



RULE-MAKING ORDER PERMANENT RULE ONLY

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

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STATE OF WASHINGTON
FILED

DATE: January 22, 2020

TIME: 10:52 AM

WSR 20-03-177

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: Chapter 314-55 WAC – Marijuana Licenses, Application Process, Requirements, and Reporting, pertaining specifically to enforcement of marijuana regulations. The Washington State Liquor and Cannabis Board (Board) has adopted new sections, amendments, and repealed existing rule to shift focus to a compliance and education-based regulatory approach designed to encourage and support licensee success. The adopted rules implement the majority of the requirements and directives of Engrossed Senate Substitute Bill (ESSB) 5318 (Chapter 394, Laws of 2019).

Citation of rules affected by this order:

New: WAC 314-55-502; WAC 314-55-5055; WAC 314-55-509; WAC 314-55-521; WAC 314-55-522; WAC 314-55-523; WAC 314-55-524.

Repealed: WAC 314-55-510; WAC 314-55-515; WAC 314-55-530; WAC 314-55-535; WAC 314-55-537.

Amended: WAC 314-55-505; WAC 314-55-506; WAC 314-55-507; WAC 314-55-520; WAC 314-55-525; WAC 314-55-540.

Suspended:

Statutory authority for adoption: RCW 69.50.342; RCW 69.50.345.

Other authority: Engrossed Senate Substitute Bill (ESSB) 5318 (Chapter 394, Laws of 2019.)

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 19-23-043 on November 13, 2019 (date).

Describe any changes other than editing from proposed to adopted version: There were no changes from the proposed rules to the adopted rules.

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	7	Amended	___	Repealed	<u>5</u>

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

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	6	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	7	Amended	6	Repealed	<u>5</u>

Date Adopted: January 22, 2020

Name: Jane Rushford

Title: Chair

Signature:



NEW SECTION

WAC 314-55-502 Notice of correction. (1) The board may issue a notice of correction to a licensee during a nontechnical assistance inspection or visit as described in this chapter if the board becomes aware of conditions that are not in compliance with chapters 69.50 and 69.51A RCW, and this chapter.

(2) The notice of correction must include and clearly state:

(a) A detailed description of the noncompliant condition;

(b) The text of the specific section or subsection of the applicable rule;

(c) A statement of what is required to achieve compliance;

(d) The date by which the board requires compliance to be achieved;

(e) Notice of the means to contact any technical assistance services provided by the board or others; and

(f) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the board.

(3) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(4) If the licensee does not comply with the notice of correction, the board may issue an administrative violation notice consistent with WAC 314-55-505 for the violations identified in the notice of correction.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-505 ((What are the procedures for notifying a licensee of an alleged violation of a WSLCB statute or regulation?)) Administrative violation notice. (1) ((When an enforcement officer believes that a licensee has violated a WSLCB statute or regulation, the officer may)) The board may issue an administrative violation notice without issuing a notice of correction if:

(a) The licensee is not in compliance with chapters 69.50 and 69.51A RCW, this chapter, or both, and the noncompliance poses a direct or immediate threat to public health and safety;

(b) The licensee has previously been subject to an enforcement action or written notice for a violation of the same statute or rule within the same penalty category, the notice of correction for the violation has already been issued, the licensee failed to timely comply with the notice, and such notice is not subject to a pending request to the board to extend the time to achieve compliance; or

(c) The licensee has failed to respond to prior administrative violation notices or has outstanding unpaid monetary penalties; and

(d) The board can prove by a preponderance of the evidence:

(i) Diversion of marijuana product out of the regulated market or sales across state lines;

(ii) Furnishing of marijuana product to persons under twenty-one years of age;

(iii) Diversion of revenue to criminal enterprises, gangs, cartels, or parties not qualified to hold a marijuana license based on criminal history requirements;

(iv) The commission of nonmarijuana-related crimes; or
(v) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to conduct or action that is, or is alleged to be, any of the violations identified in (d) (i) through (iv) of this subsection.

(2) The board will prepare an administrative violation notice ((AVN)) and mail or deliver the notice to the licensee, licensee's agent, or employee.

~~((2) The AVN))~~ (3) The administrative violation notice will include:

(a) A ~~((complete narrative))~~ detailed description of the alleged violation(s) ~~((the officer is charging))~~;

(b) The date(s) of the violation(s);

~~((A copy of the law(s) and/or regulation(s) allegedly violated;))~~ The text of the specific section or subsection of rule;

(d) An outline of the licensee's resolution options as outlined in WAC ~~((314-55-510))~~ 314-55-5055; and

(e) The recommended penalty~~((-~~

~~((i) If the recommended penalty is the standard penalty, see WAC 314-55-520 through 314-55-535 for licensees.~~

~~((ii) For cases in which there are aggravating or mitigating circumstances, the penalty may be adjusted from the standard penalty))~~ as described in this chapter, and including a description of known mitigating and aggravating circumstances considered in the penalty determination.

NEW SECTION

WAC 314-55-5055 Resolution options. (1) A licensee must respond to an administrative violation notice within twenty calendar days from receipt of the notice. The response must be submitted on a form provided by the board. The licensee may:

(a) Accept the recommended penalty identified in the administrative violation notice;

(b) Request a settlement conference in writing;

(c) Request an administrative hearing in writing.

(2) (a) If a licensee does not respond to an administrative violation notice within twenty calendar days of receipt of the notice, recommended penalties including, but not limited to, suspension, monetary penalties, and destruction of inventory may take effect on the twenty-first day.

(b) If the recommended penalty is monetary and does not include a suspension, inventory destruction, or both, the licensee must pay a twenty-five percent late fee in addition to the recommended monetary penalty.

(i) The board must receive payment of the monetary penalty and twenty-five percent late fee no later than thirty days after the administrative violation notice receipt date.

(ii) Payments received more than thirty days after the administrative violation notice receipt date are subject to an additional twenty-five percent late fee.

(iii) Licensees who do not respond to an administrative violation notice will not be eligible to renew their marijuana license.

(3) Licensees who do not pay monetary penalties for two or more administrative violation notices in a two-year period will not be eligible to renew their marijuana license.

(4) A licensee may request a settlement conference to discuss the board's issuance of an administrative violation notice issued under this chapter. The hearing officer or designee of the board will arrange the date, time, and place of the settlement conference. A settlement agreement provides that the licensee accepts the allegations contained in the administrative violation notice.

(a) The purpose of the settlement conference is to:

(i) Discuss the circumstances associated with the alleged violation(s), including aggravating or mitigating factors;

(ii) Discuss the recommended penalties; and

(iii) Attempt to reach agreement on the appropriate penalty and corrective action plan for the administrative violation notice.

(b) During a settlement conference, a licensee issued an administrative violation notice may request deferral of an administrative violation notice if all of the following criteria are met:

(i) The alleged violation is the first violation in a violation category;

(ii) The licensee has no other violation history in that penalty category within a two-year window; and

(iii) The licensee submits a plan to correct, remedy, or satisfy identified violations as described in the administrative violation notice including, but not limited to, monetary penalties.

(c) If the licensee is not issued any administrative violation notices or any other notice of noncompliance during the year following approval of the deferral of administrative violation, the record of administrative violation notice will not be considered for licensing renewal or penalty escalation.

(d) If the licensee is issued an administrative violation notice or any other notice of noncompliance at any time during the year following approval of the deferral of administrative violation, the record of the administrative violation notice will remain on the licensee's licensing history, and the original sanction for the deferred violation will be implemented based on the frame established in the settlement agreement, or ten days from the date of default.

(5) The hearing officer or designee will prepare a settlement agreement. The agreement must:

(a) Include the terms of the agreement regarding an alleged violation or violations by the licensee of chapters 69.50 and 69.51A RCW, any part of chapter 314-55 WAC, and any related penalty or licensing restriction; and

(b) Be in writing and signed by the licensee or the licensee's designee and the hearing officer or designee.

(6) If a settlement agreement is entered between a licensee and a hearing officer or designee of the board at or after a settlement conference, the terms of the settlement agreement must be given substantial weight by the board.

(7) The hearing officer or designee will forward the settlement agreement to the board or designee for final approval. If the board, or designee approves the settlement agreement, a copy of the signed agreement will be sent to the licensee, and will become part of the licensing history, unless otherwise specified in this chapter.

(8) If the board, or designee, does not approve the settlement agreement, the licensee will be notified of the decision in writing. The licensee may:

- (a) Renegotiate the settlement agreement with the hearing officer or designee; or
 - (b) Accept the originally recommended penalty; or
 - (c) Request a hearing on the administrative issues identified in the administrative violation notice.
- (9) Monetary penalty collection. If monetary penalties are assessed as part of an administrative violation, settlement agreement, or both, licensees must submit payment to the board in a time frame established by the board, consistent with subsection (2)(a) and (b) of this section.
- (a) If a licensee does not timely submit payment of any monetary fine, the board will begin collection or other appropriate action.
 - (b) The board will provide a notice of collection action to the licensee. The notice of collection action establishes the licensee as a debtor for purposes of debt collection.
 - (c) If the licensee does not respond to the notice of collection within thirty days, the board may:
 - (i) Assess a twenty-five percent late fee consistent with subsection (2)(a) of this section; and
 - (ii) Assign the debt to a collection agency.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-506 (~~What is the process once the WSLCB summarily suspends a marijuana license?~~) Summary license suspension. (1) The ((WSLCB)) board may summarily suspend any license after the ((WSLCB's)) board's enforcement division has:

- (a) Completed a preliminary staff investigation of the violation; and
- (b) Upon a determination that immediate cessation of the licensed activities is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Suspension of any license under this ~~((provision shall take effect))~~ section is effective immediately upon personal service of the summary suspension order on the licensee or employee thereof ~~((of the summary suspension order unless otherwise provided in the order))~~.

(3) When a license has been summarily suspended by the ((WSLCB)) board, an adjudicative proceeding for revocation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee or permit holder, then a hearing ~~((shall))~~ will be held within ninety calendar days of the effective date of the summary suspension ordered by the ((WSLCB)) board. The ninety-day period may be extended for good cause.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-507 (~~How may a licensee challenge the summary suspension of his or her marijuana license?~~) Petition for stay. (1)

~~((Upon summary suspension of a license by the WSLCB pursuant to))~~ When the board summarily suspends a license under WAC 314-55-506, an affected licensee may petition the ((WSLCB)) board for a stay of suspension ((pursuant to RCW 34.05.467 and 34.05.550(1))). A petition for a stay of suspension must be received by the ((WSLCB)) board within ((fifteen)) ten calendar days of service of the summary suspension order on the licensee. The petition for stay ~~((shall state the basis on which the stay is sought))~~ must clearly describe the basis for the stay.

(2) A hearing ~~((shall))~~ will be held before an administrative law judge within fourteen calendar days of receipt of a timely petition for stay. The hearing ~~((shall be))~~ is limited to consideration of whether a stay should be granted, or whether the terms of the suspension ~~((may))~~ will be modified to allow the conduct of limited activities under current licenses ~~((or permits))~~.

(3) ~~((Any))~~ A hearing conducted ~~((pursuant to))~~ under subsection (2) of this section ~~((shall))~~ will be a brief adjudicative proceeding under RCW 34.05.485. The agency record for the hearing ~~((shall))~~ must consist of the documentary information upon which the summary suspension was based. The licensee is permitted to supplement the record with additional documentation during the brief adjudicative proceeding. The licensee ~~((or permit holder shall have the burden of demonstrating))~~ must demonstrate by clear and convincing evidence that:

(a) The licensee is likely to prevail upon the merits at hearing;

(b) Without relief, the licensee will suffer irreparable injury. For purposes of this section, ~~((elimination of))~~ income alone from licensed activities ~~((shall not be))~~ is not deemed irreparable injury;

(c) The grant of relief will not substantially harm other parties to the proceedings; and

(d) The threat to the public health, safety, or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

(4) The initial order on stay ~~((shall be))~~ is effective immediately upon service unless another date is specified in the order.

NEW SECTION

WAC 314-55-509 Penalty structure. (1) The board determines if a penalty will be imposed. Penalties are based on the severity of the violation in the following categories:

(a) Category I: Violations of a severity that would make a license eligible for cancellation on a first offense;

(b) Category II: Violations that create a direct or immediate threat to public health, safety, or both;

(c) Category III: Violations that create a potential threat to public health, safety, or both;

(d) Category IV: Significant regulatory violations;

(e) Category V: Procedural and operational violations;

(f) Category VI: Statutory violations.

(2) For purposes of assessing penalties, only violations occurring in the two-year time period immediately preceding the date of the violation will be considered unless otherwise provided in this chapter.

(3) The board may, at its discretion, deviate from the prescribed penalties herein. Such deviations will be determined on a case-by-case basis, considering mitigating and aggravating factors.

(a) Mitigating factors may result in a waiving or lowering of fines, civil penalties, imposition of a fine in lieu of suspension, or fewer days of suspension. Mitigating factors may include demonstrated business policies and practices that may reduce risk to public health and safety.

(b) Aggravating factors may result in increased days of suspension, increased monetary penalties, cancellation, or nonrenewal of a marijuana license. Aggravating factors may include obstructing an investigation, business operations, behaviors, or both, that increase risk to public health and safety.

(4) For violations that occurred before the effective date of these rules, enforcement action will be based on the rules that were in effect on the date the violation occurred. Subsection (2) of this section shall apply to all enforcement actions regardless of the date the violation occurred.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-520 ((Group 1 violations against public safety.))

Category I. ((Group 1 violations are considered the most serious because they present a direct threat to public safety. Based on chapter 69.50 RCW, some violations have only a monetary option. Some violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The WSLCB may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-55-515(4). Group 1 penalties imposed on a producer and/or processor license will not include license suspension. Penalties for a producer and/or processor license will be restricted to monetary fines, destruction of inventory, and/or license cancellation only.))

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Furnishing to minor: Sale or otherwise provide marijuana and/or paraphernalia to a person under twenty-one years of age. Chapter 314-55 WAC Chapter 69.50 RCW	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license	
Allowing a minor to frequent retail store. Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Allowing a minor to frequent a nonretail licensed premises or occupy a transport vehicle. Chapter 314-55 WAC	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Employee under legal age. Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Opening and/or consuming marijuana on a retail licensed premises. Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Conduct violations: Criminal conduct: Permitting or engaging in criminal conduct. Disorderly conduct by licensee or employee, or permitting on premises. Chapter 314-55 WAC Licensee and/or employee intoxicated on the licensed premises. Chapter 314-55 WAC	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license	
Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. Chapter 314-55 WAC	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license	
Marijuana purchased from an unauthorized source. Chapter 69.50 RCW	Cancellation of license			
Marijuana sold to an unauthorized source. Chapter 69.50 RCW	Cancellation of license			
Operating an unapproved CO₂ or hydrocarbon extraction system. Chapter 314-55 WAC	Cancellation of license			
Condition of suspension violation: Failure to follow any suspension restriction while marijuana license is suspended (retailer). Chapter 314-55 WAC	Original penalty plus 10-day suspension with no monetary option	Cancellation of license		

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Sales in excess of transaction limitations. Chapter 69.50 RCW Chapter 314-55 WAC	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license))	

Violations of a severity that would make a license eligible for cancellation on a first offense. The board may not cancel a license for a single violation, unless it can prove a Category I violation by a preponderance of the evidence.

Category I

Violations of a Severity That Would Make a License Eligible for Cancellation on the First Offense

Violation Type	1st Violation	2nd Violation in a Two-year Window
<u>Marijuana purchased from an unlicensed entity.</u> WAC 314-55-083(4)	<u>License cancellation</u>	
<u>Marijuana sold to an unlicensed, nonretail source. Illegal sales out of the licensed market place.</u> WAC 314-55-083(4)	<u>License cancellation</u>	
<u>Condition of suspension violation: Failure to follow any suspension restriction while marijuana license is suspended.</u> WAC 314-55-540	<u>Original penalty plus 10-day suspension with no monetary option</u>	<u>License cancellation</u>
<u>Transportation or storage of marijuana to or from an unlicensed source, diversion of product, or both.</u> WAC 314-55-083(4)	<u>License cancellation</u>	
<u>Transportation of marijuana outside of Washington state boundaries.</u> RCW 69.50.342 (1)(k) RCW 69.50.345(10) WAC 314-55-310(1)	<u>License cancellation</u>	
<u>True party of interest (TPI). Allowing a person to exercise ownership or control if the person would not have qualified based on affiliation with a criminal enterprise as described in chapter 69.50 RCW.</u> WAC 314-55-035(1)	<u>License cancellation</u>	
<u>Financier. Receiving money from a financier that was not disclosed to or approved by the board when the financier has a criminal history demonstrating an affiliation with criminal enterprises, gangs, or cartels; or the money provided by a financier originated from criminal enterprises, gangs, or cartels.</u> WAC 314-55-035(4)	<u>License cancellation</u>	

NEW SECTION

WAC 314-55-521 Category II. Violations that create a direct or immediate threat to public health, safety, or both.

Category II

Violations That Create a Direct or Immediate Threat to Public Health, Safety, or Both

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Furnishing to persons under twenty-one years of age, except as allowed in RCW 60.50.357. RCW 69.50.354 WAC 314-55-079(1)	5-day suspension or \$1,250 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension	License cancellation
Conduct violations: Criminal conduct: Permitting or engaging in criminal conduct, or both. Disorderly conduct, or apparent intoxication of a licensee or employee, or permitting on premises. Title 9 RCW Title 9A RCW WAC 314-55-110 (4)(b)	5-day suspension or \$1,250 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension	License cancellation
Operating an unapproved CO² or hydrocarbon extraction system. WAC 314-55-104	\$10,000 monetary fine	License cancellation		
Intentional use of unauthorized pesticides, soil amendments, fertilizers, other crop production aids. RCW 69.50.342 WAC 314-55-084	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine and destruction of affected marijuana	Tier 1: \$7,500 Tier 2: \$15,000 Tier 3: \$22,500 monetary fine and destruction of affected marijuana	License cancellation	
Adulterated usable marijuana with organic or nonorganic chemical or other compound. WAC 314-55-077 (5)(b) WAC 314-55-101	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine and destruction of affected marijuana	Tier 1: \$7,500 Tier 2: \$15,000 Tier 3: \$22,500 monetary fine and destruction of affected marijuana	License cancellation	
Transportation of marijuana without a manifest. WAC 314-55-085(3) WAC 314-55-096 (1) and (2) WAC 314-55-105(2) WAC 314-55-310(3)	Retail/transporter: \$1,250 monetary fine Producer/processor: Tier 1: \$1,250 Tier 2: \$2,500 Tier 3: \$5,000 monetary fine	Retail/transporter: 5-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$10,000 monetary fine	License cancellation	
Obstruction: Misrepresentation of fact; not permitting physical presence. WAC 314-55-185	10-day suspension or \$7,500 monetary option	30-day suspension	License cancellation	

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Failure to use and maintain traceability, or both: Including, but not limited to, failure to maintain records for flowering plant, finished product, any post-harvest product, any plant not on approved floor-plan, or not tagged, reusing identifier. WAC 314-55-083(4)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	License cancellation
Pickup, unload, or delivery at an unauthorized location. WAC 314-55-085 (5)(f) WAC 314-55-310	Retail/transportation: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine	Retail/transporter: 60-day suspension Producer/processor: Tier 1: \$20,000 Tier 2: \$40,000 Tier 3: \$60,000 monetary fine	License cancellation	

NEW SECTION

WAC 314-55-522 Category III. Violations that create a potential threat to public health, safety, or both.

**Category III
Violations That Create a Potential Threat to Public Health, Safety, or Both**

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Driver transporting without a valid driver's license. WAC 314-55-310 (5)(a)	5-day suspension or \$1,250 monetary option	10-day suspension	30-day suspension	License cancellation
Exceeding maximum serving requirements for marijuana-infused products. WAC 314-55-095 (1)(a) and (b) Exceeding transaction limits. WAC 314-55-095 (2)(c)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	License cancellation
Failure to follow and maintain food processing facility requirements. RCW 69.50.342 (1)(a) and (c) WAC 314-55-077 (4)(b) WAC 246-70-070 (1) and (2)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Failure to maintain required surveillance system. WAC 314-55-083(3)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Retail sales: Unauthorized marijuana-infused products. WAC 314-55-077 (9)(a) and (b)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 option	30-day suspension
True party of interest: Allowing a person to exercise ownership or control who has not been disclosed to the board, and would have failed for any reason. WAC 314-55-035	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine	Retail/transporter: 60-day suspension Producer/processor: Tier 1: \$20,000 Tier 2: \$40,000 Tier 3: \$60,000 monetary fine
Financier. Receiving money from a financier that was not disclosed to or approved by the board when the financier or the source of funds would not have qualified for any reason. WAC 314-55-035	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine	Retail/transporter: 60-day suspension Producer/processor: Tier 1: \$20,000 Tier 2: \$40,000 Tier 3: \$60,000 monetary fine
Obstruction: Failure to furnish records. WAC 314-55-185 (1)(c)	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension	60-day suspension
Failure to use traceability, maintain traceability, or both for quality assurance testing, including pesticide testing, potency testing, or both. WAC 314-55-083 (4)(k)	\$1,250 monetary fine	\$2,500 monetary fine	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Noncompliance with marijuana processor extraction requirements. WAC 314-55-104	\$1,250 monetary fine	\$2,500 monetary fine	\$7,500 monetary fine	\$15,000 monetary fine
Sales in excess of transaction limits. WAC 314-55-095 (2)(c)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option

NEW SECTION

WAC 314-55-523 Category IV. Violations that are significant regulatory violations.

**Category IV
Significant Regulatory Violations**

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Noncompliance with record keeping requirements. WAC 314-55-087	\$500 monetary fine	5-day suspension or \$1,250 monetary fine	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Marijuana illegally given away, including being sold below the cost of acquisition, true value, or both. WAC 314-55-017(3) WAC 314-55-018 (2)(f) WAC 314-55-018(5) WAC 314-55-077 (11)(b)	\$500 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Retail sales: Use of an unauthorized money transmitter. WAC 314-55-115(5)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Misuse or unauthorized use of marijuana license (operating outside of license class). RCW 69.50.325	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option	60-day suspension or \$20,000 monetary option
Selling or purchasing marijuana on credit. WAC 314-55-018 WAC 314-55-115	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option	60-day suspension or \$20,000 monetary option
Engaging in nonretail conditional sales, prohibited practices, or both. WAC 314-55-017(1) WAC 314-55-018	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Operating/floor plan: Violations of a WSLCB approved operating plan. WAC 314-55-020 (11)(a)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Failure to maintain required insurance. WAC 314-55-082 WAC 314-55-310	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Unauthorized sale to a retail licensee (processor). RCW 69.50.360 RCW 69.50.363 WAC 314-55-077 WAC 314-55-083(4)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$10,000 monetary fine	Tier 1: \$7,500 Tier 2: \$15,000 Tier 3: \$30,000 monetary fine	Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine
Packaging and labeling. WAC 314-55-105	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Unauthorized or unapproved product storage or delivery (processor/producer). WAC 314-55-085(5)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Unauthorized or unapproved product storage or delivery (transporter). WAC 314-55-310 (5)(d)	\$1,250 monetary fine	\$2,500 monetary fine	\$5,000 monetary fine	\$10,000 monetary fine
Failure to meet marijuana waste disposal requirements. WAC 314-55-097	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Sampling violations (processors/producers: Vendor, educational, and internal quality control samples). WAC 314-55-096	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Sampling violations (retail). WAC 314-55-096(5) WAC 314-55-096(6)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Failure to maintain required security alarm. WAC 314-55-083(2)	\$1,250 monetary fine	\$2,500 monetary fine	\$5,000 monetary fine	\$10,000 monetary fine

NEW SECTION

WAC 314-55-524 Category V. Violations that are procedural and operational.

**Category V
Procedural and Operation Violations**

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Hours of service: Sales of marijuana between 8:00 a.m. and 12:00 a.m. WAC 314-55-147	\$500 monetary fine	5-day suspension or \$1,250 monetary fine	10-day suspension or \$2,500 monetary option	30-day suspension
General advertising violations. RCW 69.50.369 WAC 314-55-155	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option
Engaging in conditional sales. WAC 314-55-017(2)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option
Licensee, employee, or both failing to display identification badge. WAC 314-55-083(1)	\$250 monetary fine	5-day suspension or \$500 monetary option	10-day suspension or \$1,250 monetary option	30-day suspension or \$2,500 monetary option
Failure to post required signs. WAC 314-55-086	\$250 monetary fine	5-day suspension or \$500 monetary option	10-day suspension or \$1,250 monetary option	30-day suspension or \$2,500 monetary option
Unauthorized change of business name. WAC 314-55-130	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$5,000 monetary option

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Transporting marijuana in an unauthorized vehicle. WAC 314-55-085(5) WAC 314-55-310	\$1,250 monetary fine	Retail/transporter: 5-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retail/transporter: 10-day suspension Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Exceeding maximum delivery time frame. WAC 314-55-085 WAC 314-55-083 (4)(d)	\$1,250 monetary fine	Retail/transporter: 5-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/Transporter: 10-day suspension Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Failure to maintain standardized scale requirements (producer/processor). WAC 314-55-099	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Unauthorized driver or passenger. WAC 314-55-310 (5)(a)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension	30-day suspension
Transportation of marijuana without an accurate manifest. WAC 314-55-085(3) WAC 314-55-310(3)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension	30-day suspension
Load exceeding maximum delivery amount. RCW 69.50.385(3) WAC 314-55-083 (4)(d) WAC 314-55-085(1)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension	30-day suspension
Retail sales: Accepting returns. WAC 314-55-079(12)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension
Failure to use traceability, maintain traceability, or both. (e.g., failure to comply with traceability requirements for clones, seeds; illegal or folded tags; movement within a location) WAC 314-55-083(4)	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine	Retail/transporter: 60-day suspension Producer/processor: Tier 1: \$20,000 Tier 2: \$40,000 Tier 3: \$60,000 monetary fine

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
True party of interest (TPI): Allowing a person not disclosed to the board who would have qualified to exercise ownership or control, or allowing a TPI previously approved by the board to provide funds without disclosure. WAC 314-55-035(XX)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	Retail/transporter: 10-day suspension or \$5,000 monetary option Producer/Processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$20,000 monetary fine	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Financier. Receiving money from a financier previously approved by the board that was not timely disclosed to the board or that was timely disclosed to the board but the source could not be verified. WAC 314-55-035(XX)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	Retail/transporter: 10-day suspension or \$5,000 monetary option Producer/Processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$20,000 monetary fine	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-525 ((Group 2 regulatory violations.)) Category VI.
 ((Group 2 violations are violations involving general regulation and administration of retail or nonretail licenses. Group 2 penalties imposed on a producer and/or processor license will not include license suspension. Penalties for a producer and/or processor license will be restricted to monetary fines, destruction of inventory, and/or license cancellation only.))

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Hours of service: Sales of marijuana between 12:00 a.m. and 8:00 a.m. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
General advertising: Violations Chapter 314-55 WAC	Retail/transporter: 5-day suspension or \$1,000 monetary option Producer/processor: \$1,000 monetary fine	Retail/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
Engaging in conditional retail sales: Chapter 314-55 WAC Chapter 69.50 RCW	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Licensee/employee failing to display required security badge. Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$500 monetary option Producer/processor: \$500 monetary fine	Retailer/transporter: 10-day suspension or \$1,500 monetary option Producer/processor: All tiers: \$1,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: All tiers: \$5,000 monetary fine	Cancellation of license
Failure to maintain required security alarm and surveillance systems. Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine	Retailer/transporter: 10-day suspension or \$5,000 monetary fine Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
Records: Improper recordkeeping. Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$1,000 monetary option Producer/processor: \$1,000 monetary fine	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
Failure to submit monthly tax payments. Chapter 69.50 RCW Chapter 314-55 WAC	Retailer: 5-day suspension or \$1,000 monetary option	Retailer: 10-day suspension or \$2,500 monetary option	Retailer: 30-day suspension	Cancellation of license
Signs: Failure to post required signs. Chapter 69.50 RCW Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$500 monetary option Producer/processor: \$500 monetary fine	Retailer/transporter: 10-day suspension or \$1,500 monetary option Producer/processor: All tiers: \$1,500 monetary fine	Retailer/transporter: 15-day suspension or \$5,000 monetary option Producer/processor: All tiers: \$5,000 monetary fine	Cancellation of license
Failure to utilize and/or maintain traceability. Chapter 314-55 WAC	5-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine	Retailer: 10-day suspension or \$5,000 monetary fine Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retailer: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
Violation of transportation requirements. Chapter 314-55 WAC	Retailer: 5-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine	Retailer: 10-day suspension or \$5,000 monetary fine Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retailer: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Marijuana sold below cost of acquisition, true value, or illegally given away.	Retailer: 5-day suspension or \$1,000 monetary option Producer/processor: \$2,500 monetary fine	Retailer: 10-day suspension or \$5,000 monetary option Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retailer: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
Retail sales: Use of an unauthorized money transmitter. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Retail outlet selling unauthorized products. Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Retailer displaying products in a manner visible to the general public from a public right of way. Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Retail sales: Unauthorized marijuana-infused products, internet sales, and accepting returns. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license))

Statutory penalty violations.

Category VI
Statutory Penalty Violations

Allowing a minor to frequent a retail store. <u>RCW 69.50.357(2)</u>	<u>\$1,000 monetary fine</u>
Allowing persons under twenty-one years of age to frequent a retail licensed premises. <u>RCW 69.50.357</u>	<u>\$1,000 monetary fine</u>
Employee under legal age. <u>RCW 69.50.357(2)</u>	<u>\$1,000 monetary fine</u>
Opening or consuming marijuana on a licensed retail premises, or both. <u>RCW 69.50.357(4)</u>	<u>\$1,000 monetary fine</u>
Retail outlet selling unauthorized products. <u>RCW 69.50.357 (1)(a)</u>	<u>\$1,000 monetary fine</u>

WAC 314-55-540 ((Information about)) Marijuana license suspensions. (1) On the effective date of a marijuana license suspension ~~((goes into effect))~~, a ~~((WSLCB))~~ board enforcement officer will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the ~~((WSLCB due to))~~ board based on a violation of ~~((a WSLCB))~~ applicable law or rule.

(2) During the period of marijuana license suspension, the licensee and employees:

(a) Are required to ~~((maintain compliance))~~ comply with all applicable ~~((marijuana))~~ laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice;

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the ~~((WSLCB's))~~ board's suspension notice.

(3) During the period of marijuana license suspension a marijuana licensee:

(a) ~~((A marijuana licensee))~~ May not operate ~~((his/her))~~ their business.

(b) ~~((There is no sale, delivery, service, destruction, removal, or receipt of))~~ May not sell, deliver, service, destroy, remove, or receive marijuana.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|----------------|---|
| WAC 314-55-510 | What options does a licensee have once he/she receives a notice of an administrative violation? |
| WAC 314-55-515 | What are the penalties if a marijuana license holder violates a marijuana law or rule? |
| WAC 314-55-530 | Group 3 license violations. |
| WAC 314-55-535 | Group 4 marijuana producer and/or processor violations. |
| WAC 314-55-537 | Group 5 license violations. |