



## **Notice of Permanent Rules to Implement I-502**

This explanatory statement concerns the **Washington State Liquor Control Board's adoption of rules to implement I-502.**

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. This statement must be provided to anyone who gave comment about the proposed rule making.

Once persons who gave comment during this rule making have had a chance to receive this document, the Liquor Control Board will file the amended rules with the Office of the Code Reviser. These rule changes will become effective 31 days after filing.

The Liquor Control Board appreciates your involvement in this rule making process. If you have any questions, please contact Karen McCall, Rules Coordinator, at (360) 664-1631 or e-mail at [rules@liq.wa.gov](mailto:rules@liq.wa.gov).

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## **What are the agency's reasons for adopting these rules?**

Initiative 502 directs the Board to adopt rules on various topics and authorizes it to adopt rules on other topics. Rules are needed to implement Initiative 502. New license types were created with specific requirements. This rulemaking address rules regarding marijuana producer, marijuana processor, and marijuana retailer licenses and the requirements and application process for those licenses. Penalties are also addressed in this rulemaking.

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## **Summary of all public comments received on this rulemaking.**

### **Comments received on the initial draft rules posted on the Liquor Control Board's website and emailed to stakeholders on May 16, 2013:**

**Two written comments were received in support of the initial draft proposed rules as written.**

**Nineteen comments were received requesting the board allow extracts to be sold in marijuana retail outlets.** Nineteen people stated extracts are a very popular form of marijuana and in some cases are used more often than useable marijuana.

**LCB response:** The definition of marijuana in RCW 69.50.101 includes the resin extracted from any part of the plant. A marijuana retailer is not allowed to sell marijuana, only useable marijuana as defined in the law, and marijuana infused products. A legislative change is required to allow marijuana retailers to sell marijuana extracts. In the rules adopted by the board a marijuana retailer is allowed to sell extracts infused in products.

**Sixteen comments were received requesting changes to labels and packaging requirements.** One person requested that UBI numbers not be included on the labels. Seven people requested packaging not be allowed to be appealing to children. One person requested child-proof packaging. Seven people requested stronger label requirements to include warnings. One person stated the strain should be included on the label.

**LCB response:** RCW 69.50.345 requires the UBI number to be included on the label of all marijuana products. The rules adopted by the board include a requirement for child-proof packaging and warnings to be included on all marijuana product labels. The rules adopted by the board also include a requirement that all labels of marijuana products may not contain any statement or illustration that is designed in any manner that would be especially appealing to children or other persons under legal age to consume marijuana. The strain is required to be on the label.

**Eight comments were received requesting the board not use the State of Washington with a marijuana leaf as a logo.** Eight people stated the proposed logo did not represent a favorable image of the state.

**LCB response:** The rules adopted by the board do not include a logo but contain language that the board may create a logo that must be placed on all marijuana products.

**Nineteen comments were received requesting the board allow outdoor grows.** Nineteen people stated that marijuana can be grow outdoors with security to protect public safety.

**LCB response:** The rules adopted by the board allow outdoor grows with the required security including an 8 foot sight obscure wall or fence as well as all other security requirements for indoor grow operations.

**Fourteen comments were received requesting changes to the residency requirements.** Eight people requested the residency requirement be changed to anywhere from 1 to 5 years. Two people requested there be no residency requirement for anyone. Two people requested that spouses not be required to meet residency requirements. One person requested that financiers not be required to meet residency

requirements. One person requested that applicants not be required to meet residency requirements.

**LCB response:** RCW 69.50.331 requires all members of the business meet the three month residency requirement.

**Sixteen comments were received requesting the hours of operation be reduced from 6 am to 12 am to a lower amount.** Sixteen people commented that the proposed hours of operation were too long and could potentially increase robberies which would impact public safety.

**LCB response:** The rules adopted by the board allow a marijuana retail store to conduct sales between 8am and 12 am.

**Eight comments were received requesting the marijuana excise taxes be lowered.** Eight people commented that the 25% marijuana excise tax at each level is too high and will make the final cost of product too high.

**LCB response:** The marijuana excise taxes were set in RCW 69.50.535 and cannot be changed in rule.

**Four comments were received requesting product sampling between the tiers to negotiate a sale.** Four people commented that samples should be allowed between a producer and a processor and a processor and a retailer to negotiate a sale like they are allowed for alcohol.

**LCB response:** The final rules adopted by the board allow samples between the tiers to negotiate a sale. There are limits on the amount of product that can be given for samples. All samples must be tracked in the traceability system.

**Eight comments were received requesting the allowance of third party transport.** Eight people requested the board allow third party transport of product.

**LCB response:** Initiative 502 prohibits third party transport of product. Product can only be transported by a marijuana licensee or an employee of a marijuana licensee.

**Six comments were received stating the security and traceability requirements are too excessive.** Five people commented the security system was too excessive. One person commented the traceability was too excessive.

**LCB response:** The final rules adopted by the board were revised to relax some of the security and traceability requirements.

**Twelve comments were received on internet sales, delivery, marketing, mail orders, and drive up windows.** Four people requested the board allow internet sales, delivery, and marketing. Eight people requested the board prohibit internet sales, delivery, mail orders, and drive up windows.

**LCB response:** RCW 69.50.325 allows a marijuana retail licensee to sell useable marijuana and marijuana infused products in retail outlets. Internet sales, delivery, mail orders, and sales through drive up windows do not take place in the licensed

premises. The final rules adopted by the board include warning statements that must be included in all advertising of any kind. A marijuana licensee may advertise on the internet but is prohibited from taking orders or selling product over the internet. To comply with I-502, ensure public safety and limit youth access to marijuana the final rules adopted by the board do not allow delivery of product.

**Nine comments were received requesting all advertising of marijuana or marijuana infused products be banned.** Nine people requested the board ban any type of advertising for marijuana businesses, marijuana or marijuana infused products in any type of media.

**LCB response:** RCW 69.50.369 created some advertising restrictions specifying where advertising could not be placed. The final rules adopted by the board include advertising restrictions for marijuana licensees and warning statements that must be included in all advertising, but advertising is allowed.

**Eleven comments were received requesting the definitions of child care center, library, playground, public park, and public transit center be amended.** Seven people requested the definitions for public park and public transit center be amended. Two people requested the definition for child care center be amended. Two people requested the definitions for library and playground be amended.

**LCB response:** The definitions of public park, public transit center, child care center, library, and playground were all amended in the final rules adopted by the board.

**Three comments were received requesting the board allow people to grow marijuana for personal use.** Three people asked the board to allow personal marijuana grows.

**LCB response:** Initiative 502 created a recreational marijuana market with three tiers of licenses that allow the respective licensees to produce, process, and sell marijuana at retail to customers over 21 years of age. The initiative did not allow anyone to grow marijuana for personal use. It remains illegal to grow marijuana for personal use.

**Five comments were received stating the penalties for selling to minors are too low.** Four people commented that the penalties for selling to minors should be higher. One person commented that a marijuana license should be suspended for sales to minors.

**LCB response:** Selling marijuana to a minor remains a crime in chapter 69.50 RCW. The penalty for a marijuana retail licensee allowing to a minor to enter or remain on a licensed premises is set in RCW 69.50.537.

**Eighteen comments were received on the lottery process for marijuana retail licenses.** Ten people requested the board identify how the number of retail licenses will be determined. Eight people requested the board modify the lottery process for retail licenses.

**LCB response:** The final rules adopted by the board include how the number of retail licenses will be determined based on the criteria in the initiative, and the board also modified the lottery process and how it will be conducted.

**Eight comments were received requesting the board lower the 72 hour mandatory quarantine time before marijuana, useable marijuana or marijuana infused products may be inspected prior to being transported.**

Eight people expressed 72 hours is too long for quarantine.

**LCB response:** In the final rules adopted by the board this requirement was changed to 24 hours.

**Ten comments were received regarding marijuana infused products that may appeal to youth.** Ten people requested the board ban marijuana infused products that may appeal to youth or may be confused for products that do not contain marijuana.

**LCB response:** The final rules adopted by the board contain stricter labeling and packaging requirements, such as child proof packaging and a requirement that all labels of marijuana products may not contain any statement or illustration that is designed in any manner that would be especially appealing to children or other persons under legal age to consume marijuana.

**One comment was received requesting a notification system of all marijuana license applications.** One person requested the board create a notification system to notify the public of all marijuana license applications so the public can comment if they choose to do so.

**LCB response:** All marijuana applications will be on the Liquor Control Board website by county. Anyone can access the website and find the information. The public can comment on any application.

**Four comments were received requesting the 30 day application window be extended.** Four people stated the 30 day application window is not enough time for applicants to get their applications and required documentation ready to submit.

**LCB response:** Board staff is holding licensing education seminars throughout the state starting in October to walk potential licensees through the application process and answer any additional questions they might have. To apply for a marijuana license a person only needs to submit the application.

**Three comments were received regarding fingerprinting and criminal history.** Two people wanted the board to remove the fingerprinting and criminal background check requirement. One person did not want felony convictions to prevent a person from being issued a marijuana license.

**LCB response:** RCW 69.50.331 allows the board to submit a criminal history record check to the Washington State Patrol and to the identification division of the FBI and requires fingerprinting of any criminal history record information check submitted to the

FBI. The final rules adopted by the board include WAC 314-55-040 which includes the criminal history point system. Prior criminal history will not necessarily prevent a person from being issued a marijuana license.

**Three comments were received regarding the insurance requirements for marijuana licensees.** Three people requested the board require a minimum dollar amount for commercial general liability insurance.

**LCB response:** The final rules adopted by the board set a limit of liability insurance at not less than one million dollars.

**Six comments were received requesting the board set the maximum amount of marijuana, useable marijuana, and marijuana infused product licensees can have on their premises.** Six people requested the board set the maximum amount of marijuana product each license type is allowed to have on their premises at any time.

**LCB response:** The final rules adopted by the board include maximum amounts of marijuana licensees are allowed to have on their premises at any time.

**Ten comments were received regarding the number of plants and the number of producer licenses that will be issued.** Four people asked the board to state the number of plants a marijuana producer may grow. Five people asked the board to limit grow operations to 99 plants. Two people asked the board to not limit the number of producer licenses.

**LCB response:** The final rules adopted by the board set the maximum amount of plant canopy for marijuana production in the state at two million square feet. Three tiers of plant canopy square footage were created for applicants to choose from when submitting applications for marijuana producer licenses. There is no limit on the number of marijuana producer licenses that the board will issue. If the total amount of plant canopy exceeds two million square feet the board will reduce all applicants' allowed plant canopy by the same percentage to meet the two million square foot maximum.

**Seven comments were received regarding the 1000 foot buffer.** Two people asked the board to measure the 1000 feet over public walkways. Five people want the 1000 feet changed to 500 feet.

**LCB response:** The final rules adopted by the board contained language that measured the 1000 feet over public walkways. However, the board will be filing an emergency rule by the end of October to change the language to measure the 1000 feet by straight line measured from the property line of the proposed marijuana premises to the property line of the facilities listed in the law. The emergency rule is necessary to be consistent with the federal law. RCW 69.50.331 requires the 1000 foot buffer. It cannot be changed without legislation.

**Two comments were received regarding the price of product.** Two people stated the board should not set the price for marijuana products.

**LCB response:** The board will not be setting the price for marijuana products. The market will drive the price.

**Five comments were received regarding customers inspecting and consuming product on a marijuana retail premise.** Two people asked the board to allow retail customers to smell and touch product before purchase. Three people asked the board to allow retail customers to consume marijuana inside a marijuana retail premises.

**LCB response:** In the rules adopted by the board marijuana retailers are allowed to have sample jars of product with screens affixed to the top of the jar. Customers will be able to see and smell product but they will not be able to touch the product. RCW 69.50.445 states, "It is unlawful to open a package containing marijuana, useable marijuana, or a marijuana-infused product, or consume marijuana, useable marijuana, or a marijuana-infused product, in view of the general public. A person who violates this section is guilty of a class 3 civil infraction under chapter [7.80](#) RCW."

**Two comments were received regarding firearms.** Two people stated firearms should be prohibited on a licensed premises.

**LCB response:** RCW 9.41.300 prohibits persons from entering licensed premises while in possession of firearms but does not apply to licensees or their employees while engaged in their employment. Federal law, however, prohibits firearms on premises where marijuana is present.

**One comment was received requesting the board allow marijuana producer licenses in a personal residence.** One person asked to have marijuana producer licenses allowed in a personal residence to lower the cost of business startup.

**LCB response:** Under WAC 314-55-015, the board will not approve any marijuana license for a location where law enforcement access, without notice or cause, is limited. This includes a personal residence.

**Two comments were received regarding energy use by a marijuana producer.** Two people stated there should be a limit on the amount of energy that can be used by a marijuana producer.

**LCB response:** The initiative did not require the board to address energy use by marijuana licensees. A lower carbon footprint was one of the factors in the board's decision to allow outdoor grow operations.

**Three comments were received on quality assurance testing.** One person believes licensees should be allowed to do their own quality assurance testing. One person requested there be a requirement for high product testing standards. One person suggested a rule that would prohibit a lab from testing product if they have an ownership interest in that marijuana license.

**LCB response:** RCW 69.50.348 requires marijuana licensees to submit samples of their products for testing to an independent third-party laboratory. The final rules adopted by the board do require high testing standards. A person with a financial interest in an accredited third-party testing lab may not have a direct or indirect financial interest in a licensed marijuana business for which they are conducting required quality assurance tests.

**Four comments were received regarding the maximum amount of THC per serving size in marijuana infused products.** Four people requested the board increase the maximum amount of THC allowed per serving size in marijuana infused products.

**LCB response:** The board worked with a group of marijuana experts from testing labs and researchers from several universities to establish the maximum amount of THC per serving size in marijuana infused products.

**Two comments were received that lot size should be increased.** Two people stated the lot size of 2 pounds for flowers and 6 pounds for trim, leaves, and other plant matter was too low.

**LCB response:** Lot size was increased in the final rules adopted by the board. Lot size is 5 pounds for flowers and 15 pounds for trim, leaves, and other plant matter.

**Three comments were received requesting new marijuana license types.** Two people asked the board to create a marijuana distributor license to transport product. One person asked the board to create 3 new licenses: a marijuana plant propagator, a bonded marijuana courier, and a marijuana broker.

**LCB response:** The board does not have the authority to create new marijuana license types in rule. Legislation is required to create new license types.

**Three comments were received on extraction techniques.** Three people requested the board revise extraction techniques.

**LCB response:** Extraction techniques and requirements were revised in the final rules adopted by the board.

**Five comments were received regarding training.** Three people requested the board require mandatory training for all marijuana licensees. Two people requested the board establish a Responsible Vendor Program for retail licensees.

**LCB response:** The final rules adopted by the board require a marijuana license to take a briefing on marijuana laws and rules so the licensee can demonstrate they are familiar with marijuana laws and rules. A mandatory Responsible Vendor Program would require legislation.

**Twelve comments were received regarding educational materials.** Six people requested public education materials be distributed at the point of sale. Three people requested the accompanying materials with marijuana be created by Department of



Health. Three people requested the Washington Recovery Help Line be printed on all labels.

**LCB response:** In the new laws created by Initiative 502, funds are dedicated to the Department of Health for the creation, implementation, operation, and management of a marijuana education and public health program. The requirements in the law for what is included on the label and packaging are met in the rules adopted by the board.

**Four comments were received on increased funding and resources.** Two people requested the board increase the number of enforcement officers. One person asked for more resources for local law enforcement. One person asked for more funding for prevention and treatment.

**LCB response:** Legislation is required for additional funding and resources.

**Two comments were received on product disposal.** Two people requested that disposal of product be tracked in the traceability system.

**LCB response:** Any product destroyed must be entered into the traceability system.

**Three comments were received on the location of marijuana licenses.** Two people asked that marijuana licenses not be issued near schools. One person asked that marijuana licenses not be approved within 1000 feet of another marijuana licensed premises or a store over 75% of its sales are alcohol.

**LCB response:** RCW 69.50.331 prohibits the board from issuing a marijuana license within 1000 feet of the perimeter of schools, playgrounds, recreation centers or facilities, child care centers, public parks, public transit centers, libraries, or game arcades not restricted to persons over 21 years of age. There is no authority in the law for the board not to issue licenses for marijuana businesses within 1000 feet another marijuana licensed premises or a store over 75% of its sales are alcohol.

**Two comments were received regarding marijuana license limits.** One person requested the board limit the number of marijuana licenses any one person or entity could hold. One person requested the board not limit any marijuana license type.

**LA response:** The final rules adopted by the board include a limit of three marijuana licenses of each type to any entity or person within an entity.

**One comment was received regarding products for growing marijuana.** One person requested the board include a list of products that are allowed for growing marijuana.

**LCB response:** The final rules adopted by the board include a list of products that may be used in the production of marijuana in WAC 314-55-084.

**Two comments were received regarding importing and exporting of marijuana.** One person asked that importing of marijuana and marijuana seeds be allowed. One person asked that marijuana licensees be allowed to export marijuana and marijuana infused products to other states that have legalized marijuana.

**LCB response:** The law does not allow import or export of marijuana or marijuana infused products.

**One comment was received concerning retail outlet prohibitions.** One person requested the board allow marijuana retail licensees to hold a marijuana processor license.

**LCB response:** RCW 69.50.328 prohibits a marijuana producer or processor from having a direct or indirect financial interest in a licensed marijuana retailer.

**One comment was received regarding marijuana producer sales.** One person requested the board allow marijuana producer licensees to sell to marijuana retailer licensees.

**LCB response:** RCW 69.50.325 allows a marijuana producer to sell at wholesale only to other marijuana producers or marijuana processors.

**Three comments were received regarding who should be allowed to get marijuana licenses.** Two people asked that farmers be given marijuana producer licenses. One person asked that former state and contract liquor stores be given marijuana retail licenses.

**LCB response:** Farmers can apply for and receive marijuana producer licenses if they meet the requirements and qualifications for the license. A marijuana retail licensee is not allowed to sell anything in their store except useable marijuana, marijuana infused products, and marijuana paraphernalia. Former state and contract liquor stores would not be able to sell any of their current alcohol inventories in a marijuana retail outlet.

**Comments received on the CR 102 (Proposed Rules) filed July 3, 2013, filed at WSR 13-14-124 including comments received at the five Public Hearings conducted August 6<sup>th</sup>, 2013 through August 8<sup>th</sup>, 2013:**

**Thirty one comments were received requesting maximum quantities of marijuana allowed for marijuana licensees.** 36 people requested the board to set maximum amounts of product a marijuana licensee is allowed to have on their premises at any given time.

**LCB response:** The final rules adopted by the board include maximum amounts of marijuana licensees are allowed to have on their premises at any time.

**Twenty five comments were received requesting LCB encourage DSHS to actively solicit input from community based organizations serving diverse communities on the processes through which service funding decisions will be made.**

**LCB response:** LCB will work closely with DSHS and the other agencies which deliver services with funding provided by I-502 revenues.

**Twenty three comments were received regarding educational materials.** 23 people requested educational materials be available in multiple languages.

**LCB response:** Per I-502 Department of Health is responsible for creating educational materials. This request will be forwarded to Department of Health.

**Twenty three comments were received requesting the board seek information from the Washington State Institute for Public Policy about how the agency will evaluate impacts of I-502 on our communities in 2015, 2017, 2022 and 2031.**

**LCB response:** The board will work with the Washington State Institute for Public Policy to determine how they will evaluate the impacts of I-502 on Washington communities using the criteria in I-502.

**Twenty two comments were received requesting diversity at all license levels.**

**LCB response:** The requirements and qualifications contained in I-502 and the final rules adopted by the board will be used to determine marijuana licensees. Local jurisdictions will be deciding which areas will be allowed to have marijuana licenses. Concerns should be shared with local jurisdictions.

**Twenty one comments were received regarding the 1000 ft. buffer.** 22 people requested the board measure the 1000 foot buffer over public walkways.

**LCB response:** The rules adopted by the board contained language that measured the 1000 feet over public walkways. The board will be filing an emergency rule by the end of October to change the language to measure the 1000 feet by straight line measured from the property line of the proposed marijuana premises to the property line of the facilities listed in the law. The emergency rule is necessary to be consistent with the federal law.

**Twenty one comments were received requesting the use of a merit based scoring system for all license types with minority ownership as a competitive factor.**

**LCB response:** The board will not be using a merit based scoring system as a competitive factor to determine marijuana licenses. The requirements and qualifications contained in I-502 and the final rules adopted by the board will be used to determine marijuana licensees.

**Twenty one comments were received requesting the board to offer interpretive services at Public Hearings.**

**LCB response:** Providing interpretive services at public hearings is not a legal requirement of Washington law, and the LCB is not providing them at this time.

**Twenty comments were received requesting the board to further restrict advertising.**

**LCB response:** The final rules adopted by the board contain additional restrictions on advertising including required warning statements on all advertising in any medium.

**Twenty comments were received requesting the requirement of mandatory compliance checks.**

**LCB response:** Compliance checks will be a mandatory component of marijuana license enforcement.

**Nineteen comments were received requesting the board to establish a minimum price.**

**LCB response:** The board will not set a minimum price for marijuana. The market will determine the price.

**Eighteen comments were received requesting a limit on outlet density.**

**LCB response:** Outlet density will be determined by the local jurisdictions by their zoning decisions for areas that will be allowed to have marijuana licenses.

**Seventeen comments were received requesting revision to the definition of "Public Park" to remove "trails".**

**LCB response:** In the final rules adopted by the board specific language was added stating "public parks do not include trails".

**Seventeen comments were received requesting restriction of retail licenses at least 1000 ft. from existing alcohol retailers.**

**LCB response:** RCW 69.50.331 prohibits the board from issuing a marijuana license within 1000 feet of the perimeter of schools, playgrounds, recreation centers or facilities, child care centers, public parks, public transit centers, libraries, or game arcades not restricted to persons over 21 years of age. There is no authority in the law for the board to not issue licenses to marijuana businesses within 1000 feet from alcohol retailers.

**Nine comments were received requesting no grow limits or caps on producers.**

**LCB response:** Initiative 502 required the board to set a maximum amount of marijuana production. The final rules adopted by the board set the total amount of marijuana production at two million square feet of plant canopy.

**Eight comments were received on the 30 day window indicating it is not enough time for the application period.**

**LCB response:** The 30-day application window was used based on the State of Colorado model for medical marijuana licensing. If the board finds there are not enough applications to meet the demand the window may be reopened.

**Six comments were received requesting the board not limit the number of producers.**

**LCB response:** The final rules adopted by the board set the maximum amount of plant canopy for marijuana production in the state at two million square feet. Three tiers of plant canopy square feet were created for applicants to choose from when submitting their application for a marijuana producer license. There is no limit on the number of marijuana producer licenses that the board will issue. If the total amount of plant canopy exceeds two million square feet the board will reduce all applicants' allowed plant canopy by the same percentage to meet the two million square foot maximum.

**Five comments were received requesting a revision to the definition of "Recreation Center or Facility".**

**LCB response:** The final rules adopted by the board include language in the definition of "recreation center or facility" as follows: "owned and/or operated by a charitable non-profit organization, city, county, state, or federal government".

**Five comments were received regarding the environmental impacts in the rulemaking process (SEPA).**

**LCB response:** See the SEPA checklist and Determination of Non-Significance prepared by the board and available on its website.

**Five comments were received requesting the use of a merit based scoring system for all license types.**

**LCB response:** The board will not be using a merit based scoring system as a competitive factor to determine marijuana licenses. The requirements and qualifications contained in I-502 and the final rules adopted by the board will be used to determine marijuana licensees.

**Seven comments were received requesting the board prohibit products that combine marijuana with alcohol or tobacco.**

**LCB response:** Marijuana infused products may not contain alcohol or tobacco.

**Five comments were received requesting realistic timelines and clarifying the process for the public and local government to respond to license applications.**

**LCB response:** The final rules adopted by the board contain rules clarifying the timeline and process for local governments to respond to marijuana license applications (WAC 314-55-160). The public can comment on any marijuana application throughout the application process.

**Five comments were received requesting the creation of a Responsible Vendor Program.**

**LCB response:** A mandatory Responsible Vendor Program would require legislation.

**Five comments were received requesting a revision to the time limit of 72 hr. quarantine, saying it is too long.**

**LCB response:** In the final rules adopted by the board this requirement was changed to 24 hours.

**Four comments were received requesting stricter protocols for security (image, metadata, transport).**

**LCB response:** The final rules adopted by the board contain revisions to WAC 314-55-083 for security.

**Four comments were received regarding outdoor grows.** Four people requested the board limit the size of outdoor grows

**LCB response:** The final rules adopted by the board set 30,000 square feet of plant canopy as the maximum size of any marijuana producer license.

**Four comments were received requesting the board do not require all production to be "Organic".**

**LCB response:** There is no requirement for all production to be organic (WAC 314-55-084).

**Four comments were received requesting a ban on all marijuana advertising.**

**LCB response:** I-502 created advertising restrictions regarding where advertising could not be placed and mandated adoption of rules restricting advertising. The final rules adopted by the board include advertising restrictions by marijuana licensees and warning statements that must be included in all advertising, but advertising is allowed.

**Four comments were received requesting the ban on outdoor grow operations.**

**LCB response:** The rules adopted by the board allow outdoor grows with the required security including an 8 foot sight obscure wall or fence as well as all other security requirements for indoor grow operations.

**Four comments were received requesting a revision to the time limit of 15 days to get plant strains in-house.**

**LCB response:** The final rules adopted by the board have the 15 day limit to get plants into the licensed producer premises. After 15 days as marijuana producer may purchase plants or seeds from another marijuana producer.

**Four comments were received requesting the board use caution when issuing licenses to communities with persons at risk.**

**LCB response:** Local jurisdictions through the zoning process will be deciding which areas will be allowed to have marijuana licenses. Concerns should be shared with local jurisdictions.

**Four comments were received requesting strong education and awareness programs for youth prevention.**

**LCB response:** Initiative 502 dedicates funding to the Department of Health and the Department of Social & Health Services for education and programs that include youth prevention.

**Three comments were received on fencing and security being too restrictive.**

**LCB response:** The decision to allow outdoor grows was based on tight security requirements. The board does not feel the fencing and security requirements are too restrictive.

**Three comments were received requesting that cities and local jurisdictions may not contest license applications.**

**LCB response:** The application process outlined in RCW 69.50.331 requires the board to notify local authorities of all marijuana applications and allows the local authority to submit objections regarding the applicant or the proposed business location.

**Three comments were received requesting the allowance of personal grows for personal use.**

**LCB response:** I-502 did not allow personal marijuana grows for personal use. They remain illegal under state law. Personal grows would require legislation.

**Three comments were received requesting the allowance of third party transport.**

**LCB response:** I-502 prohibited 3<sup>rd</sup> party transport. Only a marijuana licensee or their employee is allowed to transport product. Legislation would be required to allow 3<sup>rd</sup> party transport.

**Three comments were received requesting the increase of lot size to 10 lbs. and trim to 30lbs.**

**LCB response:** The final rules adopted by the board increased lot size to 5 lbs. for flowers and 15 lbs. for trim, leaves, and other plant matter.

**Three comments were received requesting the allowance of topicals under 0.3% to qualify as hemp.**

**LCB response:** I-502 only addressed recreational marijuana with a THC concentration greater than 0.3% on a dry weight basis. It did not legalize topicals under 0.3% or hemp.

**Three comments were received requesting the allowance of samples of each strain per month to negotiate sales.**

**LCB response:** The final rules adopted by the board set the total amount of samples a producer may provide to a processor each month at four grams. The maximum amount for any one sample is two grams. A producer could give smaller sample amounts to provide a wider variety of strains but the total amount of product may not exceed four grams.

**Three comments were received requesting the review of barriers to small and low income startup producers, to make loans available.**

**LCB response:** All applicants must meet the same qualifications and requirements to obtain a marijuana license. The State of Washington cannot make loans to applicants for marijuana businesses.

**Three comments were received requesting the board only allow organic products.**

**LCB response:** The board is not requiring only organic products (WAC 314-55-084).

**Three comments were received requesting the board differentiate between medical and recreational marijuana.**

**LCB response:** Initiative 502 only addressed recreational marijuana. The rules adopted by the board only address recreational marijuana.

**Three comments were received on excessive camera security requirements.**

**LCB response:** The camera security requirements are necessary to ensure control of the area.

**Three comments were received requesting a ban on marijuana licenses in residential areas.**

**LCB response:** The board will not issue a marijuana license to a location that is in a residence. Local jurisdictions will make the decisions on what areas will be zoned for marijuana licenses.

**Three comments were received requesting the inclusion of rules establishing procedures by which the Liquor Control Board will determine maximum retail outlets.**

**LCB response:** The final rules adopted by the board include the procedure for determining the maximum retail outlets.

**Three comments were received on requirement of age limit signs at Point of Sale (POS).**

**LCB response:** The final rules adopted by the board do not include age limit signs at the point of sale.



**Three comments were received on restricting packaging that is appealing to youth.**

**LCB response:** The rules adopted by the board include a requirement that all labels of marijuana products may not contain any statement or illustration that is designed in any manner that would be especially appealing to children or other persons under legal age to consume marijuana.

**Three comments were received to require legally mandated educational material produced by health experts, not the industry.**

**LCB response:** Initiative 502 dedicates funding to the Department of Health and the Department of Social & Health Services for educational material.

**Three comments were received requesting no more than one business at the address of the marijuana license.**

**LCB response:** The board will not issue a retail marijuana license for a location within another business (WAC 314-55-015 (7)).

**Three comments were received requesting the board give weight to local jurisdiction objections based on chronic illegal activity.**

**LCB response:** The final rules adopted by the board contain language that the board will give substantial weight to a local jurisdiction objection when the objection is based on chronic illegal activity (WAC 314-55-160 and WAC 314-55-165).

**Three comments were received requesting the revision to the tax requirements, saying taxes are too high.**

**LCB response:** The marijuana excise tax amounts are set in law. Legislation would be required to change the taxes.

**Two comments were received requesting limits be set on outdoor grow operations in proximity to neighbors to protect from noxious smells (odor impacts).**

**LCB response:** There was nothing in I-502 limiting the distances for marijuana producer licenses or limiting odors from marijuana production.

**Two comments were received requesting the board not allow producer names be of public record.**

**LCB response:** All marijuana licensee names are of public record. Legislation would be required to prohibit marijuana licensee names from public disclosure.

**Two comments were received requesting the board prohibit producer to producer sales.**

**LCB response:** RCW 69.50.325 allows producer to producer sales. Legislation would be required to prohibit this.

**Two comments were received requesting that producers pay the 25% producer tax even if they hold a processor license.**

**LCB response:** A producer would pay the 25% tax on any sales to other processors. A producer would not pay the 25% tax on their own product used by themselves for processing.

**Two comments were received requesting the board prohibit producers from holding a processor license.**

**LCB response:** The law allows a person to hold both a producer and processor license. Legislation would be required to prohibit this

**Two comments were received requesting revision of the definition of "Unit".**

**LCB response:** The board did not change the definition of "unit".

**Two comments were received requesting the implementation of tax rebate programs for startup marijuana businesses.**

**LCB response:** Legislation would be required for any tax rebate program.

**Two comments were received requesting a state sponsored insurance policy.**

**LCB response:** A state sponsored insurance policy would require legislation. There are several insurance companies that provide insurance for marijuana businesses.

**Four comments were received requesting a change in store hours to 10 am – 10 pm.**

**LCB response:** The final rules adopted by the board include a revision to store hours to 8am to 12am.

**Two comments were received requesting the board not allow sales of edibles that appeal to youth.**

**LCB response:** The final rules adopted by the board contain stricter labeling and packaging requirements, such as child proof packaging and a requirement that all labels of marijuana products may not contain any statement or illustration that is designed in any manner that would be especially appealing to children or other persons under legal age to consume marijuana.

**Four comments were received requesting that educational materials be provided at the point of sale.**

**LCB response:** Marijuana retail licensees may provide educational materials at point of sale but there is no requirement for them to do so.

**Two comments were received requesting that UBI numbers not be included on packaging.**

**LCB response:** RCW 69.50.345 requires the UBI number to be included on the label of all marijuana products.

**Two comments were received requesting the board limit the quarantine time to 24 hrs.**

**LCB response:** The final rule adopted by the board was amended. The quarantine time is now 24 hours except for destruction of product (WAC 314-55-083).

**Two comments were received requesting the allowance of composting of residual plant material from marijuana facilities.**

**LCB response:** Composting destroyed plant material from marijuana licensees is allowed. The plant material must be rendered unusable before it can be removed from the licensed premises.

**Two comments were received requesting a ban on edibles.**

**LCB response:** RCW 69.50.360 allows a marijuana retail licensee to sell 16 ounces of marijuana infused product in solid form and 72 ounces of marijuana infused product in liquid form per transaction to any person 21 years of age or older.

**Two comments were received on residency for financiers having negative impact on stakeholders.**

**LCB response:** Financiers must meet the three month residency requirements.

**Two comments were received requesting the residency requirement be changed to one year.**

**LCB response:** The 3 month residency requirement is in law (RCW 69.50.331). Legislation would be required to change it.

**Two comments were received requesting revision to the "Public Transit Center" definition.**

**LCB response:** The final rules adopted by the board contain a revision to the definition of "public transit center".

**Two comments were received requesting the allowance of a phased based implementation for licenses (tiers).**

**LCB response:** Three tiers of plant canopy square feet were created for applicants to choose from when submitting their application for a marijuana producer. There is no limit on the number of marijuana producer licenses that the board will issue. Licensees have until the second year of licensure to produce their maximum amount of plant canopy square footage. If the total amount of plant canopy exceeds two million square feet the board will reduce all applicants' allowed plant canopy by the same percentage to meet the two million square foot maximum.

**Two comments were received requesting a revision to the language on objections for license renewal by local jurisdictions.**

**LCB response:** The final rule adopted by the board includes language the board will give substantial weight to objections from local jurisdictions based on chronic illegal activity.

**Two comments were received requesting that surveillance videos be at an offsite location.**

**LCB response:** Surveillance videos must be kept on the licensed premises.

**Two comments were received regarding too much information is required on the label, suggesting an insert.**

**LCB response:** There is a requirement for accompanying material with each product. The requirement remains for the label information.

**Two comments were received regarding the requirement of evidence based messages on packaging, with rotating messages.**

**LCB response:** The final rules adopted by the board include required warning messages on all labels as well as warnings in the accompanying materials required to be provided with each product.

**Two comments were received requesting the requirement that the application process include public notice to allow communities to comment.**

**LCB response:** Public comment will be accepted on any marijuana application. All marijuana application information will be available on the LCB website.

**Two comments were received requesting a requirement for more signage at retail stores.**

**LCB response:** The signage requirements for marijuana retail licensees are in WAC 314-55-086 and RCW 69.50.357.

**Two comments were received requesting the board require licensee to validate the 1000 ft. buffer.**

**LCB response:** LCB enforcement officers will ensure a proposed licensed premises meets the 1000 foot buffer requirement.

**Two comments were received requesting the board not limit THC allowed in a single serving of infused product and the maximum number of servings in any one single unit of infused product.**

**LCB response:** The board worked with a group of marijuana experts from testing labs and researchers from several universities to establish the maximum amount of THC per serving size in marijuana infused products.

**Two comments were received requesting that enforcement responsibility not be shifted to the local jurisdiction.**

**LCB response:** The allocation of enforcement responsibilities is not addressed in the rules.

**Two comments were received requesting the board notify local jurisdictions regarding "applications to change the class" of license.**

**LCB response:** The application process for all application types includes notification to local jurisdictions.

**Two comments were received requesting stronger penalties for violations against public safety related to minors.**

**LCB response:** Selling marijuana to a minor remains a crime under chapter 69.50 RCW. The penalty for a marijuana retail licensee allowing a minor to enter or remain on licensed premises is set in RCW 69.50.357.

**Two comments were received requesting the 30 day application window be clarified.**

**LCB response:** The final rules adopted by the board explain the 30-day application window.

**Two comments were received requesting "marijuana extract" be better defined.**

**LCB response:** WAC 314-55-079 gives an explanation of a marijuana extract.

**Two comments were received requesting "Delta 9" be better defined.**

**LCB response:** "Delta 9" was not further defined in the final rules adopted by the board.

**Two comments were received requesting plants be entered into the traceability system when they undergo extraction.**

**LCB response:** This information is required to be entered into the traceability system.

**Two comments were received requesting marijuana extracts be entered into the traceability system when they are infused into products.**

**LCB response:** This information is required to be entered into the traceability system.

**Two comments were received requesting the requirement that retail locations post signs that display "marijuana use public health hotline".**

**LCB response:** Marijuana retail licensees may post this signage at their premises but there is no requirement for them to do so other than signage listed in WAC 314-55-086 and RCW 69.50.357.

**Two comments were received requesting a posting at point of sale Washington Poison Center information "in case of accidental use by child or overdose".**

**LCB response:** Marijuana retail licensees may post this signage at their premises but there is no requirement for them to do so other than signage listed in WAC 314-55-086 and RCW 69.50.357.

**Two comments were received requesting penalties for commercial (advertising) violations be imposed.**

**LCB response:** There are penalties for advertising violations.

**Two comments were received requesting revision of the height of outdoor fencing to 6 ft. instead of 8 ft.**

**LCB response:** The rules adopted by the board require security including an 8 foot sight obscure wall or fence as well as all other security requirements for indoor grow operations.

**Two comments were received requesting the board limit the number of licenses per applicant.**

**LCB response:** The final rules adopted by the board include a limit of three marijuana licenses for any entity or individual.

**Two comments were received requesting establishing category sizes for producers.**

**LCB response:** The final rules adopted by the board include three different size tiers for producer licenses (WAC 314-55-075).

**Two comments were received requesting the reinstatement of landlord acknowledgement form.**

**LCB response:** The final rules adopted by the board do not include a landlord acknowledgement form requirement.

**One comment was received requesting allowance for farmers markets when a retail store is not available.**

**LCB response:** There is no marijuana license for farmers markets. Legislation would be required to create any new marijuana licenses.

**One comment was received requesting that there be no caps for processors.**

**LCB response:** There are no caps on the number of processor licenses.

**One comment was received requesting allowing a producer to sell direct to retail.**

**LCB response:** RCW 69.50.325 only allows marijuana producers to sell to other marijuana producers and marijuana processors. Legislation would be required to allow producers to sell to retailers.

**One comment was received requesting consideration of exports of marijuana.**

**LCB response:** I-502 did not allow exportation of marijuana.

**One comment was received requesting education be provided to licensees on grow light radio frequency interference.**

**LCB response:** This was not included in the final rules adopted by the board.

**One comment was received requesting that all applicants and employees be US citizens and WA state residents.**

**LCB response:** RCW 69.50.331 only requires applicants be Washington residents for three months prior to the date of application.

**One comment was received requesting that residency should be from 6 mos. to 1 year.**

**LCB response:** The 3 month residency requirement is in law (RCW 69.50.331). Legislation would be required to change it.

**One comment was received requesting the board add denial of license if a person accepted financial assistance or received federal grants.**

**LCB response:** These criteria for licensing were not authorized in I-502.

**One comment was received requesting stricter protocol for traceability.**

**LCB response:** The traceability system will trace product from seed to sale.

**One comment was received requesting that video footage retention should be 120 days instead of 45 days.**

**LCB response:** Based on research, the board believes 45 day retention of video surveillance is sufficient.

**One comment was received requesting a tax rebate/credit be provided for the full value of security systems developed in the first year.**

**LCB response:** The board has no authority to provide any type of tax rebate/credit. Legislation would be required for this.

**One comment was received requesting a requirement that all levels of licenses pay the 25% tax.**

**LB response:** All marijuana license types must pay the 25% marijuana excise tax.

**One comment was received requesting the Quality Assurance Testing Monograph be made available.**

**LCB response:** The monograph should be available soon.

**One comment was received requesting the requirement of a Washington state ID for purchase.**

**LCB response:** The acceptable forms of identification to purchase marijuana are the same as those allowed for purchasing alcohol. They can be found in the rules in WAC 314-55-150.

**One comment was received requesting a ban on hash oil and concentrates.**

**LCB response:** Hash oil and concentrates are prohibited in unaltered form. Only extracts infused with another product may be sold in retail outlets.

**One comment was received requesting the board better define advertising.**

**LCB response:** WAC 314-55-155 explains advertising and what is required and what is prohibited. RCW 69.50.369 also lists advertising restrictions.

**One comment was received requesting a requirement that all advertising be removed from public view.**

**LCB response:** Initiative I-502 limits the areas where marijuana advertising may be placed.

**One comment was received requesting the board not limit the number of retailers.**

**LCB response:** RCW 69.50.354 requires the board to limit the number of marijuana retail stores.

**One comment was received requesting a limit to the number of purchases per day.**

**LCB response:** I-502 places a limit on the amount of product that can be purchased per transaction.

**One comment was received requesting restrictions to the retail hours of operations.**

**LCB response:** The final rules adopted by the board permit hours of retail operation from 8am to 12am.

**One comment was received requesting the board to change the name Law Enforcement Officer to "Washington State Law Enforcement Officer".**

**LCB response:** Under state law, the Liquor Control Board has limited authority law enforcement officers.

**One comment was received that requested to adding soil to a list of compostable components.**

**LCB response:** WAC 314-55-097 (5)(b) includes soil.

**One comment was received requesting a definition for harvestable plants.**



**LCB response:** When marijuana plants are harvested is a business decision.

**One comment was received requesting that sample labels be consistent with rule requirements.**

**LCB response:** All packages and labels must meet the requirements in WAC 314-55-105, including samples.

**One comment was received requesting that no medical marijuana cards be issued to persons under 21.**

**LCB response:** I-502 and the rules do not address medical marijuana.

**One comment was received requesting a revision to the legal use age requirement from 21 to 25.**

**LCB response:** The legal age to use recreational marijuana is set in the new laws created by I-502. It would take legislation to change the age requirement.

**One comment was received requesting the board ensure financiers meet residency requirements.**

**LCB response:** Financiers are required to meet the three month residency requirement.

**One comment was received requesting spouse be defined as sharing community property.**

**LCB response:** The final rules adopted by the board do not include a definition of "spouse".

**One comment was received requesting that the state should be required to do all testing, packaging, labeling, distributing and taxpaying.**

**LCB response:** The board is not in the recreational marijuana business. The board was directed to regulate the recreational marijuana industry and enforce the statutes and rules.

**One comment was received requesting allowance of personal grows of 25 plants and the sale of personal grows to the state.**

**LDB response:** Initiative 502 did not allow personal grows of marijuana and the state will not purchase marijuana.

**One comment was received that requested allowing online sales via a website.**

**LCB response:** RCW 69.50.325 allows a marijuana retail licensee to sell useable marijuana and marijuana infused products only in retail outlets. Internet sales do not take place in the licensed premises.

**One comment was received requesting the license suspension should be prior to the 3rd violation relating to minors.**

**LCB response:** The board did not change the penalties in the final rules adopted by the board.

**One comment was received requesting the board not utilize the lottery process for producers.**

**LCB response:** There is no lottery process for producers.

**One comment was received requesting the creation of a seed license.**

**LCB response:** Legislation would be required to create a seed license.

**One comment was received requesting a ban on seed licenses.**

**LCB response:** There is no seed license under I-502 or the rules.

**Two comments were received requesting the allowance to sell hash, hash oil and tinctures.**

**LCB response:** The definition of marijuana in RCW 69.50.101 includes the resin extracted from any part of the plant. A marijuana retailer is not allowed to sell marijuana, only useable marijuana as defined in the law, and marijuana infused products. A legislative change would be required to allow marijuana retailers to sell marijuana extracts. In the rules adopted by the board a marijuana retailer is allowed to sell extracts infused in products.

**One comment was received stating the 1000 ft. barrier is too strict.**

**LCB response:** RCW 69.50.331 requires the 1000 foot buffer. It cannot be changed without legislation.

**One comment was received requesting allowance for producers to acquire seeds from other countries.**

**LCB response:** Initiative 502 does not allow marijuana seed to be imported from other countries.

**One comment was received requesting that limits for testing should be no more than 3g.**

**LCB response:** The board consulted with laboratories to determine the amounts of product needed to perform quality assurance testing.

**One comment was received requesting the dosage in edibles should be 50 mg not 10mg.**

**LCB response:** The board worked with a group of marijuana experts from testing labs and researchers from several universities to establish the maximum amount of THC per serving size in marijuana infused products.

**One comment was received requesting that customer's should be able to sample at retail stores.**

**LCB response:** RCW 69.50.357 prohibits the consumption of marijuana or marijuana infused product on the marijuana retail premises.

**One comment was received requesting the restriction of marijuana use to inside a home, with no outside use.**

**LCB response:** Initiative 502 prohibited marijuana consumption in view of the general public.

**One comment was received requesting the allowance of temporary licenses based on business plans to allow time to find locations.**

**LCB response:** A business location address is required for a marijuana license application. Local authorities must be notified of the marijuana license applicant and business location address.

**One comment was received requesting elimination of language "the board may determine max amount of marijuana, usable marijuana . . . on premise at any time.**

**LCB response:** The board may adjust the maximum amount of product on a licensed premises at any time if product demand rises.

**One comment was received requesting the board allow a denied applicant at one location to reapply at another location.**

**LCB response:** A denied applicant can apply for a marijuana license no sooner than one year from the date on the final order of denial.

**One comment was received requesting a revision to WAC 314-55-020(11) by adding "environmental regulations".**

**LCB response:** This revision was not made to WAC 314-55-020 (11).

**One comment was received requesting a revision to 314-55-097 marijuana waste disposal - liquids and solids.**

**LCB response:** Revisions were not made to WAC 314-55-097.

**One comment was received requesting the board consider time needed to dry and cure product when establishing caps for producers.**

**LCB response:** The board did take into account the time it takes to dry and cure product when setting maximum amounts of product that can be on a marijuana premises at any given time.

**One comment was received requesting a revision to the application and renewal fees, stating they are too low.**

**LCB response:** The application and renewal fees are set in RCW 69.50.325. The fees cannot be changed in rule. A change would require legislation.

**One comment was received requesting a change in the term lot, stating it should be batch.**

**LCB response:** The final rules adopted by the board contain a definition for "lot" and "batch".

**One comment was received requesting a requirement that all samples be measured in grams.**

**LCB response:** Useable marijuana is measured in grams. Marijuana infused products in solid and liquid form are measured in ounces.

**One comment was received requesting removal of the harvest date from the label.**

**LCB response:** Harvest date is required on the label of all useable marijuana.

**One comment was received requesting the board prohibit or regulate any product that could pose a potential hazard if not properly handled.**

**LCB response:** The board carefully studied the safety aspects of marijuana production and processing and addressed potential hazards in the rules.

**One comment was received requesting the board provide additional safeguards for youth.**

**LCB response:** The final rules adopted by the board contain a requirement for child-proof packaging.

**One comment was received requesting the board provide training and education to retailers and employees on preventing sale to minors**

**LCB response:** The board will provide training to all marijuana licensees.

**One comment was received stating samples to negotiate a sale are too large.**

**LCB response:** Samples sizes were not changed in the final rules adopted by the board.

**One comment was received requesting the board add the warning "providing marijuana to a minor is a felony".**

**LCB response:** The board did not include this warning in the final rules.

**One comment was received requesting a requirement that all warnings be on the label, not just a single warning.**

**LCB response:** The label would need to be too large to contain all warnings. Additional warnings are required to be placed in accompanying material that is to be provided with each sale.

**One comment was received requesting a requirement that a warning of impaired concentration, coordination and judgment be placed on the label affixed to the marijuana package.**

**LCB response:** This warning is required to be placed in accompanying material that is to be provided with each sale.

**One comment was received requesting a requirement that a warning to not operate a vehicle or machinery under the influence be placed on the label affixed to the marijuana package.**

**LCB response:** This warning is required to be placed in accompanying material that is to be provided with each sale.

**Four comments were received requesting the board ban coupons and distribution of branded merchandise.**

**LCB response:** Giveaways, coupons, and distribution of branded merchandise are banned (WAC 314-55-155).

**One comment was received requesting the board post license application public notices on the LCB website.**

**LCB response:** All marijuana applications will be on the LCB website by county. Anyone can access the website and find the information. The public can comment on any application.

**One comment was received requesting the board allow all persons or entities the ability to object to a license; not just local jurisdictions.**

**LCB response:** The public can comment on any application for a marijuana license.

**One comment was received requesting the addition of language warning "marijuana smoke contains chemicals known to cause cancer".**

**LCB response:** This warning was not added to the warning requirements on accompanying materials.

**One comment was received requesting a requirement of environmental disclosure.**

**LCB response:** See the SEPA checklist and Determination of Non-Significance posted on the LCB website.

**One comment was received requesting the implementation of preferential licensing and incentivize environmentally sustainable grow operations.**

**LCB response:** The initiative did not require the board to address energy use by marijuana licensees. A lower carbon footprint was one of the factors in the board's decision to allow outdoor grow operations, but they will not be given preferential consideration for licensing.

**One comment was received requesting the board postpone rulemaking on packaging and labeling until health experts contribute.**

**LCB response:** Initiative 502 requires the board to adopt rules by December 1, 2013.

**One comment was received requesting the inclusion of child warning language on marijuana infused product labels.**

**LCB response:** The child warning language is required in accompanying material to be provided to each customer purchasing product.

**One comment was received requesting a ban on packaging that mimics other products.**

**LCB response:** The rules adopted by the board include a requirement for child-proof packaging. The rules adopted by the board also include a requirement that all labels of marijuana products may not contain any statement or illustration that is designed in any manner that would be especially appealing to children or other persons under legal age to consume marijuana.

**One comment was received requesting a requirement that retailers prohibit sales to anyone under the influence of marijuana, alcohol, or other drugs.**

**LCB response:** Training will be provided to all marijuana applicants.

**One comment was received requesting clarification of serving size vs. transaction limits for infused products.**

**LCB response:** Serving size and transaction limits are clarified in the rules adopted by the board.

**One comment was received requesting clarification of who can file complaints regarding current licensees.**

**LCB response:** Anyone can file a complaint on a marijuana licensee or business.

**One comment was received requesting the board pursue a legislative solution to the medical marijuana system.**

**LCB response:** The board has not proposed legislation regarding medical marijuana. 3ESSB 5034 did mandate that board must work with the Department of Health and the Department of Revenue to report recommendations to the legislature by January 1, 2014 regarding the interaction of medical marijuana regulations and the provisions of I-502.

**One comment was received requesting a definition for "Youth Center".**

**LCB response:** There was no need to define "youth center". There is no language in the rules using the term "youth center".

**One comment was received requesting a definition for "consumption".**

**LCB response:** There was no need to define "consumption". There is no language in the rules using the term "consumption".

**One comment was received requesting the board prohibit mobile marijuana sales.**

**LCB response:** The rules adopted by the board prohibit internet sales and delivery of product.

**One comment was received requesting the board prohibit the sale of marijuana at flea markets.**

**LCB response:** Recreational marijuana may be sold only at licensed marijuana retail outlets.

**One comment was received requesting the sale of marijuana at public venues be prohibited.**

**LCB response:** Recreational marijuana may be sold only at licensed marijuana retail outlets.

**One comment was received requesting the board not assign retail locations to cities.**

**LCB response:** The board assigned retail locations to each county as required by I-502 and the most populous cities within each county to disperse retail outlets throughout the state.

**One comment was received requesting the board notify local jurisdictions regarding licensee violations.**

**LCB response:** There is no requirement that the board notify local jurisdictions of licensee violations.

**One comment was received requesting clarification to the meaning of WAC 314-55-015 (5).**

**LCB response:** It means the board will not issue a marijuana license for a personal residence.

**One comment was received requesting the board require labeling for "No use of product in the presence of person under 21", and "Not protected by Federal Law Enforcement".**

**LCB response:** The board did not add the requested language on the label requirements to the final rules.

**One comment was received requesting a ban on electronic marketing.**

**LCB response:** Advertising restrictions are addressed in WAC 314-55-155.

**One comment was received requesting a ban on marketing, including but not limited to sponsorship of events, third party use of brand names, all merchandising, and product placement.**

**LCB response:** Giveaways, coupons, and distribution of branded merchandise are banned.

**One comment was received requesting implementation of zero-tolerance laws.**

**LCB response:** Zero-tolerance laws would require legislation.

**One comment was received requesting a ban on possession by minors in public and private locations.**

**LCB response:** It is illegal for minors to possess marijuana or marijuana infused products.

**One comment was received requesting the board impose penalties for regulatory violations.**

**LCB response:** The rules contain penalties for regulatory violations.

**One comment was received requesting the board impose stronger penalties for use of restricted chemicals, saying \$2500 is not enough.**

**LCB response:** The board did not change the penalty amount for a marijuana licensee using restricted chemicals.

**One comment was received requesting the board restrict minor access to bars and nightclubs or any venue that may be granted/licensed with unique permit.**

**LCB response:** Minors are restricted from bars and nightclubs. There is no marijuana license that would allow on-premises consumption.

**One comment was received requesting a ban on commercial sales and gifts to minors.**

**LCB responses:** Giveaways, coupons, and distribution of branded promotional items are banned. Giving marijuana to minors and possession by minors is illegal.

**One comment was received requesting the board restrict the location and number of retail outlets per county with even distribution, with awareness of the number of licenses allowed in low income areas.**

**LCB response:** Local jurisdictions through the zoning process will determine which areas will be allowed to have marijuana licenses.

**One comment was received requesting clarification for whether or not "child care center" includes "family home child care".**



**LCB response:** "Child care center" is defined and licensed by the Washington State Department of Early Learning under chapter 170-295 WAC.

**One comment was received requesting clarification on whether or not "playground" includes private playgrounds required by the city.**

**LCB response:** The definition includes "Playgrounds" owned and/or managed by a city, county, state, or federal government.

**One comment was received requesting the board require size limitations for signs and defer to local jurisdiction's sign code, if more restrictive.**

**LCB response:** There is a sign size restriction for marijuana retail outlets (WAC 314-55-155 (1)). Local jurisdictions have authority to enforce their own sign codes.

**One comment was received requesting the board require monitoring of alarm systems.**

**LCB response:** The board enforcement officers will be inspecting marijuana licensed premises.

**One comment was received requesting clarification to the relationship between local law enforcement and 314-55-505.**

**LCB response:** WAC 314-55-505 refers to board enforcement officers, not local law enforcement officers.

**One comment was received requesting that insurance requirements should be optional.**

**LCB response:** Insurance is a requirement and is not optional.

**One comment was received requesting the LCB refund marijuana businesses if the Federal Government shuts down operations.**

**LCB response:** The board has no authority or obligation to refund marijuana businesses if the Federal government shuts them down. Deciding to operate a recreational marijuana business is a business choice.

**One comment was received requesting the board revise the time limit to more than seven days to notify the LCB of destruction of waste.**

**LCB response:** The board feels 72 hours is adequate prior notification for destruction of product.

**One comment was received requesting the board not include THC percentage on labels.**

**LCB response:** THC percentage is required on labels to provide the information to consumers.

**One comment was received requesting allowance of retailers to return "spoilage" to the processor.**

**LCB response:** Spoilage must be entered into the traceability system as spoilage and destroyed.

**One comment was received requesting that the board specify the number of retail outlets.**

**LCB response:** The board specified the number of retail outlets. The allocation of retail outlets can be found on the LCB website.

**One comment was received requesting a requirement of food grade fertilizers for all grow operations.**

**LCB response:** WAC 314-55-084 lists the fertilizers that can be used in marijuana production.

**One comment was received requesting an allowance for use of non-perforated 200 gauge heat shrink seals for wide mouth bottles and tinctures.**

**LCB response:** Child-proof package requirements can be found in WAC 314-55-105 (7).

**One comment was received requesting a limit to key notification events to very young plants entering the system and when plants are harvested to allow flexibility.**

**LCB response:** The traceability system is required to track product from start to sale. Requirements can be found in WAC 314-55-083 (4).

**One comment was received requesting an allowance for partial harvest of a plant.**

**LCB response:** Partial harvest of a plant is allowed.

**One comment was received requesting a revision to recordkeeping requirements on soil amendments and fertilizers used for proprietary purposes.**

**LCB response:** No changes were made to the record-keeping requirements.

**One comment was received requesting a requirement for retail outlets to sell at 50% above acquisition cost.**

**LCB response:** The board is not setting the price for marijuana products. There is a requirement that retail sales be above the marijuana retail licensee's cost of acquisition.

**One comment was received requesting the board grandfather-in licensees in locations where they have been approved but a day-care opens up within 1000 ft.**

**LCB response:** A marijuana business would not be required to move if a day care center moved in within 1000 feet after the marijuana business was already licensed.

**One comment was received requesting allowance for local jurisdictions to finalize zones prior to starting the application process.**

**LCB response:** The board has no authority over local jurisdiction's zoning timelines.

**One comment was received requesting the board interpret marijuana excise tax as value added tax (VAT).**

**LCB response:** I-502 established the taxes applicable to marijuana. Legislation would be required to make this change.

**One comment was received requesting further definition of the true party of interest.**

**LCB response:** True party of interest is adequately defined in WAC 314-66-035.

**One comment was received requesting allowance of smoking clubs and vapor lounges.**

**LCB response:** There was no provision in I-502 for marijuana smoking clubs or vapor lounges. Legislation would be required to allow these types of businesses.

**One comment was received requesting the board separate out the limits of THC content of edibles and products intended for inhalation.**

**LCB response:** The THC content is required on all marijuana products.

**One comment was received requesting the board fund and plan public service announcements that prevent youth access.**

**LCB response:** I-502 allocates tax revenues to other agencies to provide education to the public.

**One comment was received requesting citizen objections to renewals go directly to the Board, not locals.**

**LCB response:** RCW 69.50.331 (7) requires the board to notify local authorities prior to the renewal of marijuana licenses. If citizens wish to object they should let the local authority know so the local authority can decide if there are grounds to object to the renewal.

**One comment was received requesting that advertising should be allowed in newspapers.**

**LCB response:** Advertising is allowed in newspapers as long as the required warnings are included in the advertisement (WAC 314-55-155(3) and (5)).

**One comment was received requesting the board not allow use of chemicals.**

**LCB response:** WAC 314-55-084 lists the products that can be used in marijuana production.

**One comment was received requesting a requirement all growing products be purchased by local vendors.**

**LCB response:** The board did not require all growing products be purchased by local vendors.

**One comment was received requesting the board amend 314-55-015 (6) - No marijuana on Tribal land.**

**LCB response:** The board did not amend the language that states, "The board will not approve a marijuana license for a location on federal land." Tribal lands are federal lands.

**One comment was received requesting the board amend 314-55-050 (1) - The Board "shall" to "may".**

**LCB response:** The language in the final rule adopted by the board is, "the board may".

**Twenty-one comments were made at the five public hearings from people concerned for the medical marijuana market.**

**LCB response:** I-502 did not address the medical marijuana market and the rules adopted by the board are for recreational marijuana.

**Comments received on Supplemental CR 102 filed September 4, 2013, filed at WSR 13-18-086 including comments from the two Public Hearings held October 8<sup>th</sup>, 2013 and October 9<sup>th</sup>, 2013:**

**Nine comments were received in support of the revised proposed rules as written.**

**Nine comments were received requesting changes to labels and packaging requirements.** Seven people requested packaging not be allowed to be appealing to children. One person requested child-proof packaging. Seven people requested stronger label requirements to include warnings.

**LCB response:** The rules adopted by the board include a requirement for child-proof packaging and warnings to be included on all marijuana product labels. The rules adopted by the board also include a requirement that all labels of marijuana products may not contain any statement or illustration that is designed in any manner that would be especially appealing to children or other persons under legal age to consume marijuana.

**Seven comments were received requesting all advertising of marijuana or marijuana infused products be banned.** Five people requested the board ban any type of advertising for marijuana businesses, marijuana or marijuana infused products in any type of media. One person requested the board ban internet advertising. One person requested no TV advertising.

**LCB response:** I-502 created advertising restrictions regarding where advertising could not be placed and mandated adoption of rules restricting advertising. The final rules adopted by the board include advertising restrictions by marijuana licensees and warning statements that must be included in all advertising, but advertising is allowed.

**Fifteen comments were received requesting the definitions of public park, playground, and recreation center or facility be amended.** Six people requested the definition of "public park" include special purpose districts. Four people requested that wetlands, walking trails, and regional trails be included in the definition of "public park". One person requested wetlands be included in the definition of "public park". One person requested park & recreation districts and joint park and recreation districts be added to the definition of "public park", "recreation center or facility", and "playground". One person requested privately owned playgrounds be included in the definition of "playground".

**LCB response:** The requested changes to the definitions of public park, playground and recreation center or facility were not amended in the final rules adopted by the board. Any of the facilities owned and/or operated by a city, county, state, or federal government are covered by the 1000 foot buffer.

**Five comments were received regarding educational materials and point of sale materials.** Two people requested educational materials and POS materials be recommended by health experts. One person requested educational materials be available in multiple languages. One person requested health warnings be required at POS. One person requested retailers be required to post age/birth date stickers at POS,

**LCB response:** Per I-502, the Department of Health is responsible for creating educational materials. The request for educational materials will be forwarded to Department of Health. Accompanying materials containing warnings are required to be given to all customers purchasing product. Age/birth date stickers are not required but can be used by marijuana retailers.

**Three comments were received on sample sizes from producers.** Three people requested sample sizes be increased.

**LCB response:** The final rules adopted by the board set the total amount of samples a producer may provide to a processor each month at four grams. The maximum amount for any one sample is two grams. A producer could give smaller sample amounts so they could provide a wider variety of strains but the total amount of product could not exceed four grams.

**Four comments were received requesting "marijuana extract" be better defined.**

**LCB response:** WAC 314-55-079 gives an explanation of a marijuana extract.

**One comment was received requesting a limit on outlet density.**

**LCB response:** Outlet density will be determined by the local jurisdictions by their zoning decisions for areas that will be allowed to have marijuana licenses.

**Four comments were received on inactive THC.** Four people requested the percentage of inactive THC be included on the label.

**LCB response:** The percentage of inactive THC will not be required on the label.

**Four comments were received on the number of licenses allowed to any entity.** Four people requested the board limit any entity or individual to two licenses.

**LCB response:** The final rules adopted by the board limit any entity or individual within an entity to three marijuana licenses.

**One comment was received on funding to local governments.** One person requested the state provide funding to local governments for law enforcement from revenue generated by recreational marijuana.

**LCB response:** Legislation would be required to provide funding to local governments from marijuana revenue.

**One comment was received on renewal notification to local authorities.** One person requested the board notify local authorities at least 90 days prior to renewal.

**LCB response:** The final rule adopted by the board states the board will notify local governments approximately 90 days prior to renewal.

**Two comments were received regarding areas where licenses should not be located.** One person requested the board clarify licenses will not be issued in areas zoned residential. One person requested marijuana producer and processor licenses not be allowed within the 10 year well head protection zone of a class A water system.

**LCB response:** Local jurisdictions will determine through the zoning process areas marijuana businesses can be located. The board will not issue any marijuana license for a location in a residence.

**One comment was received on objections to marijuana licenses.** One person requested the rules explicitly state local jurisdictions may object to marijuana license for public safety as well as chronic illegal activity.

**LCB response:** The final rules adopted by the board do not limit the reasons a local jurisdiction may object to a marijuana license but they do provide that substantial weight will be given to objections based on chronic illegal activity.

**Six comments were received on areas where marijuana licenses should be located.** Five people requested marijuana businesses not be located in close proximity of each other. One person requested the rules specify marijuana licenses will only be approved in accordance with local zoning regulations.

**LCB response:** Local jurisdictions will determine areas marijuana businesses can be located (WAC 314-55-020 (11)).

**Nine comments were received on plant canopy size.** Six people requested total plant canopy be increased. Two people requested plant canopy for outdoor grows be doubled. One person requested indoor grows be prohibited in tier 3.

**LCB response:** The total plant canopy was determined by the amount of product that will be needed to meet demand based on research by the consultants hired by the board. All marijuana producer licensees are allowed to choose the tier they plan to grow. There is no difference in the plant canopy amount offered for indoor or outdoor grows.

**One comment was received on personal grows.** One person requested people be allowed to grow their own marijuana without a producer license, test it, and sell it to marijuana retailers.

**LCB response:** Initiative 502 did not authorize personal marijuana grows. A marijuana retailer may only purchase product from a licensed marijuana processor.

**One comment was received on licensee and employee requirements.** One person requested the board require all licensees and their employees be US citizens.

**LCB response:** Initiative 502 required applicants to meet a three month residency requirement prior to application for a marijuana license.

**Four comments were received on the number of stores and amount of production.** Two people requested retail stores and marijuana production not be limited. One person requested the number of stores be increased. One person requested the stores for the city of Seattle be increased if the market demand cannot be met

**LCB response:** I-502 required the board to limit the number of retail outlets and to set a maximum amount of marijuana production. If product demand increases the board will adjust the number of licenses needed.

**One comment was received on felony convictions.** One person requested felony convictions stemming from marijuana laws not be counted in criminal history.

**LCB response:** All felony convictions must be disclosed but if the conviction is more than 10 years old no points will be counted against an individual.

**One comment was received requesting a marijuana seed and broker license.**

**LCB response:** New license types would require legislation.

**One comment was received requesting the board allow importation of marijuana seeds from other countries.**

**LCB response:** I-502 did not allow importation of marijuana seeds from other countries.

**One comment was received requesting product labeling.**

**LCB response:** WAC 314-55-105 requires labeling and contains requirements for labeling and packaging.

**One comment was received on the number of producer licenses allowed per person.** One person requested only persons with outdoor grows should be allowed three producer licenses and persons with indoor grow operations should only be allowed one license.

**LCB response:** Any person can hold a maximum of three producer licenses regardless of whether it is an indoor or outdoor grow.

**One comment was received requesting processor to processor sales.**

**LCB response:** I-502 did not allow processor to processor sales. Legislation would be required to allow this practice.

**One comment was received requesting the board verify the 1000 foot buffer.**

**LCB response:** Enforcement officers will verify all marijuana locations are in compliance with the 1000 foot buffer.

**One comment was received requesting the board increase "lot" size.**

**LCB response:** The final rules adopted by the board did not increase "lot" size. "Lot" means 5 pounds of flowers or 15 pounds of leaves, trim, and other plant material.

**One comment was received requesting the board prohibit outdoor grows.**

**LCB response:** The final rules adopted by the board allow both indoor and outdoor grows.

**One comment was received requesting health warnings on packages be rotated.**

**LCB response:** Health warnings on labels and in accompanying materials are required but there is no requirement to rotate warnings.

**One comment was received requesting the board prohibit marijuana infused product with alcohol or tobacco.**

**LCB response:** Marijuana infused products may not contain alcohol or tobacco.

**One comment was received requesting that the board allow smoking lounges and clubs.**



**LCB response:** I-502 did not authorize smoking lounges and clubs for the consumption of marijuana. Legislation would be required to create new license types for consumption.

**One comment was received requesting there be no personal home limits.**

**LCB response:** I-502 established the amount of useable marijuana a person may possess legally.

**One comment was received requesting the board not allot any retail locations to the city of Bonney Lake because they are not allowing marijuana licenses in the city.**

**LCB response:** Initiative 502 requires the board to issue licenses to applicants who meet the qualifications under the rules.

**Two comments were received on the application process.** One person requested the board allow marijuana applications without a location address. One person requested the board allow applicants to apply for all three licenses and if they don't get picked in the retail lottery they can choose to be a producer or processor.

**LCB response:** All marijuana applications must include the location address so the board can notify the local jurisdiction of the applicant and business location address. A producer or processor licensee may not have any interest in a retail license. An applicant must decide prior to application which license they want to apply for.

**One comment was received requesting that the board not issue retail licenses until there is product to sell.**

**LCB response:** An applicant can request the board not issue the license until they are ready to open.

**One comment was received requesting the board require all marijuana retailers give informational brochures to all customers.**

**LCB response:** Marijuana retailers are required to provide accompanying information including product warnings with all purchases.

**One comment was received stating the advertising rules are too restrictive.**

**LCB response:** Initiative 502 created advertising restrictions regarding where advertising may not be placed and mandated adoption of rules restricting advertising. Some of the advertising restrictions are the same as alcohol advertising restrictions. Advertising restrictions are necessary to minimize youth exposure to marijuana.

**One comment was received requesting the 1000 foot buffer measurement take grade into consideration.**

**LCB response:** The 1000 foot buffer measurement does not take grade into consideration.

**One comment was received on ownership allowances.** One person requested the board limit entities and individuals to three marijuana licenses but allow them to have unlimited ownership in licenses if the ownership percentage is between 10% and 25%.

**LCB response:** Entities and individuals are limited to three marijuana licenses regardless of the ownership percentage.

**One comment was received requesting the board impose strict penalties for selling to a minor.**

**LCB response:** The penalty for selling to a minor is a 10-day suspension or \$2500 fine for the first violation, a 30-day suspension for the second violation, and cancellation of the license for the third violation.

**One comment was received requesting the board lower the hours of operation for retail outlets.**

**LCB response:** The final rules adopted by the board set the hours for retail outlets at 8am to 12 am.

**One comment was received requesting the board create an acknowledgement form to be signed by out of state residents stating they will not take marijuana outside the state of Washington.**

**LCB response:** The board did not create this type of acknowledgement form. The rules do require labeling affixed to the product container or package that states, "This product may be unlawful outside of Washington State."

**One comment was received requesting the state open its own bank.**

**LCB response:** This proposal would require legislation.

**Sixteen comments were made at the five public hearings from people concerned for the medical marijuana market.**

**LCB response:** I-502 did not address the medical marijuana market and the rules adopted by the board are for recreational marijuana.