



Topic: Petition for Adoption, Amendment, or Repeal of a State Administrative Rule – WAC 314-55-096 Cannabis Vendor, Educational, and Internal Quality Control Samples.

Date: August 31, 2022

Presented by: Jeff Kildahl, Policy and Rules Coordinator

Background

On July 8, 2022, Vicki Christophersen of the Washington Cannabusiness Association submitted a rulemaking petition requesting changes to an existing rule. In the petition, Ms. Christophersen is requesting that the LCB amend rules in WAC 314-55-096 regarding cannabis vendor, educational, and internal quality control samples.

In the rule petition, Ms. Christophersen states:

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

List rule number (WAC), if known: WAC 314-55-096

☒ I am requesting the following change:

Conduct rulemaking and stakeholder engagement in order to update and streamline the requirements in WAC 314-55-096.

☒ This change is needed because:

This rule section has not been updated in many years. The current rule set is cumbersome and costly without benefiting public safety.

☒ The effect of this rule change will be:

An updated, streamlined set of regulations will allow greater efficiency and cost savings while increasing transparency and safety.

Issue

Whether the Board should initiate rulemaking to consider possible amendments to modernize WAC 314-55-096 regarding cannabis vendor, educational, and internal quality control samples.

Authority

RCW 69.50.325 establishes the types of cannabis licenses.

RCW 69.50.342 grants the Board authority to adopt rules to put Initiative 502 into effect.

RCW 69.50.345 directs the Board to establish the procedures and criteria necessary to implement agency functions.

Analysis

In 2012, Initiative 502 established the legal framework for the cannabis market in Washington state. WAC 314-55-096, entitled Samples, was adopted in 2016 as part of the rulemaking effort to implement legislation that passed in the 2015 legislative session, Senate Bill 5052 and House Bill 2136. Later, in 2018, WAC 314-55-096 was amended to implement 2017 legislation and incorporate other needed changes, and was retitled Vendor, educational, and internal quality control samples.

WAC 314-55-096 establishes rules for labelling and transporting samples of useable cannabis, cannabis-infused products, and cannabis concentrates, and prohibits licensees from providing free samples of these cannabis products to retail customers. The rule also designates how cannabis licensees may provide limited free samples of cannabis products to other licensees for the following purposes:

- Vendor samples for licensed producers or processors to use in negotiating sales of products to other licensees;
- Educational samples provided for retail licensees to distribute to their employees for educational purposes;
- Internal quality control samples designated as product for producers and processors to self-sample and consume off site and away from the licensed premises; and
- Sample jars of cannabis with screened lids provided to retail licensees, designed to allow retail customers to smell products before purchase.

In the petition, Ms. Christophersen requests rule changes with stakeholder engagement to streamline the requirements in WAC 314-55-096, which was last updated with substantive amendments in 2018. She explains that the current rule is cumbersome and costly without benefitting public safety, and believes that updated rules would allow greater efficiency and cost savings for licensees while increasing transparency and safety.

In an attachment to the petition form, Ms. Christophersen also suggests three possible subjects for consideration in WAC 314-55-096:

Educational samples

- Currently producers and processors must create a new SKU in order to offer samples to their customers for the purpose of educational samples. Size limits on educational samples are more restrictive than the size of the products they actually sell to the retail store.
 - Suggestion: allow producers and processors to add on additional units to any retail order for the purpose of educational samples. This would prevent producers and processors from having to create an entirely new product just for the purpose of samples.
 - This would allow producer/processors to use their current inventory.
- Currently retailers are restricted to receiving a maximum of one hundred sample units per calendar month. No more than ten sample units may be provided to any one employee per calendar month
 - Placing the restriction on the retailer can be overly burdensome and confusing for licensees. Retailers are manifested samples all the time and could potentially unknowingly accept samples putting them over the limit. Or they often must reject samples.
 - Suggestion: Place the limit on producer/processors - for example no producer/process can give more than 50 sample units per retailer per month

Quality control samples

- Current restrictions on internal quality control sampling requirements are way too restrictive
 - Suggestion: remove the internal quality control sampling restrictions completely to mirror breweries
 - Require licensees to track all internal quality control samples, but there should not be a limit.

The first subject suggested for consideration, amending rules to allow producer/processors to add on additional product units to any retail order as educational samples, would eliminate the requirement for producers and processors to create unique sample-sized packages of products for employees of retail licensees involved in direct retail sales.

- Staff indicate that using retail units as educational samples could have the practical effect of increasing the product sizes of these samples. For example, the current size limit in WAC 314-55-096(2)(b)(i) for an educational sample of usable cannabis is 0.5 grams, which is a smaller amount than is typically packaged for retail sale. An increase in sample sizes would have the effect of providing larger sample amounts of cannabis products to retail sales employees.

The second subject, amending rules to place the existing monthly educational sample limits on producer/processors instead of retail licensees, would ensure that retail licensees could accept all of the educational samples they receive without the risk of exceeding monthly educational sample limits.

- Staff note that this possible rule change could result in an increase in the actual number of educational samples that retail licensees accept each month and distribute to retail employees, above the current maximum limit of 100 samples that can be accepted each month in WAC 314-55-096(2)(a).

The third subject for consideration, removing the internal quality control sampling restrictions completely so as to mirror internal quality control sampling in breweries, would involve amending rules regarding limited self-sampling of cannabis products for quality control purposes in WAC 314-55-096(4).

- Staff note that this possible rule change could also have the practical effect loosening the restrictions on the consumption of internal quality control samples, but the response from staff does not contemplate the full scope of sampling.

Public Health and Safety Issues

From the perspective of public health and safety, staff identified some general impacts and possible risk that could result from these suggested amendments to WAC 314-55-096. Increasing the sizes of educational samples to retail sizes would increase the actual amounts of sample products distributed, and could increase the likelihood of product diversion away from retail sales staff. Also, amending rules to place the existing monthly educational sample limits on producer/processors instead of retail licensees could have the similar effect on retail licensees in that they could receive larger numbers of samples that could be vulnerable to loss or diversion.

Staff also identified possible risk with changing the requirements for consumption of internal quality control samples. Unlike beer in a brewery, cannabis products can be of different strengths and varying effects. Also of concern is the safety of persons consuming samples in the vicinity of machinery, vehicles, chemicals, and other industrial products that may be present at a producer or processor licensed premises.

Conclusion

In this petition, Ms. Christophersen requests rule changes with stakeholder engagement to streamline the requirements in WAC 314-55-096, which was last updated with substantive amendments in 2018. She explains that the current rule is cumbersome and costly without benefitting public safety, and believes that updated rules would allow greater efficiency and cost savings for licensees while increasing transparency and safety. The LCB is interested in understanding these perspectives and engaging in a cooperative effort to explore mutual interests with stakeholders. Although staff identify potential risks with how cannabis licensees may provide these limited free samples of cannabis products, it is appropriate to explore how changes to these rules could streamline business practices for cannabis licensees.

Recommendation

Director's Office staff recommends that consistent with RCW 34.05.330(1)(a)(i), the Board accept Ms. Christophersen's rule petition request to consider amendment of WAC 314-55-096, received on July 8, 2022, for the reasons described above.

Board Action

After considering the recommendation of Director's Office staff, the Board accepts /denies the petition received on July 8, 2022, from Ms. Christophersen for the reasons stated herein.

_____ Accept _____ Deny

David Postman, Chair

Date

_____ Accept _____ Deny

Ollie Garrett, Board Member

Date

_____ Accept _____ Deny

Jim Vollendroff, Board Member

Date

Attachments

1. Rule petition from Vicki Christophersen received July 8, 2022
2. Letter from Vicki Christophersen received July 8, 2022
3. Acknowledgement of rule petition
4. RCW 69.50.325
5. RCW 69.50.342
6. RCW 69.50.345
7. WAC 314-55-096

**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 Vicki Christophersen
Name of Organization Washington Cannabusiness Association
Mailing Address P.O. Box 3329
City Kirkland State WA Zip Code 98083
Telephone 360-485-2026 Email vicki@christopherseninc.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/RClist.htm>.

INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: _____

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

☐ The subject (or purpose) of this rule is: _____

☐ The rule is needed because: _____

☐ The new rule would affect the following people or groups: _____

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

List rule number (WAC), if known: WAC 314-55-096

- ☒ I am requesting the following change: Conduct rulemaking and stakeholder engagement in order to update and streamline the requirements in WAC 314-55-096.
- ☒ This change is needed because: This rule section has not been updated in many years. The current rule set is cumbersome and costly without benefiting public safety.
- ☒ The effect of this rule change will be: An updated, streamlined set of regulations will allow greater efficiency and cost savings while increasing transparency and safety.
- ☐ 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): _____



WAC 314-55-096 - Vendor, educational, and internal quality control samples

Suggested topics for consideration:

*WACA members look forward to a robust stakeholder process for the updating of this rule set. These suggestions are submitted as a starting point of suggestions for the discussion

Educational samples

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 - Suggestion: allow producers and processors to add on additional units to any retail order for the purpose of educational samples. This would prevent producers and processors from having to create an entirely new product just for the purpose of samples.
 - This would allow producer/processors to use their current inventory.
- Currently retailers are restricted to receiving a maximum of one hundred sample units per calendar month. No more than ten sample units may be provided to any one employee per calendar month
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Quality control samples

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 - Suggestion: remove the internal quality control sampling restrictions completely to mirror breweries
 - Require licensees to track all internal quality control samples, but there should not be a limit.

From: [Kildahl, Jeff \(LCB\)](#)
To: [Vicki Christophersen](#); [LCB DL Rules](#); [Hoffman, Katherine \(LCB\)](#); [Davies, Brooke](#)
Subject: RE: Rule Petition
Date: Friday, July 8, 2022 10:14:00 AM

Good Morning Vicki,

Thank you for your petition to adopt, amend, or repeal state administrative rules.

Your petition was received today, Friday, July 8, 2022. Consistent with [RCW 34.05.330](#) and [WAC 82-05-040](#), the Board has 60 days after submission of a rulemaking petition to either:

(a) deny the petition in writing, stating (i) its reasons for the denial, specifically addressing the concerns raised by the petitioner, and, where appropriate, (ii) the alternative means by which it will address the concerns raised by the petitioner, or

(b) initiate rule-making proceedings in accordance with RCW [34.05.320](#).

The Board will have until September 4, 2022 to take action as detailed above.

Please let me know if you have any questions.

Sincerely,
Jeff

Jeff Kildahl
Policy and Rules Coordinator
Washington State Liquor and Cannabis Board
360-664-1781
jeff.kildahl@lcb.wa.gov

From: Vicki Christophersen <vicki@christopherseninc.com>
Sent: Friday, July 8, 2022 9:11 AM
To: LCB DL Rules <rules@lcb.wa.gov>; Hoffman, Katherine (LCB) <katherine.hoffman@lcb.wa.gov>; Davies, Brooke <brooke.ella.davies@gmail.com>
Subject: Rule Petition

External Email

Good afternoon,

Attached please find a petition and supporting document submitted on behalf of the Washington CannaBusiness Association.

Thank you,

Vicki

Vicki Christophersen
Christophersen Inc.
www.christopherseninc.com
360.485.2026

PDF

RCW 69.50.325**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](#).

PDF

RCW 69.50.342**State liquor and cannabis board—Rules.**

(1) For the purpose of carrying into effect the provisions of chapter 3, Laws of 2013 according to their true intent or of supplying any deficiency therein, the board may adopt rules not inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed necessary or advisable. Without limiting the generality of the preceding sentence, the board is empowered to adopt rules regarding the following:

(a) The equipment and management of retail outlets and premises where cannabis is produced or processed, and inspection of the retail outlets and premises where cannabis is produced or processed;

(b) The books and records to be created and maintained by licensees, the reports to be made thereon to the board, and inspection of the books and records;

(c) Methods of producing, processing, and packaging cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products; conditions of sanitation; safe handling requirements; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products produced, processed, packaged, or sold by licensees;

(d) Security requirements for retail outlets and premises where cannabis is produced or processed, and safety protocols for licensees and their employees;

(e) Screening, hiring, training, and supervising employees of licensees;

(f) Retail outlet locations and hours of operation;

(g) Labeling requirements and restrictions on advertisement of cannabis, useable cannabis, cannabis concentrates, cannabis health and beauty aids, and cannabis-infused products for sale in retail outlets;

(h) Forms to be used for purposes of this chapter and chapter **69.51A** RCW or the rules adopted to implement and enforce these chapters, the terms and conditions to be contained in licenses issued under this chapter and chapter **69.51A** RCW, and the qualifications for receiving a license issued under this chapter and chapter **69.51A** RCW, including a criminal history record information check. The board may submit any criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(i) Application, reinstatement, and renewal fees for licenses issued under this chapter and chapter **69.51A** RCW, and fees for anything done or permitted to be done under the rules adopted to implement and enforce this chapter and chapter **69.51A** RCW;

(j) The manner of giving and serving notices required by this chapter and chapter **69.51A** RCW or rules adopted to implement or enforce these chapters;

(k) Times and periods when, and the manner, methods, and means by which, licensees transport and deliver cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products within the state;

(l) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, sold, or offered for sale within this state which do not conform in all respects to the standards prescribed by this chapter or chapter **69.51A** RCW or the rules adopted to implement and enforce these chapters;

(m) The prohibition of any type of device used in conjunction with a cannabis vapor product and the prohibition of the use of any type of additive, solvent, ingredient, or compound in the production and processing of cannabis products, including cannabis vapor products, when the board determines,

following consultation with the department of health or any other authority the board deems appropriate, that the device, additive, solvent, ingredient, or compound may pose a risk to public health or youth access; and

(n) Requirements for processors to submit under oath to the department of health a complete list of all constituent substances and the amount and sources thereof in each cannabis vapor product, including all additives, thickening agents, preservatives, compounds, and any other substance used in the production and processing of each cannabis vapor product.

(2) Rules adopted on retail outlets holding medical cannabis endorsements must be adopted in coordination and consultation with the department.

(3) The board must adopt rules to perfect and expand existing programs for compliance education for licensed cannabis businesses and their employees. The rules must include a voluntary compliance program created in consultation with licensed cannabis businesses and their employees. The voluntary compliance program must include recommendations on abating violations of this chapter and rules adopted under this chapter.

[**2022 c 16 § 63**; **2020 c 133 § 3**; **2019 c 394 § 4**; **2015 2nd sp.s. c 4 § 1601**; **2015 c 70 § 7**; **2013 c 3 § 9** (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

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

Findings—2020 c 133: "The legislature finds that recent reports of lung illnesses associated with vapor products demand serious attention by the state in the interest of protecting public health and preventing youth access. While state law grants the liquor and cannabis board broad authority to regulate vapor products containing marijuana [cannabis], the legislature finds that risks to public health and youth access can be mitigated by clarifying that the board is granted specific authority to prohibit the use of any additive, solvent, ingredient, or compound in marijuana [cannabis] vapor product production and processing and to prohibit any device used in conjunction with a marijuana [cannabis] vapor product." [**2020 c 133 § 1**.]

Effective date—2020 c 133: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 25, 2020]." [**2020 c 133 § 5**.]

Findings—2019 c 394: See note following RCW **69.50.563**.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW **69.50.334**.

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**.

PDF

RCW 69.50.345**State liquor and cannabis board—Rules—Procedures and criteria. (Effective until July 1, 2024.)**

The board, subject to the provisions of this chapter, must adopt rules that establish the procedures and criteria necessary to implement the following:

(1) Licensing of cannabis producers, cannabis processors, and cannabis retailers, including prescribing forms and establishing application, reinstatement, and renewal fees.

(a) Application forms for cannabis producers must request the applicant to state whether the applicant intends to produce cannabis for sale by cannabis retailers holding medical cannabis endorsements and the amount of or percentage of canopy the applicant intends to commit to growing plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products sold to qualifying patients.

(b) The board must reconsider and increase limits on the amount of square feet permitted to be in production on July 24, 2015, and increase the percentage of production space for those cannabis producers who intend to grow plants for cannabis retailers holding medical cannabis endorsements if the cannabis producer designates the increased production space to plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products to be sold to qualifying patients. If current cannabis producers do not use all the increased production space, the board may reopen the license period for new cannabis producer license applicants but only to those cannabis producers who agree to grow plants for cannabis retailers holding medical cannabis endorsements. Priority in licensing must be given to cannabis producer license applicants who have an application pending on July 24, 2015, but who are not yet licensed and then to new cannabis producer license applicants. After January 1, 2017, any reconsideration of the limits on the amount of square feet permitted to be in production to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW 69.51A.230;

(2) Determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(a) Population distribution;

(b) Security and safety issues;

(c) The provision of adequate access to licensed sources of cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

(d) The number of retail outlets holding medical cannabis endorsements necessary to meet the medical needs of qualifying patients. The board must reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. After January 1, 2017, any reconsideration of the maximum number of retail outlets needed to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW 69.51A.230;

(3) Determining the maximum quantity of cannabis a cannabis producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis processor may have on the premises of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis retailer may have on the premises of a retail outlet at any time without violating Washington state law;

(6) In making the determinations required by this section, the board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

(c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products, and their labeling requirements;

(8) In consultation with the department of agriculture and the department, establishing classes of cannabis, cannabis concentrates, useable cannabis, and cannabis infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration, or other qualitative measurements deemed appropriate by the board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products that are not inconsistent with the provisions of this chapter, taking into consideration:

(a) Federal laws relating to cannabis that are applicable within Washington state;

(b) Minimizing exposure of people under twenty-one years of age to the advertising;

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by cannabis use in the advertising; and

(d) Ensuring that retail outlets with medical cannabis endorsements may advertise themselves as medical retail outlets;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products within the state;

(11) In consultation with the department and the department of agriculture, establishing accreditation requirements for testing laboratories used by licensees to demonstrate compliance with standards adopted by the board, and prescribing methods of producing, processing, and packaging cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, or sold by licensees;

(12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by this chapter or the rules of the board.

[**2022 c 16 § 64**; **2019 c 393 § 2**; **2018 c 43 § 2**; **2015 c 70 § 8**; **2013 c 3 § 10** (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Expiration date—2022 c 16 §§ 64 and 67: "Sections 64 and 67 of this act expire July 1, 2024." [**2022 c 16 § 173**.]

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

Effective date—2019 c 393: "This act takes effect January 1, 2020." [**2019 c 393 § 6**.]

Intent—2019 c 393: See note following RCW **69.50.346**.

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**.

PDF **RCW 69.50.345**

State liquor and cannabis board—Rules—Procedures and criteria. (*Effective July 1, 2024.*)

The board, subject to the provisions of this chapter, must adopt rules that establish the procedures and criteria necessary to implement the following:

(1) Licensing of cannabis producers, cannabis processors, and cannabis retailers, including prescribing forms and establishing application, reinstatement, and renewal fees.

(a) Application forms for cannabis producers must request the applicant to state whether the applicant intends to produce cannabis for sale by cannabis retailers holding medical cannabis endorsements and the amount of or percentage of canopy the applicant intends to commit to growing plants determined by the department under RCW **69.50.375** to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products sold to qualifying patients.

(b) The board must reconsider and increase limits on the amount of square feet permitted to be in production on July 24, 2015, and increase the percentage of production space for those cannabis producers who intend to grow plants for cannabis retailers holding medical cannabis endorsements if the cannabis producer designates the increased production space to plants determined by the department under RCW **69.50.375** to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products to be sold to qualifying patients. If current cannabis producers do not use all the increased production space, the board may reopen the license period for new cannabis producer license applicants but only to those cannabis producers who agree to grow plants for cannabis retailers holding medical cannabis endorsements. Priority in licensing must be given to cannabis producer license applicants who have an application pending on July 24, 2015, but who are not yet licensed and then to new cannabis producer license applicants. After January 1, 2017, any reconsideration of the limits on the amount of square feet permitted to be in production to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW **69.51A.230**;

(2) Determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(a) Population distribution;

(b) Security and safety issues;

(c) The provision of adequate access to licensed sources of cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

(d) The number of retail outlets holding medical cannabis endorsements necessary to meet the medical needs of qualifying patients. The board must reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. After January 1, 2017, any reconsideration of the maximum number of retail outlets needed to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW **69.51A.230**;

(3) Determining the maximum quantity of cannabis a cannabis producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis processor may have on the premises of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis retailer may have on the premises of a retail outlet at any time without violating Washington state law;

(6) In making the determinations required by this section, the board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

(c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products, and their labeling requirements;

(8) In consultation with the department of agriculture and the department, establishing classes of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration, or other qualitative measurements deemed appropriate by the board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products that are not inconsistent with the provisions of this chapter, taking into consideration:

(a) Federal laws relating to cannabis that are applicable within Washington state;

(b) Minimizing exposure of people under twenty-one years of age to the advertising;

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by cannabis use in the advertising; and

(d) Ensuring that retail outlets with medical cannabis endorsements may advertise themselves as medical retail outlets;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products within the state;

(11) In consultation with the department and the department of agriculture, prescribing methods of producing, processing, and packaging cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, or sold by licensees;

(12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by this chapter or the rules of the board.

[**2022 c 16 § 65**. Prior: **2019 c 393 § 2**; **2019 c 277 § 6**; **2018 c 43 § 2**; **2015 c 70 § 8**; **2013 c 3 § 10** (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Effective date—2022 c 16 §§ 65 and 68: "Sections 65 and 68 of this act take effect July 1, 2024." [**2022 c 16 § 174**.]

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

Effective date—2019 c 393: "This act takes effect January 1, 2020." [**2019 c 393 § 6.**]

Intent—2019 c 393: See note following RCW **69.50.346.**

Effective date—2019 c 277 §§ 2 and 6: See note following RCW **69.50.348.**

**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 314-55-096**Vendor, educational, and internal quality control samples.**

(1) **Vendor samples:** Producers or processors may provide free samples of useable marijuana, marijuana-infused products, and marijuana concentrates to negotiate a sale on product the retail licensee does not currently carry. All vendor sample limits are based on calendar months. The producer or processor must record the amount of each vendor sample and the processor or retailer receiving the sample in the traceability system. The outgoing sample must be clearly labeled as a "vendor sample" to negotiate a sale and recorded on a transport manifest. The receiving licensee must receive the vendor sample in the traceability system prior to sampling.

(a) Vendor samples may only be given to and used by licensees or employees of licensees who have product ordering authority or employees who provide input on product to licensees or employees of licensees who have purchasing authority to inform purchasing decisions as detailed in a written business policy.

(b) Producers may not provide any one licensed processor more than eight grams of marijuana flower per month free of charge for the purpose of negotiating a sale.

(c) Processors may not provide any one licensed retailer more than eight grams of useable marijuana per month free of charge for the purpose of negotiating a sale.

(d) Processors may not provide any one licensed retailer more than eight units of marijuana-infused products in solid form meant to be ingested orally or otherwise taken into the body per month free of charge for the purpose of negotiating a sale. No single unit may exceed 10 mg of THC.

(e) Processors may not provide any one licensed retailer more than eight units of marijuana-infused product in liquid form meant to be eaten, swallowed, or otherwise taken into the body per month free of charge for the purpose of negotiating a sale. No single unit may exceed 10 mg of THC.

(f) Processors may not provide any one licensed retailer more than eight units of marijuana-infused products meant to be applied topically per month free of charge for the purpose of negotiating a sale.

(g) Processors may not provide any one licensed retailer more than two units of marijuana-infused extract meant for inhalation or infused marijuana mix per month free of charge for the purpose of negotiating a sale. No single unit may exceed 0.5 g.

(h) A marijuana producer must make quality assurance test results available to any processor receiving samples to negotiate a sale. The producer must also provide a statement that discloses all pesticides applied to the marijuana plants and growing medium during production.

(i) A marijuana processor must make quality assurance test results available to any retailer receiving samples to negotiate a sale. If a marijuana extract was added to the product, the processors must disclose the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract.

(j) **Vendor sample labeling:** All vendor samples must be clearly labeled as a vendor sample and meet all labeling requirements of the product to be sampled.

(i) The unique identifier number generated by the traceability system;

(ii) The UBI number of the licensed entity providing the sample; and

(iii) Weight of the product in ounces and grams or volume as applicable.

(2) **Education sampling.** Processors may provide free samples of useable marijuana, marijuana-infused products, and marijuana concentrates to retail licensees to give to the licensee's employees for educational purposes. Products being sampled must be carried by the licensed retailer. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system. The outgoing sample must be clearly labeled as "education sample" and recorded on a transport manifest. Once the retailer receives the sample, the retailer must accept the sample in the

traceability system prior to distributing samples to the retailer's employees. All employees at a licensed retail location who receive educational samples must be entered into the traceability system for the purpose of distributing education samples.

(a) Retailers are restricted to receiving a maximum of one hundred sample units per calendar month. No more than ten sample units may be provided to any one employee per calendar month.

(b) The maximum size of education samples are:

(i) Useable marijuana, marijuana mix, and infused marijuana mix – One unit not to exceed 0.5 g.

(ii) Marijuana infused solid or liquid product meant to be ingested orally or otherwise taken into the body – One unit not to exceed 10 mg THC.

(iii) Marijuana-infused extract for inhalation – One unit not to exceed 0.25 g.

(iv) Marijuana-infused products for topical application - One unit not to exceed sixteen ounces.

(c) Distribution and consumption of all educational samples is limited to retail employees who directly sell product to retail customers. Retail employees who are not involved in direct sales to customers are not eligible for education samples.

(d) Marijuana retail licensees are prohibited from providing educational samples to their employees as a form of compensation.

(e) A marijuana processor must make quality assurance test results available to any retailer receiving education samples. If a marijuana extract was added to the product, the processors must disclose the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract.

(f) **Education sample labeling:** All education samples must be clearly labeled "education sample" and include the following information on the label:

(i) The unique identifier number generated by the traceability system;

(ii) The UBI number and trade name of the licensed entity providing the sample;

(iii) Product name or strain name for useable marijuana;

(iv) Weight of the product in ounces and grams or volume as applicable; and

(v) Potency labeled as required under WAC [314-55-105](#).

(3) A marijuana processor is not required to provide free samples to negotiate a sale or educational samples to a marijuana retail licensee, and a marijuana retail licensee may not require a marijuana processor to provide free sample to negotiate a sale or educational samples as a condition for purchasing the marijuana processor's products.

(4) **Internal quality control sampling:** Producers and processors may conduct limited self-sampling for quality control. All sample limits are based on calendar months. Consuming samples for quality control may not take place at a licensed premises. Only the producer, processor, or employees of the licensee may sample the marijuana flower, useable marijuana, marijuana-infused products, marijuana concentrates, and edible marijuana-infused product. The producer or processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(a) Producers may sample two grams of marijuana flower per strain, per month for quality sampling.

(b) Processors may sample one unit per batch of a new marijuana-infused product meant to be ingested orally or otherwise taken into the body to be offered for sale on the market.

(c) Processors may sample up to one unit per batch of a new marijuana-infused extract for inhalation to be offered for sale on the market. No single sample may exceed 0.5 g.

(d) Processors may sample one unit per batch of a new marijuana mix packaged to be offered for sale on the market. No single sample may exceed 1 g.

(e) Processors may sample one unit per batch of a new infused marijuana mix to be offered for sale on the market. No sample may exceed 0.5 g.

(f) Processors may sample one unit per batch of a new marijuana-infused product for topical application to be offered for sale on the market. No sample may exceed sixteen ounces.

(5) **Retailers may not provide free samples to customers.**

(6) **Sample jars:**

(a) A processor may provide a retailer free samples of useable marijuana packaged in a sample jar protected by a plastic or metal mesh screen to allow customers to smell the product before purchase. The sample jar may not contain more than three and one-half grams of useable marijuana. The plastic or metal mesh screen must be sealed onto the container, and must be free of rips, tears, or holes greater than 2 mm in diameter. The sample jar and the useable marijuana within may not be sold to a customer and must be returned to the licensed processor who provided the useable marijuana and sample jar.

(b) **Sample jar labeling:** All sample jars must be labeled with the following:

- (i) The unique identifier number generated by the traceability system;
- (ii) Information identifying whether it is a vendor sample or sample jar;
- (iii) The UBI number of the licensed entity providing the sample; and
- (iv) Weight of the product in ounces and grams or volume as applicable.

(c) A marijuana processor must make quality assurance test results available to any retailer receiving sample jars. The processor must also provide a statement that discloses all pesticides applied to the marijuana plants and growing medium during production.

(d) If a marijuana extract was added to the product, the processor must disclose to the retailer the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract.

(7) **Transportation.** Outgoing and return vendor samples and sample jars must adhere to the transportation requirements in WAC **314-55-085**.

[Statutory Authority: RCW **69.50.325**, **69.50.342**, **69.50.345**, and **69.50.369**. WSR 18-22-055, § 314-55-096, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW **69.50.342** and **69.50.345**. WSR 16-11-110, § 314-55-096, filed 5/18/16, effective 6/18/16.]