees to the special occasion licensee. Booth fees must be comparable to normally accepted industry standards and uniform for all participating wineries ((and)), breweries, and distilleries.

((5)) (11) Breweries may provide installation of draft beer dispensing equipment for a special occasion event.

(12) Pouring or dispensing may be provided at any type of special occasion event by wineries, distilleries, or spirits distributors.

(13) Pouring or dispensing may be provided by breweries at a beer tasting exhibition or judging event. A beer tasting exhibition or judging event must be sponsored by the special occasion licensee and have at least three breweries represented that are pouring samples.

(14) Per RCW 66.24.380, the sale, service, and consumption of alcohol must be confined to a designated ~~((location(s)))~~ area.

~~((+6))~~ (15) If a special occasion ~~((license function))~~ event is held at an establishment that has a liquor license:

(a) The special occasion ~~((function))~~ event must be ~~((held in an))~~ in a designated area of the licensed premises separate from areas open to the general public ((during the time the special occasion function is occurring, and));

(b) The licensed premises' liquor cannot be sold or served in ~~((the same area(s) as))~~ the designated special occasion ((license function.

~~(b-))~~ event area;

(c) The liquor licensee cannot charge for the liquor purchased and brought by the special occasion licensee for service at the ((special occasion event, but can charge for room usage, services, etc.)) event but may charge for room usage, staff services, and additional service items used for the event;

(d) The liquor licensee must sign the special occasion application acknowledging that they will not sell or serve their liquor at the event and giving permission for the special occasion licensee to bring and sell their ((aleohol)) liquor at the liquor licensed premises((-

~~(e-))~~ ; and

(e) The special occasion ~~((license will not be issued for use))~~ event cannot be held at a premises ((whose)) where the liquor license will be suspended by the board on the date(s) of the scheduled event.

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

WAC 314-05-035 Advertising and branded promotional items for special occasion events. (1) ~~((Nothing in RCW 66.28.305 prohibits a licensed domestic brewery or microbrewery from providing branded promotional items which are of nominal value, singly or in the aggregate, to a nonprofit charitable corporation or association, exempt from taxation under 26 U.S.C. Sec. 501 (c)(3) of the Internal Revenue Code as it existed on the effective date of this section for use consistent with the purpose entitling it to such exemptions. Branded promotional items may not be targeted to or be especially appealing to youth.~~

~~((2) If the nonprofit charitable corporation or association applies for and receives a special occasion license, they are considered a liquor retailer and are required to comply with RCW 66.28.305.))~~ Manufacturers, distributors, or their licensed representatives may use web sites and social media to post, repost, or share promotional information or images about events per the requirements outlined in RCW 66.28.310.

(2) Special occasion licensees and industry members must comply with RCW 66.28.285 through 66.28.310, regarding the three-tier system, direct and indirect interests between industry members and retailers, undue influence, exclusive agreements, and money advances.

(3) Industry members may not provide money for advertising or promoting (sponsoring) an event directly to:

(a) The special occasion licensee;

(b) Employees of the special occasion licensee; or

(c) Promoters, event coordinators, or third parties hired by the special occasion licensee.

(4) If a third-party organization is holding an event in which a special occasion licensee participates, industry members may provide money for advertising or promoting (sponsoring) the event directly to the third-party organization only when:

(a) The third-party organization does not hold a special occasion license for the event; and

(b) The third-party organization has not been hired by the participating special occasion licensee.

(5) Industry members may also provide the following:

(a) Signage with the industry member's name or brand name of the product;

(b) Programs or flyers to be disseminated at the event;

(c) Media coverage of the event; and

(d) Branded promotional items as referenced in subsection (6) of this section.

(6) Signage that may be visible to the general public from the public right of way must not:

(a) Exceed a total of four signs affixed to or hanging in a window, or on the outside of the licensed event area, referring to alcoholic beverages, brand names, or manufacturers; and

(b) Exceed sixteen hundred square inches.

(7) Inflatables are not allowed inside the event area unless the area is completely enclosed with no view to the inside from the public right of way.

(8) Industry members may not give alcohol-related promotional items to event attendees in the special occasion licensed area.

(9) Special occasion licensees must comply with RCW 66.28.310 regarding receipt of branded promotional items. Branded promotional items:

(a) May be provided by an industry member to a special occasion licensee;

(b) Must be of nominal value, singly or in the aggregate;

(c) Must be used exclusively by the ~~((retailer))~~ special occasion licensee in a manner consistent with ~~((its))~~ the special occasion license;

~~((b))~~ (d) Must bear imprinted advertising matter of the industry member only, except imprinted advertising matter of the industry member can include the logo of a professional sports team which the industry member is licensed to use;

~~((e))~~ (e) May be provided by industry members only to ~~((retailers))~~ special occasion licensees and their employees and may not be provided by or through ~~((retailers))~~ special occasion licensees or their employees to retail customers; and

~~((d))~~ (f) May not be targeted to or be especially appealing to youth.

~~((3))~~ (10) An industry member is not obligated to provide ~~((such))~~ branded promotional items as a condition for selling alcohol to the ~~((retailer))~~ special occasion licensee.

~~((4))~~ (11) Any industry member or retailer or any other person asserting the provision of branded promotional items as allowed in this section has resulted or is more likely than not to result in undue influence or an adverse impact on public health and safety, or is otherwise inconsistent with the criteria of this section, may file a complaint with the ~~((liquor and cannabis))~~ board. Upon receipt of a

complaint, the ~~((liquor and cannabis))~~ board may conduct ~~((such))~~ an investigation ~~((as it deems appropriate))~~.

(a) The ~~((liquor and cannabis))~~ board may issue an administrative violation notice to the industry member, the retailer, or both.

(b) The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.



Washington State Liquor and Cannabis Board

November 26, 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: **Approval to file proposed rules (CR 102) regarding barrier requirements for liquor licensed establishments**

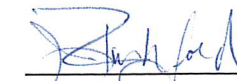
The Rules Coordinator requests approval to file proposed rules (CR 102) for the rule making described above. The proposed rules revisions allow options other than a forty-two-inch barrier to designate areas classified as off-limits to minors in beer/wine and spirits/beer/wine restaurants. The revisions also allow licensees to request reclassification of their off-limits areas as open to minors for regularly scheduled or special events with prior board approval. Rules revisions will help ensure applicants and licensees operate under applicable statutory provisions and have clear guidelines in place. An issue paper outlining the specific changes is attached.

Process

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

November 26, 2019	<ul style="list-style-type: none">• CR 102 and proposed rules filed with the Office of the Code Reviser• WSLCB webpage updated and notice sent to the rules distribution list
December 4, 2019	Notice published by the Office of the Code Reviser in WSR # 19-24
January 8, 2020	Public Hearing held and end of written comment period
January 22, 2020	<ul style="list-style-type: none">• Board asked to adopt rules if no additional changes are made• Notice and Concise Explanatory Statement sent to those who commented both at the public hearing and in writing• CR 103 and adopted rules filed with the Office of the Code Reviser• WSLCB webpage updated and notice sent to the rules distribution list
February 22, 2020	Rules effective – Normally 31 days after filing the CR 103

X Approve _____ Disapprove



Jane Rushford, Chair

11/26/19
Date

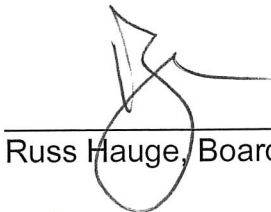
X Approve _____ Disapprove



Ollie Garrett, Board Member

11-26-19
Date

X Approve _____ Disapprove



Russ Hauge, Board Member

11/26/19
Date

Attachment: Issue Paper

Issue Paper

Barrier Requirements for Liquor Licensed Establishments

Date: November 26, 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 CR 102 with proposed revisions to WAC 314-02-025, WAC 314-02-033, and WAC 314-03-200.

The proposed revisions:

- Allow options other than a forty-two-inch barrier to designate areas classified as off-limits to minors in beer/wine and spirits/beer/wine restaurants;
- Outline several demarcation options;
- Clarify that floor plans and demarcation options must be approved by the board;
- Specifically exclude tape, paint, or stickers on floors, walls, or ceilings as demarcation options;
- Update requirements for “minor prohibited” signs to include the requirements that signage be visible to patrons who are approaching the off-limits areas, and also once inside the off-limits area.
- Allow licensees to request reclassification of their off-limits areas as open to minors for regularly scheduled or special events with prior board approval (Note: Reclassification requests are considered an alteration to a licensed premises under WAC 314-03-300);
- Make technical and clarifying changes;

Why is rule making necessary?

Rulemaking was initiated by a rules petition received from Benjamin Humphrey, Heliotrope Architects. Mr. Humphrey requested the board revise rules that require restaurants to have a forty-two-inch barrier designating areas off-limits to minors. After review and discussion, the board agreed to open rules to explore options other than a forty-two-inch barrier to designate areas off-limits to minors.

Background

RCW 66.44.310 gives the board authority to classify licensed premises or portions of licensed premises as off-limits to minors. The forty-two-inch barrier requirement was implemented through rules adopted in February of 2000. There have been several discussions since then regarding effective ways to designate

areas of liquor licensed establishments that are off-limits to minors. The current rulemaking process included:

- Surveying other states, looking at other state models, and follow-up discussions;
- Restaurant visits and discussions with managers;
- Stakeholder meetings and discussions with
 - Members of the prevention community;
 - Licensees and members of the Washington Hospitality Association;
 - Heliotrope Architects; and
- Several rules work sessions and implementation planning meetings with WSLCB licensing and enforcement staff members.

What changes are being made?

Amended Sections:

WAC 314-02-025 What are the floor space requirements to obtain and maintain a spirits, beer, and wine restaurant license or a beer and wine restaurant license?

WAC 314-02-033 Do spirits, beer, and wine restaurants that exclude minors from the premises have to put demarcations around their dedicated dining area(s)?

WAC 314-03-200 Outside or extended alcohol service

WAC 314-02-025 What are the floor space requirements to obtain and maintain a spirits, beer, and wine restaurant license or a beer and wine restaurant license? (1) The liquor and cannabis board has the responsibility to classify what licensed premises or what portions of the licensed premises are off-limits to minors(~~(.---)~~) per RCW 66.44.310(2).(~~(+)~~) Minors may not purchase, possess, or consume liquor, and may not enter any areas that are classified as off-limits to minors(~~(.---)~~) per RCW 66.44.290 and 66.44.310.(~~(+)~~) The purpose of this rule is to clarify the ways in which licensees can prevent minors from consuming alcohol or entering (~~restricted~~) areas classified as off-limits to minors.

(2) Dedicated dining areas - If a spirits, beer, and wine restaurant licensee or a beer and wine restaurant licensee that allows minors chooses to have live music, Karaoke, patron dancing, live entertainment, or contests involving physical participation by patrons in the dedicated dining area after 11:00 p.m., the licensee must either:

(a) Request board approval to reclassify the dining area to a lounge for the period of time that live entertainment is conducted, thus restricting minors during that time; or

(b) Notify the (~~board's licensing and regulation division~~) board in writing at least forty-eight hours in advance that the sale, service, and consumption of liquor will end in the dedicated dining area after 11:00 p.m.

Requests or notifications may cover one event or a series of recurring events over a period of time.

(3) (~~Barriers~~— Licensees must place barriers around areas that are classified as off-limits to minors and around game rooms.

~~(a) The barriers)~~ A licensed premises must have a clear demarcation between dedicated dining areas and areas that are off-limits to minors.

(a) Demarcation means a dividing line that must clearly separate (~~restricted areas, and must be at least forty-two inches high.~~

~~(b) The barriers must be permanently affixed (folding or retractable doors or other barriers that are permanently affixed are acceptable). A portable or moveable rope and stanchion is not acceptable. Those licensees that have been approved by the board for moveable barriers prior to the effective date of this rule may keep their moveable barriers until the licensee requests alterations to the premises or the premises change ownership.~~

~~(c) Structures where customers can sit or stand and consume food or liquor are not acceptable as a barrier.~~

~~(d) Entrances to restricted areas may not be wider than ten feet. If a licensee has more than one entrance along one wall, the total entrance areas may not exceed ten feet.~~

~~(e))~~ areas classified as off-limits to minors from dedicated dining areas.

(b) Demarcation options available to applicants and licensees, subject to approval by the board, include:

(i) Visibly different and contrasting flooring;

(ii) Steps or ramps up or down;

(iii) Walls, half-walls, or forty-two inch barriers, where entrances to the restricted areas are not more than ten feet wide;

(iv) Permanently affixed stanchions, pillars, or posts at least six inches wide and placed no more than ten feet apart;

(v) Stationary planters at least six inches wide and placed no more than ten feet apart; and

(vi) Permanently affixed floor lighting or beacons placed no more than ten feet apart.

(c) Other demarcation options may be approved at the board's discretion.

(d) Demarcation does not include tape, paint, or stickers on floors, walls, or ceilings.

(e) Once the floor plan is approved by the board the demarcation cannot be moved or changed without prior board approval.

(f) "Minor prohibited" signs, as required by WAC 314-11-060(1), must be posted ((at each entrance to restricted areas.

(4)) and clearly visible to patrons who are:

(i) Approaching the area(s) classified as off-limits to minors; and

(ii) Inside the area(s) classified as off-limits to minors.

(4) A spirits, beer, and wine restaurant licensee or a beer and wine restaurant licensee may request the board reclassify their off-limits area(s) as open to minors for regularly scheduled or special events. Reclassifying an off-limits area is considered an alteration to a licensed premises under WAC 314-03-300 and must be approved by the board prior to the event.

(5) If the business allows minors, the business's primary entrance must open directly into a dedicated dining area or into a neutral area, such as a lobby or foyer, that leads directly to a dedicated dining area. Minors must be able to access restrooms without passing through a lounge or other age-restricted area.

((+5)) (6) **Floor plans** - When applying for a license, the applicant must provide to the ((board's licensing and regulation division two copies of)) board a detailed drawing of the entire premises. The drawing must:

(a) Be drawn ((one foot to one-quarter-inch)) to scale;

(b) Have all ((rooms)) areas labeled according to their use; e.g., dining ((room)), lounge, ((game room)) gaming, kitchen, etc.; and

(c) Have all ((barriers labeled in a descriptive way; e.g., "full wall," "half wall," etc.

(6)) demarcations that separate dedicated dining areas from areas off-limits to minors labeled and described in detail.

(7) **Convention centers** - To qualify ((for)) as a convention center ((there must be)) a premises must have two or more rooms that provide space and accommodations for private events only. ((Licensees holding a)) Convention center licensees may only sell alcohol for private events at the licensed premises.

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

WAC 314-02-033 Do spirits, beer, and wine restaurants that exclude minors from the premises have to put ((barriers)) demarcations around their dedicated dining area(s)? Spirits, beer, and wine restaurant licensees who exclude minors from the entire premises at all

times are only required to place (~~(the barriers)~~) demarcations described in WAC 314-02-025(~~(+2)~~) around dedicated dining areas for the purpose of paying the lower annual license fee (fifty percent to ninety-nine percent dedicated dining area). Restaurants that do not allow minors at any time and do not wish to have (~~(barriers)~~) demarcations around their dining area(s) must pay the higher annual license fee (less than fifty percent dedicated dining area). (See WAC 314-02-020 for an explanation of fees.)

WAC 314-03-200 Outside or extended alcohol service. A licensee must request approval from the board's licensing division for ongoing outside or extended alcohol service. The following conditions must be met:

(1) The area must be enclosed with a permanent or movable barrier a minimum of forty-two inches in height ~~((+and))~~.

(2) There must be an interior access to the licensed premises. If the interior access is from a minor restricted area of the premises, minors are prohibited in the outside or extended alcohol service area.

(3) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.

(4) Must have leasehold rights to the area and have and be connected to the licensed premises.

(5) Openings into and out of the outside area cannot exceed ten feet. If there is more than one opening along one side, the total combined opening may not exceed ten feet.

(6) **Exception.** For sidewalk cafe outside service, the board allows local regulations that, in conjunction with a local sidewalk cafe permit, requires a forty-two inch barrier or permanent demarcation of the designated alcohol service areas for continued enforcement of the boundaries.

(a) The permanent demarcation must be at all boundaries of the outside service area;

(b) The permanent demarcation must be at least six inches in diameter;

(c) The permanent demarcation must be placed ~~((at a minimum of))~~ no more than ten feet apart;

(d) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present;

(e) This exception only applies to restaurant liquor licenses with sidewalk cafe service areas contiguous to the liquor licensed premises. "Contiguous" means touching along a boundary or at a point;

(f) This exception does not apply to beer gardens, standing room only venues, and permitted special events. Board approval is still required with respect to sidewalk cafe barrier requirements.

(7) **Limited exception.** The board may grant limited exceptions to the required forty-two inch high barrier for outside alcohol service areas.

(a) The licensee must have exclusive leasehold rights to the outside service area.

(b) There must be permanent demarcations at all boundaries of the outside service area for continued enforcement of the boundaries.



**Washington State
Liquor and Cannabis Board**

Date: November 13, 2019

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

From: Kathy Hoffman, Policy and Rules Coordinator

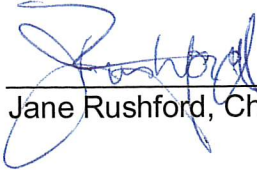
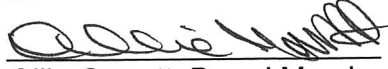
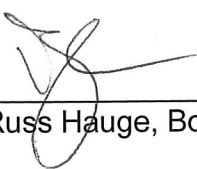
Copy: Rick Garza, Agency Director
Megan Duffy, Deputy Director
Justin Nordhorn, Chief of Enforcement
Becky Smith, Licensing Director

Subject: **Approval for filing proposed rules (CR 102) regarding Chapter 314-55 WAC – Marijuana Licenses, Application Process, Requirements, and Reporting, pertaining specifically to enforcement of marijuana regulations.**

The Rules Coordinator requests approval to file a rule proposal (CR 102) for the rule making described in the Issue Paper attached to this order and presented at the Board meeting on November 13, 2019.

If approved for filing, the tentative timeline for this rule proposal is as follows:

November 13, 2019	Board is asked to approve filing the proposed rules (CR 102 filing).
December 4, 2019	Code Reviser publishes notice.
January 8, 2020	End of formal comment period.
January 8, 2020	Public hearing held.
January 22, 2020	Board is asked to adopt rules.
January 22, 2020	Agency sends notice to those who commented both at the public hearing and in writing.
January 22, 2020	Agency files adopted rules with the Code Reviser (CR 103)
February 22, 2020	Rules are effective consistent with RCW 34.05.380(3)(a).

<input checked="" type="checkbox"/> Approve	<input type="checkbox"/> Disapprove	 Jane Rushford, Chair	<u>11-13-19</u> Date
<input checked="" type="checkbox"/> Approve	<input type="checkbox"/> Disapprove	 Ollie Garrett, Board Member	<u>11-13-19</u> Date
<input checked="" type="checkbox"/> Approve	<input type="checkbox"/> Disapprove	 Russ Hauge, Board Member	<u>11/13/19</u> Date

Attachment: Issue Paper



Issue Paper

Chapter 314-55 WAC – Marijuana Licenses, Application Process, Requirements, and Reporting, pertaining specifically to enforcement of marijuana regulations.

Date: November 13, 2019
Presented by: Kathy Hoffman, Policy and Rules Coordinator

Issue and Background Description

In 2013, the Washington State Liquor and Cannabis Board (Board) adopted rules that established penalties for violations of marijuana statutes and rules. Over time, those statutes and rules have been revised in response to industry evolution, business practices and market fluctuation.

Currently, rules related to marijuana penalties are separated into five main categories:

- Group 1 violations against public safety
- Group 2 regulatory violations
- Group 3 license violations
- Group 4 marijuana producer and/or processor violations
- Group 5 license violations

The current framework includes guidelines regarding the use of mitigating and aggravating circumstances. Penalties include monetary fines, license cancellation and suspension, and may vary according to the category of violation and how many similar violations a licensee has within a four-year window. In some circumstances, licensees may opt for a monetary fine or a license suspension.

The Board's current rules also include a process of offering settlement conferences to licensees who have received notice of an alleged administrative violation, which may be held with a hearing examiner or Board designee. In this process, if a settlement agreement is reached at the settlement conference, the Board may disapprove of the terms. If this occurs, the Board notifies the licensee of the decision and the licensee is provided with an opportunity to renegotiate with the hearings examiner or Board designee, accept the originally recommended penalty, or request an administrative hearing.

In late 2018, the Board initiated inquiry into revising rules related to the marijuana penalty framework by approving a broadly-scoped preproposal statement of inquiry (CR101) for chapter 314-55 WAC. Shortly thereafter, Engrossed Senate Substitute Bill (ESSB) 5318 (Chapter 324, Laws of 2019), originally introduced in February, 2019 guided and directed activities associated with that inquiry. ESSB 5318 provided several directives, including but not limited to the following:

- Specified when the Board may issue a notice of correction under a technical assistance program. This rule proposal establishes and frames the notice of correction; a separate rule project is underway to establish the technical assistance program in alignment with the directives of ESSB 5318;
- Expanded on existing programs for compliance education;
- Required rule making regarding penalties, with limits, such as the effect of cumulative violations;
- Specified the types of violations that may result in license cancellation;
- Required consideration of aggravating and mitigating circumstances;
- Provides that the terms of a settlement agreement entered into by a licensee and hearing officer or designee of the Board be given substantial weight by the Board;
- Allowed a licensee to correct violations unrelated to public health and safety within a reasonable amount of time.

This proposal reflects the outcome of an inclusive and engaged rule development process occurring from late March of 2019 to October 31, 2019 that shifts focus to a compliance and education-based regulatory approach designed to encourage and support licensee success. Board leadership and staff met with industry representatives and licensees to develop draft conceptual rules nearly a dozen times until draft conceptual rules were released to the public for review and comment on August 29, 2019. Two “Listen and Learn” sessions were held on September 26, and October 31, 2019 respectively. The first session, scheduled for four hours lasted a total of approximately 30 minutes. The second session, also scheduled for four hours, lasted approximately 20 minutes. Few, minor revisions were offered at the “Listen and Learn” sessions. These were considered by staff, and some minor revisions were made to the draft conceptual rules. These are reflected in this proposal. No revisions were offered in writing.

The rule proposal accomplishes the following:

- Establishes a process for the issuance of a notice of correction as opposed to a civil penalty when appropriate;
- Reduces the cumulative effect of escalating penalties from three to two years;
- Provides a deferral option;
- Restructures existing penalty grids by establishing penalty categories based on violation severity and relationship to public health and safety;

- Significantly reduces the number of violations that could result in license cancellation, while balancing penalties across license types;
- Reincorporates and associates statutory references with violation type; reduces all fines by 50%; and
- Incorporates the mandates, directives and requirements of ESSB 5318, recently codified in chapter 69.50 RCW.

This Issue Paper requests approval from the Board to file a CR 102 rule proposal to add sections, amend, and repeal existing rule that will shift focus to a compliance and education-based regulatory approach designed to encourage and support licensee success. This proposal also implements the majority of the requirements and directives of ESSB 5318, with the exception of the voluntary compliance program. This program, mandated by ESSB 5318, is being developed under a separate rulemaking project currently underway.

Rule Necessity

Rules are needed for the following reasons:

- To establish enforceable standards that support licensee compliance and business viability, are responsive to the current market landscape, and can withstand the test of time;
- To modernize and update the existing penalty structure; and
- To assure that the intent and directives of ESSB 5318 are realized in rule.

These new rule sections and amendments, in addition to proposed technical and clarifying revisions support the overarching agency goal of ensuring the highest level of public safety by continually improving and enforcing regulations that reflect the current, dynamic regulatory environment.

Description of Rule Changes

New Section. WAC 314-55-502 – Notice of Correction. Created a process to issue marijuana licensees a notice of correction instead of a civil penalty. A notice of correction describes the noncompliant condition, the relevant law or rule, a statement of what is required to achieve compliance, the date by which compliance must be achieved, notice of how to contact any technical assistance services, and notice of when, where, and to whom a request to extend the time to achieve the compliance for good cause may be filed with the Board. A notice of compliance is not a formal enforcement action, is not subject to appeal, and is a public record.

Amended Section. WAC 314-55-505 – Administrative Violation Notice. Amended current rule to revise guidelines and procedures for the

issuance of a civil penalty without first issuing a notice of correction under three specific circumstances:

- When a licensee has previously been given notice of or been subject to, an enforcement action for the same or similar violation of the same statute or rule;
- When compliance is not achieved by the date established by the Board in a previous notice of correction and if the Board has responded to a request for review of the date by reaffirming the original date or establishing a new date; or
- When the Board can prove beyond a preponderance of the evidence that any of the following violations have occurred;
 - Diversion of marijuana product to the illicit market or sales across state lines;
 - Furnishing marijuana product to minors;
 - Diversion of revenue from the sale of a marijuana product to criminal enterprises, gangs, cartels, or parties not qualified to hold a marijuana license based on criminal history requirements;
 - The commission of nonmarijuana-related crimes; or
 - Knowingly making a misrepresentation of fact related to conduct or an action that is, or is alleged to be, any of the preceding four violations.

New Section. WAC 314-55-5055 – Resolution options. Replaces and revises WAC 314-55-510 (proposed to be repealed), currently entitled, “What options does a licensee have once he/she receives a notice of an administrative violation?” Describes how licensee options for responding to administrative violation notices, including timelines, failure to pay monetary penalties, how to request a settlement conference, and settlement agreements. Provides a deferral option, that if a licensee is not issued any administrative violation notice(s) or any other notice(s) of noncompliance during the year following approval of the deferral of administrative violation, the record of the administrative violation notice will not be considered for licensing renewal or penalty escalation. Provides that if a settlement agreement is entered between a licensee and a hearing officer or designee of the Board at or after a settlement conference, that the terms of the settlement agreement must be given substantial weight by the Board. Refines monetary penalty collection rules.

Amended Section. WAC 314-55-506 – Summary License

Suspension. Adds clarity, updates, and reaffirms existing standards around summary license suspensions.

Amended Section. WAC 314-55-507 – Petition for Stay. Adds clarity, updates, and reaffirms existing standards around petitions for stay.

New Section. WAC 314-55-509 – Penalty Structure. Replaces and revises WAC 314-55-515 (proposed to be repealed), currently entitled, “What are the penalties if a marijuana license holder violates a marijuana law or rule?” Adds clarity, updates and adds new provisions consistent with ESSB 5318, and establishes the following penalty categories:

- Category I: Violations of a severity that would make a license eligible for cancellation on the first offence;
- Category II: Violations that create a direct or immediate threat to public health, safety, or both;
- Category III: Violations that create a potential threat to public health, safety, or both;
- Category IV: Significant regulatory violations;
- Category V: Procedural and operational violations;
- Category VI: Statutory violations.

Establishes that only violations occurring in the two year time period immediately preceding the date of the violation will be considered unless otherwise provided in the chapter. Updates and clarifies, consistent with the directives of ESSB 5318, mitigating factors which may result either the waiving or lowering of civil fines, imposition of a fine in lieu of suspension, or fewer days suspension, or aggravating factors that may result in increased days of suspension, monetary penalties, license cancellation or non-renewal of a marijuana license. Provides that for violations occurring before the effective date of the rules, enforcement action will be based on the rules that were in effect on the date the violation occurred.

New Section. WAC 314-55-520 – Category I. Describes violations that are of a severity that would make a license eligible for cancellation on the first offense. Representing a significant reduction in the number of violations that fall within this spectrum, this category reflects the five specific violation types identified in ESSB 5318 that may result, if the Board can prove by a preponderance of the evidence, in license cancellation for a single offense. Cites are provided for each violation to assure clarity and consistency.

New Section. WAC 314-55-521 – Category II. Describes violations that create a direct or immediate threat to public health, safety or both. Representing a significant reduction in the number of violations that fall within this spectrum, this category describes violation types that may result in license cancellation on the second, third or fourth offense. Fines in this category have been reduced by 50%, and aligned to assure application standardization. Cites are provided for each violation to assure clarity and consistency.

New Section. WAC 314-55-522 – Category III. Describes violations that create a potential threat to public health, safety or both. Representing a reduction in the number of violations that fall within this spectrum, this category

describes two violations that may result in license cancellation on the fourth offense, and many violations that do not result in cancellation where they may have done so in existing rule. Fines in this category have been reduced by 50%, and aligned to assure application standardization. Cites are provided for each violation to assure clarity and consistency.

New Section. WAC 314-55-523 – Category IV. Describes violations that are significant regulatory violations. Representing deduplication and refinement of violations that fall within this spectrum, this category describes violations that do not result in cancellation where they may have done so in existing rule. Fines in this category have been reduced by 50% and aligned to assure application standardization. Cites are provided for each violation to assure clarity and consistency.

New Section. WAC 314-55-524 – Category V. Describes violations that are procedural and operational. Representing deduplication and refinement of violations that fall within this spectrum, this category describes violations that do not result in cancellation. Fines in this category have been reduced by 50% and aligned to assure application standardization. Cites are provided for each violation to assure clarity and consistency.

New Section. WAC 314-55-525 – Category VI. Describes statutory violations specifically identified in RCW 69.50.357. These fines are established in law, and remain unchanged.

Amended Section. WAC 314-55-540 – Marijuana license suspensions. This section was amended to include technical updates and revisions designed to increase clarity and align with the language and syntax of the remainder of the revisions in this proposal.



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington State Liquor and Cannabis Board

☒ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☐ **Continuance of WSR** _____

☒ **Preproposal Statement of Inquiry was filed as WSR** 18-22-099 ; or

☐ **Expedited Rule Making--Proposed notice was filed as WSR** _____; or

☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

☐ **Proposal is exempt under RCW** _____.

Title of rule and other identifying information: (describe subject) Chapter 314-55 WAC – Marijuana Licenses, Application Process, Requirements, and Reporting, pertaining specifically to enforcement of marijuana regulations. The Washington State Liquor and Cannabis Board (Board) proposes new sections, amendments, and repeal of existing rule that shift focus to a compliance and education-based regulatory approach designed to encourage and support licensee success. This proposal also implements the majority of the requirements and directives of Engrossed Senate Substitute Bill (ESSB) 5318 (Chapter 394, Laws of 2019). The voluntary compliance program mandated by ESSB 5318 is being developed under a separate rulemaking project.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
January 8, 2020	10:00 am	1025 Union Avenue, Olympia, WA 98501	

Date of intended adoption: January 22, 2020 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Katherine Hoffman

Address: 1025 Union Avenue, Olympia, WA 98501

Email: rules@lcb.wa.gov

Fax: 360-664-9689

Other:

By (date) January 8, 2020

Assistance for persons with disabilities:

Contact Claris Nhanabu, ADA Coordinator, Human Resources

Phone: 360-664-1642

Fax: 360-664-9689

TTY: 7-1-1 or 1-800-833-6388

Email: Claris.Nhanabu@lcb.wa.gov

Other:

By (date) January 1, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rules significantly restructure and revise existing rules regarding enforcement of marijuana regulation in Washington State. The proposal shifts focus to a compliance and education-based approach designed to encourage and support licensee success. Among other things, the rule proposal establishes a process for the issuance of a notice of correction as opposed to a civil penalty when appropriate; reduces the cumulative effect of escalating penalties from three to two years; provides a deferral option; restructures existing penalty grids by establishing penalty categories based on violation severity and relationship to public health and safety; significantly reduces the number of violations that could result in license cancellation, while balancing penalties across license types; reincorporates and associates statutory references with violation type; reduces all fines by 50%; and incorporates the mandates and requirements of ESSB 5318, recently codified in chapter 69.50 RCW.

Reasons supporting proposal: In 2013, the Washington State Liquor and Cannabis Board (Board) adopted rules that established penalties for violations of marijuana statutes and rules. Over time, those statutes and rules have been revised in response to industry evolution, business practices and market fluctuation. In late 2018, the Board initiated inquiry into revising rules related to the marijuana penalty framework by approving a broadly-scoped preproposal statement of inquiry (CR101) for chapter 314-55 WAC. Shortly thereafter, Engrossed Senate Substitute Bill (ESSB) 5318 (Chapter 324, Laws of 2019), originally introduced in February, 2019 guided and directed activities associated with that inquiry. ESSB 5318 provided several directives that are realized in this proposal. These proposed new rule sections and amendments, in addition to proposed technical and clarifying revisions, establish a revised penalty structure designed to support licensee success, while supporting the overarching agency goal of ensuring the highest level of public safety by continually improving and enforcing regulations that reflect the current, dynamic regulatory environment.

Statutory authority for adoption: RCW 69.50.342 and 69.50.345.

Statute being implemented: Engrossed Senate Substitute Bill (ESSB) 5318 (Chapter 394, Laws of 2019), codified in chapter 60.50 RCW.

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Washington State Liquor and Cannabis Board

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting: Coordinator	Katherine Hoffman, Rules	1025 Union Avenue, Olympia WA, 98501	360-664-1622
Implementation:	Justin Nordhorn, Chief	1025 Union Avenue, Olympia, WA. 98501	360-664-1726
Enforcement:	Justin Nordhorn, Chief	1025 Union Avenue, Olympia, WA, 98501	360-664-1726

Is a school district fiscal impact statement required under RCW 28A.305.135? ☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:

Other:

- ☒ No: Please explain: A cost benefit analysis is not required under RCW 34.05.328(5)(b)(iv) because the rules only clarify language without changing its effect. Additionally, a cost benefit analysis is not needed under RCW 34.05.328(5)(b)(v) because the content of the rules are explicitly and specifically dictated by statute.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☒ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

☒ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3): WAC 314-55-502 (new); WAC 314-55-505 (amended); WAC 314-55-5055 (new); WAC 314-55-506 (amended); WAC 314-55-507 (amended); WAC 314-55-509 (new); WAC 314-55-520 (new); WAC 314-55-521 (new); WAC 314-55-522 (new); WAC 314-55-523 (new); WAC 314-55-524 (new); WAC 314-55-525 (new); WAC 314-55-540 (amended).

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☒ No Briefly summarize the agency's analysis showing how costs were calculated. This rule proposal does not create any additional compliance costs, nor does it create any additional administrative, or regulatory burden. Rather, the reduction of all penalties by 50%, the reduction of the number of violations that may result in license cancellation, the addition of a deferral option, and the addition of the option to issue a notice of correction as opposed to a civil penalty where appropriate are anticipated to significantly reduce licensee compliance costs and regulatory burden, while increasing compliance success and ultimately supporting business viability and growth.

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:

Address:


Phone:

Fax:

TTY:

Email:

Other:

Date: November 13, 2019	Signature: 
Name: Jane Rushford	
Title: Chair	

NEW SECTION

WAC 314-55-502 Notice of correction. (1) The board may issue a notice of correction to a licensee during a nontechnical assistance inspection or visit as described in this chapter if the board becomes aware of conditions that are not in compliance with chapters 69.50 and 69.51A RCW, and this chapter.

(2) The notice of correction must include and clearly state:

(a) A detailed description of the noncompliant condition;

(b) The text of the specific section or subsection of the applicable rule;

(c) A statement of what is required to achieve compliance;

(d) The date by which the board requires compliance to be achieved;

(e) Notice of the means to contact any technical assistance services provided by the board or others; and

(f) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the board.

(3) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(4) If the licensee does not comply with the notice of correction, the board may issue an administrative violation notice consistent with WAC 314-55-505 for the violations identified in the notice of correction.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-505 ~~((What are the procedures for notifying a licensee of an alleged violation of a WSLCB statute or regulation?))~~ Administrative violation notice. (1) ~~((When an enforcement officer believes that a licensee has violated a WSLCB statute or regulation, the officer may))~~ The board may issue an administrative violation notice without issuing a notice of correction if:

(a) The licensee is not in compliance with chapters 69.50 and 69.51A RCW, this chapter, or both, and the noncompliance poses a direct or immediate threat to public health and safety;

(b) The licensee has previously been subject to an enforcement action or written notice for a violation of the same statute or rule within the same penalty category, the notice of correction for the violation has already been issued, the licensee failed to timely comply with the notice, and such notice is not subject to a pending request to the board to extend the time to achieve compliance; or

(c) The licensee has failed to respond to prior administrative violation notices or has outstanding unpaid monetary penalties; and

(d) The board can prove by a preponderance of the evidence:

(i) Diversion of marijuana product out of the regulated market or sales across state lines;

(ii) Furnishing of marijuana product to persons under twenty-one years of age;

(iii) Diversion of revenue to criminal enterprises, gangs, cartels, or parties not qualified to hold a marijuana license based on criminal history requirements;

(iv) The commission of nonmarijuana-related crimes; or
(v) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to conduct or action that is, or is alleged to be, any of the violations identified in (d)(i) through (iv) of this subsection.

(2) The board will prepare an administrative violation notice ~~((AVN))~~ and mail or deliver the notice to the licensee, licensee's agent, or employee.

~~((2) The AVN))~~ (3) The administrative violation notice will include:

(a) A ~~((complete narrative))~~ detailed description of the alleged violation(s) ~~((the officer is charging))~~;

(b) The date(s) of the violation(s);

(c) ~~((A copy of the law(s) and/or regulation(s) allegedly violated;))~~ The text of the specific section or subsection of rule;

(d) An outline of the licensee's resolution options as outlined in WAC ~~((314-55-510))~~ 314-55-5055; and

(e) The recommended penalty~~((-~~

~~((i) If the recommended penalty is the standard penalty, see WAC 314-55-520 through 314-55-535 for licensees.~~

~~((ii) For cases in which there are aggravating or mitigating circumstances, the penalty may be adjusted from the standard penalty))~~ as described in this chapter, and including a description of known mitigating and aggravating circumstances considered in the penalty determination.

NEW SECTION

WAC 314-55-5055 Resolution options. (1) A licensee must respond to an administrative violation notice within twenty calendar days from receipt of the notice. The response must be submitted on a form provided by the board. The licensee may:

(a) Accept the recommended penalty identified in the administrative violation notice;

(b) Request a settlement conference in writing;

(c) Request an administrative hearing in writing.

(2)(a) If a licensee does not respond to an administrative violation notice within twenty calendar days of receipt of the notice, recommended penalties including, but not limited to, suspension, monetary penalties, and destruction of inventory may take effect on the twenty-first day.

(b) If the recommended penalty is monetary and does not include a suspension, inventory destruction, or both, the licensee must pay a twenty-five percent late fee in addition to the recommended monetary penalty.

(i) The board must receive payment of the monetary penalty and twenty-five percent late fee no later than thirty days after the administrative violation notice receipt date.

(ii) Payments received more than thirty days after the administrative violation notice receipt date are subject to an additional twenty-five percent late fee.

(iii) Licensees who do not respond to an administrative violation notice will not be eligible to renew their marijuana license.

(3) Licensees who do not pay monetary penalties for two or more administrative violation notices in a two-year period will not be eligible to renew their marijuana license.

(4) A licensee may request a settlement conference to discuss the board's issuance of an administrative violation notice issued under this chapter. The hearing officer or designee of the board will arrange the date, time, and place of the settlement conference. A settlement agreement provides that the licensee accepts the allegations contained in the administrative violation notice.

(a) The purpose of the settlement conference is to:

(i) Discuss the circumstances associated with the alleged violation(s), including aggravating or mitigating factors;

(ii) Discuss the recommended penalties; and

(iii) Attempt to reach agreement on the appropriate penalty and corrective action plan for the administrative violation notice.

(b) During a settlement conference, a licensee issued an administrative violation notice may request deferral of an administrative violation notice if all of the following criteria are met:

(i) The alleged violation is the first violation in a violation category;

(ii) The licensee has no other violation history in that penalty category within a two-year window; and

(iii) The licensee submits a plan to correct, remedy, or satisfy identified violations as described in the administrative violation notice including, but not limited to, monetary penalties.

(c) If the licensee is not issued any administrative violation notices or any other notice of noncompliance during the year following approval of the deferral of administrative violation, the record of administrative violation notice will not be considered for licensing renewal or penalty escalation.

(d) If the licensee is issued an administrative violation notice or any other notice of noncompliance at any time during the year following approval of the deferral of administrative violation, the record of the administrative violation notice will remain on the licensee's licensing history, and the original sanction for the deferred violation will be implemented based on the frame established in the settlement agreement, or ten days from the date of default.

(5) The hearing officer or designee will prepare a settlement agreement. The agreement must:

(a) Include the terms of the agreement regarding an alleged violation or violations by the licensee of chapters 69.50 and 69.51A RCW, any part of chapter 314-55 WAC, and any related penalty or licensing restriction; and

(b) Be in writing and signed by the licensee or the licensee's designee and the hearing officer or designee.

(6) If a settlement agreement is entered between a licensee and a hearing officer or designee of the board at or after a settlement conference, the terms of the settlement agreement must be given substantial weight by the board.

(7) The hearing officer or designee will forward the settlement agreement to the board or designee for final approval. If the board, or designee approves the settlement agreement, a copy of the signed agreement will be sent to the licensee, and will become part of the licensing history, unless otherwise specified in this chapter.

(8) If the board, or designee, does not approve the settlement agreement, the licensee will be notified of the decision in writing. The licensee may:

(a) Renegotiate the settlement agreement with the hearing officer or designee; or

(b) Accept the originally recommended penalty; or

(c) Request a hearing on the administrative issues identified in the administrative violation notice.

(9) Monetary penalty collection. If monetary penalties are assessed as part of an administrative violation, settlement agreement, or both, licensees must submit payment to the board in a time frame established by the board, consistent with subsection (2)(a) and (b) of this section.

(a) If a licensee does not timely submit payment of any monetary fine, the board will begin collection or other appropriate action.

(b) The board will provide a notice of collection action to the licensee. The notice of collection action establishes the licensee as a debtor for purposes of debt collection.

(c) If the licensee does not respond to the notice of collection within thirty days, the board may:

(i) Assess a twenty-five percent late fee consistent with subsection (2)(a) of this section; and

(ii) Assign the debt to a collection agency.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-506 ~~((What is the process once the WSLCB summarily suspends a marijuana license?))~~ Summary license suspension. (1) The ((WSLCB)) board may summarily suspend any license after the ((WSLCB's)) board's enforcement division has:

(a) Completed a preliminary staff investigation of the violation; and

(b) Upon a determination that immediate cessation of the licensed activities is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Suspension of any license under this ~~((provision shall take effect))~~ section is effective immediately upon personal service of the summary suspension order on the licensee or employee thereof ~~((of the summary suspension order unless otherwise provided in the order))~~.

(3) When a license has been summarily suspended by the ((WSLCB)) board, an adjudicative proceeding for revocation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee or permit holder, then a hearing ~~((shall))~~ will be held within ninety calendar days of the effective date of the summary suspension ordered by the ((WSLCB)) board. The ninety-day period may be extended for good cause.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-507 ~~((How may a licensee challenge the summary suspension of his or her marijuana license?))~~ Petition for stay. (1)

~~((Upon summary suspension of a license by the WSLCB pursuant to))~~ When the board summarily suspends a license under WAC 314-55-506, an affected licensee may petition the ((WSLCB)) board for a stay of suspension ((pursuant to RCW 34.05.467 and 34.05.550(1))). A petition for a stay of suspension must be received by the ~~((WSLCB))~~ board within ~~((fifteen))~~ ten calendar days of service of the summary suspension order on the licensee. The petition for stay ~~((shall state the basis on which the stay is sought))~~ must clearly describe the basis for the stay.

(2) A hearing ~~((shall))~~ will be held before an administrative law judge within fourteen calendar days of receipt of a timely petition for stay. The hearing ~~((shall be))~~ is limited to consideration of whether a stay should be granted, or whether the terms of the suspension ~~((may))~~ will be modified to allow the conduct of limited activities under current licenses ~~((or permits))~~.

(3) ~~((Any))~~ A hearing conducted ~~((pursuant to))~~ under subsection (2) of this section ~~((shall))~~ will be a brief adjudicative proceeding under RCW 34.05.485. The agency record for the hearing ~~((shall))~~ must consist of the documentary information upon which the summary suspension was based. The licensee is permitted to supplement the record with additional documentation during the brief adjudicative proceeding. The licensee ~~((or permit holder shall have the burden of demonstrating))~~ must demonstrate by clear and convincing evidence that:

(a) The licensee is likely to prevail upon the merits at hearing;

(b) Without relief, the licensee will suffer irreparable injury. For purposes of this section, ~~((elimination of))~~ income alone from licensed activities ~~((shall not be))~~ is not deemed irreparable injury;

(c) The grant of relief will not substantially harm other parties to the proceedings; and

(d) The threat to the public health, safety, or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

(4) The initial order on stay ~~((shall be))~~ is effective immediately upon service unless another date is specified in the order.

NEW SECTION

WAC 314-55-509 Penalty structure. (1) The board determines if a penalty will be imposed. Penalties are based on the severity of the violation in the following categories:

(a) Category I: Violations of a severity that would make a license eligible for cancellation on a first offense;

(b) Category II: Violations that create a direct or immediate threat to public health, safety, or both;

(c) Category III: Violations that create a potential threat to public health, safety, or both;

(d) Category IV: Significant regulatory violations;

(e) Category V: Procedural and operational violations;

(f) Category VI: Statutory violations.

(2) For purposes of assessing penalties, only violations occurring in the two-year time period immediately preceding the date of the violation will be considered unless otherwise provided in this chapter.

(3) The board may, at its discretion, deviate from the prescribed penalties herein. Such deviations will be determined on a case-by-case basis, considering mitigating and aggravating factors.

(a) Mitigating factors may result in a waiving or lowering of fines, civil penalties, imposition of a fine in lieu of suspension, or fewer days of suspension. Mitigating factors may include demonstrated business policies and practices that may reduce risk to public health and safety.

(b) Aggravating factors may result in increased days of suspension, increased monetary penalties, cancellation, or nonrenewal of a marijuana license. Aggravating factors may include obstructing an investigation, business operations, behaviors, or both, that increase risk to public health and safety.

(4) For violations that occurred before the effective date of these rules, enforcement action will be based on the rules that were in effect on the date the violation occurred. Subsection (2) of this section shall apply to all enforcement actions regardless of the date the violation occurred.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-520 ((Group 1 violations against public safety.))

Category I. ((Group 1 violations are considered the most serious because they present a direct threat to public safety. Based on chapter 69.50 RCW, some violations have only a monetary option. Some violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The WSLCB may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-55-515(4). Group 1 penalties imposed on a producer and/or processor license will not include license suspension. Penalties for a producer and/or processor license will be restricted to monetary fines, destruction of inventory, and/or license cancellation only.))

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
Furnishing to minor: Sale or otherwise provide marijuana and/or paraphernalia to a person under twenty-one years of age. Chapter 314-55 WAC Chapter 69.50 RCW	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license	
Allowing a minor to frequent retail store. Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Allowing a minor to frequent a nonretail licensed premises or occupy a transport vehicle. Chapter 314-55 WAC	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine

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
Employee under legal age: Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Opening and/or consuming marijuana on a retail licensed premises: Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Conduct violations: Criminal conduct: Permitting or engaging in criminal conduct. Disorderly conduct by licensee or employee, or permitting on premises. Chapter 314-55 WAC Licensee and/or employee intoxicated on the licensed premises. Chapter 314-55 WAC	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license	
Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties: Chapter 314-55 WAC	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license	
Marijuana purchased from an unauthorized source: Chapter 69.50 RCW	Cancellation of license			
Marijuana sold to an unauthorized source: Chapter 69.50 RCW	Cancellation of license			
Operating an unapproved CO₂ or hydrocarbon extraction system: Chapter 314-55 WAC	Cancellation of license			
Condition of suspension violation: Failure to follow any suspension restriction while marijuana license is suspended (retailer): Chapter 314-55 WAC	Original penalty plus 10-day suspension with no monetary option	Cancellation of license		

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
Sales in excess of transaction limitations. Chapter 69.50 RCW Chapter 314-55 WAC	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license))	

Violations of a severity that would make a license eligible for cancellation on a first offense. The board may not cancel a license for a single violation, unless it can prove a Category I violation by a preponderance of the evidence.

Category I

Violations of a Severity That Would Make a License Eligible for Cancellation on the First Offense

<u>Violation Type</u>	<u>1st Violation</u>	<u>2nd Violation in a Two-year Window</u>
<u>Marijuana purchased from an unlicensed entity.</u> WAC 314-55-083(4)	<u>License cancellation</u>	
<u>Marijuana sold to an unlicensed, nonretail source. Illegal sales out of the licensed market place.</u> WAC 314-55-083(4)	<u>License cancellation</u>	
<u>Condition of suspension violation: Failure to follow any suspension restriction while marijuana license is suspended.</u> WAC 314-55-540	<u>Original penalty plus 10-day suspension with no monetary option</u>	<u>License cancellation</u>
<u>Transportation or storage of marijuana to or from an unlicensed source, diversion of product, or both.</u> WAC 314-55-083(4)	<u>License cancellation</u>	
<u>Transportation of marijuana outside of Washington state boundaries.</u> RCW 69.50.342 (1)(k) RCW 69.50.345(10) WAC 314-55-310(1)	<u>License cancellation</u>	
<u>True party of interest (TPI).</u> Allowing a person to exercise ownership or control if the person would not have qualified based on affiliation with a criminal enterprise as described in chapter 69.50 RCW. WAC 314-55-035(1)	<u>License cancellation</u>	
<u>Financier.</u> Receiving money from a financier that was not disclosed to or approved by the board when the financier has a criminal history demonstrating an affiliation with criminal enterprises, gangs, or cartels; or the money provided by a financier originated from criminal enterprises, gangs, or cartels. WAC 314-55-035(4)	<u>License cancellation</u>	

NEW SECTION

WAC 314-55-521 Category II. Violations that create a direct or immediate threat to public health, safety, or both.

Category II

Violations That Create a Direct or Immediate Threat to Public Health, Safety, or Both

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Furnishing to persons under twenty-one years of age, except as allowed in RCW 60.50.357. RCW 69.50.354 WAC 314-55-079(1)	5-day suspension or \$1,250 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension	License cancellation
Conduct violations: Criminal conduct: Permitting or engaging in criminal conduct, or both. Disorderly conduct, or apparent intoxication of a licensee or employee, or permitting on premises. Title 9 RCW Title 9A RCW WAC 314-55-110 (4)(b)	5-day suspension or \$1,250 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension	License cancellation
Operating an unapproved CO² or hydrocarbon extraction system. WAC 314-55-104	\$10,000 monetary fine	License cancellation		
Intentional use of unauthorized pesticides, soil amendments, fertilizers, other crop production aids. RCW 69.50.342 WAC 314-55-084	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine and destruction of affected marijuana	Tier 1: \$7,500 Tier 2: \$15,000 Tier 3: \$22,500 monetary fine and destruction of affected marijuana	License cancellation	
Adulterated usable marijuana with organic or nonorganic chemical or other compound. WAC 314-55-077 (5)(b) WAC 314-55-101	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine and destruction of affected marijuana	Tier 1: \$7,500 Tier 2: \$15,000 Tier 3: \$22,500 monetary fine and destruction of affected marijuana	License cancellation	
Transportation of marijuana without a manifest. WAC 314-55-085(3) WAC 314-55-096 (1) and (2) WAC 314-55-105(2) WAC 314-55-310(3)	Retail/transporter: \$1,250 monetary fine Producer/processor: Tier 1: \$1,250 Tier 2: \$2,500 Tier 3: \$5,000 monetary fine	Retail/transporter: 5-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$10,000 monetary fine	License cancellation	
Obstruction: Misrepresentation of fact; not permitting physical presence. WAC 314-55-185	10-day suspension or \$7,500 monetary option	30-day suspension	License cancellation	

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Failure to use and maintain traceability, or both: Including, but not limited to, failure to maintain records for flowering plant, finished product, any post-harvest product, any plant not on approved floor-plan, or not tagged, reusing identifier. WAC 314-55-083(4)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	License cancellation
Pickup, unload, or delivery at an unauthorized location. WAC 314-55-085 (5)(f) WAC 314-55-310	Retail/transportation: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine	Retail/transporter: 60-day suspension Producer/processor: Tier 1: \$20,000 Tier 2: \$40,000 Tier 3: \$60,000 monetary fine	License cancellation	

NEW SECTION

WAC 314-55-522 Category III. Violations that create a potential threat to public health, safety, or both.

Category III Violations That Create a Potential Threat to Public Health, Safety, or Both

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Driver transporting without a valid driver's license. WAC 314-55-310 (5)(a)	5-day suspension or \$1,250 monetary option	10-day suspension	30-day suspension	License cancellation
Exceeding maximum serving requirements for marijuana-infused products. WAC 314-55-095 (1)(a) and (b) Exceeding transaction limits. WAC 314-55-095 (2)(c)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	License cancellation
Failure to follow and maintain food processing facility requirements. RCW 69.50.342 (1)(a) and (c) WAC 314-55-077 (4)(b) WAC 246-70-070 (1) and (2)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Failure to maintain required surveillance system. WAC 314-55-083(3)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Retail sales: Unauthorized marijuana-infused products. WAC 314-55-077 (9)(a) and (b)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 option	30-day suspension
True party of interest: Allowing a person to exercise ownership or control who has not been disclosed to the board, and would have failed for any reason. WAC 314-55-035	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine	Retail/transporter: 60-day suspension Producer/processor: Tier 1: \$20,000 Tier 2: \$40,000 Tier 3: \$60,000 monetary fine
Financier. Receiving money from a financier that was not disclosed to or approved by the board when the financier or the source of funds would not have qualified for any reason. WAC 314-55-035	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine	Retail/transporter: 60-day suspension Producer/processor: Tier 1: \$20,000 Tier 2: \$40,000 Tier 3: \$60,000 monetary fine
Obstruction: Failure to furnish records. WAC 314-55-185 (1)(c)	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension	60-day suspension
Failure to use traceability, maintain traceability, or both for quality assurance testing, including pesticide testing, potency testing, or both. WAC 314-55-083 (4)(k)	\$1,250 monetary fine	\$2,500 monetary fine	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Noncompliance with marijuana processor extraction requirements. WAC 314-55-104	\$1,250 monetary fine	\$2,500 monetary fine	\$7,500 monetary fine	\$15,000 monetary fine
Sales in excess of transaction limits. WAC 314-55-095 (2)(c)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option

NEW SECTION

WAC 314-55-523 Category IV. Violations that are significant regulatory violations.

Category IV Significant Regulatory Violations

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Noncompliance with record keeping requirements. WAC 314-55-087	\$500 monetary fine	5-day suspension or \$1,250 monetary fine	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Marijuana illegally given away, including being sold below the cost of acquisition, true value, or both. WAC 314-55-017(3) WAC 314-55-018 (2)(f) WAC 314-55-018(5) WAC 314-55-077 (11)(b)	\$500 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Retail sales: Use of an unauthorized money transmitter. WAC 314-55-115(5)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Misuse or unauthorized use of marijuana license (operating outside of license class). RCW 69.50.325	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option	60-day suspension or \$20,000 monetary option
Selling or purchasing marijuana on credit. WAC 314-55-018 WAC 314-55-115	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option	60-day suspension or \$20,000 monetary option
Engaging in nonretail conditional sales, prohibited practices, or both. WAC 314-55-017(1) WAC 314-55-018	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Operating/floor plan: Violations of a WSLCB approved operating plan. WAC 314-55-020 (11)(a)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Failure to maintain required insurance. WAC 314-55-082 WAC 314-55-310	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Unauthorized sale to a retail licensee (processor). RCW 69.50.360 RCW 69.50.363 WAC 314-55-077 WAC 314-55-083(4)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$10,000 monetary fine	Tier 1: \$7,500 Tier 2: \$15,000 Tier 3: \$30,000 monetary fine	Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine
Packaging and labeling. WAC 314-55-105	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Unauthorized or unapproved product storage or delivery (processor/producer). WAC 314-55-085(5)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Unauthorized or unapproved product storage or delivery (transporter). WAC 314-55-310 (5)(d)	\$1,250 monetary fine	\$2,500 monetary fine	\$5,000 monetary fine	\$10,000 monetary fine
Failure to meet marijuana waste disposal requirements. WAC 314-55-097	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Sampling violations (processors/producers: Vendor, educational, and internal quality control samples). WAC 314-55-096	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Sampling violations (retail). WAC 314-55-096(5) WAC 314-55-096(6)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Failure to maintain required security alarm. WAC 314-55-083(2)	\$1,250 monetary fine	\$2,500 monetary fine	\$5,000 monetary fine	\$10,000 monetary fine

NEW SECTION

WAC 314-55-524 Category V. Violations that are procedural and operational.

Category V Procedural and Operation Violations

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Hours of service: Sales of marijuana between 8:00 a.m. and 12:00 a.m. WAC 314-55-147	\$500 monetary fine	5-day suspension or \$1,250 monetary fine	10-day suspension or \$2,500 monetary option	30-day suspension
General advertising violations. RCW 69.50.369 WAC 314-55-155	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option
Engaging in conditional sales. WAC 314-55-017(2)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option
Licensee, employee, or both failing to display identification badge. WAC 314-55-083(1)	\$250 monetary fine	5-day suspension or \$500 monetary option	10-day suspension or \$1,250 monetary option	30-day suspension or \$2,500 monetary option
Failure to post required signs. WAC 314-55-086	\$250 monetary fine	5-day suspension or \$500 monetary option	10-day suspension or \$1,250 monetary option	30-day suspension or \$2,500 monetary option
Unauthorized change of business name. WAC 314-55-130	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$5,000 monetary option

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Transporting marijuana in an unauthorized vehicle. WAC 314-55-085(5) WAC 314-55-310	\$1,250 monetary fine	Retail/transporter: 5-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retail/transporter: 10-day suspension Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Exceeding maximum delivery time frame. WAC 314-55-085 WAC 314-55-083 (4)(d)	\$1,250 monetary fine	Retail/transporter: 5-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/Transporter: 10-day suspension Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Failure to maintain standardized scale requirements (producer/processor). WAC 314-55-099	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Unauthorized driver or passenger. WAC 314-55-310 (5)(a)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension	30-day suspension
Transportation of marijuana without an accurate manifest. WAC 314-55-085(3) WAC 314-55-310(3)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension	30-day suspension
Load exceeding maximum delivery amount. RCW 69.50.385(3) WAC 314-55-083 (4)(d) WAC 314-55-085(1)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension	30-day suspension
Retail sales: Accepting returns. WAC 314-55-079(12)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension
Failure to use traceability, maintain traceability, or both. (e.g., failure to comply with traceability requirements for clones, seeds; illegal or folded tags; movement within a location) WAC 314-55-083(4)	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine	Retail/transporter: 60-day suspension Producer/processor: Tier 1: \$20,000 Tier 2: \$40,000 Tier 3: \$60,000 monetary fine

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
True party of interest (TPI): Allowing a person not disclosed to the board who would have qualified to exercise ownership or control, or allowing a TPI previously approved by the board to provide funds without disclosure. WAC 314-55-035(XX)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	Retail/transporter: 10-day suspension or \$5,000 monetary option Producer/Processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$20,000 monetary fine	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Financier. Receiving money from a financier previously approved by the board that was not timely disclosed to the board or that was timely disclosed to the board but the source could not be verified. WAC 314-55-035(XX)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	Retail/transporter: 10-day suspension or \$5,000 monetary option Producer/Processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$20,000 monetary fine	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-525 ((Group 2 regulatory violations.)) Category VI.
 ((Group 2 violations are violations involving general regulation and administration of retail or nonretail licenses. Group 2 penalties imposed on a producer and/or processor license will not include license suspension. Penalties for a producer and/or processor license will be restricted to monetary fines, destruction of inventory, and/or license cancellation only.))

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
Hours of service: Sales of marijuana between 12:00 a.m. and 8:00 a.m. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
General advertising: Violations Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$1,000 monetary option Producer/processor: \$1,000 monetary fine	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
Engaging in conditional retail sales: Chapter 314-55 WAC Chapter 69.50 RCW	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license

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
Licensee/employee failing to display required security badge. Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$500 monetary option Producer/processor: \$500 monetary fine	Retailer/transporter: 10-day suspension or \$1,500 monetary option Producer/processor: All tiers: \$1,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: All tiers: \$5,000 monetary fine	Cancellation of license
Failure to maintain required security alarm and surveillance systems. Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine	Retailer/transporter: 10-day suspension or \$5,000 monetary fine Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
Records: Improper recordkeeping. Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$1,000 monetary option Producer/processor: \$1,000 monetary fine	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
Failure to submit monthly tax payments. Chapter 69.50 RCW Chapter 314-55 WAC	Retailer: 5-day suspension or \$1,000 monetary option	Retailer: 10-day suspension or \$2,500 monetary option	Retailer: 30-day suspension	Cancellation of license
Signs: Failure to post required signs. Chapter 69.50 RCW Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$500 monetary option Producer/processor: \$500 monetary fine	Retailer/transporter: 10-day suspension or \$1,500 monetary option Producer/processor: All tiers: \$1,500 monetary fine	Retailer/transporter: 15-day suspension or \$5,000 monetary option Producer/processor: All tiers: \$5,000 monetary fine	Cancellation of license
Failure to utilize and/or maintain traceability. Chapter 314-55 WAC	5-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine	Retailer: 10-day suspension or \$5,000 monetary fine Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retailer: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
Violation of transportation requirements. Chapter 314-55 WAC	Retailer: 5-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine	Retailer: 10-day suspension or \$5,000 monetary fine Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retailer: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license

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
Marijuana sold below cost of acquisition, true value, or illegally given away.	Retailer: 5-day suspension or \$1,000 monetary option Producer/processor: \$2,500 monetary fine	Retailer: 10-day suspension or \$5,000 monetary option Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retailer: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
Retail sales: Use of an unauthorized money transmitter. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Retail outlet selling unauthorized products. Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Retailer displaying products in a manner visible to the general public from a public right of way. Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Retail sales: Unauthorized marijuana-infused products, internet sales, and accepting returns. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license))

Statutory penalty violations.

Category VI
Statutory Penalty Violations

Allowing a minor to frequent a retail store. <u>RCW 69.50.357(2)</u>	<u>\$1,000 monetary fine</u>
Allowing persons under twenty-one years of age to frequent a retail licensed premises. <u>RCW 69.50.357</u>	<u>\$1,000 monetary fine</u>
Employee under legal age. <u>RCW 69.50.357(2)</u>	<u>\$1,000 monetary fine</u>
Opening or consuming marijuana on a licensed retail premises, or both. <u>RCW 69.50.357(4)</u>	<u>\$1,000 monetary fine</u>
Retail outlet selling unauthorized products. <u>RCW 69.50.357 (1)(a)</u>	<u>\$1,000 monetary fine</u>

WAC 314-55-540 ((Information about)) Marijuana license suspensions. (1) On the effective date of a marijuana license suspension ~~((goes into effect))~~, a ~~((WSLCB))~~ board 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))~~ board based on a violation of ~~((a WSLCB))~~ applicable law or rule.

(2) During the period of marijuana license suspension, the licensee and employees:

(a) Are required to ~~((maintain compliance))~~ comply with all applicable ~~((marijuana))~~ 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))~~ board's suspension notice.

(3) During the period of marijuana license suspension a marijuana licensee:

(a) ~~((A marijuana licensee))~~ May not operate ~~((his/her))~~ their business.

(b) ~~((There is no sale, delivery, service, destruction, removal, or receipt of))~~ May not sell, deliver, service, destroy, remove, or receive marijuana.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 314-55-510	What options does a licensee have once he/she receives a notice of an administrative violation?
WAC 314-55-515	What are the penalties if a marijuana license holder violates a marijuana law or rule?
WAC 314-55-530	Group 3 license violations.
WAC 314-55-535	Group 4 marijuana producer and/or processor violations.
WAC 314-55-537	Group 5 license violations.