



CR103 Memorandum

Regarding WAC 314-55-020 – Marijuana license qualifications and application process—Licensing change requests.

Date: January 6, 2020
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Background

The Washington State Liquor and Cannabis Board (Board) is generally prohibited from issuing a marijuana license for any premises within 1000 feet of an elementary or secondary school, playground, recreation center, child care center, public park, public transit center, library, or game arcade admission that is not restricted to a person age 21 or older.

A local government may adopt an ordinance that reduces the 1000-foot buffer zone to not less than 100 feet of a recreation center, child care center, public park, public transit center, library, or game arcade admission that is not restricted to a person age 21 or older. The Board may issue a license to marijuana producers, processors, transporters, and retailers in compliance with a local distance-reduction ordinance, so long as the distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health.

A local government may adopt an ordinance that reduces the 1000-foot buffer zone to not less than 100 feet of all of the above listed entities/facilities for the purpose of licensing a marijuana research facility. However, the distance reduction must not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health. Before issuing or renewing a marijuana research license for a premises located within 1000 feet, but not less than 100 feet of an elementary school, secondary school, or playground in compliance with a local distance-reduction ordinance, the Board must ensure the facility meets the following requirements:

- The facility must meet a security standard exceeding the standard applicable to marijuana producer, processor, or retailer licensees;
- The facility must be inaccessible to the public and no part of the operation of the facility may be in view of the general public; and
- The facility may bear no advertising or signage indicating it is a marijuana research facility.

Substitute Senate Bill 6206 (Chapter 154, Laws of 2020) amended RCW 69.50.331, now codified as RCW 69.50.331(8)(e), by adding a subsection (e) to create a certificate of compliance for marijuana business premises. The amendment became effective June 11, 2020, and requires that the Board must issue a certificate of compliance for a marijuana business applicant's premises, if the premises meets the statutory buffer zone requirements at the time the application was filed. The certificate allows the licensee to operate the business at the proposed location notwithstanding a later occurring, otherwise disqualifying factor. This certificate is not a license to produce, process, research, or sell marijuana at the location. All other marijuana licensing requirements must be met in order to receive a license or to continue operating under an existing license.

The legislation was designed to prevent a competitor from opening a business that would disqualify another marijuana entity's license application. During legislative testimony, it was noted that this situation has occurred with some frequency, after an applicant had spent the money to secure a lease, and a competitor moved a business (such as an arcade business) next door, violating the zoning restrictions for the new applicant. The legislation provides certainty for applicants with considerable investment in their businesses who are waiting for completion of the Board's license approval process.

Rule Necessity

Amendment to existing rule is necessary to allow the WSLCB to issue a certificate of compliance consistent with the mandates of SSB 6206, now codified as RCW 69.50.331(8).

Description of Rule Changes

Amended Subsection. WAC 314-55-020(6) – The adopted amendment allows the WSLCB to issue a certificate of compliance to an applicant if proposed business premises meets the minimum distance requirement as of the date the application was received by the WSLCB. The adopted amendment also allows applicants granted licenses prior to the future adoption of this rule to operate their business without being affected by a future disqualifying distance factor.

Additionally, existing subsections were renumbered to accommodate this amendment. The statutory reference in subsection (2) was corrected to reflect the codification of SSB 6026 in RCW 69.50.331(8).

Variance between proposed rule (CR102) and final rule:

There is no variance between the proposed rule and the final rule.

Rule Implementation

Informing and Educating Persons Impacted by the Rule

To help inform and educate persons impacted by the rule, the WSLCB will:

- Email notice with the adoption materials to persons who commented on the rules, the rule making and licensee distribution lists, and the general WSLCB GovDelivery list;
- Post rule adoption materials, including final rule language, response to comments, final analysis (Concise Explanatory Statement), and any other relevant documents on the rulemaking webpage for public access.
- Provide information and training on request.

Promoting and Assisting Voluntary Compliance

WSLCB will promote and assist voluntary compliance through technical assistance.

- WSLCB staff are available to respond to phone and email inquiries about the rules.
- Licensing and Enforcement/Education leadership and staff have participated in rule revisions, and are familiar with the final product. Internal and external education efforts to share knowledge and assure consistent application of rule have will be supported.
- Rule and guidance documents will be available on the WSLCB website.
- WSLCB will use available and customary resources to disseminate materials and information to all persons impacted by the rules.

These actions are designed to inform and educate all persons impacted by the rules to support and promote voluntary compliance.

Training and Informing WSLCB Staff

Several WSLCB staff responsible for implementing these adopted rules work directly with impacted parties and are already familiar with the nuances of the rule changes. Additional internal guidance documents may be prepared as necessary. The WSLCB will also consider:

- Provision of internal and external training and education, as needed, potentially including webinars, training, and videos if appropriate;
- Coordinating and centrally locating decisions to assure consistency between agency, staff, and industry.

Rule Effectiveness Evaluation

The WSLCB will evaluate the effectiveness of these rules in the following ways, including but not limited to:

- Monitoring questions received after the effective date of these rules, and adjusting training and guidance accordingly;
- Monitoring the number of enforcement actions, including type, resolution, and final outcome;
- Monitoring the number of requests for rule language revisions or changes;
- Monitoring the number of requests for rule interpretation;
- Monitoring licensee feedback including, but not limited to, the number of requests for assistance.