



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 23, 2019

TIME: 11:28 AM

WSR 19-21-181

Agency: Washington State Liquor and Cannabis Board

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) _____

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

- Yes No If Yes, explain:

Purpose: WAC 314-55-079 – Marijuana retailer license – Privileges, requirements and fees. The Washington State Liquor and Cannabis Board (Board) has adopted an emergency rules that establish a new section of rule allowing the Board to take disciplinary action against any processor failing to comply with the provisions of chapter 246-80 WAC – Vapor Products and Flavors.

Citation of rules affected by this order:

- New: WAC 314-55-079(14)
- Repealed:
- Amended:
- Suspended:

Statutory authority for adoption: RCW 69.50.342; RCW 69.50.345.

Other authority:

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: The immediate adoption of a rule establishing summary license suspension and petition for stay provisions is necessary for the enforcement of Washington State Board of Health (SBOH) rules described in chapter 246-80 WAC, banning the sale of flavored vapor products. The Washington State Liquor and Cannabis Board has the authority and responsibility to adopt rules for the preservation of public health.

The Centers for Disease Control, U.S. Food and Drug Administration, Washington State Department of Health, and many other state and local health departments are currently investigating a multistate outbreak of lung disease associated with vapor product use. More than one thousand cases have been reported across the United States, including twenty-six deaths. Twelve cases of lung injury have been reported in Washington state, and the number of cases is expected to grow. Approximately eighty percent of the cases nationwide have been reported in individuals under thirty-five years of age, with sixteen percent of the cases involving individuals under eighteen years of age and twenty-one percent of the cases involving individuals from eighteen to twenty years old. All reported patients have a history of using vapor products. The specific chemical exposure(s) causing the disease remain unknown, and no single product or substance has been linked to all lung injury cases.

The SBOH's Health Impact Review of HB 1932 found strong evidence that prohibiting the sale of flavored vapor products will likely decrease initiation and use of vapor products among adolescents and young adults. Reducing the initiation and use of vapor products by youth and young adults will reduce the exposure of our most vulnerable population to the current outbreak of severe lung disease associated with the use of vapor products.

On October 10, 2019, the SBOH issued emergency rules as WSR 19-21-050, prohibiting the sale of flavored vapor products by persons licensed under chapter 69.50 or 70.345 RCW, and consistent with the directives of Executive Order 19-03 Addressing the Vaping Use Public Health Crisis.

This emergency rule allows the Board to take disciplinary action against any retailer that fails to comply with the provisions of the SBOH emergency rules described in chapter 246-80 WAC, and bridges the enforcement requirements contained therein with the authority of chapter 69.50 RCW realized in WAC 314-55-079.

Because the outbreak of lung disease is occurring now and growing, the immediate adoption of rules that establish summary license suspension and petition for stay provisions are necessary for both the enforcement of chapter 246-80 WAC, and preservation of public health, safety and general welfare.

**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	___	Repealed	___

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	___	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		Amended	1	Repealed	___

Date Adopted: October 23, 2019

Name: Jane Rushford

Title: Chair

Signature:



WAC 314-55-079 Marijuana retailer license—Privileges, requirements, and fees. (1) A marijuana retailer license allows the licensee to sell only useable marijuana, marijuana concentrates, marijuana-infused products, marijuana paraphernalia, and lockable boxes to store marijuana at retail in licensed retail outlets to persons twenty-one years of age and older, except as allowed for persons under twenty-one years of age consistent with RCW 69.50.357 and WAC 314-55-080.

(2) The WSLCB may accept applications for marijuana retail licenses at time frames published on its website at www.lcb.wa.gov. Using estimated consumption data and population data obtained from the office of financial management (OFM) population data, the WSLCB will determine the maximum number of marijuana retail locations per county.

(a) The number of retail locations will be determined using a method that distributes the number of locations proportionate to the most populous cities within each county and to accommodate the medical needs of qualifying patients and designated providers. Locations not assigned to a specific city will be at large. At large locations can be used for unincorporated areas in the county or in cities within the county that have no retail licenses designated.

(b) The number of retail licenses determined by the board can be found on the WSLCB website at www.lcb.wa.gov.

(3) Any entity and/or principals within any entity are limited to no more than five retail marijuana licenses.

(4) Application and license fees.

(a) The application fee for a marijuana retailer's license is two hundred fifty dollars. The applicant is responsible for fees required by the approved vendor for fingerprint evaluation.

(b) The annual fee for issuance and renewal of a marijuana retailer license is one thousand three hundred eighty-one dollars. The WSLCB will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for the criminal history checks.

(5) Internet sales and delivery of product to customers are prohibited.

(6) Sales of marijuana-infused products not permissible under WAC 314-55-077 are prohibited.

(7) Marijuana retailers may not sell marijuana products below the current acquisition cost.

(8) All marijuana products must be stored behind a counter or other barrier to ensure a customer does not have direct access to the product.

(9) A marijuana retailer may not sell lockable boxes for less than the cost of acquisition or sell boxes received as a donation. The donation of lockable boxes must come from a person or entity that is not a licensed marijuana producer, processor, or retailer.

(10) Marijuana retailer licensees are allowed to have a maximum of four months of their average inventory on their licensed premises at any given time.

(11) A marijuana retailer may transport product to other locations operated by the licensee or to return product to a marijuana processor as outlined in WAC 314-55-085.

(12) A marijuana retailer may accept returns of open marijuana products. Products must be returned in their original packaging with the lot, batch, or inventory ID number fully legible.

(13) A marijuana retailer may dispose of marijuana products as provided in WAC 314-55-097.

(14) The board may take disciplinary action against any marijuana retailer that fails to comply with the provisions of chapter 246-80 WAC.