



Washington State Liquor and Cannabis Board

Topic: Petition for Adoption, Amendment, or Repeal of a State Administrative Rule – Customer Consent for Electronic Storage of Personal Information

Date: November 9, 2022

Presented by: Jeff Kildahl, Policy and Rules Coordinator

Background

On September 29, 2022, John Kingsbury submitted a petition for adoption, amendment, or repeal of a state administrative rule. The petition requests that the agency create a new administrative rule to require I-502 licensed cannabis retail stores to secure prior, affirmative consent from customers before electronically storing their personal information in a point of sale data scanning and storage system.

In the rule petition, John Kingsbury stated:

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

The subject (or purpose) of this rule is:

- To require that 502 stores secure prior, affirmative consent from customers before electronically storing their personal information for any reasons not strictly related to verification of age. (Retaining information with the promise to then delete shall not be acceptable).
- To require signage at the point of entry, and at any location within the store where ID's may be scanned, that informs the customer that the store has a practice of scanning IDs and retaining electronically information on IDs for marketing purposes, and that consent to retain personal information is not required and depends upon prior customer consent.
- A document that explains the store's privacy practices, and the privacy practices of the vendor of the scanning and storage system, must be made available near the scanning area.
- Patient DOH registry identification cards should never, ever, ever, ever be used to retain personal information for marketing purposes, or for any reasons other than to verify a patient's status, and for purposes dictated by DOH and DOR.

The rule is needed because:

- Currently, it is common practice that stores are scanning customer IDs upon entry in order to verify identification and age, but then also retaining that personal information for marketing purposes without informing customers that is what they are doing, and without receiving customer consent.
- Ask an employee working the door what the privacy policy is concerning the retention of customer information, and they never know.

- Several federal courts have been clear and consistent that use of cannabis affects an individual’s rights to own and carry firearms. Identifying an individual as a consumer of cannabis, especially if that information remains unprotected, or is transferred to data brokers, could threaten his or her gun rights.
- **Medical status.** A qualified patient’s buying habits in a cannabis store could identify their medical status as a cannabis patient. A patient should never unknowingly give their medical information to some dude scanning IDs in a weed store without their prior, affirmative consent, and without access to some information about the privacy practices of the store and the vendor of the scanning equipment. Protection of medical information is a pretty fundamental concern.

The new rule would affect the following people or groups:

- Medical cannabis patients
- Any other customers of 502 stores
- Store managers or owners who think it is ethical and appropriate to scan IDs and retain that information for whatever purpose they decide.

Issue

Whether the Board should initiate the rulemaking process to consider creating a new WAC section or rule amendment that would require cannabis retail licensees to obtain customer consent before storing the customer’s personal information electronically in a point of sale data scanning and storage system.

Authority

Laws

RCW 19.255.010 explains the notification requirements following security breaches of personal information by businesses.

RCW 69.50.342(1)(a) authorizes the Board to adopt rules regarding “[t]he 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”.

RCW 69.50.342(1)(b) authorizes the Board to adopt rules regarding “[t]he 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”.

RCW 69.50.357(3)(a) requires that “[l]icensed cannabis retailers must ensure that all employees are trained on the rules adopted to implement this chapter, identification of persons under the age of twenty-one, and other requirements adopted by the board to

ensure that persons under the age of twenty-one are not permitted to enter or remain on the premises of a retail outlet.”

RCW 69.50.475 identifies penalties for the sale of cannabis products to persons under the age of twenty-one.

Rules

WAC 314-55-150 contains regulations explaining what forms of identification are acceptable to verify a person’s age for the purpose of purchasing cannabis. Subsections (1)(a) through (1)(e) designate the following forms of acceptable identification:

- (a) Driver's license, instruction permit, or identification card of any state, or province of Canada, from a U.S. territory or the District of Columbia, or "identocard" issued by the Washington state department of licensing per RCW 46.20.117;
- (b) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an embedded, digital signature in lieu of a visible signature;
- (c) Passport;
- (d) Merchant Marine identification card issued by the United States Coast Guard; and
- (e) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington driver's licenses.

WAC 314-55-080(3)(a) requires a retail cannabis licensee holding a medical cannabis endorsement to “[f]ollow all rules adopted by the department of health regarding retail sale of medical cannabis”.

DOH WAC 246-71-100(3) provides that information from medical authorization forms “cannot be retained by the endorsed outlet or entered into other manual or electronic data collection or point of sale systems unless required by law or expressly authorized in writing by the patient or designated provider”.

DOH WAC 246-71-100(4) provides that “[r]ecognition cards cannot be retained by an endorsed outlet, and may only be copied by the endorsed outlet when required by law”.

Analysis

In Washington, adult use cannabis products may only be sold to retail customers who are at least twenty-one years of age. In order to observe this age restriction and prevent sales to those not of legal age, cannabis retail licensees must verify that customers who enter retail cannabis premises are at least twenty-one years of age. Retail licensees must, under RCW 69.50.357(3)(a), “ensure that persons under the age of twenty-one are not permitted to enter or remain on the premises of a retail outlet”. Retail cannabis licensees

are subject to the penalties in RCW 69.50.475 if they have sold cannabis products to persons under the age of twenty-one.

Verifying that a customer is of legal age is the only customer identification requirement that retail cannabis stores must follow. All retail licensees are required under RCW 69.50.357(3)(a) to train employees to recognize people who are under the age of twenty-one. When a customer's age is in question, retail licensees may accept a number of government-issued identification cards for age verification. The acceptable forms of identification for purchasing cannabis are listed in WAC 314-55-150, including driver's licenses and state-issued identification cards, military identification, passports, Merchant Marine identification cards, and enrollment cards issued by the governing authority of federally recognized Indian tribes located in Washington. Some of these types of identification cards feature embossed barcodes that can be scanned at the merchant's point of sale data system to confirm that the customer's age was checked during sales of age-restricted items such as liquor, tobacco, vaping products, cannabis, and firearms.

In his petition, Mr. Kingsbury requests the creation of a new administrative rule that would require cannabis retailers to display privacy policy signage and privacy policy information clearly in the premises, and would restrict retailers or their vendors from storing a customer's information without prior consent. Mr. Kingsbury asserts that "stores are scanning customer IDs upon entry in order to verify identification and age, but then also retaining that personal information for marketing purposes without informing customers that is what they are doing, and without receiving customer consent". Mr. Kingsbury does not provide supporting documentation that personal information is retained for marketing purposes.

Mr. Kingsbury states that private information related to cannabis purchases could restrict an individual's privileges related to firearm ownership. He also states that rules are needed because door monitors who check the identification of customers at cannabis retail stores "never know" what the retailers' privacy policies are concerning the retention of customer information.

In a follow up email received by LCB on October 13, 2022, Mr. Kingsbury clarified his petition request with the following: "My intent was not to require prior, affirmative consent for scanning IDs for the purpose of verification of age, or for purposes related to DOR or DOH requirements, but rather to require prior, affirmative consent for storage of that information for marketing purposes."

Point of sale data systems that scan a customer's identification are used widely and legally in retail stores to establish the age of customers for age-restricted products. Government issued identification cards are used widely and legally in retail stores to establish a customer's identity in situations such as when customers apply for credit, write a check, or use credit cards. In the event of a data breach involving personal information, RCW 19.255.010 explains what businesses must do to notify the customer when security breaches occur.

In practical terms, the requested rule would prevent licensed cannabis retail stores from retaining customer information without the agreement of the customer. If a customer objected to the privacy policy, the customer's information could not be retained. In order to monitor compliance with the requested rule, Enforcement and Education officers would have the investigative challenge of confirming that any customer whose information is included in a retail licensee's electronic records had consented to the privacy policy of the retailer. This type of enforcement activity is outside of the LCB's scope and expertise, and would require additional resources if undertaken.

It should be noted that in addition to concerns surrounding storage of customer information, Mr. Kingsbury also asks for confidentiality of medical recognition card information. The petition states that "[p]atient DOH registry identification cards should never, ever, ever, ever be used to retain personal information for marketing purposes, or for any reasons other than to verify a patient's status, and for purposes dictated by DOH and DOR".

The storage and use of medical recognition card information is currently regulated by the Washington State Department of Health and is restricted under RCW 69.51A.230 and the Department of Health's WAC 246-71-100(3) and (4). Any of the retail cannabis licensees holding a medical cannabis endorsement must, under LCB rules in WAC 314-55-080(3)(a), "[f]ollow all rules adopted by the department of health regarding retail sale of medical cannabis".

Divisional, Interagency, Intergovernmental, DEIB, Social Equity and Other Impacts

Divisional

Licensing

The requested rule would include requirements that are outside the agency's scope and expertise.

Enforcement & Education

In order to investigate compliance with the requested rule, Enforcement and Education officers would have to establish conclusively that any customers appearing in a retail licensee's electronic records had consented to the privacy policy of the retailer. Examining customer information in a store's records for proof of customer consent is outside of the LCB's scope and expertise, and would require additional resources.

Finance

The requested rule could have a fiscal impact for enforcement resources, additional training, and officers.

Information Technology/Infrastructure

The requested rule could have a potential internal information technology or infrastructure impact related to compliance or enforcement resources, and could have licensee information technology or infrastructure impact as well.

Public Health/Prevention

The requested rule would not have clear impact on Public health and Prevention. Cannabis stores must always check identification when a customer's age is in question. Like other retail businesses that must do so, it doesn't matter whether the identification is scanned electronically or checked manually by store employees. If a customer does not want their identification scanned, then the person at the door or cashier would have to be prepared to check the identification manually.

Interagency

Department of Health (DOH)

Although DOH rules are in place to ensure the confidentiality of personal information related to medical recognition cards, the requested rule would only affect storage of information gathered from other acceptable forms of customer identification.

Labor & Industries

The requested rule does not appear to have any impact on Labor & Industries because it does not pertain to worker safety, medical care or financial health for injured workers, protecting workers age, hours, or breaks, or protecting the public from unsafe work or economic hardship.

Intergovernmental

Tribes

The requested rule does not appear to have any impact to tribes.

DEIB, Social Equity

The requested rule could have the effect of narrowing access to cannabis retail stores for persons who may have barriers to providing informed consent to a privacy policy, reduced access to government issued identification, or who might otherwise feel deterred from the premises.

Conclusion

While it is important to protect the personal information of customers, many types of businesses, including cannabis stores, must be able to confirm the age of customers by

From: [John Kingsbury](#)
To: [LCB DL Rules](#)
Subject: petition for rulemaking: customer information and privacy
Date: Thursday, September 29, 2022 9:27:10 AM
Attachments: [retention of customer information rulemaking petition.pdf](#)

External Email

Please see attached petition for rulemaking.

Thank you.

John Kingsbury



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 John Kingsbury

Name of Organization _____

Mailing Address 120 State Ave NE, #307

City Olympia State WA Zip Code 98501

Telephone _____ Email ajkingsbury@hotmail.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: WSLCB

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

See attached sheet.

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

See attached sheet.

The rule is needed because: _____

Customers and customer-patients of 502 stores.

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: _____

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): _____

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From: [Hoffman, Katherine \(LCB\)](#)
To: [John Kingsbury](#); [LCB DL Rules](#)
Subject: RE: petition for rulemaking: customer information and privacy
Date: Thursday, September 29, 2022 4:34:00 PM

Mr. Kingsbury,

I write on behalf of Jeff Kildahl, LCB's Policy & Rules Coordinator for cannabis who is temporarily away from the office today.

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

Your petition was received today, Thursday, September 29, 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 **Tuesday, November 29, 2022**, to take action as detailed above.

Please reach out to Jeff at jeff.kildahl@lcb.wa.gov if you have any questions or concerns.

Sincerely,

Kathy Hoffman, PhD, MPA

Policy and Rules Manager

Director's Office

Washington State Liquor & Cannabis Board

katherine.hoffman@lcb.wa.gov

PO Box 43100 Olympia WA 98504-3076

(360) 664-1622 Desk | (360) 764-0608 Mobile

From: John Kingsbury <ajkingsbury@hotmail.com>
Sent: Thursday, September 29, 2022 9:26 AM
To: LCB DL Rules <rules@lcb.wa.gov>
Subject: petition for rulemaking: customer information and privacy

External Email

Please see attached petition for rulemaking.

Thank you.

John Kingsbury

From: [John Kingsbury](#)
To: [Kildahl, Jeff \(LCB\)](#)
Subject: Re: FW: Microsoft 365 security: You have messages in quarantine
Date: Thursday, October 13, 2022 10:20:23 AM

External Email

Mr Kildahl,

Thank you for reaching out to me here, and at my "ajkingsbury@hotmail" address. I sometimes use this address for my activism work. In the future, you can write to me at either address, although the ajkingsbury address is more likely to catch my attention more quickly.

The text is below. I heard Ms. Hoffman's characterization of my petition, and I felt I should clarify it.

Thanks for catching that.

'Hi,

Just to clarify. I noticed [Kathy's mention of my petition for rulemaking](#) regarding the scanning of IDs and storing of marketing information without prior consumer consent.

Kathy represented that the petition ask for prior consent for the scanning of IDs from consumers. That is not quite right. My intent was not to require prior, affirmative consent for scanning IDs for the purpose of verification of age, or for purposes related to DOR or DOH requirements, but rather to require prior, affirmative consent for storage of that information for marketing purposes.

Just to be clear...

John Kingsbury'

On Thu, Oct 13, 2022 at 9:11 AM Kildahl, Jeff (LCB) <jeff.kildahl@lcb.wa.gov> wrote:

Good Morning Mr. Kingsbury,

Did you try to send a message to me? If so, could you try resending it to me?

A message that may be from you was caught in the spam filtering software.

Thanks,

Jeff

Jeff Kildahl

Policy and Rules Coordinator

Washington State Liquor and Cannabis Board

360-480-7960

jeff.kildahl@lcb.wa.gov

From: quarantine@messaging.microsoft.com <quarantine@messaging.microsoft.com>

Sent: Wednesday, October 12, 2022 6:22 PM

To: Kildahl, Jeff (LCB) <jeff.kildahl@lcb.wa.gov>

Subject: Microsoft 365 security: You have messages in quarantine

Review These Messages

1 messages are being held for you to review as of **10/13/2022 12:00:00 AM (UTC)**.

Review them within **30 days of the received date** by going to the [Quarantine page](#) in the Security Center.

Prevented phish messages

Sender: homegrow2018@gmail.com

Subject: clarification of petition

Date: 10/12/2022 12:18:30 AM

[Review Message](#)

[Release](#)

[Block Sender](#)

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[Privacy Statement](#)

[Acceptable Use Policy](#)

PDF RCW 19.255.010**Personal information—Notice of security breaches.**

(1) Any person or business that conducts business in this state and that owns or licenses data that includes personal information shall disclose any breach of the security of the system to any resident of this state whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the personal information was not secured. Notice is not required if the breach of the security of the system is not reasonably likely to subject consumers to a risk of harm. The breach of secured personal information must be disclosed if the information acquired and accessed is not secured during a security breach or if the confidential process, encryption key, or other means to decipher the secured information was acquired by an unauthorized person.

(2) Any person or business that maintains or possesses data that may include personal information that the person or business does not own or license shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(3) The notification required by this section may be delayed if the data owner or licensee contacts a law enforcement agency after discovery of a breach of the security of the system and a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(4) For purposes of this section and except under subsection (5) of this section and RCW **19.255.030**, notice may be provided by one of the following methods:

(a) Written notice;

(b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. Sec. 7001;

(c) Substitute notice, if the person or business demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or the person or business does not have sufficient contact information. Substitute notice shall consist of all of the following:

(i) Email notice when the person or business has an email address for the subject persons;

(ii) Conspicuous posting of the notice on the website page of the person or business, if the person or business maintains one; and

(iii) Notification to major statewide media; or

(d)(i) If the breach of the security of the system involves personal information including a user name or password, notice may be provided electronically or by email. The notice must comply with subsections (6), (7), and (8) of this section and must inform the person whose personal information has been breached to promptly change his or her password and security question or answer, as applicable, or to take other appropriate steps to protect the online account with the person or business and all other online accounts for which the person whose personal information has been breached uses the same user name or email address and password or security question or answer;

(ii) However, when the breach of the security of the system involves login credentials of an email account furnished by the person or business, the person or business may not provide the notification to that email address, but must provide notice using another method described in this subsection (4). The notice must comply with subsections (6), (7), and (8) of this section and must inform the person whose personal information has been breached to promptly change his or her password and security question or answer, as applicable, or to take other appropriate steps to protect the online account with the person or business and all other online accounts for which the person whose personal information has been breached uses the same user name or email address and password or security question or answer.

(5) A person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this section is in compliance with the notification requirements of this section if the person or business notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(6) Any person or business that is required to issue notification pursuant to this section shall meet all of the following requirements:

(a) The notification must be written in plain language; and

(b) The notification must include, at a minimum, the following information:

(i) The name and contact information of the reporting person or business subject to this section;

(ii) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach;

(iii) A time frame of exposure, if known, including the date of the breach and the date of the discovery of the breach; and

(iv) The toll-free telephone numbers and addresses of the major credit reporting agencies if the breach exposed personal information.

(7) Any person or business that is required to issue a notification pursuant to this section to more than five hundred Washington residents as a result of a single breach shall notify the attorney general of the breach no more than thirty days after the breach was discovered.

(a) The notice to the attorney general shall include the following information:

(i) The number of Washington consumers affected by the breach, or an estimate if the exact number is not known;

(ii) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach;

(iii) A time frame of exposure, if known, including the date of the breach and the date of the discovery of the breach;

(iv) A summary of steps taken to contain the breach; and

(v) A single sample copy of the security breach notification, excluding any personally identifiable information.

(b) The notice to the attorney general must be updated if any of the information identified in (a) of this subsection is unknown at the time notice is due.

(8) Notification to affected consumers under this section must be made in the most expedient time possible, without unreasonable delay, and no more than thirty calendar days after the breach was discovered, unless the delay is at the request of law enforcement as provided in subsection (3) of this section, or the delay is due to any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

[2019 c 241 § 2; 2015 c 64 § 2; 2005 c 368 § 2.]

NOTES:

Effective date—2019 c 241: "This act takes effect March 1, 2020." [2019 c 241 § 8.]

Intent—2015 c 64: "The legislature recognizes that data breaches of personal information can compromise financial security and be costly to consumers. The legislature intends to strengthen the data breach notification requirements to better safeguard personal information, prevent identity theft, and ensure that the attorney general receives notification when breaches occur so that appropriate action may be taken to protect consumers. The legislature also intends to provide consumers whose personal information has been jeopardized due to a data breach with the information needed to secure financial

accounts and make the necessary reports in a timely manner to minimize harm from identity theft." [**2015 c 64 § 1.**]

*Similar provision: RCW **42.56.590.***

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](#).

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RCW 69.50.357**Retail outlets—Rules.**

(1)(a) Retail outlets may not sell products or services other than cannabis concentrates, useable cannabis, cannabis-infused products, or paraphernalia intended for the storage or use of cannabis concentrates, useable cannabis, or cannabis-infused products.

(b)(i) Retail outlets may receive lockable boxes, intended for the secure storage of cannabis products and paraphernalia, and related literature as a donation from another person or entity, that is not a cannabis producer, processor, or retailer, for donation to their customers.

(ii) Retail outlets may donate the lockable boxes and provide the related literature to any person eligible to purchase cannabis products under subsection (2) of this section. Retail outlets may not use the donation of lockable boxes or literature as an incentive or as a condition of a recipient's purchase of a cannabis product or paraphernalia.

(iii) Retail outlets may also purchase and sell lockable boxes, provided that the sales price is not less than the cost of acquisition.

(2) Licensed cannabis retailers may not employ persons under twenty-one years of age or allow persons under twenty-one years of age to enter or remain on the premises of a retail outlet. However, qualifying patients between eighteen and twenty-one years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical cannabis endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of eighteen with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical cannabis endorsement, but may not purchase products for their personal medical use.

(3)(a) Licensed cannabis retailers must ensure that all employees are trained on the rules adopted to implement this chapter, identification of persons under the age of twenty-one, and other requirements adopted by the board to ensure that persons under the age of twenty-one are not permitted to enter or remain on the premises of a retail outlet.

(b) Licensed cannabis retailers with a medical cannabis endorsement must ensure that all employees are trained on the subjects required by (a) of this subsection as well as identification of authorizations and recognition cards. Employees must also be trained to permit qualifying patients who hold recognition cards and are between the ages of eighteen and twenty-one to enter the premises and purchase cannabis for their personal medical use and to permit qualifying patients who are under the age of eighteen with a recognition card to enter the premises if accompanied by their designated providers.

(4) Except for the purposes of disposal as authorized by the board, no licensed cannabis retailer or employee of a retail outlet may open or consume, or allow to be opened or consumed, any cannabis concentrates, useable cannabis, or cannabis-infused product on the outlet premises.

(5) The board must fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated cannabis account created under RCW **69.50.530**.

[**2022 c 16 § 71**. Prior: **2017 c 317 § 13**; **2017 c 131 § 1**; **2016 c 171 § 1**; **2015 2nd sp.s. c 4 § 203**; **2015 c 70 § 12**; **2014 c 192 § 4**; **2013 c 3 § 14** (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

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

Findings—Application—2017 c 317: See notes following RCW **69.50.325**.

Effective date—2016 c 171: "This act takes effect July 1, 2016." [**2016 c 171 § 2.**]

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

Effective date—2015 c 70 §§ 12, 19, 20, 23-26, 31, 35, 40, and 49: "Sections 12, 19, 20, 23 through 26, 31, 35, 40, and 49 of this act take effect July 1, 2016." [**2015 c 70 § 50.**]

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 314-55-150**What are the forms of acceptable identification?**

(1) Following are the forms of identification that are acceptable to verify a person's age for the purpose of purchasing cannabis:

(a) Driver's license, instruction permit, or identification card of any state, or province of Canada, from a U.S. territory or the District of Columbia, or "identocard" issued by the Washington state department of licensing per RCW **46.20.117**;

(b) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an embedded, digital signature in lieu of a visible signature;

(c) Passport;

(d) Merchant Marine identification card issued by the United States Coast Guard; and

(e) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington driver's licenses.

(2) The identification document is not acceptable to verify age if expired.

[Statutory Authority: RCW **69.50.342** and 2022 c 16 § 168. WSR 22-14-111, § 314-55-150, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW **69.50.325**, **69.50.331**, **69.50.342**, **69.50.345**. WSR 13-21-104, § 314-55-150, filed 10/21/13, effective 11/21/13.]

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RCW 69.50.475**Cannabis retail outlets—Sale to persons under the age of twenty-one—Penalty.**

(1) Except as otherwise authorized in this chapter and as provided in subsection (2) of this section, an employee of a retail outlet who sells cannabis products to a person under the age of twenty-one years in the course of his or her employment is guilty of a gross misdemeanor.

(2) An employee of a retail outlet may be prosecuted under RCW **69.50.401** or **69.50.406** or any other applicable provision, if the employee sells cannabis products to a person the employee knows is under the age of twenty-one and not otherwise authorized to purchase cannabis products under this chapter, or if the employee sells or otherwise provides cannabis products to a person under the age of twenty-one outside of the course of his or her employment.

[**2022 c 16 § 97**; **2019 c 379 § 1**.]

NOTES:

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

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WAC 314-55-080**Medical cannabis endorsement.**

(1) A medical cannabis endorsement added to a cannabis retail license allows the cannabis retail licensee to:

- (a) Sell cannabis for medical use to qualifying patients and designated providers; and
- (b) Provide cannabis at no charge, at their discretion, to qualifying patients and designated providers.

(2) Qualifying patients between 18 and 21 years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical cannabis endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of 18 with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical cannabis endorsement, but may not purchase products for their personal medical use. Only a designated provider may purchase products for a qualifying patient under the age of 18 who holds a valid recognition card.

(3) To maintain a medical cannabis endorsement in good standing, a cannabis retailer must:

- (a) Follow all rules adopted by the department of health regarding retail sales of medical cannabis;
- (b) Have a consultant on staff in accordance with department of health rules;
- (c) Prohibit the medical use of cannabis by anyone at the retail outlet at all times, including medical use by qualifying patients;
- (d) Maintain at all times, a representative assortment of cannabis products necessary to meet the needs of qualified patients and designated providers;
- (e) Not market cannabis concentrates, useable cannabis, or cannabis-infused products in a way that make them especially attractive to minors;
- (f) Demonstrate the ability to enter qualifying patients and designated providers in the medical cannabis authorization database established by the department of health;
- (g) Issue recognition cards and agree to enter qualifying patients and designated providers into the database in compliance with the department of health standards;
- (h) Keep records to document the validity of tax exempt sales as prescribed by the department of revenue for a minimum of five years. For the documentation requirements in RCW **69.50.375** (3)(e), licensees are not required to separately keep copies of the qualifying patient's or designated provider's recognition card because this information is stored in the medical cannabis authorization database;
- (i) Train employees on the following:
 - (i) Procedures regarding the recognition of valid authorizations and the use of equipment to enter qualifying patients and designated providers into the medical cannabis authorization database;
 - (ii) Recognition of valid recognition cards; and
 - (iii) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of cannabis concentrates, useable cannabis, and cannabis-infused products available for sale when assisting qualifying patients and designated providers at the retail outlet.

(4) A cannabis retailer holding a medical cannabis endorsement may sell products with a THC concentration of 0.3 percent or less. The licensee may also provide these products at no charge to qualifying patients or designated providers.

(5) Unlicensed practice of medicine. No owner, employee, or volunteer of a retail outlet and holding a medical cannabis endorsement may:

- (a) Offer or undertake to diagnose or cure any human or animal disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, by use of cannabis products or

any other means or instrumentality; or

(b) Recommend or suggest modification or elimination of any course of treatment that does not involve the medical use of cannabis products.

(6) Failure to comply with subsections (3) and (5) of this section may result in suspension or revocation of the medical cannabis endorsement.

[Statutory Authority: RCW **69.50.342** and 2022 c 16 § 168. WSR 22-14-111, § 314-55-080, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW **69.50.325**, **69.50.342**, **69.50.345**, and **69.50.369**. WSR 18-22-055, § 314-55-080, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW **69.50.342** and **69.50.345**. WSR 16-11-110, § 314-55-080, filed 5/18/16, effective 6/18/16.]

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WAC 246-71-100**Confidentiality.**

(1) Under RCW **42.56.625**, records in the database containing names and other personally identifiable information of qualifying patients and designated providers are exempt from public disclosure, inspection, or copying.

(2) The vendor must retain database records for at least five calendar years to permit the WSLCB and Washington department of revenue to verify eligibility for tax exemptions.

(3) Authorization forms cannot be retained or copied by an endorsed outlet, and information from the form cannot be retained by the endorsed outlet or entered into other manual or electronic data collection or point of sale systems unless required by law or expressly authorized in writing by the patient or designated provider.

(4) Recognition cards cannot be retained by an endorsed outlet, and may only be copied by the endorsed outlet when required by law.

[Statutory Authority: RCW **69.51A.230**. WSR 18-07-030, § 246-71-100, filed 3/12/18, effective 4/12/18; WSR 16-11-086, § 246-71-100, filed 5/17/16, effective 6/17/16.]