



Washington State Liquor and Cannabis Board

Topic: Petition for Adoption, Amendment, or Repeal of a State Administrative Rule – Request to allow cannabis producers to package their own product and sell directly to retailers

Date: August 17, 2022

Presented by: Audrey Vasek, Policy and Rules Coordinator

Background

On July 11, 2022, Eugene DeMesa, on behalf of Cloud 9 Good Budz of Clarkston, WA, submitted a petition for adoption, amendment, or repeal of a state administrative rule. The petition requests that the agency adopt a new rule to allow cannabis producers to package their own product to sell directly to retailers.

In the rule petition, Eugene DeMesa states:

☒ 1. NEW RULE - I am requesting the agency to adopt a new rule.

☒ The subject (or purpose) of this rule is: Allow I-502 producers to package their cannabis to sell to retailer.

☒ The rule is needed because: Without this rule I-502 producers have no way to get cannabis to retail market. They are forced to sell to processors allowing processors to be gate keepers to retail market.

☒ The new rule would affect the following people or groups: I 502 producers

Issue

Whether the Board should initiate rulemaking to consider allowing cannabis producers to package their own cannabis products and sell those products directly to retailers.

Authority

Laws

RCW 69.50.325 describes the privileges of the cannabis producer's license, cannabis processor's license, and cannabis retailer's license. Each of these license types has separate and distinct privileges.

RCW 69.50.325(1) describes the cannabis producer license privileges, in part, as follows: "(1) There shall be a cannabis producer's license regulated by the board and subject to annual renewal. The licensee is authorized to **produce: (a) Cannabis for sale at**

wholesale to cannabis processors and other cannabis producers; (b) immature plants or clones and seeds for sale to cooperatives as described under RCW 69.51A.250; and (c) immature plants or clones and seeds for sale to qualifying patients and designated providers as provided under RCW 69.51A.310.” (emphasis added)

RCW 69.50.325(2) describes the cannabis processor license privileges, in part, as follows: “(2) There shall be a cannabis processor's license to process, **package**, and label cannabis concentrates, useable cannabis, and cannabis-infused products **for sale at wholesale to cannabis processors and cannabis retailers**, regulated by the board and subject to annual renewal.” (emphasis added)

RCW 69.50.325(3) describes the cannabis retailer license privileges, in part, as follows: “(3)(a) There shall be a cannabis retailer's license **to sell cannabis concentrates, useable cannabis, and cannabis-infused products at retail in retail outlets**, regulated by the board and subject to annual renewal.” (emphasis added)

Rules

Consistent with RCW 69.50.325(1), WAC 314-55-075 describes the privileges of a cannabis producer license, in part, as follows: “(1)(a) A cannabis producer license allows the licensee to produce, harvest, trim, dry, cure, and package cannabis into lots for sale at wholesale to cannabis processor licensees and to other cannabis producer licensees.”

Consistent with RCW 69.50.325(2), WAC 314-55-077 describes the privileges for a cannabis processor license, in part, as follows: “(1) A cannabis processor license allows the licensee to process, dry, cure, package, and label useable cannabis, cannabis concentrates, and cannabis-infused products for sale at wholesale to cannabis processors and cannabis retailers.”

Consistent with RCW 69.50.325(3), WAC 314-55-079 describes the privileges for a cannabis retailer license, in part, as follows: “(1) A marijuana retailer license allows the licensee to sell only useable marijuana, marijuana concentrates, marijuana-infused products, marijuana paraphernalia, and lockable boxes to store marijuana at retail in licensed retail outlets to persons twenty-one years of age and older, except as allowed for persons under twenty-one years of age consistent with RCW 69.50.357 and WAC 314-55-080.” (**Note:** The term “marijuana” will soon be updated to “cannabis” in this section as part of an ongoing rulemaking project, consistent with 2SHB 1210—chapter 16, Laws of 2022.)

Analysis

Under the statutory framework in RCW 69.50.325, licensed cannabis producers, processors, and retailers each have separate and distinct privileges. Producers are authorized to produce cannabis for wholesale to processors and other producers, while processors are authorized to process, package, and label cannabis products for

wholesale to retailers and other processors. Retailers, in turn, are authorized to make retail sales of cannabis products in retail outlets.

This petition request to allow cannabis producers to package their own cannabis products and sell those products directly to retailers is in direct conflict with RCW 69.50.325. Under the current statute, the cannabis producer license does not authorize packaging or sales to retailers—those privileges belong exclusively to the cannabis processor license type. While it is possible for a single entity to hold both a producer and a processor license,¹ the underlying license types are still statutorily required to be separate and distinct.

The Board is not authorized to adopt rules that conflict with statutes. This petition request would require statutory changes which can be made by the Legislature or by voters through the initiative process, but are beyond the Board’s rulemaking authority provided in RCW 69.50.342 and 69.50.345. For this reason, agency staff do not recommend initiating rulemaking as requested in this petition.

Recommendation

Director’s Office staff recommends that consistent with RCW 34.05.330(1)(a)(i), the Board deny Eugene DeMesa’s rule petition request, received on July 11, 2022, for the reasons described above.

Board Action

After considering the recommendation of Director’s Office staff, the Board accepts/denies the petition for rulemaking received from Eugene DeMesa on July 11, 2022.

_____ Accept _____ Deny	_____	_____
	David Postman, Chair	Date
_____ Accept _____ Deny	_____	_____
	Ollie Garrett, Board Member	Date
_____ Accept _____ Deny	_____	_____
	Jim Vollendroff, Board Member	Date

Attachments

1. Email from Eugene DeMesa received July 11, 2022, containing rule petition.
2. Laws and Rules cited under the “Authority” section above.

¹ While producers and processors are prohibited by statute in RCW 69.50.328 from holding a financial interest in retailers, there is no prohibition on a producer holding a financial interest in a processor, or vice versa.

Vasek, Audrey (LCB)

From: Eugene DeMesa <demesae@yahoo.com>
Sent: Sunday, July 10, 2022 1:52 PM
To: LCB DL Rules
Subject: LCB Petition
Attachments: LCB Petition 07.10.2022.pdf

External Email

To whom it may concern:

Attached is my petition. Please contact me if you have any questions.

Thanks
Eugene DeMesa



PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with [RCW 34.05.330](#), the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at <http://apps.leg.wa.gov/wac/default.aspx?cite=82-05>.

CONTACT INFORMATION *(please type or print)*

Petitioner's Name Eugene DeMesa
Name of Organization Cloud 9 Good Budz
Mailing Address 2325 Rolling Hills Ct.
City Clarkston State WA Zip Code 99403
Telephone 253-906-7670 Email demesae@yahoo.com

COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: <http://www.leg.wa.gov/CodeReviser/Documents/RClst.htm>.

INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: LCB

☒ **1. NEW RULE - I am requesting the agency to adopt a new rule.**

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☒ The rule is needed because: Without this rule I-502 producers have no way to get cannabis to retail market. They are forced to sell to processors allowing processors to be gate keepers to retail market.

☒ The new rule would affect the following people or groups: I 502 producers

☐ **2. AMEND RULE - I am requesting the agency to change an existing rule.**

List rule number (WAC), if known: _____

☐ I am requesting the following change: _____

☐ This change is needed because: _____

☐ The effect of this rule change will be: _____

☐ The rule is not clearly or simply stated: _____

☐ **3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.**

List rule number (WAC), if known: _____

(Check one or more boxes)

☐ It does not do what it was intended to do.

☐ It is no longer needed because: _____

☐ It imposes unreasonable costs: _____

☐ The agency has no authority to make this rule: _____

☐ It is applied differently to public and private parties: _____

☐ It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: _____

☐ It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: _____

☐ Other (please explain): _____

Cannabis producer's license, cannabis processor's license, cannabis retailer's license.

(1) There shall be a cannabis producer's license regulated by the board and subject to annual renewal. The licensee is authorized to produce: (a) Cannabis for sale at wholesale to cannabis processors and other cannabis producers; (b) immature plants or clones and seeds for sale to cooperatives as described under RCW 69.51A.250; and (c) immature plants or clones and seeds for sale to qualifying patients and designated providers as provided under RCW 69.51A.310. The production, possession, delivery, distribution, and sale of cannabis in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed cannabis producer, shall not be a criminal or civil offense under Washington state law. Every cannabis producer's license shall be issued in the name of the applicant, shall specify the location at which the cannabis producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a cannabis producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a cannabis producer's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a cannabis producer intends to produce cannabis.

(2) There shall be a cannabis processor's license to process, package, and label cannabis concentrates, useable cannabis, and cannabis-infused products for sale at wholesale to cannabis processors and cannabis retailers, regulated by the board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of cannabis, useable cannabis, cannabis-infused products, and cannabis concentrates in accordance with the provisions of this chapter and chapter 69.51A RCW and the rules adopted to implement and enforce these chapters, by a validly licensed cannabis processor, shall not be a criminal or civil offense under Washington state law. Every cannabis processor's license shall be issued in the name of the applicant, shall specify the location at which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a cannabis processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a cannabis processor's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a cannabis processor intends to process cannabis.

(3)(a) There shall be a cannabis retailer's license to sell cannabis concentrates, useable cannabis, and cannabis-infused products at retail in retail outlets, regulated by the board and subject to annual renewal. The possession, delivery, distribution, and sale of cannabis concentrates, useable cannabis, and cannabis-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed cannabis retailer, shall not be a criminal or civil offense under Washington state law. Every cannabis retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a cannabis retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a cannabis retailer's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a cannabis retailer intends to sell cannabis concentrates, useable cannabis, and cannabis-infused products.

(b) An individual retail licensee and all other persons or entities with a financial or other ownership interest in the business operating under the license are limited, in the aggregate, to holding a collective total of not more than five retail cannabis licenses.

(c)(i) A cannabis retailer's license is subject to forfeiture in accordance with rules adopted by the board pursuant to this section.

(ii) The board shall adopt rules to establish a license forfeiture process for a licensed cannabis retailer that is not fully operational and open to the public within a specified period from the date of license issuance, as established by the board, subject to the following restrictions:

(A) No cannabis retailer's license may be subject to forfeiture within the first nine months of license issuance; and

(B) The board must require license forfeiture on or before twenty-four calendar months of license issuance if a cannabis retailer is not fully operational and open to the public, unless the board determines that circumstances out of the licensee's control are preventing the licensee from becoming fully operational and that, in the board's discretion, the circumstances warrant extending the forfeiture period beyond twenty-four calendar months.

(iii) The board has discretion in adopting rules under this subsection (3)(c).

(iv) This subsection (3)(c) applies to cannabis retailer's licenses issued before and after July 23, 2017. However, no license of a cannabis retailer that otherwise meets the conditions for license forfeiture established pursuant to this subsection (3)(c) may be subject to forfeiture within the first nine calendar months of July 23, 2017.

(v) The board may not require license forfeiture if the licensee has been incapable of opening a fully operational retail cannabis business due to actions by the city, town, or county with jurisdiction over the licensee that include any of the following:

(A) The adoption of a ban or moratorium that prohibits the opening of a retail cannabis business; or

(B) The adoption of an ordinance or regulation related to zoning, business licensing, land use, or other regulatory measure that has the effect of preventing a licensee from receiving an occupancy permit from the jurisdiction or which otherwise prevents a licensed cannabis retailer from becoming operational.

(d) The board may issue cannabis retailer licenses pursuant to this chapter and RCW **69.50.335**.

[**2022 c 16 § 54**; **2020 c 236 § 6**; **2018 c 132 § 3**. Prior: **2017 c 317 § 1**; **2017 c 316 § 2**; **2016 c 170 § 1**; **2015 c 70 § 5**; **2014 c 192 § 2**; **2013 c 3 § 4** (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Intent—Finding—2022 c 16: See note following RCW **69.50.101**.

Findings—Intent—2020 c 236: See note following RCW **69.50.335**.

Effective date—2018 c 132 § 3: "Section 3 of this act takes effect July 1, 2018." [**2018 c 132 § 4**.]

Findings—2017 c 317: "The legislature finds that protecting the state's children, youth, and young adults under the legal age to purchase and consume marijuana [cannabis], by establishing limited restrictions on the advertising of marijuana [cannabis] and marijuana [cannabis] products, is necessary to assist the state's efforts to discourage and prevent underage consumption and the potential risks associated with underage consumption. The legislature finds that these restrictions assist the state in maintaining a strong and effective regulatory and enforcement system as specified by the federal government. The legislature finds this act leaves ample opportunities for licensed marijuana [cannabis] businesses to market their products to those who are of legal age to purchase them, without infringing on the free speech rights of business owners. Finally, the legislature finds that the state has a substantial and compelling interest in enacting this act aimed at protecting Washington's children, youth, and young adults." [**2017 c 317 § 12**.]

Application—2017 c 317: "This act applies prospectively only and not retroactively. It applies only to causes of action that arise (if change is substantive) or that are commenced (if change is procedural) on or after July 23, 2017." [[2017 c 317 § 25](#).]

Effective date—2017 c 316 §§ 2 and 3: "Sections 2 and 3 of this act take effect July 1, 2018." [[2017 c 316 § 4](#).]

Effective date—2016 c 170: "This act takes effect July 1, 2016." [[2016 c 170 § 3](#).]

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW [66.08.012](#).

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW [69.50.101](#).

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WAC 314-55-075**Cannabis producer license—Privileges, requirements, and fees.**

(1)(a) A cannabis producer license allows the licensee to produce, harvest, trim, dry, cure, and package cannabis into lots for sale at wholesale to cannabis processor licensees and to other cannabis producer licensees. A cannabis producer may also produce and sell:

- (i) Cannabis plants, seed, and plant tissue culture to other cannabis producer licensees;
- (ii) Immature cannabis plants or clones and cannabis seeds to members of a registered cooperative, qualifying patients, or designated providers under the conditions provided in this chapter; and

- (iii) Immature cannabis plants or clones and cannabis seeds to a licensed cannabis researcher under the conditions provided in this chapter.

(b) Cannabis production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in nonrigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083. An outdoor grow must be physically separated at least 20 feet from another licensed outdoor grow. In addition, outdoor grows cannot share common walls or fences.

(2) The application fee for a cannabis producer license is \$250. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(3) The annual fee for issuance and renewal of a cannabis producer license is \$1,000. The annual fee for issuance and renewal of a cannabis producer license is \$1,381. The WSLCB will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for criminal history checks.

(4) The application window for cannabis producer licenses is closed. The WSLCB may reopen the cannabis producer application window at subsequent times when the WSLCB deems necessary.

(5) Any entity and/or principals within any entity are limited to an interest, as defined in WAC 314-55-035, in no more than three cannabis producer licenses.

(6) The maximum amount of space for cannabis production cannot exceed the amount licensed. Applicants must designate on their operating plan the size category of the production premises and the amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

- (a) Tier 1 – Less than 4,000 square feet;
- (b) Tier 2 – Four thousand square feet up to 10,000 square feet; and
- (c) Tier 3 – Ten thousand square feet up to 30,000 square feet.

(7) The WSLCB may reduce a licensee's or applicant's square footage designated to plant canopy for the following reasons:

- (a) If the amount of square feet of production of all licensees exceeds the maximum square feet the WSLCB will reduce the allowed square footage by the same percentage.

- (b) If 50 percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation the WSLCB may reduce the tier of licensure.

- (8) If the total amount of square feet of cannabis production exceeds the maximum square feet, the WSLCB reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

(9) The maximum allowed amount of cannabis on a producer's premises at any time is as follows:

- (a) Outdoor or greenhouse grows – One and one-quarter of a year's harvest; or

(b) Indoor grows – Six months of their annual harvest.

(10) A producer may not treat or otherwise adulterate useable cannabis with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the useable cannabis.

(11) A cannabis producer must make quality assurance test results available to any processor purchasing product. A cannabis producer must label each lot of cannabis with the following information:

(a) Lot number;

(b) UBI number of the producer; and

(c) Weight of the product.

[Statutory Authority: RCW **69.50.342** and 2022 c 16 § 168. WSR 22-14-111, § 314-55-075, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW **69.50.342** and **69.50.345**. WSR 21-14-113, § 314-55-075, filed 7/7/21, effective 8/7/21. Statutory Authority: RCW **69.50.325**, **69.50.342**, **69.50.345**, and **69.50.369**. WSR 18-22-055, § 314-55-075, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW **69.50.342**, **69.50.345**, 2016 c 170, 2016 c 171, and 2016 c 17. WSR 16-19-102, § 314-55-075, filed 9/21/16, effective 10/22/16. Statutory Authority: RCW **69.50.342** and **69.50.345**. WSR 16-11-110, § 314-55-075, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-075, filed 5/20/15, effective 6/20/15; WSR 14-10-044, § 314-55-075, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW **69.50.325**, **69.50.331**, **69.50.342**, **69.50.345**. WSR 13-21-104, § 314-55-075, filed 10/21/13, effective 11/21/13.]

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WAC 314-55-077**Cannabis processor license—Privileges, requirements, and fees.**

(1) A cannabis processor license allows the licensee to process, dry, cure, package, and label useable cannabis, cannabis concentrates, and cannabis-infused products for sale at wholesale to cannabis processors and cannabis retailers.

(2) Application and license fees.

(a) The application fee for a cannabis processor license is \$250. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(b) The annual fee for issuance and renewal of a cannabis processor license is \$1,381. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for the criminal history checks.

(c) The application window for cannabis processor licenses is closed. The board may reopen the cannabis processor application window at subsequent times when the board deems necessary.

(3) Any entity and/or principals within any entity are limited to no more than three cannabis processor licenses.

(4)(a) A cannabis processor that makes cannabis-infused solid or liquid product meant to be ingested orally (cannabis edibles) must obtain a cannabis-infused edible endorsement from the department of agriculture as required under chapter **15.125** RCW and rules adopted by the department to implement that chapter (chapter **16-131** WAC). A licensee must allow the board or their designee to conduct physical visits and inspect the processing facility, recipes, and records required under WAC **314-55-087** during normal business hours or at any time of apparent operation without advance notice.

(b) A cannabis processor licensed by the board must ensure cannabis-infused edible processing facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapter **15.125** RCW and rules promulgated to implement chapters **16-131**, 16-165 and **16-167** WAC.

(5)(a) A cannabis processor may blend tested useable cannabis from multiple lots into a single package for sale to a cannabis retail licensee so long as the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(b) A processor may not treat or otherwise adulterate useable cannabis with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the useable cannabis.

(6) Recipes, product, packaging, and labeling approval.

(a) A cannabis processor licensee must obtain label and packaging approval from the board for all cannabis-infused products meant for oral ingestion prior to offering these items for sale to a cannabis retailer. The cannabis processor licensee must submit a picture of the product, labeling, and packaging to the board for approval. More information on the product, packaging, and label review process is available on the board's website.

(b) All recipes for cannabis-infused products meant for oral ingestion (cannabis edible products) must be approved by the department of agriculture under chapter **16-131** WAC. Licensees must obtain recipe approval from the department of agriculture prior to submitting any cannabis edible products, packages, and labels for review and approval by the board. The recipe for any cannabis-infused solid or liquid products meant to be ingested orally must be kept on file at the cannabis processor's licensed premises and made available for inspection by the board or its designee.

(c) If the board denies a cannabis-infused product for sale in cannabis retail outlets, the cannabis processor licensee may request an administrative hearing under chapter **34.05** RCW, Administrative Procedure Act.

(7) With the exception of the cannabis, all ingredients used in making cannabis-infused products for oral ingestion must be a commercially manufactured food as defined in WAC **246-215-01115**.

(8) Cannabis-infused edible products in solid or liquid form must be homogenized to ensure uniform disbursement of cannabinoids.

(9) A cannabis processor may infuse food or drinks with cannabis, provided that:

(a) The product or products do not require cooking or baking by the consumer;

(b) Coatings applied to the product or products are compliant with the requirements of this chapter;

(c) The product and package design is not similar to commercially available products marketed for consumption by persons under 21 years of age, as defined by WAC 314.55.105 (1)(c).

(10) To reduce the risk to public health, potentially hazardous foods as defined in WAC **246-215-01115** may not be infused with cannabis. Potentially hazardous foods require time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic microorganisms or the production of toxins. Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with cannabis.

(11) Other food items that may not be infused with cannabis to be sold in a retail store include:

(a) Any food that has to be acidified to make it shelf stable;

(b) Food items made shelf stable by canning or retorting;

(c) Fruit or vegetable juices (this does not include shelf stable concentrates);

(d) Fruit or vegetable butters;

(e) Pumpkin pies, custard pies, or any pies that contain egg;

(f) Dairy products of any kind such as butter, cheese, ice cream, or milk; and

(g) Dried or cured meats.

(h) Vinegars and oils derived from natural sources may be infused with dried cannabis if all plant material is subsequently removed from the final product. Vinegars and oils may not be infused with any other substance, including herbs and garlic.

(i) Cannabis-infused jams and jellies made from scratch must utilize a standardized recipe in accordance with 21 C.F.R. Part 150, revised as of April 1, 2013.

(12) Consistent with WAC **314-55-104**, a cannabis processor may infuse dairy butter or fats derived from natural sources, and use that extraction to prepare allowable cannabis-infused solid or liquid products meant to be ingested orally, but the dairy butter or fats derived from natural sources may not be sold as stand-alone products.

The board may designate other food items that may not be infused with cannabis.

(13) Cannabis processor licensees are allowed to have a maximum of six months of their average useable cannabis and six months average of their total production on their licensed premises at any time.

(14) **Processing service arrangements.** A processing service arrangement is when one processor (processor B) processes useable cannabis or an altered form of useable cannabis (cannabis product) for another licensed processor (processor A) for a fee.

(a) Processor A is the product owner. However, processor B may handle the product under its license as provided in chapter **69.50** RCW and this chapter. Processor B is not allowed to transfer the product to a retailer and may only possess cannabis or cannabis products received from processor A for the limited purposes of processing it for ultimate transfer back to processor A.

(b) Processing service arrangements must be made on a cash basis only as provided in WAC **314-55-115** and payment for the service and return of the processed product must be made within 30 calendar days of delivery to processor B. Failure to do so as provided by the preceding sentence is a violation of this section and any cannabis or cannabis product involved in the transaction will be subject to seizure and destruction. Payment with any cannabis products, barter, trade, or compensation in any form other than cash for processing service arrangements is prohibited under processing service arrangements.

(c) Each processor that enters into a processing service arrangement must include records for each service arrangement in recordkeeping documents which must be maintained consistent with this chapter.

(15) Cannabis may not be returned by any retail licensee to any processor except as provided in this section.

(a) Every processor must maintain on the licensed premises for a period of five years complete records of all refunds and exchanges made under this section including an inventory of cannabis and cannabis products returned to the processor by any retail licensee.

(b) Cannabis may be returned by a retail licensee in the event a retailer goes out of the business of selling cannabis at retail and a cash refund, as defined by WAC **314-55-115**, may be made upon the return of the cannabis or cannabis products, so long as WSLCB approval is acquired prior to returns and refunds under this subsection.

(c) Cannabis products different from that ordered by a retailer and delivered to the retailer may be returned to a processor and either replaced with cannabis products which were ordered or a cash refund, as defined by WAC **314-55-115**, may be made. These incorrect orders must be discovered and corrected within eight days of the date the delivery was made to be eligible for returns and refunds under this subsection.

(d) A cannabis processor may accept returns of products and sample jars from cannabis retailers for destruction, but is not required to provide refunds to the retailer. It is the responsibility of the retailer to ensure the product or sample jar is returned to the processor.

(16) The board may take disciplinary action against any cannabis processor that fails to comply with the provisions of WAC 246-80-021.

[Statutory Authority: RCW **69.50.342** and 2022 c 16 § 168. WSR 22-14-111, § 314-55-077, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW **69.50.342** and **69.50.345**. WSR 21-15-124, § 314-55-077, filed 7/21/21, effective 8/21/21. Statutory Authority: RCW **69.50.342**, **69.50.345** and 2019 c 393. WSR 20-01-172, § 314-55-077, filed 12/18/19, effective 1/1/20. Statutory Authority: RCW **69.50.325**, **69.50.342**, **69.50.345**, and **69.50.369**. WSR 18-22-055, § 314-55-077, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW **69.50.342** and **69.50.345**. WSR 16-11-110, § 314-55-077, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-077, filed 5/20/15, effective 6/20/15; WSR 14-10-044, § 314-55-077, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW **69.50.325**, **69.50.331**, **69.50.342**, **69.50.345**. WSR 13-21-104, § 314-55-077, filed 10/21/13, effective 11/21/13.]

HTML has links - PDF has Authentication**PDF****WAC 314-55-079****Marijuana retailer license—Privileges, requirements, and fees.**

(1) A marijuana retailer license allows the licensee to sell only useable marijuana, marijuana concentrates, marijuana-infused products, marijuana paraphernalia, and lockable boxes to store marijuana at retail in licensed retail outlets to persons twenty-one years of age and older, except as allowed for persons under twenty-one years of age consistent with RCW [69.50.357](#) and WAC [314-55-080](#).

(2) The WSLCB may accept applications for marijuana retail licenses at time frames published on its website at www.lcb.wa.gov. Using estimated consumption data and population data obtained from the office of financial management (OFM) population data, the WSLCB will determine the maximum number of marijuana retail locations per county.

(a) The number of retail locations will be determined using a method that distributes the number of locations proportionate to the most populous cities within each county and to accommodate the medical needs of qualifying patients and designated providers. Locations not assigned to a specific city will be at large. At large locations can be used for unincorporated areas in the county or in cities within the county that have no retail licenses designated.

(b) The number of retail licenses determined by the board can be found on the WSLCB website at www.lcb.wa.gov.

(3) Any entity and/or principals within any entity are limited to no more than five retail marijuana licenses.

(4) Application and license fees.

(a) The application fee for a marijuana retailer's license is two hundred fifty dollars. The applicant is responsible for fees required by the approved vendor for fingerprint evaluation.

(b) The annual fee for issuance and renewal of a marijuana retailer license is one thousand three hundred eighty-one dollars. The WSLCB will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for the criminal history checks.

(5) Internet sales and delivery of product to customers are prohibited.

(6) Sales of marijuana-infused products not permissible under WAC [314-55-077](#) are prohibited.

(7) Marijuana retailers may not sell marijuana products below the current acquisition cost.

(8) All marijuana products must be stored behind a counter or other barrier to ensure a customer does not have direct access to the product.

(9) A marijuana retailer may not sell lockable boxes for less than the cost of acquisition or sell boxes received as a donation. The donation of lockable boxes must come from a person or entity that is not a licensed marijuana producer, processor, or retailer.

(10) Marijuana retailer licensees are allowed to have a maximum of four months of their average inventory on their licensed premises at any given time.

(11) A marijuana retailer may transport product to other locations operated by the licensee or to return product to a marijuana processor as outlined in WAC [314-55-085](#).

(12) A marijuana retailer may accept returns of open marijuana products. Products must be returned in their original packaging with the lot, batch, or inventory ID number fully legible.

(13) A marijuana retailer may dispose of marijuana products as provided in WAC [314-55-097](#).

(14) The board may take disciplinary action against any marijuana retailer that fails to comply with the provisions of WAC [246-80-021](#).

[Statutory Authority: RCW [69.50.342](#) and [69.50.345](#). WSR 21-15-124, § 314-55-079, filed 7/21/21, effective 8/21/21. Statutory Authority: RCW [69.50.325](#), [69.50.342](#), [69.50.345](#), and [69.50.369](#). WSR 18-

22-055, § 314-55-079, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW **69.50.342**, **69.50.345**, 2016 c 170, 2016 c 171, and 2016 c 17. WSR 16-19-102, § 314-55-079, filed 9/21/16, effective 10/22/16. Statutory Authority: RCW **69.50.342** and **69.50.345**. WSR 16-11-110, § 314-55-079, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-079, filed 5/20/15, effective 6/20/15; WSR 14-10-044, § 314-55-079, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW **69.50.325**, **69.50.331**, **69.50.342**, **69.50.345**. WSR 13-21-104, § 314-55-079, filed 10/21/13, effective 11/21/13.]