



**Bill Title:** Marijuana Licensees--Compliance and Enforcement

**Bill Number:** SB 5318

**Effective Date:** July 28, 2019

**Amends:** RCW 69.50.342, RCW 69.50.331, RCW 69.50.101, RCW 42.56.270

### Summary

This bill declares that a strong focus on compliance and education is a critical component, along with a strong focus on enforcement, in overseeing the regulated marijuana marketplace.

This bill:

- Requires LCB to expand existing programs for compliance education, and must include a “**voluntary compliance program**” created in consultation with marijuana licensees, which must include recommendations on abating violations
  - Licensees may apply to LCB for this **voluntary compliance program**. If the LCB grants the request, it may visit the licensee to provide advice and consultation on matters specified by the licensee, and must make recommendations on eliminating areas of concern disclosed within the scope of the consultation. LCB may provide for an alternative means of providing advice and consultation other than on-site visits
  - During such visits, LCB cannot issue notices of citation or assess civil penalties but if a violation with a direct or immediate relationship to public safety is discovered, the LCB may investigate. Such violations must be corrected within a specified period of time and an inspection conducted at the end of that period of time
- Mandates that if the LCB discovers non-compliant conditions during a licensee **visit that is not a technical assistance** visit, the agency may issue a **notice of correction**
  - The notice is to include a description of the noncompliant condition, a statement of what is required to achieve compliance, the date by which compliance is to be achieved, a notice of how to seek technical assistance services, and how to request more time to achieve compliance.
  - If a notice of correction is issued, the LCB cannot issue a civil penalty unless the licensee fails to comply with the notice
- Allows LCB to issue a **civil penalty** without first issuing a notice of correction if:
  - The licensee was previously subject to enforcement action for a similar type of violation of the same statute or rule or has been given previous notice of a similar type of violation of the same statute or rule;
  - Compliance is not achieved by the date established in a notice of correction issued by LCB; or
  - LCB can prove by a preponderance of the evidence any of the following:
    - Diversion of marijuana product to the illicit market or across state lines
    - Furnishing marijuana to minors
    - Diversion of revenue to criminal elements or parties not qualified to hold a license based on criminal history;
    - The commission on non-marijuana crimes; or

- Knowingly misrepresenting facts to the LCB related to the above four violations
- Requires that LCB rules must preclude cancellation of a license for a single violation or for a violation more than two years old unless the Board can prove by a preponderance of the evidence one of the five violations listed above
- Mandates that penalty rules cannot provide cumulative penalties beyond two years, must consider aggravating and mitigating circumstances, must give substantial consideration to mitigating any penalty imposed when there is employee misconduct and certain other conditions are met, and may include cancellation only if the licensee commits at least four violations within a two-year period
- Allows LCB to issue written warnings or notices to correct in lieu of penalties with respect to regulatory violations. Fines, penalties and sanctions for violations that have no direct or immediate relationship to public safety and are corrected within a reasonable amount of time as designated by the agency are to be waived
- Dictates that only prior criminal arrests or convictions, rather than prior criminal conduct, and only prior violations classified as public safety violations, rather than all violations, may be considered when the LCB reviews a license for potential cancellation
- Directs the Board to give substantial weight to the terms of a proposed settlement agreement entered by a licensee and a hearing officer or designee of the board

**Contact Information:**

If you have questions, please contact [Chris Thompson, Director of Legislative Relations](#).