



Petition for Adoption, Amendment, or Repeal of a State Administrative Rule

Topic: Request to Amend [WAC 314-55-115](#) related to flexible payment terms

Date: November 20, 2024

Presenter: Cassidy West, Policy and Rules Manager

BACKGROUND

On October 14, 2024, Fabian Toader, representing Green Labs, LLC, submitted a petition for amendment, repeal, or adoption of a state administrative rule to the Washington State Liquor and Cannabis Board ("Board") requesting amendments to WAC 314-55-115. This petition pertains to the recently amended rule requiring checks be deposited within five days of delivery. The Petitioner seeks a reconsideration of the five-day rule, proposing an extension to a 15-day window instead. The petition request and its supplemental materials are enclosed (see Attachment A).

The newly amended rule mandates that checks be sent, delivered, or mailed by the next business day following delivery and deposited as promptly as reasonably practical but no later than five business days after delivery. Any delay beyond this time may be considered an unlawful extension of credit.

The Petitioner has expressed concerns about the practical challenges meeting the new five-day deposit rule, citing geographical constraints. He argues that the requirement to deposit checks within five days of delivery imposes an undue administrative burden and potential for non-compliance. According to the Petitioner, the current process takes his business 12-15 days from receipt to deposit.

ISSUE

Whether the Board should accept or deny the petition request to amend WAC 314-55-115 to extend the time allowed for depositing checks after delivery.

ANALYSIS

When making recommendations to the Board, LCB staff consider several key factors to ensure decisions are legal, practical, evidence-based, and align with the agency's goals. These factors include:

- **Legal Authority:** Confirm agency's legal power.
- **Economic Impact:** Evaluate financial implications.
- **Equity Assessment:** Assess impacts on economic, health, and social equity.

- **DEIB Assessment:** Analyze diversity, equity, inclusion, and belonging.
- **Public Health:** Examine public health implications.
- **Risk Assessment:** Identify and assess risks.
- **Agency Coordination:** Coordinate with relevant agencies.
- **Tribal Considerations:** Address Tribal concerns and rights.
- **Public Input:** Consider stakeholder perspectives and concerns.
- **Policy Alignment:** Ensure policy consistency.
- **Security Considerations:** Evaluate security implications.

Legal Authority

The Board has rulemaking authority to adopt rules to amend WAC 314-55-115 under [RCW 69.50.342](#) and [RCW 69.50.345](#). The full text of relevant laws and rules are enclosed (see Attachment B).

Policy Alignment

The agency recently completed a rulemaking process fully compliant with the Administrative Procedure Act (APA) ([RCW 34.05](#)). This initiative aimed to provide cannabis licensees with greater flexibility when buying cannabis and cannabis products from other licensees. Throughout the rule development process, multiple opportunities for stakeholder engagement were offered.

Timeline of Rulemaking Activities:

- **May 8, 2024:** The CR-101 was filed as [WSR 24-11-035](#), marking the initiation of the rulemaking process. A GovDelivery notice was distributed notifying the public. During the May 8 board meeting, the rules coordinator Daniel Jacobs stated that stakeholder feedback would be obtained via a survey that would be posted on the agency website during June 2024.
- **June 3, 2024:** GovDelivery notice emailed informing public of live survey that would be available to complete until July 8, 2024. The invitation to the survey included a link to proposed draft rule language.
- **June 3 – July 8, 2024:** Survey live on LCB website for completion.
- **July 31, 2024:** The CR-102 was filed as WSR [24-16-063](#), officially starting the formal public comment period.

- **September 11, 2024:** A public hearing was held to gather input on the draft proposed rule, which also served as the deadline for submitting formal written comments.
- **September 25, 2024:** The CR-103 was filed as [WSR 24-20-055](#).
- **October 26, 2024:** Effective date of rules.

Stakeholder Input

Stakeholder input on the five-day check deposit requirement was minimal. Survey results did not highlight any specific concerns about the deposit timeframe. During the public hearing, two stakeholders asked that there be no deadline for depositing checks. This request was not reflected in the final rule due to the indefinite nature it would introduce for check payments, including impacting regulatory consistency and accountability.

Merits of the Petition

While we acknowledge the Petitioner’s concerns, the petition does not provide sufficient data-driven evidence to justify reopening the rulemaking process.

Potential Benefits, Costs, & Impacts

The Petitioner proposes conducting feasibility studies to assess the practical implications of the rule on businesses like his. The Board has already committed to a retrospective review of the amended rule after one year to evaluate its effectiveness and impacts.

CONCLUSION

In conclusion, the rulemaking process was conducted in full compliance with the [Administrative Procedure Act \(APA\)](#), providing multiple opportunities for public comment. The rule was adopted after careful consideration of all feedback received. While we recognize the Petitioner’s concerns, the petition lacks compelling data-driven evidence to justify reopening the rulemaking process. Additionally, the Board is committed to conducting a retrospective review of the amended rule in one year to assess its effectiveness and impact.

RECOMMENDATION

For the reasons described above, Director’s Office staff recommend that consistent with [RCW 34.05.330](#), the Board deny the petition submitted by Fabian Toader on October 14, 2024 requesting amendments to WAC 314-55-115 regarding the requirement that the check be deposited no later than five business days following delivery.

BOARD ACTION

After considering the recommendation of Director's Office staff, the Board accepts/denies the petition for rulemaking received from Fabian Toader on October 14, 2024, requesting amendments to WAC 314-55-115 to amend the five-day deposit requirement.

<input type="checkbox"/> Accept <input checked="" type="checkbox"/> Deny	 David Postman, Chair	<u>11.20.2024</u> Date
<input type="checkbox"/> Accept <input checked="" type="checkbox"/> Deny	 Ollie Garrett, Board Member	<u>11.20.2024</u> Date
<input type="checkbox"/> Accept <input checked="" type="checkbox"/> Deny	 Jim Vollendroff, Board Member	<u>11.20.2024</u> Date

ATTACHMENTS

1. Attachment A: Petition Request & Supplemental Materials
2. Attachment B: Laws and Rules

State liquor and cannabis board—Rules.

(1) For the purpose of carrying into effect the provisions of chapter 3, Laws of 2013 according to their true intent or of supplying any deficiency therein, the board may adopt rules not inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed necessary or advisable. Without limiting the generality of the preceding sentence, the board is empowered to adopt rules regarding the following:

(a) The equipment and management of retail outlets and premises where cannabis is produced or processed, and inspection of the retail outlets and premises where cannabis is produced or processed;

(b) The books and records to be created and maintained by licensees, the reports to be made thereon to the board, and inspection of the books and records;

(c) Methods of producing, processing, and packaging cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products; conditions of sanitation; safe handling requirements; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products produced, processed, packaged, or sold by licensees;

(d) Security requirements for retail outlets and premises where cannabis is produced or processed, and safety protocols for licensees and their employees;

(e) Screening, hiring, training, and supervising employees of licensees;

(f) Retail outlet locations and hours of operation;

(g) Labeling requirements and restrictions on advertisement of cannabis, useable cannabis, cannabis concentrates, cannabis health and beauty aids, and cannabis-infused products for sale in retail outlets;

(h) Forms to be used for purposes of this chapter and chapter **69.51A** RCW or the rules adopted to implement and enforce these chapters, the terms and conditions to be contained in licenses issued under this chapter and chapter **69.51A** RCW, and the qualifications for receiving a license issued under this chapter and chapter **69.51A** RCW, including a criminal history record information check. The board may submit any criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(i) Application, reinstatement, and renewal fees for licenses issued under this chapter and chapter **69.51A** RCW, and fees for anything done or permitted to be done under the rules adopted to implement and enforce this chapter and chapter **69.51A** RCW;

(j) The manner of giving and serving notices required by this chapter and chapter **69.51A** RCW or rules adopted to implement or enforce these chapters;

(k) Times and periods when, and the manner, methods, and means by which, licensees transport and deliver cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products within the state;

(l) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, sold, or offered for sale within this state which do not conform in all respects to the standards prescribed by this chapter or chapter **69.51A** RCW or the rules adopted to implement and enforce these chapters;

(m) The prohibition of any type of device used in conjunction with a cannabis vapor product and the prohibition of the use of any type of additive, solvent, ingredient, or compound in the production and processing of cannabis products, including cannabis vapor products, when the board determines, following consultation with the department of health or any other authority the board deems appropriate,

that the device, additive, solvent, ingredient, or compound may pose a risk to public health or youth access; and

(n) Requirements for processors to submit under oath to the department of health a complete list of all constituent substances and the amount and sources thereof in each cannabis vapor product, including all additives, thickening agents, preservatives, compounds, and any other substance used in the production and processing of each cannabis vapor product.

(2) Rules adopted on retail outlets holding medical cannabis endorsements must be adopted in coordination and consultation with the department.

(3) The board must adopt rules to perfect and expand existing programs for compliance education for licensed cannabis businesses and their employees. The rules must include a voluntary compliance program created in consultation with licensed cannabis businesses and their employees. The voluntary compliance program must include recommendations on abating violations of this chapter and rules adopted under this chapter.

[**2022 c 16 s 63**; **2020 c 133 s 3**; **2019 c 394 s 4**; **2015 2nd sp.s. c 4 s 1601**; **2015 c 70 s 7**; **2013 c 3 s 9** (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Intent—Finding—2022 c 16: See note following RCW **69.50.101**.

Findings—2020 c 133: "The legislature finds that recent reports of lung illnesses associated with vapor products demand serious attention by the state in the interest of protecting public health and preventing youth access. While state law grants the liquor and cannabis board broad authority to regulate vapor products containing marijuana [cannabis], the legislature finds that risks to public health and youth access can be mitigated by clarifying that the board is granted specific authority to prohibit the use of any additive, solvent, ingredient, or compound in marijuana [cannabis] vapor product production and processing and to prohibit any device used in conjunction with a marijuana [cannabis] vapor product." [**2020 c 133 s 1**.]

Effective date—2020 c 133: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 25, 2020]." [**2020 c 133 s 5**.]

Findings—2019 c 394: See note following RCW **69.50.563**.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW **69.50.334**.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW **66.08.012**.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW **69.50.101**.

PDF

RCW 69.50.345**State liquor and cannabis board—Rules—Procedures and criteria.**

The board, subject to the provisions of this chapter, must adopt rules that establish the procedures and criteria necessary to implement the following:

(1) Licensing of cannabis producers, cannabis processors, and cannabis retailers, including prescribing forms and establishing application, reinstatement, and renewal fees.

(a) Application forms for cannabis producers must request the applicant to state whether the applicant intends to produce cannabis for sale by cannabis retailers holding medical cannabis endorsements and the amount of or percentage of canopy the applicant intends to commit to growing plants determined by the department under RCW **69.50.375** to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products sold to qualifying patients.

(b) The board must reconsider and increase limits on the amount of square feet permitted to be in production on July 24, 2015, and increase the percentage of production space for those cannabis producers who intend to grow plants for cannabis retailers holding medical cannabis endorsements if the cannabis producer designates the increased production space to plants determined by the department under RCW **69.50.375** to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products to be sold to qualifying patients. If current cannabis producers do not use all the increased production space, the board may reopen the license period for new cannabis producer license applicants but only to those cannabis producers who agree to grow plants for cannabis retailers holding medical cannabis endorsements. Priority in licensing must be given to cannabis producer license applicants who have an application pending on July 24, 2015, but who are not yet licensed and then to new cannabis producer license applicants. After January 1, 2017, any reconsideration of the limits on the amount of square feet permitted to be in production to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW **69.51A.230**;

(2)(a) Except as provided in RCW **69.50.335**, determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(i) Population distribution;

(ii) Security and safety issues;

(iii) The provision of adequate access to licensed sources of cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

(iv) The number of retail outlets holding medical cannabis endorsements necessary to meet the medical needs of qualifying patients. The board must reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. After January 1, 2017, any reconsideration of the maximum number of retail outlets needed to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW **69.51A.230**.

(b)(i) In making the determination under (a) of this subsection, the board must consider written input from an incorporated city or town, or county legislative authority when evaluating concerns related to outlet density.

(ii) An incorporated city or town, or county legislative authority, may enact an ordinance prescribing outlet density limitations. An ordinance may not affect licenses issued before the effective date of the ordinance prescribing outlet density limitations.

(iii) The board may adopt rules to identify how local jurisdiction input will be evaluated;

- (3) Determining the maximum quantity of cannabis a cannabis producer may have on the premises of a licensed location at any time without violating Washington state law;
- (4) Determining the maximum quantities of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis processor may have on the premises of a licensed location at any time without violating Washington state law;
- (5) Determining the maximum quantities of cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis retailer may have on the premises of a retail outlet at any time without violating Washington state law;
- (6) In making the determinations required by this section, the board shall take into consideration:
 - (a) Security and safety issues;
 - (b) The provision of adequate access to licensed sources of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and
 - (c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;
- (7) Determining the nature, form, and capacity of all containers to be used by licensees to contain cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products, and their labeling requirements;
- (8) In consultation with the department of agriculture and the department, establishing classes of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration, or other qualitative measurements deemed appropriate by the board;
- (9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products that are not inconsistent with the provisions of this chapter, taking into consideration:
 - (a) Federal laws relating to cannabis that are applicable within Washington state;
 - (b) Minimizing exposure of people under 21 years of age to the advertising;
 - (c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by cannabis use in the advertising; and
 - (d) Ensuring that retail outlets with medical cannabis endorsements may advertise themselves as medical retail outlets;
- (10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products within the state;
- (11) In consultation with the department and the department of agriculture, prescribing methods of producing, processing, and packaging cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, or sold by licensees;
- (12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by this chapter or the rules of the board.

[**2023 c 220 s 5**; (2023 c 220 s 4 expired July 1, 2024); **2022 c 16 s 65**; (2022 c 16 s 64 expired July 1, 2024). Prior: **2019 c 393 s 2**; **2019 c 277 s 6**; **2018 c 43 s 2**; **2015 c 70 s 8**; **2013 c 3 s 10** (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Effective date—2023 c 220 s 5: "Section 5 of this act takes effect July 1, 2024." [[2023 c 220 s 9.](#)]

Expiration date—2023 c 220 s 4: "Section 4 of this act expires July 1, 2024." [[2023 c 220 s 8.](#)]

Effective date—2022 c 16 ss 65 and 68: "Sections 65 and 68 of this act take effect July 1, 2024." [[2022 c 16 s 174.](#)]

Expiration date—2022 c 16 ss 64 and 67: "Sections 64 and 67 of this act expire July 1, 2024." [[2022 c 16 s 173.](#)]

Intent—Finding—2022 c 16: See note following RCW [69.50.101](#).

Effective date—2019 c 393: "This act takes effect January 1, 2020." [[2019 c 393 s 6.](#)]

Intent—2019 c 393: See note following RCW [69.50.346](#).

Effective date—2019 c 277 ss 2 and 6: See note following RCW [69.50.348](#).

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW [66.08.012](#).

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW [69.50.101](#).

HTML has links - PDF has Authentication

PDF

WAC 314-55-115**Methods of payment for cannabis licensees purchasing cannabis.**

A cannabis licensee must pay cash for cannabis prior to or at the time of delivery. The LCB will recognize the following forms of payment as cash payment for the purpose of this section.

(1) **Checks**, under the following provisions:

(a) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(b) Both parties must maintain records of transactions, including relevant proof of mailing, and have the records readily available for the LCB review.

(c) The check must be sent, delivered, or mailed by the cannabis licensee no later than the first business day following delivery and must be deposited as promptly as is reasonably practical, and in no event later than five business days following delivery. Any attempt by a cannabis licensee to delay payment on checks for any period of time beyond the minimum as is reasonably practical will be considered an unlawful attempt to purchase products on credit.

(2) **Credit/debit cards**, under the following provisions:

(a) The credit or debit card transaction agreement must be voluntary on the part of both licensees, and there must be no discrimination for nonparticipation in credit or debit card transactions.

(b) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(c) Both parties must bear their respective banking costs or other costs associated with the credit or debit card service.

(d) Both parties must maintain records of transactions and have the records readily available for the LCB review.

(e) The credit or debit card charge must be initiated by the cannabis licensee no later than the first business day following delivery.

(3) **Electronic funds transfer (EFT)**, under the following provisions:

(a) The EFT agreement must be voluntary on the part of both the licensees, and there must be no discrimination for nonparticipation in EFT.

(b) Prior to any EFT transaction, the cannabis licensee must enter into a written agreement specifying the terms and conditions for EFT as payment for cannabis.

(c) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(d) Both parties must bear their respective banking costs or other costs associated with EFT service.

(e) Both parties must maintain records of transactions and have the records readily available for the LCB review.

(f) The electronic funds transfer must be initiated by the cannabis licensee no later than the first business day following delivery and must be paid as promptly as is reasonably practical, and in no event later than five business days following delivery. Any attempt by a cannabis licensee to delay payment on EFT transactions for any period of time beyond the minimum as is reasonably practical will be considered an unlawful attempt to purchase products on credit.

(4) **Prepaid accounts**. Both parties must keep accurate accounting records of prepaid accounts to ensure a cash deposit is not overextended, which is considered an extension of credit.

(5) **Transactions using a money transmitter**, under the following provisions:

(a) The money transmitter must be licensed by and in good standing with the Washington state department of financial institutions.

(b) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(c) Both parties must bear their respective costs associated with the money transmitter service.

(d) Both parties must maintain records of transactions and have the records readily available for the LCB to review.

(e) The funds transfer through the money transmitter must be initiated by the cannabis licensee no later than the first business day following delivery and must be paid as promptly as is reasonably practical, and in no event later than five business days following delivery. Any attempt by a cannabis licensee to delay payment on money transmitter transactions for any period of time beyond the minimum as is reasonably practical will be considered an unlawful attempt to purchase products on credit.

(6) Any transaction reported as having nonsufficient funds (NSF) will be considered an extension of credit. If a transaction is reported as NSF:

(a) The purchaser must pay the full amount of the transaction to the seller by 3:00 p.m. on the first business day following receipt of the NSF report.

(b) Until the NSF transaction is paid:

(i) The cannabis licensee who received the NSF transaction will not deliver any cannabis to the purchaser; and

(ii) It is the responsibility of the purchaser to not receive additional cannabis from any other cannabis licensee.

(7) As used in this section, "delivery" refers to delivery of cannabis.

(8) All records must be kept and maintained consistent with WAC **314-55-087**.

[Statutory Authority: RCW **69.50.342** and **69.50.345**. WSR 24-20-055, s 314-55-115, filed 9/25/24, effective 10/26/24. Statutory Authority: RCW **69.50.342** and 2022 c 16 § 168. WSR 22-14-111, § 314-55-115, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW **69.50.342** and **69.50.345**. WSR 16-11-110, § 314-55-115, filed 5/18/16, effective 6/18/16.]