



Washington State
Liquor and Cannabis Board

Date: February 17, 2021

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
 Jim Morgan, Chief Financial Officer
 Kathy Hoffman, Policy and Rules Manager

Subject: **Approval to file a pre-proposal statement of inquiry (CR 101) regarding WAC 314-55-040 – What criminal history might prevent a marijuana [cannabis] license applicant from receiving or keeping a marijuana [cannabis] license?**

The Washington State Liquor and Cannabis Board (Board) is considering changes to current rules that frame the standards and thresholds for criminal history checks for marijuana [cannabis] licensees. Additional rules specifically related to this topic may be amended or created as necessary to accomplish the overarching goal of this project.

Process

The Policy and Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. A CR 101 Memorandum was presented at the Board meeting on February 17, 2021, and is attached to this order.

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

February 17, 2021	Board is asked to approve filing pre-proposal statement of inquiry (CR 101). CR 101 filed with the Office of the Code Reviser. LCB webpage updated and notice circulated by GovDelivery distribution list. Informal comment period begins.
March 3, 2021	Notice is published in the Washington State Register under WSR #21-05.
March 31, 2021	The informal comment period ends.

April 14, 2021	Board is asked to approve filing proposed rules (CR 102). CR 102 is filed with the Office of the Code Reviser. LCB webpage is updated and notice is circulated by the rules distribution list. The formal comment period begins.
May 5, 2021	Notice is published in the Washington State Register under WSR #21-09.
May 26, 2021	Public hearing is held and the formal comment period ends.
June 9, 2021	Board is asked to adopt rules, if no substantive changes are made (CR 103). Concise explanatory statement is provided to individuals offering written or oral comment at the public hearing or during the formal comment period under RCW 34.05.325. CR 103 and adopted rules are filed with the Office of the Code Reviser. LCB webpage is updated and notice is circulated by the rules distribution list.
July 10, 2021	The rules are effective 31 days after filing unless otherwise specified. See RCW 34.05.380(2).

_____ 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

Regarding WAC 314-55-040 – What criminal history might prevent a marijuana [cannabis] license applicant from receiving or keeping a marijuana [cannabis] license?

Date: February 17, 2021
Presented by: Casey Schaufler, Policy and Rules Coordinator
Prepared by: Kathy Hoffman, Policy and Rules Manager

Background

Initiative 502 (I-502) established a legal framework for the Board to review the criminal history of marijuana [cannabis] license applicants, along with broad rulemaking authority to create rules related to criminal history background check standards. The initial rules concerning this subject were initially established in late 2013, and the most recent revision occurred in early 2016.

Reasons Why Rules May Be Needed

The Board seeks to re-evaluate current criminal history background check standards and criteria in an effort to remove unnecessary barriers to entry in the legal marijuana [cannabis] market by individuals disproportionately impacted by marijuana [cannabis] criminalization.

Revisions considered will be designed to support socially equitable conditions by deconstructing current rules in a way that creates fair and meaningful access to the economic opportunities afforded by marijuana [cannabis] legalization.

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 314-55-040 – What criminal history might prevent a marijuana [cannabis] license applicant from receiving or keeping a marijuana [cannabis] license? The Washington State Liquor and Cannabis Board (Board) is considering changes to current rules that frame the standards and thresholds for criminal history checks for marijuana [cannabis] licensees. Additional rules specifically related to this topic may be amended or created as necessary to accomplish the overarching goal of this project.

Statutes authorizing the agency to adopt rules on this subject: RCW 69.50.331; RCW 69.50.342

Reasons why rules on this subject may be needed and what they might accomplish: Initiative 502 (I-502) established a legal framework for the Board to review the criminal history of marijuana [cannabis] license applicants, along with broad rulemaking authority to create rules related to criminal history background check standards. The initial rules concerning this subject were initially established in late 2013, and the most recent revision occurred in early 2016.

The Board seeks to re-evaluate current criminal history background check standards in an effort to remove unnecessary barriers to entry in the legal marijuana [cannabis] market by those individuals disproportionately impacted by marijuana [cannabis] criminalization. Revisions considered will be designed to support socially equitable conditions by deconstructing current rules in a way that creates fair and meaningful access to the economic opportunities afforded by marijuana [cannabis] legalization.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: None

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

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

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

Name: Casey Schaufler
Address: PO Box 43100, Olympia WA 98504
Phone: 360-664-1760
Fax: 360-664-9689
TTY:
Email: rules@lcb.wa.gov
Web site: lcb.wa.gov
Other:

(If necessary)

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

Additional comments: Interested persons can participate in the rule process through open public meetings and by submitting written comments, and are encouraged to sign up for the interested parties list (GovDelivery) at <https://public.govdelivery.com/accounts/WALCB/subscriber/new>. Rule-making notices and stakeholder engagement opportunities will be emailed via GovDelivery and posted to the WSLCB website at lcb.wa.gov.

Date: February 17, 2021	Signature: Place signature here
Name: Jane Rushford	
Title: Chair	