



Notice of Permanent Rules for Marijuana Excise Tax Electronic Payments Budget Proviso Implementation

This explanatory statement concerns the Washington State Liquor Control Board's adoption of rules for an electronic payment requirement for the marijuana excise tax.

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rulemaking.

The Liquor and Cannabis Board appreciates your involvement in this rule making process. If you have any questions, please contact Joanna Eide, Rules and Policy Coordinator, at (360) 664-1622 or e-mail at rules@lcb.wa.gov.

What are the agency's reasons for adopting this rule?

Rule changes are necessary to implement the budget proviso related electronic payment of the marijuana excise tax included by the Legislature in the 2016 Supplemental Budget. Rules are needed to provide parameters for the electronic payments and other allowable methods of payment and to provide a process for obtaining a waiver for electronic payments. The WSLCB also proposes amending rules to allow appeals of a waiver denial to proceed as brief adjudicative proceedings under the Administrative Procedures Act (Chapter 34.05 RCW).

The emergency rule and proposed permanent rules were developed based on similar requirements in the Washington State Dept. of Revenue's laws and rules.

Summary of public comments received on this rule proposal.

CR-101 – filed April 20, 2016, as WSR 16-09-120.

CR 102 – filed July 13, 2016, as WSR 16-15-036.

Public Hearing held August 24, 2016.



Written Comments Received:

- 1. Two (2) comments were received supporting the adoption of the proposed rules as filed in the CR-102.**

WSLCB response: Thank you for your comments.

Was the comment reflected in the final rule? Yes. The final rules were not changed from proposed rule to adopted rule.

- 2. Four (4) comments were received expressing concern about costs to the retailer to maintain a bank account with a financial institution and having to comply with additional requirements.**

WSLCB response: The WSLCB understands that the new requirements proposed in these rules will impose new costs to retailers who do not already engage in banking services with a financial institution. The Small Business Economic Impact Statement prepared for and filed with the CR-102 discusses these costs. However, there are alternatives to the electronic payment requirement included in the proposed rules and the possibility of a retailer to apply for and receive a waiver to continue paying the excise tax in cash for good cause shown, as defined in the rule language. Additionally, the costs associated with the new requirements are justifiable due to public safety concerns and to encourage licensees to move away from a cash-based business, which carries inherent public safety risks and concerns about accurate detailing of financial records by licensees.

Was this comment reflected in the final rule? No changes to the final rules were made a result of comments related to costs associated with maintaining an account with a financial institution.

- 3. One (1) comment was received as follows: I would like to suggest using security companies to make the payments in cash. Would this be an acceptable alternative to this rule?**

WSLCB response: Licensees may choose to engage in armored car or security companies to transport deposits to financial institutions or other payments.

Was this comment reflected in the final rule? No, no changes were made to the final rule related to this comment.

- 4. One (1) comment was received as follows: Hello LCB, US Bank will not let me have a business account, in fact they closed my personal account! I want the LCB to drop US Bank, and get a bank that is on our list of banks we can use for our business. It is a huge slap in the face that they will take [our] money if it is from the WSLCB. If they cannot take marijuana money, they need to be [consistent] about it, and drop your bank account, too. I would like this to show up as a public comment.**



WSLCB response: We are aware that US Bank has closed some accounts, and the WSLCB has had to find alternative banking services as well. However, there are other financial institutions that are available for licensees. At this time there are 3 banks and 3 credit unions offering services.

Was this comment reflected in the final rule? Not applicable.

- 5. One (1) comment was received offering services to assist in electronic payments.**

WSLCB response: Thank you for your interest. We hope that you will be able to offer services directly to licensees.

Was this comment reflected in the final rule? Not applicable.

Public Hearing Comments:

No public testimony was offered at the public hearing on August 24, 2016.

WAC Changes from Proposed Rules (CR-102) to the Rules as Adopted:

None. The rule was adopted without any changes to the proposed rules from the CR-102 filing.