



Washington State  
**Liquor and Cannabis Board**

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**Date:** May 12, 2021

**To:** David Postman, Board Chair  
 Ollie Garrett, Board Member  
 Russ Hauge, Board Member

**From:** Kathy Hoffman, Policy and Rules Manager

**Copy:** Rick Garza, Agency Director  
 Justin Nordhorn, Policy and External Affairs Director  
 Chandra Brady, Director of Enforcement and Education  
 Becky Smith, Licensing Director

**Subject: Approval to file a pre-proposal statement of inquiry (CR 101) regarding evaluation of THC compounds other than delta-9.**

The Washington State Liquor and Cannabis Board is considering establishing a new rule section that would allow the WSLCB to evaluate additives, solvents, ingredients or compounds other than delta-9 THC used in the production and processing of marijuana products to determine whether such substances pose a risk to public health or youth access.

**Process**

The Policy and Rules Manager requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. A CR 101 Memorandum is attached to this rule making was presented at the Board meeting on May 12, 2021, and is attached to this order.

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

May 12, 2021	CR 101 filed with the Office of the Code Reviser. LCB webpage updated and notice circulated by rules distribution list. Informal comment period begins.
June 2, 2021	Notice published in the Washington State Register under WSR #21-11
July 2, 2021	End of informal comment period.
August 18, 2021	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.
September 1, 2021	Notice published in the Washington State Register.
September 29, 2021	Public hearing held and formal comment period ends.
No earlier than October 13, 2021	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.
November 13, 2021	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

### Re: Tetrahydrocannabinol (THC) Compounds Other than Delta-9

Date: May 12, 2021

Presented by: Kathy Hoffman, Policy and Rules Manager

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#### Background

WSLCB has become aware of products entering the regulated market with labeling noting the presence of cannabinoids other than Delta-9 tetrahydrocannabinol (THC) and CBD additives. These products include, but are not limited to marijuana infused edibles and marijuana concentrates. WSLCB is also aware of products with labeling noting the presence of THC compounds other than Delta-9 THC in markets it does not regulate.

WSLCB reviews and pre-approves marijuana-infused labeling for edible products that will be sold in licensed retail marijuana stores. WSLCB does not review or approve labeling for marijuana concentrates, usable marijuana, marijuana mix, or marijuana topical products that will be sold in licensed retail marijuana stores. WSLCB does not have statutory or regulatory authority for products containing marijuana compounds other than Delta-9 THC sold outside the licensed marijuana system it regulates.

WSLCB has learned that CBD isolate from hemp and other sources is being genetically or chemically altered to result in potentially intoxicating, psychoactive compounds not derived from marijuana as defined in RCW 69.50.101(y) and (uu), or synthetic equivalents of substances contained in the cannabis plant. WSLCB has also learned that these compounds and compounds other than Delta-9 HC have appeared in the marijuana system it regulates.

The process of genetic or chemical alteration of hemp or other sources to potentially intoxicating, psychoactive compounds may generate additional chemicals that are not naturally occurring in marijuana. Currently, there are no mandatory testing standards for these compounds, and no potency or concentration limits have been established in statute or regulation concerning these compounds in Washington State. The impact of those different chemicals on health are unknown and could be harmful.

WSLCB understands that some accredited/certified testing laboratories are able to test for the presence of Delta-8 THC, but testing for THC isomers is evolving and not standardized. For example, Delta-8 THC as a stand-alone product is not currently being tested for contaminants, but only for cannabinoid testing. Thus, it is unclear whether Delta-8 or CBD isolate from hemp or other sources that is genetically or chemically altered into compounds other than Delta-9 THC are safe for consumer use.

## **Reasons Why Rules Are Needed**

Washington State statute and the rules that implement those statutes provide a framework for the types of activities that marijuana licensees may engage in. The only products that can be sold in licensed marijuana retail stores are marijuana concentrates, usable marijuana, marijuana infused products and paraphernalia.

Rules are needed to allow the WSLCB to evaluate additives, solvents, ingredients or compounds used in the production and processing of marijuana products to determine whether such substances pose a risk to public health or youth access. Currently, there are no mandatory testing standards for these compounds, and no potency or concentration limits have been established in statute or regulation concerning these compounds in Washington State. The impact of these different chemicals on health are unknown and could be harmful.

## **Process**

The rule making process begins by announcing LCB'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-XXX – Marijuana additives, solvents, ingredients, or compounds. The Washington State Liquor and Cannabis Board (WSLCB) is considering establishing a new rule section that would allow the WSLCB to evaluate additives, solvents, ingredients or compounds used in the production and processing of marijuana products other than Delta-9 tetrahydrocannabinol to determine whether such substances pose a risk to public health or youth access.

**Statutes authorizing the agency to adopt rules on this subject:** RCW 69.50.342(1)(m); RCW 69.50.345

**Reasons why rules on this subject may be needed and what they might accomplish:** WSLCB has become aware of products entering the regulated market with labeling noting the presence of cannabinoids other than Delta-9 tetrahydrocannabinol (THC) and CBD additives. These products include, but are not limited to marijuana infused edibles and marijuana concentrates. WSLCB is also aware of products with labeling noting the presence of THC compounds other than Delta-9 THC in markets it does not regulate.

WSLCB reviews and pre-approves marijuana-infused labeling for edible products that will be sold in licensed retail marijuana stores. WSLCB does not review or approve labeling for marijuana concentrates, usable marijuana, marijuana mix, or marijuana topical products that will be sold in licensed retail marijuana stores. WSLCB does not have statutory or regulatory authority for products containing marijuana compounds other than Delta-9 THC sold outside the licensed marijuana system it regulates.

WSLCB has learned that CBD isolate from hemp and other sources is being genetically or chemically altered to result in potentially intoxicating, psychoactive compounds not derived from marijuana as defined in RCW 69.50.101(y) and (uu), or synthetic equivalents of substances contained in the cannabis plant. WSLCB has also learned that these compounds and compounds other than Delta-9 HC have appeared in the marijuana system it regulates. Currently, there are no mandatory testing standards for these compounds, and no potency or concentration limits have been established in statute or regulation concerning these compounds in Washington State. The impact of these different chemicals on health are unknown and could be harmful.

Washington State statute and the rules that implement those statutes provide a framework for the types of activities that marijuana licensees may engage in. The only products that can be sold in licensed marijuana retail stores are marijuana concentrates, usable marijuana, marijuana infused products and paraphernalia. Rules are needed to allow WSLCB to evaluate additives, solvents, ingredients or compounds used in production and processing of marijuana products when such products may contain CBD isolate from hemp and other sources that have been genetically or chemically altered to result in potentially intoxicating, psychoactive compounds, or compounds other than Delta-9 THC, to determine whether such substances may pose a risk to public health or youth access.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** Washington State Pharmacy Quality Assurance Commission; Washington State Board of Health; Washington State Department of Health; Washington State Department of Agriculture.

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

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

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

Name: Katherine Hoffman	(If necessary)
Address: PO Box 43080, Olympia WA 98504	Name:
Phone: 360-664-1622	Address:
Fax: 360-664-9689	Phone:
TTY:	Fax:
Email: rules@lcb.wa.gov	TTY:
Web site: lcb.wa.gov	Email:
Other:	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/WSLCB/subscriber/new>. Rule-making notices and stakeholder engagement opportunities will be emailed via GovDelivery and posted to the WSLCB website at lcb.wa.gov.

<b>Date:</b> May 12, 2021	<b>Signature:</b>  Place signature here
<b>Name:</b> David Postman	
<b>Title:</b> Chair	