



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 23, 2019

TIME: 11:32 AM

WSR 19-21-182

Agency: Washington State Liquor and Cannabis Board

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: Chapter 314-35 WAC – Vapor Products. The Washington State Liquor and Cannabis Board (Board) has adopted an emergency rules that establish summary license suspension and petition for stay provisions that are necessary for the enforcement of chapter 246-80 WAC – Vapor products and flavors, effective October 10, 2019.

Citation of rules affected by this order:

New: WAC 314-35-090, WAC 314-35-095
 Repealed:
 Amended:
 Suspended:

Statutory authority for adoption: RCW 70.345.

Other authority:

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: The immediate adoption of a rule establishing summary license suspension and petition for stay provisions is necessary for the enforcement of Washington State Board of Health (SBOH) rules described in chapter 246-80 WAC, banning the sale of flavored vapor products. The Washington State Liquor and Cannabis Board has the authority and responsibility to adopt rules for the preservation of public health.

The Centers for Disease Control, U.S. Food and Drug Administration, Washington State Department of Health, and many other state and local health departments are currently investigating a multistate outbreak of lung disease associated with vapor product use. More than one thousand cases have been reported across the United States, including twenty-six deaths. Twelve cases of lung injury have been reported in Washington state, and the number of cases is expected to grow. Approximately eighty percent of the cases nationwide have been reported in individuals under thirty-five years of age, with sixteen percent of the cases involving individuals under eighteen years of age and twenty-one percent of the cases involving individuals from eighteen to twenty years old. All reported patients have a history of using vapor products. The specific chemical exposure(s) causing the disease remain unknown, and no single product or substance has been linked to all lung injury cases.

The SBOH Health Impact Review of HB 1932 found strong evidence that prohibiting the sale of flavored vapor products will likely decrease initiation and use of vapor products among adolescents and young adults. Reducing the initiation and use of vapor products by youth and young adults will reduce the exposure of our most vulnerable population to the current outbreak of severe lung disease associated with the use of vapor products.

On October 10, 2019, the SBOH issued emergency rules as WSR 19-21-050, prohibiting the sale of flavored vapor products by persons licensed under chapter 69.50 or 70.345 RCW, and consistent with the directives of Executive Order 19-03 Addressing the Vaping Use Public Health Crisis.

These emergency rules serve a two-pronged purpose:

- Allow the Board to serve an order of summary license suspension after a preliminary staff investigation indicates that a vapor product licensee has violated SBOH rules described in chapter 246-80 WAC, and that immediate cessation of licensed activities is necessary for the presentation of public health and welfare; and
- Provide a framework and process for an affected vapor product licensee to petition the Board for a stay of summary suspension, consistent with the provisions of chapter 34.05 RCW.

Because the outbreak of lung disease is occurring now and growing, the immediate adoption of rules that establish summary license suspension and petition for stay provisions are necessary for both the enforcement of chapter 246-80 WAC, and preservation of public health, safety and general welfare. The Board filed a rule proposal on October 16, 2019 as WSR #19-21-102. These rules may be extended, rescinded or considered for inclusion in adopted rules at a later date as appropriate.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	<u>2</u>	Amended	___	Repealed	___

Date Adopted: October 23, 2019

Name: Jane Rushford

Title: Chair

Signature:

