



## **Notice of Permanent Rules**

**Regarding Amendment to WAC 314-55-040 – What criminal history might prevent a marijuana [cannabis] license applicant from receiving or keeping a marijuana [cannabis] license?**

**This concise explanatory statement concerns the Washington State Liquor and Cannabis Board's (WSLCB) adoption of amendments to WAC 314-55-040.**

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. The concise explanatory statement must be provided to any person upon request, or from whom the WSLCB received comment.

The WSLCB appreciates and encourages your involvement in the rule making process. If you have questions, please contact Jeff Kildahl, Policy and Rules Coordinator, at (360) 664-1781 or e-mail at [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov).

---

### **Background and reasons for adopting these rules.**

Initiative 502 (I-502) established a legal framework for the Board to review the criminal history of marijuana [cannabis] license applicants, along with broad rulemaking authority to create rules related to criminal history background check standards. The initial rules concerning this subject were initially established in late 2013, and the most recent revision occurred in early 2016.

#### *Socially Equitable Conditions*

This amended rule moves toward creation of socially equitable conditions for individuals who have been disproportionately impacted by marijuana [cannabis] criminalization by revising and more fully describing the background check threshold review process for cannabis license applicants and renewing licensees. Among other things, it redesigns the existing criminal history point system that may have created barriers to entry in the legal cannabis market.

As part of the rule development process, a public Listen and Learn session was planned for May 13, 2021, but was rescheduled and held on June 1, 2021. The session was attended virtually by approximately 25 people. Feedback received in the Listen and Learn session included the following subjects:

- The effect of the changes to cannabis license applicant background checks on true parties of interest contained in WAC 314-55-035.

- Possible changes to draft conceptual rule language to expand beyond WSP and FBI background checks only.
- Possible changes to draft conceptual rule language to state that delegated LCB staff review background check information.
- Reordering subsections of the draft conceptual rule related to the criminal history threshold review.
- Differences between the threshold review and the existing criminal history review.
- Concerns about consideration of active state supervision and active federal supervision status in the threshold review.
- Concerns for applicants who are paying monetary sanctions to Washington courts.
- Increasing or eliminating the 90-day hold period for applicants with pending criminal convictions, and the basis for the 90-day hold period.
- Appeal rights of a threshold review.
- The need for fingerprinting each time an applicant submits information for a background check.

**Rulemaking history for this adopted rule:**

**CR 101** – filed February 17, 2021 as WSR #21-05-074.

**CR 102** – filed May 26, 2021 as WSR #21-14-111.

Public hearing held August 18, 2021.

**The effective date of these rules is October 2, 2021.**

---

**Public comment received on the rule proposal:**

There were no public comments received on the proposed rules.

**Changes from Proposed Rules (CR-102) to the Rules as Adopted:**

There were no changes to the proposed rules.