



## Notice of Permanent Rules to implement 2017 cannabis legislation and technical and clarifying changes WSR # 18-22-055

**This explanatory statement concerns the Washington State Liquor and Cannabis Board's adoption of rules to implement 2018 cannabis legislation.**

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.

Once persons who gave comment during this rulemaking have had a chance to receive this document, the Liquor and Cannabis Board will file the amended rules with the Office of the Code Reviser. These rule changes will become effective 31 days after filing (approximately December 1, 2018).

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

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### What are the agency's reasons for adopting these rules?

New rules and revisions to current rules were needed to implement 2017 cannabis legislation and other technical and clarifying revisions to rules identified by staff and stakeholders.

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**CR 101 WSR 17-15-2017 filed July 19, 2017**

**CR 102 WSR 18-09-118 filed April 4, 2018**

**CR 102 Supplemental WSR 18-17-185 filed August 22, 2018**

### Summary of all public comments received on this rule proposal.

Six comments were received at the public hearing held October 3, 2018. Twelve written comments were received.

**WAC 314-55-010:** 2 comments were received. The definition of "lozenge" should include "capsule". "Lot" size should be increased.

**LCB response:** The definition of "lozenge" includes the language "similar type of edible product". The language covers a capsule. "Lot" size was not increased.



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1 comment: Allow qualifying patients to purchase seeds from a producer.

**LCB response:** RCW 69.51A.310 allows a qualifying patient registered in the medical marijuana database to purchase seeds and clones from a licensed marijuana producer. The law would need to be changed to allow patients not registered in the medical marijuana database to purchase seeds and clones from a licensed producer.

**WAC 314-55-018:** 3 comments were received. Oppose allowing volume discounts.

**LCB response:** Volume discounts were removed in the final rules adopted by the board.

**WAC 314-55-035:** 11 comments opposed and 1 comment supported changes to this rule.

**LCB response:** The changes to this rule were removed from the rulemaking. A new rulemaking will be started to address concerns of stakeholders and the board.

**WAC 314-55-075:** 2 comments. Oppose language that overall canopy cannot exceed the amount licensed by the board. It should be imposed at a later date.

**LCB response:** The language was not changed.

**WAC 314-55-077:** 2 comments. Support processing service agreements. Would like to see the same for producer service arrangements. 2 comments requesting 30 days for incorrect product to be returned instead of 8 days.

**LCB response:** Producer service agreements could be a change in a future rulemaking. The rule adopted requires incorrect product to be returned in 8 days.

**WAC 314-55-080:** 1 comment. Oppose documentation retention change from 3 years to 5 years.

**LCB response:** The change was made to be consistent with the Department of Revenue.

**WAC 314-55-083:** 4 comments. We would like to see new plant genetics being sourced from Oregon, California, or Canada.

1 comment. Language requiring plants to be tagged needs to be changed.

3 comments supporting and 1 comment opposing the removal of the 24 hour quarantine prior to transfers and the removal of the 72 hour notification and waiting period prior to destroying waste.

**LCB response:** Obtaining new plant genetics from outside the Washington licensed system would require a change in the law.

No changes were made to the requirement for plants to be tagged.

The removal of the 24 hour quarantine and 72 hour notification were made.



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**WAC 314-55-089:** 2 comments opposed language imposing marijuana excise taxes on marijuana retailers by redefining a taxable sale to include inventory shrinkage.

**LCB response:** The rule states “product inventory reductions that are not adequately documented will be deemed to be a sale and will be addressed the excise tax”. If the product is entered into the traceability system as shrinkage it will not be considered a sale.

**WAC 314-55-096:** 1 comment supporting the modifications related to vendor sampling. Would like to see further liberalization surrounding sampling.

1 comment opposed to limiting products “meant to be orally or otherwise taken into the body” to 10 mg of THC per single unit.

1 comment opposed to restrictions on who can sample products. The board should not be attempting to regulate how retailers rate and select products.

1 comment on (6) sample jars. The weight on sample jars should be reflected in grams only. (6)(d) “If marijuana extract was added to the product” should be removed.

**LCB response:** The rule was adopted as proposed.

(6) The language on sample jars was added for clarification.

(6)(d) The language is not new. It is existing language.

**WAC 314-55-104:** 2 comments received, Marijuana processor license extraction requirements state the state building code council approves extraction equipment. The approval for this equipment is by a code official.

**LCB response:** The language of the rule was changed to reflect the correct language.

**WAC 314-55-185:** 4 comments. Oppose the language “associated with a license” in reference to vehicles. Concerns this violates 4<sup>th</sup> amendment rights as any business owner’s personal residence and vehicle could be inspected.

**LCB response:** The language states “associated with a license to produce, process, sell, research, or transport marijuana”. A personal residence does not meet the qualifications for a location that could house a marijuana business.

**WAC 314-55-417:** 1 comment. Patients can only pick up clones from a licensed producer. Producers should be allowed to deliver to patients. Producers can only sell the maximum amount of clones to a patient or provider per month. There should be no limit on how many clones they can sell.

**LCB response:** A law change would be required to allow this.

**WAC 314-55-525:** 2 comments. Regulatory violations include “accepting returns”. Retailers are allowed to accept returns.

**LCB response:** Retailers are allowed to accept returns under certain conditions. The violation is for accepting unauthorized returns. If the conditions are met it is not an unauthorized return.

## WAC Changes

See attachment.