



CR 101 Memorandum

Re: Tetrahydrocannabinol (THC) Compounds Other than Delta-9

Date: May 12, 2021

Presented by: Kathy Hoffman, Policy and Rules Manager

Background

WSLCB has become aware of products entering the regulated market with labeling noting the presence of cannabinoids other than delta-9 tetrahydrocannabinol (THC) and CBD additives. These products include, but are not limited to marijuana infused edibles and marijuana concentrates. WSLCB is also aware of products with labeling noting the presence of THC compounds other than delta-9 THC in markets it does not regulate.

WSLCB reviews and pre-approves marijuana-infused labeling for edible products that will be sold in licensed retail marijuana stores. WSLCB does not review or approve labeling for marijuana concentrates, usable marijuana, marijuana mix, or marijuana topical products that will be sold in licensed retail marijuana stores. WSLCB does not have statutory or regulatory authority for products containing marijuana compounds other than delta-9 THC sold outside the licensed marijuana system it regulates.

WSLCB has learned that CBD isolate from hemp and other sources is being genetically or chemically altered to result in potentially intoxicating, psychoactive compounds not derived from marijuana as defined in RCW 69.50.101(y) and (uu), or synthetic equivalents of substances contained in the cannabis plant. WSLCB has also learned that these compounds and compounds other than delta-9 HC have appeared in the marijuana system it regulates.

The process of genetic or chemical alteration of hemp or other sources to potentially intoxicating, psychoactive compounds may generate additional chemicals that are not naturally occurring in marijuana. Currently, there are no mandatory testing standards for these compounds, and no potency or concentration limits have been established in statute or regulation concerning these compounds in Washington State. The impact of those different chemicals on health are unknown and could be harmful.

WSLCB understands that some accredited/certified testing laboratories are able to test for the presence of delta-8 THC, but testing for THC isomers is evolving and not standardized. For example, Delta-8 THC as a stand-alone product is not currently being tested for contaminants, but only for cannabinoid testing. Thus, it is unclear whether delta-8 or CBD isolate from hemp or other sources that is genetically or chemically altered into compounds other than delta-9 THC are safe for consumer use.

Reasons Why Rules Are Needed

Washington State statute and the rules that implement those statutes provide a framework for the types of activities that marijuana licensees may engage in. The only products that can be sold in licensed marijuana retail stores are marijuana concentrates, usable marijuana, marijuana infused products and paraphernalia.

Rules are needed to allow the WSLCB to evaluate additives, solvents, ingredients or compounds used in the production and processing of marijuana products to determine whether such substances pose a risk to public health or youth access. Currently, there are no mandatory testing standards for these compounds, and no potency or concentration limits have been established in statute or regulation concerning these compounds in Washington State. The impact of these different chemicals on health are unknown and could be harmful.

Process

The rule making process begins by announcing LCB's intent to consider changes to existing rules, adding new rule sections, or both by filing a CR-101 form with the Office of the Code Reviser. This allows staff, stakeholders, industry partners, and all members of the authorizing environment to begin discussing proposed rule changes. At the CR-101 stage of the rulemaking process, no proposed language is offered. Any interested party may comment on the subject of this possible rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule activity pertaining to this preproposal inquiry. The notice will identify the public comment period and where comments can be sent.