



Washington State
Liquor and Cannabis Board

Date: July 8, 2020

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

From: Casey Schaufler, Policy and Rules Coordinator

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

Subject: **Approval for filing a pre-proposal statement of inquiry (CR 101) to consider amending WAC 314-55-020 to create a certificate of compliance for marijuana business premises.**

The WSLCB is considering amending section 314-55-020 WAC in order to establish a certificate of compliance for marijuana business premises consistent with the mandates of Substitute Senate Bill (SSB) 6206 (Chapter 154, Laws of 2020).

Process

The Policy and Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. An CR101 Memorandum on this pre-proposal statement of inquiry was presented at the Board meeting on July 8, 2020, and is attached to this order.

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

July 8, 2020	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101). LCB provides notice to stakeholders.
August 5, 2020	Notice published in the Washington State Register under WSR #20-15.
September 4, 2020	End of informal comment period.
September 30, 2020	Board is asked to approve filing proposed rules (CR 102). CR 102 filed with the Office of the Code Reviser. LCB webpage updated and notice circulated by rules

	distribution list. Formal comment period begins.
October 21, 2020	Notice published in the Washington State Register.
November 10, 2020	Public hearing held and formal comment period ends.
November 25, 2020	Board is asked to adopt rules if no substantive changes are made (CR 103). Concise Explanatory Statement provided to individuals offering written and oral comment at the public hearing, and during the formal comment period, consistent with RCW 34.05.325. CR 103 and adopted rules are filed with the Office of the Code Reviser. LCB webpage updated and notice circulated by rules distribution list.
December 26, 2020	Rules are effective 31 days after filing (unless otherwise specified).

Approve Disapprove _____ Jane Rushford, Chair _____ Date

Approve Disapprove _____ Ollie Garrett, Board Member _____ Date

Approve Disapprove _____ Russ Hauge, Board Member _____ Date

Attachment: CR 101 Memorandum



CR 101 Memorandum

Creating a Certificate of Compliance for Marijuana Businesses

Date: July 8, 2020

Presented by: Casey Schaufler, Policy and Rules Coordinator

Background

The Washington State Liquor and Cannabis Board (Board) is generally prohibited from issuing a marijuana license for any premises within 1000 feet of an elementary or secondary school, playground, recreation center, child care center, public park, public transit center, library, or game arcade admission that is not restricted to a person age 21 or older.

A local government may adopt an ordinance that reduces the 1000-foot buffer zone to not less than 100 feet of a recreation center, child care center, public park, public transit center, library, or game arcade admission that is not restricted to a person age 21 or older. The Board may issue a license to marijuana producers, processors, transporters, and retailers in compliance with a local distance-reduction ordinance, so long as the distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health.

A local government may adopt an ordinance that reduces the 1000-foot buffer zone to not less than 100 feet of all of the above listed entities/facilities for the purpose of licensing a marijuana research facility. However, the distance reduction must not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health. Before issuing or renewing a marijuana research license for a premises located within 1000 feet, but not less than 100 feet of an elementary school, secondary school, or playground in compliance with a local distance-reduction ordinance, the Board must ensure the facility meets the following requirements:

- the facility must meet a security standard exceeding the standard applicable to marijuana producer, processor, or retailer licensees;
- the facility must be inaccessible to the public and no part of the operation of the facility may be in view of the general public; and
- the facility may bear no advertising or signage indicating it is a marijuana research facility.

Reasons why rules may be needed:

Substitute Senate Bill 6206 (Chapter 154, Laws of 2020) amended RCW 69.50.331 to create a certificate of compliance for marijuana business premises and became effective June 11, 2020. The amendment requires that the Board

must issue a certificate of compliance for a marijuana business applicant's premises, if the premises met the statutory buffer zone requirements at the time the application was filed. The certificate allows the licensee to operate the business at the proposed location notwithstanding a later occurring, otherwise disqualifying factor. This certificate is not a license to produce, process, research, or sell marijuana at the location. All other marijuana licensing requirements must be met in order to receive a license or to continue operating under an existing license.

The legislation was designed to prevent a competitor from opening a business that would disqualify another marijuana entity's license application. During legislative testimony, it was noted that this situation has occurred with some frequency, after an applicant had spent the money to secure a lease, and a competitor moved a business (such as an arcade business) next door, violating the zoning restrictions for the new applicant. The legislation provides certainty for applicants with considerable investment in their businesses who are waiting for completion of the Board's license approval process.

Rules are needed to implement the requirements of the legislation.

Process

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

PREPROPOSAL STATEMENT OF INQUIRY



CR-101 (October 2017)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

Agency: Washington State Liquor and Cannabis Board

Subject of possible rule making: WAC 314-55-020 – Marijuana license qualifications and application process—Licensing change requests. The Washington State Liquor and Cannabis Board (Board) is considering a rule amendment to establish a certificate of compliance for marijuana business premises consistent with Substitute Senate Bill (SSB) 6206, (Chapter 154, Laws of 2020)..

Statutes authorizing the agency to adopt rules on this subject: RCW 69.50.342; RCW 69.50.345; SSB 6206 (Chapter 154, Laws of 2020).

Reasons why rules on this subject may be needed and what they might accomplish: SSB 6206 amended RCW 69.50.331 to create a certificate of compliance for marijuana business premises. The amendment requires the Board to issue a certificate of compliance for a marijuana business applicant's premises, if the premises met the statutory buffer zone requirements at the time the application was filed. The certificate allows the licensee to operate the business at the proposed location notwithstanding a later occurring, otherwise disqualifying factor.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Collaborative rulemaking

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

	(If necessary)
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Other:	Other:

Additional comments:

Date: July 8, 2020

Name: Jane Rushford

Title: Chair

Signature:

Place signature here