



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

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STATE OF WASHINGTON
FILED

DATE: February 07, 2018
TIME: 12:31 PM

WSR 18-05-001

Agency: Washington State Liquor and Cannabis Board

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The purpose of this rulemaking is amend rules due to changes in advertising requirements for licensed marijuana businesses by the Legislature during the 2017 legislative session (codified in RCW 69.50.369). The rule changes adjust rules relative to changes in the law, as well as additional clarifying changes needed to ensure advertising rules implement the changes to advertising restrictions as intended by the Legislature. Changes to rules provide additional guidance to licensed marijuana businesses for clarity on requirements and will promote clarity and consistency in enforcement

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: WAC 314-55-155
- Suspended:

Statutory authority for adoption: RCW 69.50.342, 69.50.345, and 69.50.369

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 17-24-119 on December 6, 2017 (date).

Describe any changes other than editing from proposed to adopted version: Technical and clarifying changes that are not substantially different from the proposed rules as filed in the CR-102 were made prior to the version as presented for adoption. These changes were made in direct response to comments received and seek to further clarify rule provisions. In subsection (2)(a)(i): All text on outdoor signs, including billboards, are is limited to text that identifies the retail outlet by the licensee's business or trade name, states the location of the business, and identifies the type or nature of the business. In subsection (2)(a)(ii): Addition of the language, "logos or artwork that do not contain depictions of marijuana plants or marijuana products as defined in this section are permissible." In subsection (2)(e): additional language added to clarify that similar informational signs not related to the products or services of the marijuana business are not considered advertising. In subsection (3): Clarification that only signs placed on windows facing outward must meet the advertising restrictions for outdoor advertising.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

| | | | | | | |
|----------------------------------|-----|-----|---------|----------|----------|-----|
| Federal statute: | New | ___ | Amended | ___ | Repealed | ___ |
| Federal rules or standards: | New | ___ | Amended | ___ | Repealed | ___ |
| Recently enacted state statutes: | New | ___ | Amended | <u>1</u> | Repealed | ___ |

The number of sections adopted at the request of a nongovernmental entity:

| | | | | | |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

The number of sections adopted on the agency's own initiative:

| | | | | | |
|-----|-----|---------|----------|----------|-----|
| New | ___ | Amended | <u>1</u> | Repealed | ___ |
|-----|-----|---------|----------|----------|-----|

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

| | | | | | |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

The number of sections adopted using:

| | | | | | | |
|--------------------------------|-----|-----|---------|-----|----------|-----|
| Negotiated rule making: | New | ___ | Amended | ___ | Repealed | ___ |
| Pilot rule making: | New | ___ | Amended | ___ | Repealed | ___ |
| Other alternative rule making: | New | ___ | Amended | ___ | Repealed | ___ |

Date Adopted: February 7, 2018

Name: Jane Rushford

Title: Chair

Signature:



WAC 314-55-155 Advertising. ~~((1) Advertising by retail licensees.~~ The WSLCB limits each retail licensed premises to a maximum of two separate signs identifying the retail outlet by the licensee's business name or trade name. Both signs must be affixed to the building or permanent structure and each sign is limited to sixteen hundred square inches.

~~(2) General.~~) The following provisions apply in addition to the requirements and restrictions in RCW 69.50.369.

(1) Advertising generally. The following requirements apply to all advertising by marijuana licensees in Washington state.

(a) All marijuana advertising and labels of usable marijuana, marijuana concentrates, and marijuana-infused products sold in the state of Washington must not contain any statement, or illustration that:

~~((a))~~ (i) Is false or misleading;

~~((b))~~ (ii) Promotes over consumption;

~~((c))~~ (iii) Represents the use of marijuana has curative or therapeutic effects;

~~((d))~~ (iv) Depicts a child or other person under legal age to consume marijuana, or includes:

~~((i))~~ (A) The use of objects, such as toys, inflatables, movie characters, ~~((e))~~ cartoon characters suggesting the presence of a child, or any other depiction or image designed in any manner to be likely to be appealing to youth or especially appealing to children or other persons under legal age to consume marijuana; or

~~((ii))~~ (B) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age.

~~((3))~~ (b) No ~~((licensed))~~ marijuana ~~((producer, processor, or retailer))~~ licensee shall place or maintain, or cause to be placed or maintained, an advertisement of a marijuana business or marijuana product, including marijuana concentrates, usable marijuana, or ~~((a))~~ marijuana-infused product:

(i) In any form or through any medium whatsoever ~~((+~~

~~((a))~~ within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged twenty-one years or older unless the one thousand minimum distance requirement has been reduced by ordinance in the local jurisdiction where the licensed retailer is located and the licensed retailer is located within one thousand feet of a restricted location listed in this paragraph;

~~((b))~~ (ii) On or in a private vehicle, public transit vehicle ~~((e))~~, public transit shelter, bus stop, taxi stand, transportation waiting area, train station, airport, or any similar transit-related location; ~~((e)~~

~~((c) On or in a publicly owned or operated property.)~~

(c) All advertising for marijuana businesses or marijuana products, regardless of what medium is used, must contain text stating that marijuana products may be purchased or possessed only by persons twenty-one years of age or older. Examples of language that conforms to this requirement include, but are not limited to: "21+," "for use by persons 21 and over only," etc.

(d) A marijuana licensee may not engage in advertising or marketing that specifically targets persons residing out of the state of Washington.

(2) **Outdoor advertising.** In addition to the requirements for advertising in subsection (1) of this section, the following restrictions and requirements apply to outdoor advertising by marijuana licensees:

(a) Except for the use of billboards as authorized under RCW 69.50.369 and as provided in this section, licensed marijuana retailers may not display any outdoor signage other than two separate signs identifying the retail outlet by the licensee's business name or trade name, stating the location of the business, and identifying the nature of the business. Both signs must be affixed to a building or permanent structure and each sign is limited to sixteen hundred square inches.

(i) All text on outdoor signs, including billboards, is limited to text that identifies the retail outlet by the licensee's business or trade name, states the location of the business, and identifies the type or nature of the business.

(ii) No outdoor advertising signs, including billboards, may contain depictions of marijuana plants or marijuana products. Logos or artwork that do not contain depictions of marijuana plants or marijuana products as defined in this section are permissible.

(A) A depiction of a marijuana plant means an image or visual representation of a cannabis leaf, plant, or the likeness thereof that explicitly suggests or represents a cannabis leaf or plant.

(B) A depiction of a marijuana product means an image or visual representation of usable marijuana, marijuana-infused products, or marijuana concentrates, or an image that indicates the presence of a product, such as smoke, etc.

(iii) Stating the location of the business may include information such as the physical address or location, directional information, web site address, email address, or phone number of the licensed business.

(iv) Identifying the nature of the business may include information related to the operation of the business, what the business is engaged in, or the goods the business offers for sale.

(v) Double-sided signs or signs with text visible on opposite sides are permissible and count as a single sign so long as the sign is contained in or affixed to a single structure.

(b) No marijuana licensee may use or employ a commercial mascot outside of, and in proximity to, a licensed marijuana business.

(c) Outdoor advertising is prohibited on signs and placards in arenas, stadiums, shopping malls, fairs that receive state allocations, farmers markets, and video game arcades, whether any of the foregoing are open air or enclosed, but not including any such sign or placard located at an adult only facility.

(d) The restrictions in this section and RCW 69.50.369 do not apply to outdoor advertisements at the site of an event to be held at an adult only facility that is placed at such site during the period the facility or enclosed area constitutes an adult only facility, but must not be placed there more than fourteen days before the event, and that does not advertise any marijuana product other than by using a brand name, such as the business or trade name or the product brand, to identify the event. Advertising at adult only facilities must not be visible from outside the adult only facility.

(e) A sign affixed to the licensed premises or in the window of a licensed premises indicating the location is open for business, closed

for business, the hours of operation, that the licensed location has an ATM inside, or other similar informational signs not related to the products or services of the marijuana business are not considered advertising for the purposes of this section.

(f) "Adopt-a-Highway" signs erected by the Washington state department of transportation under a current valid sponsorship with the department of transportation are not considered advertising for the purposes of this section.

(3) Advertising placed on windows within the premises of a licensed marijuana retail store facing outward must meet the requirements for outdoor advertising as provided in RCW 69.50.369 and this section.

(4) Promotional items such as giveaways, coupons, and distribution of branded or unbranded merchandise are banned.

(5) Marijuana retail licensees holding a medical marijuana endorsement may donate product to qualifying patients or designated providers who hold a valid recognition card. Retail licensees may not advertise "free" or "donated" product.

(6) Except for outdoor advertising under subsection (2) of this section, all advertising must contain the following warnings that must be in type size at least ten percent of the largest type used in the advertisement:

(a) "This product has intoxicating effects and may be habit forming.";

(b) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";

(c) "There may be health risks associated with consumption of this product."; and

(d) "For use only by adults twenty-one and older. Keep out of the reach of children."

(7) For the purposes of this section, the following definitions apply:

(a) "Adult only facility" means:

(i) A location restricted to persons age twenty-one and older by the WSLCB or classified by the WSLCB as off limits to persons under twenty-one years of age; or

(ii) A venue restricted to persons age twenty-one and older and where persons under twenty-one years of age are prohibited from entering or remaining, including employees and volunteers.

(b) "Billboard" means a permanent off-premises sign in a fixed location used, in whole or in part, for the display of off-site commercial messages with a minimum size of five feet in height by eleven feet in width.

(c) "Off-premises sign" means a sign relating, through its message and content, to a business activity, product, or service not available on the premises upon which the sign is erected.