



Washington State  
**Liquor and Cannabis Board**

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**Date:** June 21, 2023

**To:** David Postman, Board Chair  
 Ollie Garrett, Board Member  
 Jim Vollendroff, Board Member

**From:** Cassidy West, Policy and Rules Coordinator

**Copy:** Rick Garza, Agency Director  
 Toni Hood, Agency Deputy Director  
 Chandra Brady, Director of Enforcement and Education  
 Becky Smith, Licensing Director  
 Justin Nordhorn, Policy and External Affairs Director  
 Kathy Hoffman, Acting Policy & Rules Manager/Research Manager

**Subject: Approval to file a preproposal statement of inquiry (CR 101) concerning products containing tetrahydrocannabinol (THC).**

The Washington State Liquor and Cannabis Board (Board) is considering amending, adding new sections, or repealing existing rule related to regulating products containing THC.

**Process**

The Policy and Rules Coordinator requests approval to file the preproposal statement of inquiry (CR 101) for the rule making described in the CR 101 Memorandum attached to this order and presented at the Board meeting on June 21, 2023.

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

June 21, 2023	Board is asked to approve filing preproposal statement of inquiry (CR 101). CR 101 is filed with the Office of the Code Reviser. Webpage is updated and notice circulated by GovDelivery distribution list. Informal comment period begins.
July 5, 2023	Notice is published in the Washington State Register under WSR 23-13.
August 7, 2023	Informal comment period ends
October 25, 2023	Board is asked to approve filing proposed rules (CR 102). CR 102 is filed with the Office of the Code Reviser.

	Webpage is updated and notice circulated by the rules distribution list. Formal comment period begins.
November 15, 2023	Notice is published in the Washington State Register under WSR 23-22
December 6, 2023	Public hearing is held and formal comment period ends.
January 3, 2024	Board is asked to adopt rules if no substantive changes are made (CR 103). Concise Explanatory Statement is provided to individuals offering written or oral comment at the public hearing or during the formal comment period, consistent with RCW 34.05.325. CR 103 and adopted rules are filed with the Office of the Code Reviser. Webpage is updated and notice circulated by GovDelivery distribution list.
February 3, 2024	Rules are effective 31 days after filing unless otherwise specified. See RCW 34.05.380(2).

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
David Postman, Chair      Date

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Ollie Garrett, Board Member      Date

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Jim Vollendroff, Board Member      Date

Attachment: CR 101 Memorandum.



## CR 101 Memorandum

### Regarding Implementation of Engrossed Second Substitute Senate Bill (E2SSB 5367) (chapter 365, Laws of 2023) concerning the regulation of products containing tetrahydrocannabinol (THC)

Date: June 21, 2023  
Presented by: Cassidy West, Policy and Rules Coordinator

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#### Background

The federal [Agriculture Improvement Act of 2018 \("2018 Farm Bill"\)](#) authorized the production of hemp and removed hemp and hemp seeds from the Drug Enforcement Administration's (DEA) schedule of Controlled Substances. In 2019, the state legislature enacted equivalent legislation, Engrossed Second Substitute Senate Bill ([E2SSB 5276](#)), to align Washington's regulatory framework for hemp production with the 2018 Farm Bill. Consequently, legislation related to hemp production led to uncertainty regarding the legal status of tetrahydrocannabinol (THC).

In 2021, the Washington State Liquor and Cannabis Board (LCB) initiated [House Bill \(HB\) 1668](#) and its companion, [Senate Bill \(SB\) 5547](#), which aimed to expand regulatory authority over "impairing" cannabinoids and enhance product safety and consumer information. Although, the legislation was unsuccessful, in 2023 the agency introduced [HB 1612](#) and its companion, [SB 5367](#) to once again address the legal status of THC. Subsequently, the legislation was enacted during the 2023 legislative session as [Engrossed Second Substitute Senate Bill \(E2SSB\) 5367 \(chapter 365, Laws of 2023\)](#), relating to the regulation of products containing THC. The law will become effective on July 23, 2023.

#### Reasons Why Rulemaking Is Needed

Rules may be needed to implement the following provisions of E2SSB 5367:

- Amending the definition of "cannabis", "cannabis products", and "THC concentration" in the Uniform Controlled Substances Act (UCSA);
- Adding new definitions of "package" and "unit" to the UCSA and amending other definitions;

- Modifying the permitted activities regarding the enhancement of cannabidiol (CBD) concentration in certain cannabis products;
- Amending the product labeling requirements to reference cannabis product “package” instead of container;
- Prohibiting any person from manufacturing, selling, or distributing cannabis products without a valid state-issued license;
- Prohibiting the production, processing, manufacturing, or sale of any synthetically derived, or completely synthetic cannabinoid, with limited exceptions; and
- Other relevant provisions as necessary to align the current rules within the scope of E2SSB 5367.

## **Process**

The rulemaking process begins by announcing the Board’s intent to consider changes to existing rules, add new rule sections, or both by filing a pre-proposal statement of inquiry (CR 101) form with the Office of the Code Reviser. This allows staff, stakeholders, industry partners, and all members of the authorizing environment to begin discussing possible rule changes.

At the CR 101 stage of the rulemaking process, no proposed language is offered. Any interested person may comment on this possible rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule activity related to this pre-proposal statement of inquiry. The notice will identify the public comment period and where comments can be sent.



# PREPROPOSAL STATEMENT OF INQUIRY

## CR-101 (October 2017) (Implements RCW 34.05.310)

Do **NOT** use for expedited rule making

**Agency:** Washington State Liquor and Cannabis Board

**Subject of possible rule making:** Chapter 314-55 WAC. The Washington State Liquor and Cannabis Board (Board) is considering rulemaking to implement Engrossed Second Substitute Senate Bill (E2SSB) 5367 (chapter 365, Laws of 2023) enacted during the 2023 legislative session concerning the regulation of products containing tetrahydrocannabinol (THC). As part of this rulemaking, the Board is considering creating new, and amending or repealing existing rule throughout chapter 314-55 WAC as necessary to implement E2SSB 5367.

**Statutes authorizing the agency to adopt rules on this subject:** E2SSB 5367 (chapter 365, Laws of 2023); RCW 69.50.342; and RCW 69.50.345

**Reasons why rules on this subject may be needed and what they might accomplish:** Rules may be needed to implement the following provisions of E2SSB 5367:

- Amending the definition of “cannabis”, “cannabis products”, and “THC concentration” in the Uniform Controlled Substances Act (UCSA);
- Adding new definitions of “package” and “unit” to the UCSA and amending other definitions;
- Modifying the permitted activities regarding the enhancement of cannabidiol (CBD) concentration in certain cannabis products;
- Amending the product labeling requirements to reference cannabis product “package” instead of container;
- Prohibiting any person from manufacturing, selling, or distributing cannabis products without a valid state-issued license;
- Prohibiting the production, processing, manufacturing, or sale of any synthetically derived, or completely synthetic cannabinoid, with limited exceptions; and
- Other relevant provisions as necessary to align the current rules within the scope of E2SSB 5367.

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

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

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

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

Name: Cassidy West, Policy and Rules Coordinator  
Address: PO Box 43080, Olympia, WA 98504  
Phone: 360-878-4235  
Fax: 360-704-5027  
TTY:  
Email: [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov)  
Web site: [lcb.wa.gov](http://lcb.wa.gov)

(If necessary)

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

Other:

Other:

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

**Date:** June 21, 2023

**Signature:**

**Name:** David Postman

**Title:** Chair



## Notice of Preproposal Statement of Inquiry **WSR 23-22-XXX**

The Washington State Liquor and Cannabis Board (Board) is considering rulemaking to implement Engrossed Second Substitute Senate Bill (E2SSB) 5367 (chapter 365, Laws of 2023) concerning products containing tetrahydrocannabinol (THC). As part of this rulemaking, the Board is considering new, and amending or repealing existing rule throughout chapter 314-55 WAC as necessary to implement E2SSB 5367.

The WSLCB encourages your input on the subject of this rulemaking. Following the CR 101 comment period, the agency will distribute and publish a CR 102 with proposed rules, establish a formal comment period consistent with chapter 34.05 RCW on the proposed rules, and hold a public hearing before the final rules are adopted.

### Public Comment

Please send your comments on the CR 101 to the WSLCB through mail, e-mail, or fax by **August 7, 2023**. The CR 102 with proposed rules is anticipated to be filed on or after **October 25, 2023**, following collaborative rule development.

<b>By mail:</b>	Rules Coordinator	<b>By e-mail:</b>	<b>By fax:</b>
	Liquor and Cannabis Board	<a href="mailto:rules@lcb.wa.gov">rules@lcb.wa.gov</a>	360-704-5027
	P.O. Box 43080		
	Olympia, WA 98504-3080		

This notice can be found at <https://lcb.wa.gov/laws/current-rulemaking-activity>.