

WSR 24-16-064
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed July 31, 2024, 11:42 a.m., effective August 31, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of these rule changes conducted through expedited rule making is to make a uniform housekeeping change throughout rules of Title 314 WAC for the use of the acronym "LCB" to designate the liquor and cannabis board, and to update outdated occurrences of the name "liquor control board" where it still remains. This rule making will bring the name of the board current with the replacement of "liquor control board" throughout Title 314 WAC.

Citation of Rules Affected by this Order: Amending WAC

314-07-010, 314-07-035, 314-07-055, 314-10-010, 314-10-060, 314-10-090, 314-10-100, 314-10-110, 314-11-065, 314-11-095, 314-17-060, 314-19-015, 314-19-020, 314-20-018, 314-20-050, 314-20-140, 314-21-005, 314-21-015, 314-21-025, 314-24-070, 314-24-115, 314-24-150, 314-24-175, 314-31-005, 314-34-020, 314-36-060, 314-42-010, 314-42-020, 314-42-095, 314-42-115, 314-52-005, 314-52-015, 314-68-040, 314-68-050, 314-72-020, 314-12-215, 314-23-021, 314-23-022, 314-23-041, 314-24-265, 314-29-010, 314-42-001, 314-55-018, 314-55-050, 314-55-055, 314-55-075, 314-55-077, 314-55-092, 314-55-104, 314-55-107, 314-55-115, 314-55-135, 314-55-137, 314-55-140, 314-55-155, 314-55-160, 314-55-165, 314-55-185, 314-55-200, 314-55-210, 314-55-220, 314-55-225, 314-55-230, 314-55-310, 314-55-410, 314-55-415, 314-55-417, 314-55-508, 314-55-523, 314-60-010, 314-60-015, 314-60-025, 314-60-070, 314-60-080, 314-60-085, 314-60-090, 314-60-100, and 314-60-110.

Statutory Authority for Adoption: RCW 66.08.030.

Other Authority: 2SSB 5052 (chapter 70, Laws of 2015).

Adopted under notice filed as WSR 24-11-037 on May 8, 2024.

Changes Other than Editing from Proposed to Adopted Version: The following rule sections were removed from this expedited rule-making project because they are under possible amendment in other current rule-making projects: WAC 314-29-038, 314-55-010, 314-55-073, 314-55-083, 314-55-085, 314-55-087, 314-55-089, 314-55-097, 314-55-0995, 314-55-103, 314-55-1035, 314-55-106, 314-55-108, and 314-55-109.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 34, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 44, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 78, Repealed 0.

Date Adopted: July 31, 2024.

David Postman
Chair

OTS-5318.1

AMENDATORY SECTION (Amending WSR 17-12-030, filed 5/31/17, effective 7/1/17)

WAC 314-07-010 Definitions. Following are definitions for the purpose of this title. Other definitions are in WAC 314-01-005 and RCW 66.08.010.

(1) "Applicant" or "liquor license applicant" means any person or business entity who is considered by the board as a true party of interest in a liquor license or permit application, as outlined in WAC 314-07-035.

(2) "Building" means a stationary structure with floor to ceiling solid walls and a roof. A food truck is not a "building."

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs, advertising, etc.

(4) "Financier" means any person or entity who has made or will make an investment in the licensed business of more than (~~ten thousand dollars~~) \$10,000. A "financier" can be someone who provides money as a gift, someone who loans money to the business and expects to be paid back the amount of the loan without interest, or someone who invests money into the business expecting a percentage of the profits, but accepts the risk that there may not be a full return on the investment. These persons or entities shall submit appropriate investigation level "financier" financial documents.

(5) "Licensee" or "liquor licensee" means any person or entity that holds a liquor license or permit, or any person or entity who is a true party of interest in a liquor license or permit, as outlined in WAC 314-07-035.

(6) "Public institution" means a public college or university. (See WAC 314-07-020 regarding the liquor (~~control~~) and cannabis board notifying public institutions of liquor license applications.)

AMENDATORY SECTION (Amending WSR 17-12-030, filed 5/31/17, effective 7/1/17)

WAC 314-07-035 What persons or entities have to qualify for a liquor license? Per RCW 66.24.010(1), a liquor license must be issued in the name(s) of the true party(ies) of interest.

(1) **True parties of interest** - For purposes of this title, "true party of interest" means:

True party of interest	Persons to be qualified
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability partnership	<ul style="list-style-type: none"> • All general partners and spouses; • All limited partners that have more than 10((%)) <u>percent</u> interest in the partnership and their spouses.

True party of interest	Persons to be qualified
Limited liability company	<ul style="list-style-type: none"> • All members (or persons with equivalent title) with more than 10((%)) percent interest in the LLC and spouses. (Note: In order for the liquor ((control)) and cannabis board to identify the persons to be qualified, we will need to know all parties that have an interest in the limited liability company or have a pending interest.) • All managers (or persons with equivalent title) and their spouses.
Privately held corporation	<ul style="list-style-type: none"> • All corporate officers (or persons with equivalent title) and their spouses. • All stockholders (or persons with equivalent title) and their spouses who hold more than 10((%)) percent of the issued or outstanding stock. (Note: In order for the liquor ((control)) and cannabis board to identify the persons to be qualified, we will need to know all parties who have been issued or will be issued corporate stock.)
Publicly held corporation	All corporate officers (or persons with equivalent title).
Multi-level ownership structures	The liquor ((control)) and cannabis board will review each entity to determine which individuals are to qualify according to the guidelines in this rule.
Any entity	<p>Any person who is in receipt of, or has the right to receive, more than ((ten)) 10 percent of the gross or net sales from the licensed business during any full or partial calendar or fiscal year. For the purposes of this chapter:</p> <ul style="list-style-type: none"> • "Gross sales" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business. • "Net sales" means gross sales minus cost of goods sold.

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent (as determined by the board) on a fixed or percentage basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than (~~twenty-five~~) 25 percent of the employee's prebonus annual compensation; or the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(d) A person or entity receiving payment of franchise fees on a fixed or percentage basis under a bona fide franchise agreement, unless the person or entity receiving payment of franchise fees exercises control over or participates in the management of the licensed business.

(e) A 401K, IRA, or nonfamilial trust.

(3) **Financiers** - The board may conduct a financial investigation of financiers.

(4) **Persons who exercise control of business** - The board may conduct an investigation of any person or entity who exercises any control over the applicant's business operations.

In cases where there is an entity who is in control of the day-to-day business operation (other than the owner) because of an agreement between the owner and the operator, the operating party becomes a true party of interest. The operator must meet all the qualifications of any other true party of interest and if approved, must be the licensee. The owner may be required to be named on the license as a party of interest based on the terms of the agreement, but will not normally be required to meet all the qualifications of a true party of interest.

(5) The board reserves the right to investigate any person or entity in a liquor license application or current liquor license where hidden ownership or misrepresentation of fact is suspected.

(6) For purposes of this section, a person or entity who takes more than (~~ten~~) 10 percent of the profits and/or exercises control over the licensed business in a given agreement may be named on the license as a party of interest per this rule. Examples of this are lease, operating plan, concession or management agreement.

OTS-5319.1

AMENDATORY SECTION (Amending WSR 93-23-016, filed 11/5/93, effective 12/6/93)

WAC 314-10-010 General—Liquor (~~control~~) and cannabis board responsibilities. (1) The liquor (~~control~~) and cannabis board shall regulate all sales and distribution of tobacco products pursuant to chapter 507, Laws of 1993. The liquor (~~control~~) and cannabis board shall report all tobacco enforcement activity in a manner agreed by the department of health and the liquor (~~control~~) and cannabis board on a quarterly basis or as set forth in the interagency agreement.

AMENDATORY SECTION (Amending WSR 93-23-016, filed 11/5/93, effective 12/6/93)

WAC 314-10-060 Persons under 18 years old attempting to purchase/obtaining tobacco products. (1) Any person whom a peace officer or enforcement officer has reasonable grounds to believe is under 18 years of age who purchases or attempts to purchase, or attempts to obtain or obtains tobacco products may be detained for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth. A person under 18 years of age who is cited for attempting to purchase or purchasing tobacco products is subject to a fine as set by chapter 7.80 RCW or participation in a smoking cessation program or both.

~~((a))~~ This provision does not apply to a person under the age of 18 who, with parental authorization, is participating in a controlled purchase as a part of a liquor ~~((control))~~ and cannabis board, law enforcement, or local health department activity.

(2) Tobacco products possessed by persons under the age of ~~((eighteen))~~ 18 years are considered contraband and may be seized by an enforcement officer as defined in RCW 7.80.040.

AMENDATORY SECTION (Amending WSR 08-20-109, filed 9/30/08, effective 10/31/08)

WAC 314-10-100 How may cigarette sampling activity be conducted?

(1) The cigarette sampler's license entitles the licensee, and employees or agents of the licensee, to distribute samples at any lawful location in the state during the term of the license. The person engaged in sampling shall carry the Class T1 or T2 license or a copy of the license at all times and produce same at the request of an enforcement officer as defined in RCW 7.80.040.

(2) No person may distribute or offer to distribute samples in a public place. This prohibition does not apply to:

(a) An area to which persons under 18 years of age are denied admission,

(b) A store or concession to which a cigarette retailers license has been issued, or

(c) At or adjacent to a production, repair or outdoor construction site or facility.

(3) Notwithstanding subsection (2) of this section, no person may distribute or offer to distribute samples within or on a public street, sidewalk, or park that is within 500 feet of a playground, school, or other facility where that facility is being used primarily by persons under 18 years of age for recreational, educational or other purposes.

(4) Class T1 and T2 licensees shall provide the board, ~~((forty-five))~~ 45 days prior to a sampling event, the locations, dates and times sampling activities will take place.

(5) All T1 and T2 licensees must provide to the liquor ~~((control))~~ and cannabis board, in a format prescribed by the board, a listing of the location, date, hours and quantities of cigarettes distributed in the state for the previous six months.

(a) A report for the period covering January 1st through June 30th of each year is due by no later than July 31st of each year.

(b) A report for the period covering July 1st through December 31st is due by no later than January 30th of the immediately following year.

(c) The board may take administrative action against any cigarette sampler who fails to submit the required reports.

AMENDATORY SECTION (Amending WSR 93-23-016, filed 11/5/93, effective 12/6/93)

WAC 314-10-110 Penalties, suspension notices, posting or advertising of—Other closing notices prohibited. (1) The liquor (~~con-~~~~trol~~) and cannabis board may suspend or revoke a retailer's or sampler's license for violation of the board's administrative rules governing tobacco. Further, the board may impose a monetary penalty in lieu of license suspension for violation of said rules not covered by statute.

(2) Licensees are required to maintain compliance with all tobacco laws and regulations during any period of suspension. Whenever the board shall suspend the license of any licensee, the board shall on the date the suspension becomes effective cause to be posted in a conspicuous place on or about the licensed premises a notice in a form to be prescribed by the board, stating that the license or licenses have been suspended by order of board because of violation of the Washington state laws or the regulations.

(3) During the period of suspension:

(a) No person shall remove, alter, cover, or in any way disturb the posted notice(s) of suspension;

(b) No person shall place, permit or allow to be placed in, at, or upon the licensed premises, any notice or statement of reasons or purpose indicating that the premises have been closed or that sale of tobacco products has been discontinued for any reason other than as stated in the notice of suspension; Provided Further, That the prohibition of this subsection shall apply to any nearby or adjacent property, such as a parking lot area that is owned by or under the control of the licensee.

(c) Neither the licensee nor his/her or its employees shall advertise, either by newspaper, radio, television, handbill, brochure, flyer or by any means whatever, that the licensed premises are closed or discontinuing the sale of tobacco products for any reason(s) other than those stated in the board's suspension notices.

(4) A tobacco licensee may operate the business during the period of suspension provided there is no sale or distribution of tobacco products.

OTS-5320.1

AMENDATORY SECTION (Amending WSR 22-19-035, filed 9/14/22, effective 10/15/22)

WAC 314-11-065 Types of liquor allowed on a licensed premises.

(1) Licensees may only possess and allow persons to consume or possess the type of liquor permitted by the type of liquor license held on the premises; except:

- (a) Under authority of a banquet permit (see chapter 314-18 WAC);
- (b) Restaurant licensees may allow patrons to bring wine into the premises for consumption with a meal;
- (c) Beer and/or wine restaurant or tavern licensees may keep spirituous liquor on the premises for use in the manufacture of food products, provided that:
 - (i) All food products manufactured contain one percent or less of alcohol by weight (per RCW 66.12.160);
 - (ii) Customers are made aware that the food products contain liquor; and
 - (iii) The beer and/or wine restaurant or tavern licensee notifies the local liquor (~~control~~) and cannabis board enforcement office in writing before they bring spirituous liquor on the premises;
- (d) Under the authority of a special occasion license; and
- (e) Licensees with an endorsement under WAC 314-20-350, 314-24-350, or 314-28-350 may keep other types of liquor on the premises to provide contract packaging services consistent with RCW 66.24.248.

(2) For on-premises liquor licenses, the licensee or employees may not permit the removal of liquor in an open container from the licensed premises, except:

- (a) Liquor brought on a licensed premises under authority of a banquet permit may be resealed in its original container and removed at the end of the banquet permit function;
- (b) Per RCW 66.24.320 and 66.24.400, wine that is sold with a meal may be recorked or resealed and removed from the premises;
- (c) Liquor purchased by registered guests for consumption inside a hotel or motel room may be resealed in its original container and removed from the hotel or motel premises by the guest; and
- (d) Liquor removed from a licensed premises that holds a caterer's endorsement, for the purpose of catering an approved event.

AMENDATORY SECTION (Amending WSR 10-01-090, filed 12/16/09, effective 1/16/10)

WAC 314-11-095 What records am I required to keep regarding my licensed premises? Licensees are responsible to keep records that clearly reflect all financial transactions and the financial condition of the business.

(1) All industry members and retailers shall keep and maintain the following records on their premises for a three-year period and the records must be made available for inspection if requested by an employee of the liquor (~~control~~) and cannabis board, or by a person appointed in writing by the board for the purposes of administering or enforcing any provisions of Title 66 RCW or Title 314 WAC:

- (a) Purchase invoices and supporting documents, to include the items and/or services purchased, from whom the items were purchased, and the date of purchase;

(b) Bank statements and canceled checks for any accounts relating to the licensed business;

(c) Accounting and tax records related to the licensed business and each true party of interest in the liquor license;

(d) Records of all financial transactions related to the licensed business, including contracts and/or agreements for services performed or received that relate to the licensed business;

(e) Records of all items, services, and moneys' worth furnished to and received by a retailer and of all items, services, and moneys' worth provided to a retailer and purchased by a retailer at fair market value;

(f) Records of all industry member financial ownership or interests in a retailer and of all retailer financial ownership interests in an industry member; and

(g) Business entertainment records of industry members or their employees who provide either food, beverages, transportation, tickets or admission fees for or at athletic events or for other forms of entertainment to retail licensees and/or their employees.

(2) See additional rules for recordkeeping requirements specific to breweries and wineries: WAC 314-20-015(2), 314-20-050, 314-24-100, and 314-24-150 (as now or hereafter amended).

OTS-5321.1

AMENDATORY SECTION (Amending WSR 16-23-122, filed 11/21/16, effective 12/22/16)

WAC 314-12-215 Alcohol impact areas—Definition—Guidelines. (1)

What is an alcohol impact area?

(a) An alcohol impact area is a geographic area located within a city, town or county, and that is adversely affected by chronic public inebriation or illegal activity associated with liquor sales or consumption.

(b) The board may place special conditions or restrictions upon off-premises sales privileges, liquor products, applicants, license assumptions or licensees that sell liquor for off-premises consumption (see subsection (3) of this section).

(c) The board applies a unique investigative and review process when evaluating liquor license applications, license assumptions or renewals for businesses located in an alcohol impact area.

(2) **How is an alcohol impact area formed?** A local authority (that is, a city, town or county) must first designate an alcohol impact area by ordinance and make good faith efforts for at least six months to mitigate the effects of chronic public inebriation with such ordinance before petitioning the board to recognize an alcohol impact area. The board must recognize an alcohol impact area before any unique review process, condition or restriction described in this rule may be applied. A local authority must meet certain conditions to achieve board recognition of an alcohol impact area.

(a) The geographic area of an alcohol impact area must not include the entire geographic area under the jurisdiction of a local authority. However, when a local authority designates a street as a

boundary, the board encourages that the local authority include both sides of the street for greater effectiveness.

(b) The local authority ordinance must explain the rationale of the proposed boundaries, and describe the boundaries in such a way that:

(i) The board can determine which liquor licensees are in the proposed alcohol impact area; and

(ii) The boundaries are understandable to the public at large.

(c) A local authority must:

(i) Submit findings of fact that demonstrate a need for an alcohol impact area and how chronic public inebriation or illegal activity associated with liquor sales or consumption within a proposed alcohol impact area:

(A) Contributes to the deterioration of the general quality of life within an alcohol impact area; or

(B) Threatens the welfare, health, peace or safety of an alcohol impact area's visitors or occupants;

(ii) Submit findings of fact that demonstrate a pervasive pattern of public intoxication or public consumption of liquor as documented in: Crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records, community group petitions, public testimony or testimony by current or former chronic public inebriates.

(d) **Minimum requirements for an alcohol impact area petition packet:**

(i) Litter/trash survey and documented results. A litter/trash survey must be conducted within the proposed alcohol impact area boundaries for at least a four week period. Litter/trash surveys must be completed a minimum of twice a week. Use a GIS data map, or similar tool, to point out the "hot spots" of heavy alcohol consumption based on the litter/trash survey. Provide a list of alcohol products found in the litter/trash survey.

(ii) Photographic evidence of litter and drinking in public.

(iii) Law enforcement testimonial(s). Law enforcement testimonial must be from at least one law enforcement officer who frequently works within the proposed alcohol impact area boundaries. A testimonial must discuss the impact of high alcohol content or volume products within the proposed alcohol impact area boundaries and how implementation of an alcohol impact area would benefit the community.

(iv) Letters of support submitted by neighborhood councils, local agencies, schools or universities, business associations, fire departments, local businesses, or private citizens in the community.

(v) Crime statistics and police reports. Crime statistics and police reports must show the statistics for alcohol-related criminal activity within the proposed alcohol impact area boundaries, and must show evidence linking specific products with chronic public inebriation activity.

(e) After reviewing the alcohol impact area petition packet, the board may request supplemental materials to prove the necessity of an alcohol impact area. The supplemental materials may include:

(i) Additional testimonials submitted by citizens who would be directly affected by the proposed alcohol impact area.

(ii) Emergency medical response data. This information must provide evidence that chronic inebriation within the proposed alcohol impact area requires an abnormally high amount of medical emergency care.

(iii) Sanitation reports. This information must provide evidence that chronic inebriation within the proposed alcohol impact area boundaries creates an abnormally high amount of sanitation problems.

(iv) Detoxification reports. This information must provide evidence that chronic inebriation within the proposed alcohol impact area requires an abnormally high amount of detoxification services.

(f) Submit documentation that demonstrates a local authority's past good faith efforts to control the problem through voluntary measures (see subsection (4) of this section). The voluntary compliance report must:

(i) Provide an executive summary of the results of the voluntary compliance period;

(ii) Provide evidence of the local authorities' efforts to control the problem through voluntary measures; and

(iii) Explain why the voluntary measures were not effective and how mandatory restrictions will help address the problem.

(g) Request additional conditions or restrictions and explain how the conditions or restrictions will reduce chronic public inebriation or illegal activity associated with off-premises sales or liquor consumption (see subsection (3) of this section).

(3) What conditions or restrictions may the board recognize for an alcohol impact area?

(a) Restrictions may include, but are not limited to:

(i) Limitations on business hours of operation for off-premises liquor sales;

(ii) Restrictions on off-premises sale of certain liquor products within an alcohol impact area; and

(iii) Restrictions on container sizes available for off-premises sale.

(b) The board has adopted a standardized list of products that will be banned in alcohol impact areas. The list can be found on the ((~~WSLCB~~)) LCB website. The list contains products that are banned in the majority of current alcohol impact areas. Requests for additional product restrictions (for example, prohibition of sale of certain liquor products or container sizes) must originate from a local authority's law enforcement agency or public health authority, whereas restrictions affecting business operations (for example, hours of operation) may originate from a local authority's law enforcement agency, public authority or governing body. Product restrictions must be reasonably linked to problems associated with chronic public inebriation or illegal activity. Reasonable links include, but are not limited to: Police, fire or emergency medical response statistics; photographic evidence; law enforcement, citizen or medical-provider testimonial; testimony by current or former chronic public inebriates; litter pick-up; or other statistically documented evidence.

(c) After the board has recognized an alcohol impact area the local authority may request the board approve additional products to their banned products list provided that the products are reasonably linked to the problems associated with chronic public inebriation or illegal activity. Reasonable links include, but are not limited to: Police, fire or emergency medical response statistics; photographic evidence; law enforcement, citizen or medical-provider testimonial; testimony by current or former chronic public inebriates; litter pick-up; or other statistically documented evidence.

(d) A local authority may propose the removal of a condition, restriction or product from its alcohol impact area's restricted product

list provided that a local authority demonstrates its reason (such as, a product is no longer produced or bottled) to the board in writing.

(4) What types of voluntary efforts must a local authority attempt before the board will recognize an alcohol impact area?

(a) A local authority must notify all off-premises sales licensees in a proposed alcohol impact area that:

(i) Behavior associated with liquor sales and associated illegal activity is impacting chronic public inebriation; and

(ii) Existing voluntary options are available to them to remedy the problem.

(b) A local authority's efforts must include additional voluntary actions. Examples include, but are not limited to:

(i) Collaborative actions with neighborhood citizens, community groups or business organizations to promote business practices that reduce chronic public inebriation;

(ii) Attempts to achieve voluntary agreements with off-premises sales licensees to promote public welfare, health, peace or safety;

(iii) Requesting licensees to voluntarily discontinue selling products that are considered contributing to the problem;

(iv) Distribution of educational materials to chronic public ~~((inebriants [inebriates]))~~ inebriates or licensees;

(v) Detoxification services;

(vi) Business incentives to discourage the sale of problem products; or

(vii) Change in land use ordinances.

(c) A local authority must implement these voluntary agreements for at least six months before a local authority may present documentation to the board that voluntary efforts failed to adequately mitigate the effects of chronic public inebriation and need augmentation.

(5) What will the board do once it recognizes an alcohol impact area?

(a) The board will notify, in a timely manner, the appropriate liquor distributors of the product restrictions.

(b) The board will notify, in a timely manner, all off-premises sales licensees in a proposed or existing alcohol impact area whenever the board recognizes, or recognizes changes to, an alcohol impact area (see subsection (7) of this section).

(6) What is the review process for liquor license applications, license assumptions, and renewals inside an alcohol impact area?

(a) When the board receives an application for a new liquor license or a license assumption that includes an off-premises sales privilege, the board will establish an extended time period of ~~((sixty))~~ 60 calendar days for a local authority to comment upon the application.

(i) A local authority may, and is encouraged to, submit comment before the end of a comment period. A local authority may request an extension of a comment period when unusual circumstances, which must be explained in the request, require additional time for comment.

(ii) A local authority will notify a licensee or applicant when a local authority requests the board to extend a ~~((sixty))~~ 60-day comment period.

(b) For renewals, the board will notify a local authority at least ~~((ninety))~~ 90 calendar days before a current license expires. The same requirements in (a)(i) and (ii) of this subsection apply to the ~~((ninety))~~ 90-day comment period for problem renewals. For the purposes of this section, a problem renewal means a licensee, a li-

censed business or a licensed location with a documented history of noncompliance or illegal activity.

(7) When and for how long will an alcohol impact area be in effect, and may an alcohol impact area be changed?

(a) An alcohol impact area takes effect on the day that the board passes a resolution to recognize an alcohol impact area. However, product prohibitions take effect no less than (~~thirty~~) 30 calendar days after the board passes such resolution in order to give retailers and distributors sufficient time to remove products from their inventories.

(b) An alcohol impact area remains in effect until:

(i) A local authority repeals the enabling ordinance that defines an alcohol impact area;

(ii) A local authority requests that the board revoke its recognition of an alcohol impact area;

(iii) The board repeals its recognition of an alcohol impact area of its own initiative and following a public hearing; or

(iv) A local authority fails to comply with subsection (8) of this section.

(c) A local authority may petition the board to modify an alcohol impact area's geographic boundaries, repeal or modify an existing condition or restriction, or create a new condition or restriction. The board may agree to do so provided that a local authority shows good cause and submits supporting documentation as contained in subsections (2) and (3) of this section.

(d) Prohibition of a new product added to an existing prohibited products list takes effect no sooner than (~~thirty~~) 30 calendar days following the board's recognition of a modified prohibited products list.

(8) Reporting requirements and five-year assessments.

(a) A year after the implementation of the alcohol impact area a local authority shall submit a report to the board that clearly demonstrates the intended effectiveness of an alcohol impact area's conditions or restrictions. The report is due no later than (~~sixty~~) 60 calendar days following the first anniversary of the implementation of the alcohol impact area. The report must include the same categories of information and statistics that were originally used to request the alcohol impact area.

(b) The board will conduct an assessment of an alcohol impact area once every five years following the fifth, (~~tenth, fifteenth~~) 10th, 15th, et cetera, anniversary of the board's recognition of the alcohol impact area. The five-year assessment process is as follows:

(i) Within (~~twenty~~) 20 calendar days of receiving a local authority's fifth, (~~tenth, fifteenth~~) 10th, 15th, et cetera, report, the board shall notify affected parties of the upcoming assessment, whereupon an affected party has (~~twenty~~) 20 calendar days to comment upon, or petition the board to discontinue its recognition of, an alcohol impact area (see (d) of this subsection). Affected parties may include, but are not limited to: Liquor licensees, citizens or neighboring local authorities.

(ii) An affected party may submit a written request for one (~~twenty~~) 20 calendar-day extension of the comment/petition period, which the board may grant provided that an affected party provides sufficient reason why he or she is unable to meet the initial (~~twenty~~) 20-day deadline.

(iii) The board will complete an assessment within (~~sixty~~) 60 calendar days following the close of the final comment/petition period.

(c) An assessment shall include an analysis of:

(i) The same categories of information and statistics that were originally used to request the alcohol impact area; and

(ii) Comments or petitions submitted by affected parties.

An assessment may also include modifications that a local authority must make to an alcohol impact area as required by the board, or the board's reasons for revoking recognition of an alcohol impact area.

(d) To successfully petition the board to discontinue its recognition of an alcohol impact area, an affected party must:

(i) Submit findings of fact that demonstrate how chronic public inebriation or illegal activity associated with liquor sales or consumption within a proposed alcohol impact area does not or no longer:

(A) Contributes to the deterioration of the general quality of life within an alcohol impact area; or

(B) Threatens the welfare, health, peace or safety of an alcohol impact area's visitors or occupants;

(ii) Submit findings of fact that demonstrate the absence of a pervasive pattern of public intoxication or public consumption of liquor as documented in crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records or similar records; and

(iii) Demonstrate how the absence of conditions or restrictions will affect chronic public inebriation or illegal activity associated with off-premises sales or liquor consumption (see subsection (3) of this section).

(e) An affected party may submit a written request for one (~~twenty~~) 20-day extension of the comment period, which the board may grant provided that an affected party provides sufficient reason why he or she is unable to meet the (~~twenty~~) 20-day deadline.

OTS-5322.1

AMENDATORY SECTION (Amending WSR 10-12-124, filed 6/2/10, effective 7/3/10)

WAC 314-17-060 What are the course standards, course content, and other requirements for class 12 or 13 training programs? Class 12 and 13 training courses shall have the standards and requirements as stipulated in RCW 66.20.320 and in this section.

(1) **Subjects.** Each class 12 or 13 training course and accompanying workbook shall include:

(a) Those subjects listed in RCW 66.20.320;

(b) Washington state liquor laws and regulations;

(c) Employment of persons under (~~twenty-one~~) 21 years of age;

(d) Legal hours of liquor sale and service;

(e) Prohibited conduct by patrons and employees;

(f) Required signs at retail licensed premises;

(g) Minimum lighting requirements; and

(h) Administrative and criminal sanctions against liquor licensees and permit holders, including permit suspension for delinquent child support payment.

(2) **Administrative materials.** Before beginning a class 12 or 13 training course, each student shall receive:

(a) An enrollment agreement that clearly states the obligations of a trainer and a student, refund policies, and procedures to terminate enrollment;

(b) A statement that says, "If you have questions, comments or complaints about the program, please contact the Liquor (~~Control~~) and Cannabis Board," and includes the appropriate board contact information; and

(c) A notice that students must complete the entire training course before taking the standardized exam.

(3) A provider or trainer is prohibited from stating or implying that the state of Washington, the board or any other state agency endorses or recommends one provider's program over another's program.

(4) **Student evaluation of training course.** A student evaluation for each in-person or online training course is required. A trainer shall provide a separate course evaluation form to each student enrolled in an in-person training course, and a form shall include the board's contact information.

(5) **Exams.** Exams shall be administered following each class 12 or 13 training course.

(a) An exam must demonstrate a student's familiarity with all of the subjects listed in subsection (1) of this section.

(b) A student may not refer to any written, video or online material, or have an in-person or online discussion with another person, during an exam. However, a trainer may allow a student to use an interpreter.

(c) The standardized exam shall have a minimum passing grade of (~~eighty~~) 80 percent unless otherwise stipulated from the board.

(6) **Online training courses.** Effective December 1, 2010, the board allows class 12 and 13 online training courses subject to additional requirements.

(a) A provider must take extra measures to ensure the identity of each student. Extra measures include obtaining the log-in and log-off times (see WAC 314-17-085). Other ways to prevent fraudulent test taking may include, but are not limited to:

(i) Allowing a student to access an examination only once per training course;

(ii) Discontinuing an examination if it stays idle for (~~thirty~~) 30 minutes or more or if another program is accessed; or

(iii) Asking each student personal identifying questions.

(b) A trainer shall be available to answer questions during standard business hours via the internet, telephone or some other method.

(7) **Length of class.** Excluding exam time, a class 12 training course shall be at least three hours in length, and a class 13 training course shall be at least one hour in length.

(8) **Presentation method.** A presentation method may be in-class or online.

(9) **Student workbook.**

(a) A student workbook must contain accurate, current, and complete information.

(b) A provider must update student workbooks and other training course material within (~~thirty~~) 30 calendar days following:

- (i) The effective date of a new applicable state law or regulation; or
- (ii) Receipt of new or updated information from the board.
- (c) The board may establish additional workbook standards or requirements as the board deems necessary.

OTS-5323.1

AMENDATORY SECTION (Amending WSR 12-24-091, filed 12/5/12, effective 1/5/13)

WAC 314-19-015 What are the reporting and tax payment requirements? (1) The required beer and/or wine tax reports must be:

- (a) On a form furnished by the board or in a format approved by the board;
 - (b) Filed every month, including months with no activity or taxes due. A winery or wine certificate of approval holder with total taxable sales of wine in Washington state of (~~six thousand~~) 6,000 gallons or less during the calendar year may elect to file annually;
 - (c) Submitted, with the tax due, to the board on or before the (~~twentieth~~) 20th day of the month following the end of the reporting period, for the previous reporting period (for example, a monthly report listing transactions for the month of January is due by February 20; an annual report listing transactions for 2012 is due by January 20, 2013). When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and
 - (d) Filed separately for each type of liquor license or permit held.
- (2) Wineries, wine certificate of approval holders and wine shippers who elect to file annually:
- (a) Must have taxable sales of wine in Washington state of (~~six thousand~~) 6,000 gallons or less during the calendar year;
 - (b) New licensees who anticipate taxable sales of wine in Washington state of less than (~~six thousand~~) 6,000 gallons must request by notifying the liquor (~~control~~) and cannabis board within (~~thirty~~) 30 days of license issuance that they would like to file annually;
 - (c) May only change reporting frequency (to annual filing or off annual filing) at the beginning of a calendar year, effective month must be January;
 - (d) Are required to file multiple reports in the event of a mid-year tax rate change (for example, the tax rate changes June 1st; annual filer will submit two reports. One for January 1st through May 31st and one for June 1st through December 31st. Both are due January 20th following the end of the reporting period);
 - (e) Must submit a report the month following the month the license has been discontinued or business closed (for example, annual filer closes business/discontinued license May 25th, report is due June 20th).

Type of Licensee	Tax Payment Requirements
(3) Washington beer and/or wine distributor	<p>(a) Distributors must pay taxes on all beer and/or wine received during the preceding calendar month, including samples received at no charge (see WAC 314-64-080 and 314-64-090 for more information). The total tax due (per barrel for beer and per liter for wine) is to be paid by the first distributor to receive the product and must be included with the monthly report.</p> <p>(b) Distributors do not pay taxes on beer and/or wine received from another in-state licensed distributor who has already paid the Washington state tax on the product.</p> <p>(c) Distributors may claim a tax refund or credit, provided that they have paid the taxes prior to claiming the credit, for the following (see WAC 314-19-030 for information on claiming a tax refund or credit):</p> <p>(i) Shipments exported directly to a point outside the state of Washington, including sales to interstate common carriers;</p> <p>(ii) Sales to any military reservation in Washington state;</p> <p>(iii) Product that is deemed unsalable due to freight damage, product quality, or other causes that occurred prior to receipt by the distributor, subject to the following conditions:</p> <p>(A) The unsalable product must be destroyed within the state of Washington (per RCW 66.24.305);</p> <p>(B) The licensee must notify their local liquor enforcement officer in advance for destruction of more than ((fifty)) 50 cases of wine or ((two hundred)) 200 cases of beer;</p> <p>(C) The licensee must report the destroyed product on the next required monthly report;</p> <p>(D) The licensee must keep records showing the reason for the destruction and an inventory of products destroyed. These records must be kept on the licensed premises and available for inspection by board employees for a period of two years; and</p> <p>(E) The licensee must provide documentation from the freight company with the report if they are claiming a credit due to freight damage.</p>
(4) Washington beer and/or wine importers	<p>Importers must pay taxes on samples received during the preceding calendar month, as follows:</p> <p>(a) If the samples are used by the importer within the state of Washington, the importer must pay the tax.</p> <p>(b) If samples are provided to a distributor, the distributor must pay the tax.</p>
(5) Domestic breweries, microbreweries, and domestic wineries	<p>(a) Domestic breweries, microbreweries, and domestic wineries must list production for the current reporting period only. The brewery that the domestic brewery/brand owner contracts with is required to include any products they produce for the brand owner in their production count.</p> <p>(b) Domestic breweries, microbreweries, and domestic wineries must pay taxes on beer and/or wine that is:</p> <p>(i) Sold at retail on the licensed premises (or shipped to additional winery locations as authorized by RCW 66.24.170(4)), including retail sales to out-of-state residents;</p>

Type of Licensee	Tax Payment Requirements
	<p>(ii) Sold to retail licensees;</p> <p>(iii) Furnished as samples to retail licensees as authorized by RCW 66.28.040, WAC 314-64-080, and 314-64-090 (does not include samples provided to distributors);</p> <p>(iv) Provided as donations to qualifying 501 (c)(3) or (6) nonprofit organizations per RCW 66.28.040 or to the Washington wine commission per RCW 66.12.180 and 66.24.210;</p> <p>(v) Received via an interplant transfer if used as outlined in above subsections (i), (ii), (iii), or (iv);</p> <p>(vi) Sold at farmers markets as authorized by RCW 66.24.170(5), 66.24.240(4) and/or 66.24.244(5); or</p> <p>(vii) Wine that has been shipped out-of-state as nontax paid export and returned to Washington state if used as outlined in (b)(i), (ii), (iii), (iv), or (vi) of this subsection.</p> <p>(c) Domestic breweries, microbreweries, and domestic wineries do not pay tax on beer and/or wine that is:</p> <p>(i) Sold to or furnished as samples to distributors;</p> <p>(ii) Shipped out of a particular location for an interplant transfer;</p> <p>(iii) Exported directly to a point outside the state of Washington, including sales to interstate common carriers;</p> <p>(iv) Sold to any military reservation in Washington state; or</p> <p>(v) Provided as a tasting on the brewery or winery premises or at additional winery locations at no charge, as authorized by RCW 66.24.170(4). See WAC 314-19-010(3) for the definition of "tastings."</p>
(6) Domestic brewery —Brand owners	<p>(a) Domestic brewery-brand owners must file a report showing the quantity of all beer sold or delivered to each licensed beer distributor, or beer exported directly to a point outside the state of Washington, during the preceding reporting period.</p> <p>(b) Domestic brewery-brand owners are not responsible for the tax on beer that is contract produced.</p>
(7) Out-of-state beer and/or wine certificate of approval holders	<p>(a) Certificate of approval holders must file a report showing the quantity of all beer and/or wine sold or delivered to each licensed beer or wine distributor or importer, including samples, during the preceding reporting period.</p> <p>(b) Tax is due from the certificate of approval holder:</p> <p>(i) On samples shipped to licensed agents, and</p> <p>(ii) On donations to the Washington wine commission per RCW 66.12.180 and 66.24.210 or to 501 (c)(3) nonprofit charitable associations within Washington state per RCW 66.28.040.</p>
(8) Out-of-state United States beer and/or wine certificate of approval holders with a direct shipping to Washington retailer endorsement	<p>(a) Certificate of approval holders with this endorsement must file an addendum report showing the quantity of beer and/or wine sold or delivered to each licensed retailer, including samples, during the preceding reporting period.</p> <p>(b) Tax is due from the certificate of approval holder on beer and/or wine sold or delivered to retail licensees and on sales to nonprofit charitable associations.</p>

Type of Licensee	Tax Payment Requirements
(9) Out-of-state United States wine certificate of approval holders with a direct shipping to consumers endorsement	<p>(a) A certificate of approval holder with this endorsement must report the total quantity of wine sold to consumers in Washington state during the preceding reporting period.</p> <p>(b) Tax is due from the certificate of approval holder on wine sold or delivered to Washington state residents.</p>
(10) Authorized representative certificate of approval holders--((U.S.)) United States and/or foreign produced beer or wine	<p>(a) Authorized representative certificate of approval holders must file a report showing the quantity of all beer and/or wine sold or delivered to each licensed beer or wine distributor or importer, including samples. They must list the brewery and/or winery that they represent and that had shipments into Washington state during the preceding month.</p> <p>(b) Tax is due from the authorized representative beer and/or wine certificate of approval holders only on samples shipped to licensed agents, directly to retailers per WAC 314-64-080 and 314-64-090, donations to the Washington wine commission per RCW 66.12.180 and 66.24.210, or to 501 (c)(3) nonprofit charitable associations within Washington state per RCW 66.28.040.</p>
(11) Public house licensees	Public house licensees must pay taxes on all sales of their own product during the preceding calendar month.
(12) Retailer with an endorsement allowing receipt of direct shipment of beer or wine from a United States brewery, microbrewery, or winery	A Washington retailer who receives shipments directly from a United States brewery, microbrewery, or winery, outside Washington, must file a report showing the quantity of beer and wine received by direct shipment from each licensed beer or wine producer, including samples, during the preceding month.
(13) Wine shipper permit holder	<p>(a) An out-of-state winery must file a report showing the total quantity of wine sold or delivered to consumers during the preceding reporting period.</p> <p>(b) Pay the tax due for sales of wine to Washington state residents.</p>

AMENDATORY SECTION (Amending WSR 14-12-101, filed 6/4/14, effective 7/5/14)

WAC 314-19-020 What if a licensee doesn't report or pay the taxes due, or reports or pays late? The board may take the following actions against a licensee or permit holder in order to collect any of the reports or taxes due that are outlined in this title.

(1) Suspension or revocation of license	<p>(a) Failure to make a report and/or pay the taxes in the manner and dates outlined in this chapter will be sufficient ground for the board to suspend or revoke a liquor license, wine shipper permit, or certificate of approval (per RCW 66.08.150, 66.24.010, 66.24.120, 66.24.206, 66.20.370, 66.20.380, and 66.24.270).</p> <p>(b) The suspension will remain in effect until all missing reports and/or taxes have been filed with the board (see WAC 314-19-010(1) for the definition of "missing").</p>
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<p>(2) Penalties</p>	<p>A penalty of two percent per month will be assessed on any tax payments postmarked after the ((twentieth)) 20th day of the month following the reporting period of the transactions (per the reporting requirements outlined in WAC 314-19-015, RCW 66.24.290, and 66.24.210). When the ((twentieth)) 20th day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.</p> <p>Absent a postmark, the date received at the Washington state liquor ((control)) and cannabis board, or designee, will be used to determine if penalties are to be assessed.</p>
<p>(3) Surety bond requirements</p>	<p>(a) What is a surety bond? A "surety bond" is a type of insurance policy that guarantees beer and/or wine tax payment to the state. The surety bond must be:</p> <ul style="list-style-type: none"> (i) Executed by a surety company authorized to do business in the state of Washington; (ii) On a form and in an amount acceptable to the board; (iii) Payable to the Washington state liquor ((control)) and cannabis board; and (iv) Conditioned that the licensee will pay the taxes and penalties levied by RCW 66.24.210 and/or 66.24.290. (v) As an option to obtaining a surety bond, a licensee may create an assignment of savings account for the board in the same amount as required for a surety bond. Requests for this option must be submitted in writing to the board's financial division. <p>(b) When will the board require a surety bond? The board may require a surety bond from a Washington beer and/or wine distributor, domestic microbrewery, domestic brewery, public house, domestic winery, wine shipper, or a beer or wine certificate of approval holder that has a direct shipment privilege. If any of the following occur, the board may require the licensee or permit holder to obtain a surety bond or assignment of savings account, within ((twenty-one)) 21 days after an administrative violation notice is issued:</p> <ul style="list-style-type: none"> (i) A report or tax payment is missing, as defined in WAC 314-19-010, for two or more consecutive months; or (ii) A report or tax payment is missing, as defined in WAC 314-19-010, two or more times within a two year period. <p>(c) What will happen if the licensee does not acquire the surety bond or savings account? Failure to meet the bonding or savings account requirements outlined in subsections (a) and (b) of this rule may result in immediate suspension of license privileges until all missing reports are filed and late taxes have been paid and the surety bond is acquired or the savings account is established.</p> <p>(d) In what amount and for how long will the board require a surety bond? The amount of a surety bond or savings account required by this chapter must be either \$3,000, or the total of the highest four months' worth of tax liability for the previous ((twelve)) 12 month period, whichever is greater.</p> <ul style="list-style-type: none"> (i) The licensee or permit holder must maintain the bond for at least two years. After the two year period the licensee or permit holder may request an exemption as outlined in subsection (f) of this rule.

(ii) Surety bond and savings account amounts may be reviewed annually and compared to the last ~~((twelve))~~ 12 months' tax liability of the licensee. If the current bond or savings account amount does not meet the requirements outlined in this section, the licensee or permit holder will be required to increase the bond amount or amount on deposit within ~~((twenty-one))~~ 21 days.

(c) **What action will the board take when a licensee or permit holder holds a surety bond and does not pay taxes due or pays late?** If a licensee or permit holder holds a surety bond or savings account, the board will immediately start the process to collect overdue taxes from the surety company or assigned account. If the exact amount of taxes due is not known due to missing reports, the board will estimate the taxes due based on previous production, receipts, and/or sales.

(f) **Can a licensee or permit holder request an exemption to the surety bond or savings account requirement?** A licensee or permit holder may make a written request to the board's financial division for an exemption from the surety bond or assignment of savings account requirements. The board will grant an exemption once the following criteria are met:

(i) The licensee or permit holder has filed reports and paid applicable taxes to the board for at least two years immediately prior to the exemption request; and

(ii) There have been no late or missing reports or tax payments during the previous two years.

(iii) In order to remain exempt from the surety bond or assignment of savings account requirements, the licensee must continue to meet the tax reporting and payment requirements outlined in this title (outlined in WAC 314-19-015, RCW 66.24.206, 66.24.210, 66.24.270, 66.24.290, and 66.24.580).

OTS-5324.1

AMENDATORY SECTION (Amending WSR 22-23-054, filed 11/9/22, effective 12/10/22)

WAC 314-20-018 Farmer's market beer and wine sampling. (1) To conduct beer and wine tasting at a farmer's market, the following criteria must be met:

(a) The farmer's market must be authorized to allow breweries, microbreweries, and wineries to sell sealed bottled wine and/or beer at retail.

(b) The farmer's market must hold an endorsement to allow sampling of beer and wine or both.

(c) A brewery, microbrewery, or winery offering samples at a farmer's market must have an endorsement from the board to sell beer or wine of its own production at a farmer's market (see RCW 66.24.170, 66.24.240, and 66.24.244).

(d) No more than three breweries, microbreweries, or wineries combined may offer samples at a qualifying farmer's market per day.

(e) A brewery, microbrewery, or winery may advertise that it offers samples only at its designated booth, stall, or anywhere within the farmer's market.

(2) Samples of beer or wine may be offered only under the following conditions:

(a) Each sample must be two ounces or less, up to a total of two ounces per customer per day.

(b) Beer and wine samples are to be conducted at the booth or stall of the brewery, microbrewery, or winery with a barrier at least 42 inches in height, where licensees are able to observe and control customers participating in the samples. The barriers may be moveable (an example would be ropes and stanchions).

(c) A brewery, microbrewery, or winery must have food available for customers to consume while sampling beer or wine, or must be adjacent to a vendor offering prepared food.

(d) Customers must remain in the designated sampling area while sampling beer or wine.

(e) Brewery, microbrewery, or winery employees serving beer or wine during sampling events must hold a valid MAST permit.

(f) The brewery, microbrewery, or winery is required to send a list of scheduled beer and wine samplings to the liquor (~~control~~) and cannabis board at MIWenforce@lcb.wa.gov at the beginning of each month. The date for each beer and wine sampling must be included.

(g) The farmer's market is also required to send a list of scheduled beer and wine samplings to the liquor (~~control~~) and cannabis board at MIWenforce@lcb.wa.gov at the beginning of each month. The date for each beer and wine sampling, and the names of the brewery, microbrewery, and winery providing the samples must be included.

(h) The farmer's market is required to provide a sketch to the licensing division of the area where beer and wine samples will be conducted and to any adjacent food booths.

AMENDATORY SECTION (Amending WSR 10-01-090, filed 12/16/09, effective 1/16/10)

WAC 314-20-050 Beer distributors—Importers—Brewers—Records—Preservation. (1) Breweries, microbreweries, beer certificate of approval holders, and beer distributors must keep beer accounts separate and independent from other accounts and maintain proper records in a form approved by the board, showing all transactions in beer.

(2) Breweries, microbreweries, beer distributors, and beer importers must in case of beer exported or beer sold, transferred or shipped to another distributor, preserve all bills of lading or other evidence of shipment for a period of three years after such exportation, and must in the case of sales to retailers preserve all sales slips and keep the same on file in the office of the wholesaler for at least three years after each sale.

(3) Each brewery, beer distributor, and beer importer may maintain microfilm records containing reproductions (including microfiche) of any record, document, or report if first approved by the board. Request for approval shall be directed to the financial division of the

Washington state liquor (~~(control)~~) and cannabis board and must include the following information:

- (a) Records proposed to be reproduced.
- (b) Reproduction process.
- (c) Manner of preserving the reproduction.
- (d) Facilities provided for examining or viewing such reproduction.

If the request is approved, the licensee shall provide for the examining, viewing, and reproduction of such records the same as if they were the original records.

(4) If the brewery, beer distributor, or beer importer keeps records within an automated data processing (ADP) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(5) The provisions contained in subsections (3) and (4) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

AMENDATORY SECTION (Amending WSR 04-24-097, filed 12/1/04, effective 1/1/05)

WAC 314-20-140 Beer importers—Certain duties. No beer importer shall import or transport or cause to be transported into the state of Washington any brand of beer manufactured within or outside of the United States but outside the state of Washington, unless such importer shall have first filed with the board a notice of his intention so to do, and shall have ascertained from the board that the brewer manufacturing such beer or United States foreign importer of such beer, has obtained from the Washington state liquor (~~(control)~~) and cannabis board a certificate of approval as provided in section 23-F of the Washington State Liquor Act (RCW 66.24.270).

OTS-5326.1

AMENDATORY SECTION (Amending WSR 02-11-030, filed 5/7/02, effective 6/7/02)

WAC 314-21-005 What is an in-house controlled purchase program?

(1) Per RCW 66.44.290, an in-house controlled purchase program is a program that allows retail liquor licensees to use (~~eighteen, nineteen, or twenty~~) 18, 19, or 20 year old persons to attempt to purchase alcohol for the purpose of evaluating the licensee's training program regarding the sale of liquor to persons under (~~twenty-one~~) 21 years of age.

(2) The licensee's controlled purchase program must meet the requirements of RCW 66.44.290, WAC 314-21-015, and 314-21-025.

(3) Per RCW 66.44.290, violations occurring under an in-house controlled purchase program may not be used for criminal prosecution or administrative action by the liquor (~~control~~) and cannabis board.

AMENDATORY SECTION (Amending WSR 02-11-030, filed 5/7/02, effective 6/7/02)

WAC 314-21-015 How can liquor licensees receive approval to conduct an in-house controlled purchase program? A retail liquor licensee must receive prior written approval from the liquor (~~control~~) and cannabis board's enforcement and education division before conducting an in-house controlled purchase program.

(1) The board's approval will be based on the licensee submitting a written plan that meets the requirements outlined in RCW 66.44.290 and chapter 314-21 WAC.

(2) It will take up to (~~twenty~~) 20 days for the licensee to receive written approval from the liquor (~~control~~) and cannabis board's enforcement and education division once the licensee submits a properly completed written request, therefore the licensee must submit his/her request in writing to the board's enforcement and education division at least (~~twenty~~) 20 working days prior to the first controlled purchase program.

(3) The written request must contain:

(a) The location(s) at which the licensee would like to conduct controlled purchase programs.

(b) The name and contact telephone number(s) of the person who will be on the premises supervising the control purchased program, who must be at least (~~twenty-one~~) 21 years of age.

(c) The licensee's written procedures for their in-house controlled purchase program, which must address all of the guidelines in WAC 314-21-025.

AMENDATORY SECTION (Amending WSR 02-11-030, filed 5/7/02, effective 6/7/02)

WAC 314-21-025 What are the guidelines for controlled purchase programs? A retail liquor licensee may conduct an in-house controlled purchase program under the following conditions:

(1) The licensee must keep a statement on file signed by the licensee and each employee indicating that the employee has received training regarding the sale of liquor to persons under (~~twenty-one~~)

21 years of age. Restaurant, tavern, or sports/entertainment facility licensees must keep on file either such a statement for each employee or a copy of the employee's mandatory alcohol server training permit. These records must be maintained on the licensed premises, available for inspection by the board, unless otherwise approved in writing by the liquor (~~(control)~~) and cannabis board's enforcement and education division.

(2) During an in-house controlled purchase program, the person supervising the program must possess:

(a) The licensee's controlled purchase program procedures,

(b) The board's written approval of the in-house controlled purchase program, and

(c) Valid identification (see WAC 314-11-025 for a list of acceptable identification).

(3) The persons participating in the in-house controlled purchase program must be at least (~~(eighteen)~~) 18 years of age.

(4) The persons participating in the in-house controlled purchase program may not use fraudulent identification and should not be deceptively mature in appearance.

(5) The licensee must ensure that two photos are taken of the persons participating in the in-house controlled purchase program on the day of the program. One photo must be full face and one photo must show the employee from head to toe. These photos must be maintained on the licensed premises, available for inspection by the board.

(6) If persons participating in the in-house controlled purchase program are paid for their time, the compensation of such persons may not be based on the number of successful purchases made during the course of the in-house controlled purchase program.

(7) The licensee must have written procedures that ensure any liquor purchased by an (~~(eighteen, nineteen, or twenty)~~) 18, 19, or 20 year old person during an in-house controlled purchase program is adequately secured by the licensee or an employee who is at least (~~(twenty-one)~~) 21 years of age immediately following an occurrence of any purchase.

(8) Per RCW 66.44.290, the licensee must provide his/her employees a written description of the employer's in-house controlled purchase program, which must include a notice of action an employer may take as a consequence of an employee's failure to comply with the employer's policies regarding the sale of alcohol during an in-house controlled purchase program.

(9) Per RCW 66.44.290, a licensee may not terminate an employee solely for a first-time failure to comply with the licensee's policies regarding the sale of alcohol during an in-house controlled purchase program.

(10) If a licensee's controlled purchase program fails to meet any of the requirements of RCW 66.44.290, WAC 314-21-015, or 314-21-025, the board may revoke its approval to conduct in-house controlled purchase programs. The licensee may reapply for approval to conduct in-house controlled purchase programs not less than one year following the board's revocation of approval.

OTS-5325.1

AMENDATORY SECTION (Amending WSR 19-21-002, filed 10/2/19, effective 1/1/20)

WAC 314-23-021 What are the monthly reporting and payment requirements for a spirits distributor license? (1) A spirits distributor must submit monthly sales reports and payments to the board.

(2) The required monthly sales reports must be:

(a) Filed electronically or on a form furnished by the board;
(b) Filed every month, including months with no activity or payment due;
(c) Submitted, with any payment due to the board on or before the (~~twentieth~~) 20th day of each month for the previous month (for example, a report listing transactions for the month of January is due by February 20th). When the (~~twentieth~~) 20th day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

(3) Electronic payments will be considered received on the date they post in the (~~WSLCB~~) LCB receiving account.

AMENDATORY SECTION (Amending WSR 19-21-002, filed 10/2/19, effective 1/1/20)

WAC 314-23-022 What if a distributor licensee fails to report or pay, or reports or pays late? (1) Failure of a spirits distributor licensee to submit monthly reports and payment to the board as required in WAC 314-23-021(1) will be sufficient grounds for the board to suspend or revoke the liquor license.

(2) A penalty of two percent per month will be assessed on any payments postmarked or posted in the (~~WSLCB~~) LCB receiving account if paying electronically after the (~~twentieth~~) 20th day of the month following the month of sale. When the (~~twentieth~~) 20th day of the month falls on a Saturday, Sunday, or a legal holiday, the report and payment must be postmarked or posted in the (~~WSLCB~~) LCB receiving account if paying electronically no later than the next postal business day.

Absent a postmark, and if not paying electronically, the date received at the (~~WSLCB~~) LCB will be used to determine if penalties are to be assessed.

(3) Electronic payments will be considered received on the date they post in the (~~WSLCB~~) LCB receiving account.

AMENDATORY SECTION (Amending WSR 19-21-002, filed 10/2/19, effective 1/1/20)

WAC 314-23-041 What are the monthly reporting requirements for a spirits certificate of approval licensee? (1) A spirits certificate of approval licensee must submit monthly reports to the board.

(2) The required monthly reports must be:

(a) Filed electronically or on a form furnished by the board;
(b) Filed every month, including months with no activity;

(c) Submitted on or before the (~~twentieth~~) 20th day of each month, for the previous month (for example, a report listing transactions for the month of January is due by February 20th). When the (~~twentieth~~) 20th day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

(3) Absent a postmark, the date received at the ((WSLCB)) LCB will be used to determine timeliness.

OTS-5327.1

AMENDATORY SECTION (Amending WSR 18-02-006, filed 12/20/17, effective 1/20/18)

WAC 314-24-070 Domestic wineries—Purchase and use of bulk wines, brandy or wine spirits—Import permit required—Records—Wine returned to Washington. (1) Domestic wineries may purchase and/or receive under federal bond from any holder of a domestic winery license, holder of the fruit and/or wine distillery license provided in RCW 66.24.140, or out-of-state holder of a federal winery or fruit distillery basic permit, bulk wine, brandy or bulk wine spirits manufactured or produced by such holder, and use the same in the manufacture or production of wines: Provided, That every domestic winery which imports wine, brandy or wine spirits manufactured outside the state of Washington for use as authorized in this section must first be in possession of a permit issued by the board, in accordance with RCW 66.20.010(5) of the Washington State Liquor Act. Applications for such permits must be submitted to the board in writing. Such permits expire at the end of the board's fiscal year, and are subject to renewal at that time upon written request and remittance of said annual fee. Wine manufactured or produced from one kind of fruit or berry may not receive wine, brandy or wine spirits manufactured or produced from another kind of fruit or berry. Such brandy or wine spirits so purchased shall be used exclusively and only for the purpose of adding wine spirits to wines. In those cases where the holder of a domestic winery license shall also hold such fruit and/or wine distillery license, then, and in such cases, such domestic winery may use brandy or wine spirits manufactured or produced under such distillery license as a wine spirits addition in the manufacture or production of wine by such holder of the domestic winery license.

(2) Any domestic winery using wine, brandy or wine spirits as provided in subsection (1) of this section, shall make and file with the board, not later than the (~~tenth~~) 10th day of each month upon forms prescribed and furnished by the board, a report showing all transactions of such domestic winery in the purchase and/or use of wine, brandy or wine spirits as provided in said subsection (1) of this section, and shall retain one copy of such report in its own files, and shall keep and preserve for a period of not less than two years any bills of lading or other documents supporting such report. One copy of the bill of lading covering such sale and shipment to a

domestic winery is to be forwarded to the board by the shipping winery or fruit distillery, at the time of such shipment.

(3) A domestic winery may ship Washington wine out of and may return such wine to Washington state for ultimate sale. The following conditions apply:

(a) The wine is produced and bottled in Washington by a licensed winery.

(b) The export shall be from the licensed winery and returned to the same entity, a licensed wine distributor or bonded wine warehouse.

(c) The returned wine must not have been altered in any way, with the exception of sparkling wine.

(d) A domestic winery, a licensed wine distributor, or bonded wine warehouse directly receiving previously exported Washington wine must comply with tax collection and tracking requirements initiated by the liquor (~~(control)~~) and cannabis board.

(e) A domestic winery, a licensed wine distributor, or bonded wine warehouse directly receiving previously exported Washington wine must keep on file for audit purposes clear source records (shipping documents, etc.) with reporting documents. Records need to indicate what wine was returned to the state that was previously reported as an export (including number of cases and gallons).

AMENDATORY SECTION (Amending WSR 18-02-006, filed 12/20/17, effective 1/20/18)

WAC 314-24-115 Wine importers—Requirements. (1) Principal office: Each wine importer shall keep the board informed at all times of the location of the principal office required by the Washington State Liquor Act and shall, not less than (~~(thirty)~~) 30 days prior thereto notify the board in writing of any change in the location of such office.

(2) Warehouses: Wine importers maintaining warehouses at which wine imported by such importer is stored shall have the location approved by the board.

(3) Certain duties: No wine importer shall import or transport or cause to be transported into the state of Washington any brand of wine manufactured within the United States but outside the state of Washington, unless such importer shall have first filed with the board a notice of his intention so to do, and shall have ascertained from the board that the winery manufacturing such wine has obtained from the Washington state liquor (~~(control)~~) and cannabis board a certificate of approval as provided in the Washington State Liquor Act (section 10, chapter 21, Laws of 1969 ex. sess.).

AMENDATORY SECTION (Amending WSR 10-01-090, filed 12/16/09, effective 1/16/10)

WAC 314-24-150 Wine records—Preservation. (1) Every domestic winery, wine distributor, wine certificate of approval holder, wine shipper permit holder, and wine importer shall keep wine accounts separate from other accounts, and maintain proper records in a form approved by the board showing all transactions in wine.

(2) Every domestic winery, wine distributor, and wine importer, shall, in the case of sales of wine within the state, keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, in the office of the domestic winery, wine distributor or wine importer for at least three years after each sale.

(3) Every domestic winery, wine distributor, and wine importer, shall, in the case of wine exported from the state, keep and preserve all bills of lading and other evidence of shipment in the office of the domestic winery, wine distributor, or wine importer for at least three years after each shipment.

(4) Both the shipping and receiving licensees and permittees, as the case may be, shall keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, transfer or shipment in their respective offices for at least three years after each sale, transfer or shipment.

(5) Licensees and permittees may maintain microfilm records containing reproductions (including microfiche) of any record, document, or report if first approved by the board. Request for approval shall be directed to the financial division of the Washington state liquor (~~control~~) and cannabis board and must include the following information:

- (a) Records proposed to be reproduced.
- (b) Reproduction process.
- (c) Manner of preserving the reproduction.
- (d) Facilities provided for examining or viewing such reproduction.

If the request is approved, the licensee or permittee shall provide for the examining, viewing, and reproduction of such records the same as if they were the original records.

(6) If the licensee or permittee keeps records within an automated data processing (ADP) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(7) The provisions contained in subsections (5) and (6) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

AMENDATORY SECTION (Amending WSR 22-23-054, filed 11/9/22, effective 12/10/22)

WAC 314-24-175 Farmer's market beer and wine sampling. (1) To conduct beer and wine tasting at a farmer's market, the following criteria must be met:

(a) The farmer's market must be authorized to allow breweries, microbreweries, and wineries to sell bottled wine and/or beer at retail.

(b) The farmer's market must hold an endorsement to allow sampling of beer and wine or both.

(c) A brewery, microbrewery, or winery offering samples at a farmer's market must have an endorsement from the board to sell beer or wine of its own production at a farmer's market (see RCW 66.24.170, 66.24.240, and 66.24.244).

(d) No more than three breweries, microbreweries, or wineries combined may offer samples at a qualifying farmer's market per day.

(e) A brewery, microbrewery, or winery may advertise that it offers samples only at its designated booth, stall, or anywhere within the farmer's market.

(2) Samples of beer or wine may be offered only under the following conditions:

(a) Each sample must be two ounces or less, up to a total of two ounces per customer per day.

(b) Beer and wine samples are to be conducted at the booth or stall of the brewery, microbrewery, or winery with a barrier at least 42 inches in height, where licensees are able to observe and control customers participating in the samples. The barriers may be moveable (an example would be ropes and stanchions).

(c) A brewery, microbrewery, or winery must have food available for customers to consume while sampling beer or wine, or must be adjacent to a vendor offering prepared food.

(d) Customers must remain in the designated sampling area while sampling beer or wine.

(e) Brewery, microbrewery, or winery employees serving beer or wine during sampling events must hold a valid MAST permit.

(f) The brewery, microbrewery, or winery is required to send a list of scheduled beer and wine samplings to the liquor (~~control~~) and cannabis board at MIWenforce@lcb.wa.gov at the beginning of each month. The date for each beer and wine sampling must be included.

(g) The farmer's market is also required to send a list of scheduled beer and wine samplings to the liquor (~~control~~) and cannabis board at MIWenforce@lcb.wa.gov at the beginning of each month. The date for each beer and wine sampling, and the names of the brewery, microbrewery, and winery providing the samples must be included.

(h) The farmer's market is required to provide a sketch to the licensing division of the area where beer and wine samples will be conducted and to any adjacent food booths.

AMENDATORY SECTION (Amending WSR 18-02-006, filed 12/20/17, effective 1/20/18)

WAC 314-24-265 Defining wine of a winery's own production. A domestic winery holding a valid license in both Washington and Oregon may market and distribute wine produced in Oregon utilizing their

Washington winery license as the premises for transactions if the following conditions are met:

(1) The licensee must request approval from the ((WSLCB)) LCB to market and retail their Oregon wine at their Washington winery premises. Approval will be granted based on the documentation that demonstrates compliance with this regulation.

(2) The licensee must demonstrate a valid Oregon winery license and that the underlying ownership of the Oregon winery license is identical to the Washington winery license.

(3) Both the Washington and Oregon wineries must manufacture wine within the same TTB authorized appellation. Only wine from cross border appellations will be approved.

(4) Oregon wine to be marketed and/or sold in Washington must have the appropriate taxes paid (RCW 66.24.210).

OTS-5328.2

AMENDATORY SECTION (Amending WSR 18-21-115, filed 10/17/18, effective 11/17/18)

WAC 314-29-010 What options does a licensee or permit holder have once he/she receives a notice of an administrative violation?

(1) A licensee or a mandatory alcohol server training permit holder has ((~~twenty~~)) 20 days from receipt of the notice to:

- (a) Accept the recommended penalty; or
- (b) Request a settlement conference in writing; or
- (c) Request an administrative hearing in writing.

A response must be submitted on a form provided by the agency.

(2) What happens if a licensee or mandatory alcohol server training permit holder does not respond to the administrative violation notice within ((~~twenty~~)) 20 days?

(a) If a licensee or permit holder does not respond to the administrative violation notice within ((~~twenty~~)) 20 days, the recommended suspension penalty will go into effect. After ((~~twenty~~)) 20 days and up to ((~~thirty~~)) 30 days from the date of the administrative violation notice, and if the violation includes a monetary penalty, the licensee may pay a ((~~twenty-five~~)) 25 percent fee in addition to the recommended penalty in lieu of suspension.

(b) If the penalty does not include a suspension, the licensee must pay a ((~~twenty-five~~)) 25 percent late fee in addition to the recommended penalty. The recommended penalty plus the late fee must be received within ((~~thirty~~)) 30 days of the violation notice issue date.

(c) When a licensee fails to submit payment of monetary fine proceedings, provisions to collect shall take effect immediately or other actions such as revocation, will be instituted as deemed appropriate by the ((WSLCB)) LCB.

(d) An attempt to advise the debtor of the existence of the debt, and ((~~twenty-five~~)) 25 percent late fee per (b) of this subsection, will be made notifying that the debt may be assigned to a collection agency for collection if the debt is not paid, and at least ((~~thirty~~)) 30 days have elapsed from the time notice was attempted.

(e) Licensees failing to respond to an administrative violation notice or having outstanding fines shall not be eligible to renew their liquor license.

(f) Failure to address monetary penalties for two or more administrative violations notices in a two-year period will result in license cancellation.

(3) What are the procedures when a licensee or mandatory alcohol server training permit holder requests a settlement conference?

(a) If the licensee or permit holder requests a settlement conference, the hearing examiner or captain will contact the licensee or permit holder to discuss the violation.

(b) Both the licensee or permit holder and the hearing examiner or captain will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the hearing examiner or captain will prepare a compromise settlement agreement. The hearing examiner or captain will forward the compromise settlement agreement, authorized by both parties, to the board for approval.

(i) If the board approves the compromise, a copy of the signed settlement agreement will be sent to the licensee or permit holder, and will become part of the licensing history.

(ii) If the board does not approve the compromise, the licensee or permit holder will be notified of the decision. The licensee or permit holder will be given the option to renegotiate with the hearing examiner or captain, of accepting the originally recommended penalty, or of requesting an administrative hearing on the charges.

(d) If the licensee or permit holder and the hearing examiner or captain cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the hearing examiner or captain will forward a request for an administrative hearing to the board's hearings coordinator.

OTS-5329.1

AMENDATORY SECTION (Amending WSR 12-18-002, filed 8/23/12, effective 9/23/12)

WAC 314-31-005 Liquor compliance checks. (1) The Washington state liquor (~~control~~) and cannabis board authorizes enforcement officers and investigative aides working with enforcement officers to conduct liquor compliance checks at any location where alcohol is sold, served or provided.

(2) Investigative aides working at the direction of enforcement officers during a liquor compliance check are considered agents of the Washington state liquor (~~control~~) and cannabis board.

(3) Violations involving a licensee, its employee, or a member of the public that result from a liquor compliance check are subject to criminal arrest and/or administrative action by the liquor (~~control~~) and cannabis board.

OTS-5330.1

AMENDATORY SECTION (Amending WSR 10-01-089, filed 12/16/09, effective 1/16/10)

WAC 314-34-020 Information about cigarette and/or tobacco products license suspensions. (1) On the date a cigarette and/or tobacco products license suspension goes into effect, a liquor enforcement officer will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the liquor (~~(control)~~) and cannabis board due to a violation of a cigarette or tobacco products law or rule.

(2) During the period of cigarette and/or tobacco products license suspension, the licensee and employees:

(a) Are required to maintain compliance with all applicable cigarette and tobacco products laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice;

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the liquor (~~(control)~~) and cannabis board's suspension notice.

(3) During the period of cigarette and tobacco products license suspension:

(a) A retail cigarette and/or tobacco products licensee may operate his/her business provided there is no sale, delivery, removal, or receipt of cigarette and tobacco products.

(b) A cigarette wholesaler and tobacco products distributor licensee may operate his/her business provided there is no sale, delivery, removal, or receipt of cigarette and tobacco products.

OTS-5331.1

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

WAC 314-36-060 Public storage warehouses. (1) No public storage warehouse shall accept, receive, or store or otherwise handle any spirits, beer, or wine, without first obtaining from the Washington state liquor (~~(control)~~) and cannabis board a letter of authorization.

(2) No consumption of spirits, beer, or wine, is allowed at public storage warehouses.

OTS-5332.1

AMENDATORY SECTION (Amending WSR 22-23-054, filed 11/9/22, effective 12/10/22)

WAC 314-42-001 Board operations and procedure. This section details the general course and method by which the operations of the board are channeled and determined in addition to the other functions and procedures of the board as provided in Title 314 WAC.

(1) The "Washington state liquor and cannabis board" or "board" pursuant to RCW 66.08.012 and 66.08.014, consists of three members appointed by the governor, with the consent of the senate, for staggered terms of six years. Where appropriate, the term "board" also refers to the staff and employees of the Washington state liquor and cannabis board.

(2) The board delegates certain administrative functions to an administrative director appointed by the board as provided in WAC 314-42-010.

(3) Pursuant to the requirements of the Open Public Meetings Act, chapter 42.30 RCW all determinations and business of the board will be made and conducted in meetings open to the public, except matters exempt from the act under RCW 42.30.140 or properly conducted in executive session pursuant to RCW 42.30.110.

(a) The board holds regular meetings as published with the office of the code reviser in the *Washington State Register* per RCW 42.30.075 and as published on the board's website at lcb.wa.gov. For scheduling purposes, it is the board's intent to schedule petitions, take public testimony, conduct rule making activities, and adopt resolutions at its regular board meetings as published in the *Washington State Register* and posted on the (~~WSLCB~~) LCB website.

(b) Occasionally the board may deem it necessary to cancel meetings or conduct business at times other than as published in the *Washington State Register*. For these occasions, stakeholder notification will occur as provided in the Open Public Meetings Act, chapter 42.30 RCW.

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

WAC 314-42-010 Liquor (~~control~~) and cannabis board administrative director. (1) The purpose of this rule is to ensure efficient and consistent administration of the liquor (~~control~~) and cannabis board through the delegation of certain administrative functions to an administrative director. The delegation of administrative functions by the board, as provided for in this section, does not alter the board's statutory responsibility to administer Title 66 RCW.

(2) The administrative director will be appointed by, and serve at the pleasure of, the board, and will perform his/her duties under the general control, management, and supervision of the board.

(3) The following duties are delegated by the board to the administrative director:

(a) Appointing authority as defined by WAC 356-05-040, 356-30-007, and 356-34-011 for all liquor (~~control~~) and cannabis board employees, with the exception of the director and staff of the policy, legislative, and media relations division as described in subsection (4) (e) and staff that report directly to the board members;

- (b) Authorize expenditures of funds from the board approved internal budget;
 - (c) Purchase, lease, contract, or otherwise acquire any goods, services, and products within the board approved internal budget;
 - (d) Approve uncontested licenses and permits (this authority may be further delegated);
 - (e) Assign duties, coordinate agency operations, and establish performance standards and timelines;
 - (f) Approve disbursements of excess funds from the liquor revolving fund; and
 - (g) Perform other duties of a routine administrative nature identified by the board.
- (4) The following duties will not be delegated and will remain functions of the board:
- (a) Final approval of agency-wide and division budgets as prepared by the administrative director;
 - (b) Revocation or suspension of a license or permit;
 - (c) Appeals of administrative actions taken against liquor and tobacco licensees;
 - (d) Approval of contested liquor license and permit applications; and
 - (e) Direct oversight of the policy, legislative, and media relations division and staff that report directly to the board members, including:
 - (i) Rule making actions,
 - (ii) Approval of agency-request legislative proposals, and
 - (iii) The employment, termination, and discipline of the director and staff of the policy, legislative, and media relations division and staff that report directly to the board members.

AMENDATORY SECTION (Amending WSR 01-11-058, filed 5/11/01, effective 6/11/01)

WAC 314-42-020 Appearance and practice before the board—Who may appear. During an adjudicative proceeding, no person may appear in a representative capacity before the Washington state liquor (~~control~~) and cannabis board or its designated hearing officer other than the following:

- (1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington;
- (2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law; and/or
- (3) A bona fide officer, authorized manager, partner, or full time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership, or corporation.

AMENDATORY SECTION (Amending WSR 08-17-056, filed 8/15/08, effective 9/15/08)

WAC 314-42-095 What happens after an administrative hearing?

(1) Following an administrative hearing, the administrative law judge will prepare an initial order and send it to the licensee or permit holder, the assistant attorney general, the board's offices, and any other party to the administrative hearing.

(2) (a) Either the licensee, permit holder, or the assistant attorney general may file a petition for review of the initial order with the liquor (~~(control)~~) and cannabis board within (~~(twenty)~~) 20 days of the date of service of the initial order. With notice to all parties the board may change the time for filing a petition for review of the initial order. The board may extend or shorten the filing time based on a voluntary stipulation of the parties or upon motion of a party that demonstrates a clear and convincing showing of exigent circumstances. The petition for review must:

(i) Specify the portions of the initial order to which exception is taken; and

(ii) Refer to the evidence of record which is relied upon to support the petition.

(b) Within (~~(ten)~~) 10 days after service of the petition for review, any party may file a reply with the liquor (~~(control)~~) and cannabis board and copies of the reply must be mailed to all other parties or their representatives at the time the reply is filed.

(3) The administrative record, the initial order, and any petitions for review and replies filed by the parties will be circulated to the board members for review.

(4) Following this review, the board will enter a final order which is appealable under the provisions of RCW 34.05.510 through 34.05.598 (Washington Administrative Procedure Act). The board may issue a final order that differs from the initial order even though no party has filed a petition for review or reply.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-42-115 Preliminary record in brief adjudicative proceedings.

(1) The preliminary record with respect to a liquor license suspension due to nonpayment of spirits taxes in RCW 66.24.010 shall consist of:

(a) All correspondence from department of revenue requesting missing taxes or reports; and

(b) Request from department of revenue to the liquor (~~(control)~~) and cannabis board requesting suspension of the liquor license.

(2) The preliminary record with respect to a liquor license intent to deny under WAC 314-07-065(2) where the applicant has failed to submit information or documentation shall consist of:

(a) All correspondence between the applicant and the board pertaining to requests for information or documentation; and

(b) A copy of the application report prepared by licensing division staff.

(3) The preliminary record with respect to a liquor license application intent to deny where the applicant failed to meet the criminal history standards outlined in WAC 314-07-040 shall consist of:

(a) A copy of the application report prepared by licensing division staff;

(b) The personal/criminal history statement(s) submitted by the applicant;

(c) Any interoffice correspondence reporting criminal history of applicant(s); and

(d) Copies of any correspondence submitted by the applicant explaining or rebutting the criminal history findings.

(4) The preliminary record with respect to a special occasion liquor license application (chapter 314-05 WAC) intent to deny where the applicant failed to meet the criminal history standards outlined in WAC 314-07-040 shall consist of:

(a) A copy of the application report prepared by licensing division staff;

(b) The personal/criminal history statement(s) submitted by the applicant(s);

(c) Any interoffice correspondence reporting criminal history of applicant(s); and

(d) Copies of any correspondence submitted by the applicant explaining or rebutting the criminal history findings.

(5) The preliminary record with respect to a special occasion liquor license application (chapter 314-05 WAC) intent to deny where the application was objected to by the local authority wherein the event is scheduled (WAC 314-07-065(7)) shall consist of:

(a) A copy of the special occasion license application and supporting materials;

(b) A copy of the notice sent to the local authority by licensing division staff;

(c) A copy of the objection received from the local authority; and

(d) A copy of any correspondence from the applicant rebutting the objection from the local authority.

(6) The preliminary record with respect to suspension of mandatory alcohol server, provider or trainer, for noncompliance with a support order in accordance with RCW 66.20.085 shall consist of:

(a) A copy of the license suspension certification from the department of social and health services; and

(b) A copy of all documents received from or on behalf of the permit holder rebutting the identification of the server, provider, or trainer.

(7) The preliminary record with respect to suspension of mandatory alcohol server, provider or trainer, for failing to meet the criminal history standards outlined in WAC 314-07-070(1) shall consist of:

(a) A copy of the personal/criminal history statement submitted by the applicant;

(b) Any interoffice correspondence reporting criminal history of applicant; and

(c) Copies of any correspondence submitted by the applicant, permit holder, provider or trainer explaining or rebutting the criminal history findings.

(8) The preliminary record with respect to liquor license suspensions due to nonpayment of beer or wine taxes per WAC 314-19-015 shall consist of:

(a) Copies of any correspondence requesting missing taxes, fees, or penalties when identified after processing reporting form monthly; and

(b) Copies of backup documentation including envelopes showing late filing, corrections on reporting form, and audit findings.

(9) The preliminary record with respect to one-time event denials for private clubs in WAC 314-40-080 shall consist of:

(a) A copy of the written request for a one-time event;

(b) A copy of the written denial including the reason(s) for the denial; and

(c) Copies of all correspondence.

(10) The preliminary record with respect to banquet permit denials in WAC 314-18-030 shall consist of:

(a) The application for a banquet permit;

(b) A copy of the written denial including the reason(s) for denial; and

(c) All correspondence.

(11) The preliminary record with respect to denial of restrictions requested on a nightclub license by a local authority under the provisions in WAC 314-02-039 shall consist of:

(a) A copy of the application report prepared by licensing division staff and the threshold decision by the licensing director or his/her designee;

(b) A copy of all correspondence from the local authority requesting restrictions on the nightclub premises; and

(c) Copies of any correspondence submitted by the nightclub applicant or license holder rebutting the request for restrictions.

(12) The preliminary record with respect to licensing's approval of a request for restrictions on a nightclub license under the provisions of WAC 314-02-039 shall consist of:

(a) A copy of the application report prepared by licensing division staff and the threshold decision by the licensing director or his/her designee;

(b) A copy of all correspondence from the local authority requesting restrictions on the nightclub premises; and

(c) Copies of any correspondence submitted by the nightclub applicant or license holder rebutting the request for restrictions.

(13) The preliminary record with respect to a liquor license suspension due to noncompliance with a support order from the department of social and health services under RCW 66.24.010 shall consist of:

(a) The written request from department of social and health services to suspend the liquor license;

(b) A copy of the written liquor (~~control~~) and cannabis board suspension order; and

(c) Copies of all correspondence.

(14) The preliminary record with respect to a liquor license suspension due to noncompliance with RCW 74.08.580, electronic benefits cards, per RCW 66.24.013 shall consist of:

(a) The written request from department of social and health services to suspend the liquor license;

(b) The complete investigation from department of social and health services to support the suspension;

(c) A copy of the written liquor (~~control~~) and cannabis board suspension order; and

(d) Copies of all correspondence.

(15) The preliminary records with respect to liquor license suspension due to nonpayment of spirits liquor license fees per RCW 66.24.630 shall consist of:

(a) All correspondence relating to discrepancies in fees and/or penalties when identified after processing reporting forms; and

(b) All backup documentation including envelopes showing late filing, corrections on reporting forms, and audit findings.

(16) The preliminary records with respect to liquor license suspensions due to nonpayment of spirits distributor license fees per RCW 66.24.055 shall consist of:

(a) All correspondence requesting missing fees and/or penalties when identified after processing reporting forms; and

(b) All backup documentation including envelopes showing late filing, corrections on reporting forms, and audit findings.

(17) The preliminary record with respect to tobacco license denials shall consist of:

(a) The license application from business license services;

(b) The personal/criminal history statement submitted by the applicant;

(c) The judicial information system criminal history and division recommendation;

(d) The letter of denial from the liquor (~~control~~) and cannabis board;

(e) The notice of intent to deny statement to the applicant; and

(f) All correspondence.

(18) The preliminary record with respect to a cannabis license intent to deny due to failure or refusal to submit information per WAC 314-55-050(2) shall consist of:

(a) All correspondence between the applicant and the board pertaining to requests for information or documentation; and

(b) A copy of the application report prepared by licensing division staff.

(19) The preliminary record with respect to a cannabis license application intent to deny where the applicant failed to meet the criminal history standards outlined in WAC 314-55-050(4) shall consist of:

(a) A copy of the application report prepared by licensing division staff;

(b) The personal/criminal history statement(s) submitted by the applicant;

(c) Any communication from the Washington state patrol or Federal Bureau of Investigation pertaining to the criminal history of the applicant;

(d) Any interoffice correspondence reporting criminal history of applicant(s); and

(e) Copies of any correspondence submitted by the applicant explaining or rebutting the criminal history findings.

(20) The preliminary record with respect to a cannabis license intent to deny due to denial, suspension, or cancellation of a cannabis license in another jurisdiction per WAC 314-55-050(8) shall consist of:

(a) A copy of the application report prepared by licensing division staff; and

(b) Documentation from any other state or jurisdiction demonstrating the action taken against the applicant.

(21) The preliminary record with respect to a cannabis license intent to deny due to proximity to the perimeter of entities listed in WAC 314-55-050(10) shall consist of:

(a) A copy of the application report prepared by licensing division staff;

(b) Any interoffice correspondence reporting the measurement from the proposed business location to the facility within 1,000 feet;

(c) Documentation of measurement data including Geographic Positioning System (GPS) and related calculations; and

(d) Correspondence from the applicant illustrating alternative measurement data and/or rebuttal of the LCB's measurement data.

(22) The preliminary record with respect to a cannabis license intent to suspension due to nonpayment of cannabis excise taxes per WAC 314-55-050(11) shall consist of:

(a) All correspondence relating to discrepancies in fees and/or penalties when identified after processing reporting forms; and

(b) All backup documentation including envelopes showing late filing, corrections on reporting forms, and audit findings.

(23) The preliminary record with respect to a cannabis license intent to deny due to failure to submit an attestation concerning current tax obligations per WAC 314-55-050(12) shall consist of:

(a) A copy of the application report prepared by licensing division staff; and

(b) All correspondence with the applicant related to the request for this information.

(24) The preliminary record with respect to a cannabis license intent to deny due to denial, suspension, or revocation of a liquor license per WAC 314-55-050(13) shall consist of:

(a) A copy of the application report prepared by licensing division staff; and

(b) Documentation from liquor (~~control~~) and cannabis board records or any other state demonstrating the action taken against the applicant.

OTS-5333.1

AMENDATORY SECTION (Amending WSR 10-06-122, filed 3/3/10, effective 4/3/10)

WAC 314-52-005 Purpose and application of rules. (1) The liquor (~~control~~) and cannabis board regulates alcohol advertising to promote public safety, prevent the misuse of alcohol and reduce youth exposure to alcohol advertising and marketing. These rules provide reasonable regulations as to the kind, character, size, and location of advertising of liquor, as authorized by RCW 66.08.060.

(2) No person engaged in business as a manufacturer, importer, distributor, or retailer of liquor shall publish or disseminate in any media any advertisement of liquor, unless such advertisement is in conformance with these rules.

(3) The board holds each manufacturer, importer, distributor, or retailer of liquor responsible for complying with the advertising rules of the Washington state liquor (~~control~~) and cannabis board in any advertising material placed by them or on their behalf by their agents. If desired, advertising may be submitted prior to publication for an advisory opinion by the Washington state liquor (~~control~~) and cannabis board, but advisory opinions will be restricted to advertising material submitted by manufacturers, importers, distributors, or retailers of liquor, or their agents.

(4) Liquor advertising materials, defined as institutional or educational advertising in WAC 314-52-015, intended for placement in re-

tail outlets of the Washington state liquor (~~((control))~~) and cannabis board shall be presented to the Washington state liquor (~~((control))~~) and cannabis board for prior approval before placement. All other forms of advertising approved and accepted by the board shall not be prohibited under this rule.

AMENDATORY SECTION (Amending WSR 10-06-122, filed 3/3/10, effective 4/3/10)

- WAC 314-52-015 General.** (1) Institutional advertising shall mean advertising which promotes company or brand name identification, but does not directly solicit purchase or consumption of liquor. Educational advertising shall mean factual information on liquor, its manufacture, history, consumption and methods of ascertaining the quality of various types of liquors. All liquor advertising on products sold in the state of Washington may not contain any statement, picture, or illustration that:
- (a) Is false or misleading;
 - (b) Promotes over consumption;
 - (c) Uses the Washington state liquor (~~((control))~~) and cannabis board's seal or refers to Washington state liquor (~~((control))~~) and cannabis board, except where required by law;
 - (d) Represents the use of liquor has curative or therapeutic effects, if such statement is untrue or tends to create a misleading impression;
 - (e) Implies the consumption of liquor enhances athletic prowess, or any statement, picture, or illustration that refers to any known athlete, if such statement, picture, or illustration implies, or if the reader may reasonably infer, that the use of liquor contributed to any known athlete's athletic achievements;
 - (f) Depicts a child or other person under legal age to consume liquor, or includes:
 - (i) Objects, such as toys or characters, suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume liquor; or
 - (ii) Is designed in any manner that would be especially appealing to children or other persons under (~~((twenty-one))~~) 21 years of age.
 - (g) Is targeted principally to minors by implying that the consumption of alcoholic beverages is fashionable or the accepted course of behavior for persons under (~~((twenty-one))~~) 21 years of age; or
 - (h) Uses subliminal or similar techniques. "Subliminal or similar techniques" as used in this section, refers to any device or technique that is used to convey, or attempts to convey, a message to a person by means of images or sounds of a very brief nature that cannot be perceived at a normal level of awareness.
- (2) If advertising claims the alcohol product has a curative or therapeutic effect or enhances health or performance, the licensee must:
- (a) Cite the name of the author and date of the research or study supporting the claim; and
 - (b) Provide a copy of this research or study to the board.

OTS-5362.3

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-018 Prohibited practices—Money advances—Contracts—Gifts—Rebates, discounts, and exceptions, etc. (1) No industry member or licensee shall enter into any agreement which causes undue influence over another licensee or industry member. This rule shall not be construed as prohibiting the placing and accepting of orders for the purchase and delivery of cannabis that are made in accordance with usual and common business practice and that are otherwise in compliance with chapter 69.50 RCW and this chapter.

(2) No cannabis producer or processor shall advance and no cannabis licensee shall receive money or moneys' worth under an agreement written or unwritten or by means of any other business practice or arrangement such as:

- (a) Gifts;
- (b) Discounts;
- (c) Loans of money;
- (d) Premiums;
- (e) Rebates;

(f) Free product of any kind except as allowed by WAC 314-55-096 and RCW 69.50.585; or

(g) Treats or services of any nature whatsoever except such services as are authorized in this section and under RCW 69.50.585.

(3) "Industry member" means a licensed cannabis producer, cannabis processor, cannabis retailer, cannabis transportation licensee, cannabis research licensee, their authorized representatives, and including, but not limited to, any affiliates, subsidiaries, officers, partners, financiers, agents, employees, and representatives of any licensee.

(4) Consistent with WAC 314-55-017, no industry member or employee thereof shall sell to any cannabis licensee or solicit from any such licensee any order for any cannabis tied in with, or contingent upon, the licensee's purchase of some other cannabis, or any other merchandise, paraphernalia, property, or service.

(5) If the (~~WSLCB~~) LCB finds in any instance that any licensee has violated this section, then all licensees involved in the violation shall be held equally responsible.

AMENDATORY SECTION (Amending WSR 22-21-058, filed 10/12/22, effective 11/12/22)

WAC 314-55-050 Withdrawal, denial, suspension, or cancellation of a cannabis license application or license. (1) The board has the discretion to withdraw, deny, suspend, or cancel a cannabis license application or license consistent with RCW 69.50.331, for reasons including, but not limited to, the following:

(a) Not meeting the initial or ongoing qualifications, requirements, or both for a specific cannabis license, as outlined in this chapter and chapter 69.50 RCW;

- (b) Not submitting information or documentation requested by the board during the application evaluation process;
- (c) Misrepresenting fact, or not disclosing a material fact to the board during the application process or any review or follow-up review that may occur after a license has been issued;
- (d) Not meeting the background check standards outlined in WAC 314-55-040;
- (e) Not meeting the cannabis law or rule violation history standards outlined in WAC 314-55-045;
- (f) Using funds that cannot be verified for the acquisition, startup and operation of the business, or obtained in a way that violates the law;
- (g) Not allowing the board or its authorized representative access to any place where a licensed activity takes place;
- (h) Not producing any book, record or document required by law or board rule;
- (i) The applicant or licensee has had a cannabis license or medical cannabis license denied, suspended, or canceled in another state or local jurisdiction;
- (j) The city, county, tribal government, or port authority has submitted a substantiated objection to the application or against the premises for which the new or renewed license is requested, as described in RCW 69.50.331 (7) and (10).
- (k) The applicant or licensee has not paid taxes or fees required under chapter 69.50 RCW or did not provide production, processing, inventory, sales and transportation reports or documentation required under this chapter.
- (l) The applicant or licensee did not submit an attestation that they are current in any tax obligations to the Washington state department of revenue.
- (m) The applicant or licensee has been denied a liquor or cannabis license or had a liquor license or cannabis license suspended or revoked in this or any other state.
- (n) The operating plan submitted with the application does not demonstrate that the applicant meets the criteria for licensure.
- (o) The applicant or licensee does not operate their business consistent with the operating plan approved by the board.
- (p) The board determines the issuance of the license will not be in the best interest of the welfare, health, or safety of the people of the state.
- (2) Except as provided in subsection (3) of this section, the board will not issue a new cannabis license if the proposed licensed business is within 1,000 feet of the perimeter of the grounds of any of the facilities listed in (a) through (h) of this subsection. The distance will be measured as the shortest straight line distance from the property line of the proposed building or business location to the property line of the entities listed below:
- (a) Elementary or secondary school;
 - (b) Playground;
 - (c) Recreation center or facility;
 - (d) Child care center;
 - (e) Public park;
 - (f) Public transit center;
 - (g) Library; or
 - (h) Any game arcade (where admission is not restricted to persons age 21 or older).

(3) (a) A city or county may, by local ordinance, permit cannabis businesses licensing within 1,000 feet but not less than 100 feet of the facilities listed in subsection (2) of this section except elementary and secondary schools, and playgrounds.

(b) If an applicant applies for a cannabis license at a location less than 1,000 feet of a recreation center or facility, child care center, public park, public transit center, library, or game arcade, the applicant must provide the (~~WSLCB~~) LCB with a copy of the local ordinance that describes the distance required by the city or county where the facility will be located.

AMENDATORY SECTION (Amending WSR 22-21-058, filed 10/12/22, effective 11/12/22)

WAC 314-55-055 Cannabis retailer license forfeiture. (1) (a) A cannabis retailer's license is subject to forfeiture if the retailer is not fully operational and open to the public after 12 months of issuance of the license. No cannabis retailer's license is subject to forfeiture within the first nine months of issuance.

(b) Fully operational means the business meets the following criteria for at least 12 consecutive weeks within a 12-month period after issuance of the license:

(i) The business is open to the public for a minimum of five hours a day between the hours of 8:00 a.m. and 12:00 midnight, three days a week;

(ii) The business posts hours of operation outside of the premise in the public view; and

(iii) The business reports monthly sales from the sale of cannabis products and pays applicable taxes.

(2) A cannabis retailer's license will not be subject to forfeiture if the licensee is not able to open a fully operational retail cannabis business based on actions by the city, town, or county with jurisdiction over the licensed business including:

(a) The adoption of a ban or moratorium that prohibits the retail cannabis business from opening; or

(b) The adoption of an ordinance or regulation related to zoning, business licensing, land use, or other regulatory measure that has the effect of preventing a licensee from receiving an occupancy permit from the jurisdiction or which otherwise prevents a licensed cannabis retailer from becoming operational.

(3) Exceptions to license forfeiture.

(a) The board has the sole discretion to grant exceptions to the license forfeiture process if a cannabis retailer licensee experiences circumstances that are out of their control such as a natural disaster.

(b) Sufficient documentation is required to verify any of the exceptions to license forfeiture in this section. Licensees must inform the board if conditions change, such as an adjustment to zoning requirements, changes to a ban or moratorium, or other circumstances that would allow the licensee to operate.

(c) If the underlying condition exempting a cannabis retail license from forfeiture under subsection (2) of this section or (a) of this subsection is removed, then the 12-month time frame to become fully operational and open to the public requirement under subsection

(1) of this section will begin from the time the condition exempting the retail license from forfeiture is removed.

(4) A cannabis retail licensee who receives a notice of license forfeiture under this section from the ((WSLCB)) LCB may request an administrative hearing under chapter 34.05 RCW. A request for a hearing must be made in writing and received by the ((WSLCB)) LCB no later than 20 days after service of the notice. Requests submitted in paper form may be delivered to the ((WSLCB)) LCB in person during normal business hours at 1025 Union Avenue S.E., Olympia, WA 98504, or mailed to the ((WSLCB)) LCB. Mailed appeal requests must be addressed to: ((WSLCB)) LCB, ATTN: Adjudicative Proceedings Coordinator, P.O. Box 43076, Olympia, WA 98504-3076 or, for certified mail, ((WSLCB)) LCB, ATTN: Adjudicative Proceedings Coordinator, 1025 Union Avenue S.E., Olympia, WA 98504.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-075 Cannabis producer license—Privileges, requirements, and fees. (1) (a) A cannabis producer license allows the licensee to produce, harvest, trim, dry, cure, and package cannabis into lots for sale at wholesale to cannabis processor licensees and to other cannabis producer licensees. A cannabis producer may also produce and sell:

(i) Cannabis plants, seed, and plant tissue culture to other cannabis producer licensees;

(ii) Immature cannabis plants or clones and cannabis seeds to members of a registered cooperative, qualifying patients, or designated providers under the conditions provided in this chapter; and

(iii) Immature cannabis plants or clones and cannabis seeds to a licensed cannabis researcher under the conditions provided in this chapter.

(b) Cannabis production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in nonrigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083. An outdoor grow must be physically separated at least 20 feet from another licensed outdoor grow. In addition, outdoor grows cannot share common walls or fences.

(2) The application fee for a cannabis producer license is \$250. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(3) The annual fee for issuance and renewal of a cannabis producer license is \$1,000. The annual fee for issuance and renewal of a cannabis producer license is \$1,381. The ((WSLCB)) LCB will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for criminal history checks.

(4) The application window for cannabis producer licenses is closed. The ((WSLCB)) LCB may reopen the cannabis producer application window at subsequent times when the ((WSLCB)) LCB deems necessary.

(5) Any entity and/or principals within any entity are limited to an interest, as defined in WAC 314-55-035, in no more than three cannabis producer licenses.

(6) The maximum amount of space for cannabis production cannot exceed the amount licensed. Applicants must designate on their operating plan the size category of the production premises and the amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

(a) Tier 1 - Less than 4,000 square feet;

(b) Tier 2 - Four thousand square feet up to 10,000 square feet;
and

(c) Tier 3 - Ten thousand square feet up to 30,000 square feet.

(7) The ((WSLCB)) LCB may reduce a licensee's or applicant's square footage designated to plant canopy for the following reasons:

(a) If the amount of square feet of production of all licensees exceeds the maximum square feet the ((WSLCB)) LCB will reduce the allowed square footage by the same percentage.

(b) If 50 percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation the ((WSLCB)) LCB may reduce the tier of licensure.

(8) If the total amount of square feet of cannabis production exceeds the maximum square feet, the ((WSLCB)) LCB reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

(9) The maximum allowed amount of cannabis on a producer's premises at any time is as follows:

(a) Outdoor or greenhouse grows - One and one-quarter of a year's harvest; or

(b) Indoor grows - Six months of their annual harvest.

(10) A producer may not treat or otherwise adulterate useable cannabis with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the useable cannabis.

(11) A cannabis producer must make quality assurance test results available to any processor purchasing product. A cannabis producer must label each lot of cannabis with the following information:

(a) Lot number;

(b) UBI number of the producer; and

(c) Weight of the product.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-077 Cannabis processor license—Privileges, requirements, and fees. (1) A cannabis processor license allows the licensee to process, dry, cure, package, and label useable cannabis, cannabis concentrates, and cannabis-infused products for sale at wholesale to cannabis processors and cannabis retailers.

(2) **Application and license fees.**

(a) The application fee for a cannabis processor license is \$250. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(b) The annual fee for issuance and renewal of a cannabis processor license is \$1,381. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for the criminal history checks.

(c) The application window for cannabis processor licenses is closed. The board may reopen the cannabis processor application window at subsequent times when the board deems necessary.

(3) Any entity and/or principals within any entity are limited to no more than three cannabis processor licenses.

(4) (a) A cannabis processor that makes cannabis-infused solid or liquid product meant to be ingested orally (cannabis edibles) must obtain a cannabis-infused edible endorsement from the department of agriculture as required under chapter 15.125 RCW and rules adopted by the department to implement that chapter (chapter 16-131 WAC). A licensee must allow the board or their designee to conduct physical visits and inspect the processing facility, recipes, and records required under WAC 314-55-087 during normal business hours or at any time of apparent operation without advance notice.

(b) A cannabis processor licensed by the board must ensure cannabis-infused edible processing facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapter 15.125 RCW and rules promulgated to implement chapters 16-131, 16-165 and 16-167 WAC.

(5) (a) A cannabis processor may blend tested useable cannabis from multiple lots into a single package for sale to a cannabis retail licensee so long as the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(b) A processor may not treat or otherwise adulterate useable cannabis with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the useable cannabis.

(6) Recipes, product, packaging, and labeling approval.

(a) A cannabis processor licensee must obtain label and packaging approval from the board for all cannabis-infused products meant for oral ingestion prior to offering these items for sale to a cannabis retailer. The cannabis processor licensee must submit a picture of the product, labeling, and packaging to the board for approval. More information on the product, packaging, and label review process is available on the board's website.

(b) All recipes for cannabis-infused products meant for oral ingestion (cannabis edible products) must be approved by the department of agriculture under chapter 16-131 WAC. Licensees must obtain recipe approval from the department of agriculture prior to submitting any cannabis edible products, packages, and labels for review and approval by the board. The recipe for any cannabis-infused solid or liquid products meant to be ingested orally must be kept on file at the cannabis processor's licensed premises and made available for inspection by the board or its designee.

(c) If the board denies a cannabis-infused product for sale in cannabis retail outlets, the cannabis processor licensee may request

an administrative hearing under chapter 34.05 RCW, Administrative Procedure Act.

(7) With the exception of the cannabis, all ingredients used in making cannabis-infused products for oral ingestion must be a commercially manufactured food as defined in WAC 246-215-01115.

(8) Cannabis-infused edible products in solid or liquid form must be homogenized to ensure uniform disbursement of cannabinoids.

(9) A cannabis processor may infuse food or drinks with cannabis, provided that:

(a) The product or products do not require cooking or baking by the consumer;

(b) Coatings applied to the product or products are compliant with the requirements of this chapter;

(c) The product and package design is not similar to commercially available products marketed for consumption by persons under 21 years of age, as defined by WAC 314.55.105 (1)(c).

(10) To reduce the risk to public health, potentially hazardous foods as defined in WAC 246-215-01115 may not be infused with cannabis. Potentially hazardous foods require time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic microorganisms or the production of toxins. Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with cannabis.

(11) Other food items that may not be infused with cannabis to be sold in a retail store include:

(a) Any food that has to be acidified to make it shelf stable;

(b) Food items made shelf stable by canning or retorting;

(c) Fruit or vegetable juices (this does not include shelf stable concentrates);

(d) Fruit or vegetable butters;

(e) Pumpkin pies, custard pies, or any pies that contain egg;

(f) Dairy products of any kind such as butter, cheese, ice cream, or milk; and

(g) Dried or cured meats.

(h) Vinegars and oils derived from natural sources may be infused with dried cannabis if all plant material is subsequently removed from the final product. Vinegars and oils may not be infused with any other substance, including herbs and garlic.

(i) Cannabis-infused jams and jellies made from scratch must utilize a standardized recipe in accordance with 21 C.F.R. Part 150, revised as of April 1, 2013.

(12) Consistent with WAC 314-55-104, a cannabis processor may infuse dairy butter or fats derived from natural sources, and use that extraction to prepare allowable cannabis-infused solid or liquid products meant to be ingested orally, but the dairy butter or fats derived from natural sources may not be sold as stand-alone products.

The board may designate other food items that may not be infused with cannabis.

(13) Cannabis processor licensees are allowed to have a maximum of six months of their average useable cannabis and six months average of their total production on their licensed premises at any time.

(14) **Processing service arrangements.** A processing service arrangement is when one processor (processor B) processes useable cannabis or an altered form of useable cannabis (cannabis product) for another licensed processor (processor A) for a fee.

(a) Processor A is the product owner. However, processor B may handle the product under its license as provided in chapter 69.50 RCW

and this chapter. Processor B is not allowed to transfer the product to a retailer and may only possess cannabis or cannabis products received from processor A for the limited purposes of processing it for ultimate transfer back to processor A.

(b) Processing service arrangements must be made on a cash basis only as provided in WAC 314-55-115 and payment for the service and return of the processed product must be made within 30 calendar days of delivery to processor B. Failure to do so as provided by the preceding sentence is a violation of this section and any cannabis or cannabis product involved in the transaction will be subject to seizure and destruction. Payment with any cannabis products, barter, trade, or compensation in any form other than cash for processing service arrangements is prohibited under processing service arrangements.

(c) Each processor that enters into a processing service arrangement must include records for each service arrangement in recordkeeping documents which must be maintained consistent with this chapter.

(15) Cannabis may not be returned by any retail licensee to any processor except as provided in this section.

(a) Every processor must maintain on the licensed premises for a period of five years complete records of all refunds and exchanges made under this section including an inventory of cannabis and cannabis products returned to the processor by any retail licensee.

(b) Cannabis may be returned by a retail licensee in the event a retailer goes out of the business of selling cannabis at retail and a cash refund, as defined by WAC 314-55-115, may be made upon the return of the cannabis or cannabis products, so long as ((WSLCB)) LCB approval is acquired prior to returns and refunds under this subsection.

(c) Cannabis products different from that ordered by a retailer and delivered to the retailer may be returned to a processor and either replaced with cannabis products which were ordered or a cash refund, as defined by WAC 314-55-115, may be made. These incorrect orders must be discovered and corrected within eight days of the date the delivery was made to be eligible for returns and refunds under this subsection.

(d) A cannabis processor may accept returns of products and sample jars from cannabis retailers for destruction, but is not required to provide refunds to the retailer. It is the responsibility of the retailer to ensure the product or sample jar is returned to the processor.

(16) The board may take disciplinary action against any cannabis processor that fails to comply with the provisions of WAC 246-80-021.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-092 Failure to pay excise taxes and late payment of excise taxes. (1) If a cannabis licensee does not submit its payment(s) to the ((WSLCB)) LCB as required in WAC 314-55-089: The licensee is subject to penalties.

Penalties: A penalty of two percent per month will be assessed on the outstanding balance for any payments postmarked after the 20th day of the month following the month of sale. When the 20th day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day. Absent a postmark, the date received at the ((WSLCB))

LCB or authorized designee, will be used to assess the penalty of two percent per month on the outstanding balance after the 20th day of the month following the month of sale.

(2) Failure to make a report and/or pay the license taxes and/or penalties in the manner and dates outlined in WAC 314-55-089 will be sufficient grounds for the ((WSLCB)) LCB to suspend or revoke a cannabis license.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-104 Cannabis processor license extraction requirements. (1) Processors are limited to the methods, equipment, solvents, gases, and mediums detailed in this section when creating cannabis extracts.

(2) Processors may use the hydrocarbons N-butane, isobutane, propane, or heptane. These solvents must be of at least 99 percent purity and a processor must use them in a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

(3) Processors may use a professional grade closed loop CO₂ gas extraction system where every vessel is rated to a minimum of 600 pounds per square inch. The CO₂ must be of at least 99 percent purity.

(4) Closed loop systems for hydrocarbon or CO₂ extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.

(5) Certification from a licensed engineer must be provided to the ((WSLCB)) LCB for professional grade closed loop systems used by processors to certify that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, such as:

(a) The American Society of Mechanical Engineers (ASME);

(b) American National Standards Institute (ANSI);

(c) Underwriters Laboratories (UL); or

(d) The American Society for Testing and Materials (ASTM).

(6) The certification document must contain the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.

(7) Professional grade closed loop systems, and other equipment used must be approved for specific use or the technical report must be approved by the state building code officials prior to use per WAC 51-54A-3800.

(8) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the local fire code official and meet any required fire, safety, and building code requirements specified in:

(a) Title 296 WAC;

(b) Chapters 51-51 and 51-54A WAC;

(c) National Fire Protection Association (NFPA) standards;

(d) International Building Code (IBC);

(e) International Fire Code (IFC); and

(f) Other applicable standards including following all applicable fire, safety, and building codes in processing and the handling and storage of the solvent or gas.

(9) Processors may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

(10) Under WAC 314-55-077, infused dairy butter and oils or fats derived from natural sources may be used to prepare infused edible products, but they may not be prepared as stand-alone edible products for sale.

(11) Processors may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts. All ethanol must be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

(12) Processors creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

(13) Parts per million for one gram of finished extract cannot exceed residual solvent or gas levels provided in WAC 314-55-102.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-107 Cannabis product compliance. A cannabis compliant product must meet all requirements in the department of health rules found in chapter 246-70 WAC in addition to all ((~~WSLCB~~)) LCB requirements found in chapter 314-55 WAC.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-135 Discontinue cannabis sales. (1) **Notification:** A licensee must notify the ((~~WSLCB's~~)) LCB's enforcement and education division in writing if the licensee plans to stop doing business for more than 30 days, or if the licensee plans to permanently discontinue cannabis sales.

(2) **Discontinued business: Sale of cannabis inventory and stock after discontinuance of business.** Notwithstanding any other provision of Title 69 RCW or 314 WAC, a producer, processor or retail licensee who permanently discontinues business for any reason shall dispose of the salable inventory and remaining stock to a ((~~WSLCB~~)) LCB approved licensed business at fair market value. Sales below cost are prohibited. The ((~~WSLCB~~)) LCB shall require tax expressed as a percent of the total price of the gross sales as reported on the profit and loss statement in the last published monthly report of the ((~~WSLCB~~)) LCB. In the event of remaining inventory after sale, the licensee shall notify the enforcement and education division of the ((~~WSLCB~~)) LCB. The

enforcement division will establish conditions for destruction or arrange for the removal of product.

(3) **Assumptions: Assumption of license and purchases by licensee of certain cannabis inventory and stock.** In the case of a sale of business with a license, after obtaining the approval of the ((WSLCB)) LCB and under the supervision of a representative of the ((WSLCB)) LCB, the licensee may sell the entire inventory at a negotiated fair market price. Sales below cost are prohibited.

(4) **Evictions.** A licensee must notify the ((WSLCB's)) LCB's enforcement and education division immediately in writing upon notice of eviction from a licensed premises. Conditions to temporarily relocate and secure inventory will be established by the ((WSLCB)) LCB.

(5) **Abandoned cannabis inventory or product.** In the event a licensee abandons any cannabis on the premises, the property owner or their designated representative should notify the enforcement and education division of the ((WSLCB)) LCB. The enforcement division will work with the property owner to arrange for the removal and/or destruction of product. Any sales or distribution of cannabis by an unlicensed person is subject to the criminal provisions of Title 69 RCW.

(6) **Maintaining a licensed location.** Cannabis licenses are associated with a physical location. Persons operating without a ((WSLCB)) LCB approved licensed location to produce, process, or sell cannabis will be discontinued.

AMENDATORY SECTION (Amending WSR 22-21-058, filed 10/12/22, effective 11/12/22)

WAC 314-55-137 Receiverships. (1) Service and notice.

(a) Any person who files any receivership or trustee action involving any cannabis licensee must serve the board with original notice of the action. Service is accomplished by delivery of the original notice of action to the board through one of the following methods:

(i) Delivery to the board at 1025 Union Avenue S.E., Olympia, WA 98504; or

(ii) Mailed to the board. Mailed notice must be addressed to: ((WSLCB)) LCB, ATTN: Licensing - Receiverships, P.O. Box 43076, Olympia, WA 98504-3076 or, for certified mail, ((WSLCB)) LCB, ATTN: Licensing - Receiverships, 1025 Union Avenue S.E., Olympia, WA 98504; or

(iii) Electronic delivery to the board at licensingappeals@lcb.wa.gov.

(b) The board will find a licensee compliant with this section only if it receives original notice of the action and the receiver is selected consistent with board requirements.

(2) **The role of a receiver when a licensee is placed in receivership.** If a cannabis licensee is placed under receivership, the receiver:

(a) Upon compliance with the requirements listed in this section, the receiver may operate the licensee's business during the receivership period;

(b) The receiver assumes all licensee reporting responsibilities under this chapter including, but not limited to, full responsibility for maintaining records and entries into the traceability system maintained by the board; and

(c) The receiver is required to comply with all applicable laws under chapter 69.50 RCW and rules in this chapter including, but not limited to, the responsibilities of cannabis licensees set forth in WAC 314-55-110.

(d) Failure to abide by the requirements set forth in chapter 69.50 RCW and this chapter as specified in this subsection may result in enforcement action against the license under chapter 69.50 RCW and rules under this chapter and may result in the receiver being disqualified to act as a receiver by the board.

(3) **Who may serve as a receiver.** Any person who meets the requirements of chapter 7.60 RCW and the following additional requirements may serve as a receiver for a cannabis business:

(a) Is currently in good standing on the preapproved receiver list maintained by the board; or

(b) Is approved by the board under the requirements in subsection (5) of this section to serve as a receiver of a cannabis licensee.

(4) **Qualifying for the board's preapproved receiver list.**

(a) The following requirements must be met to qualify for the board's preapproved receiver list:

(i) Submit a complete receiver application with the board;

(ii) Be a Washington state resident for at least six months prior to the application for preapproval as a receiver and maintain residency throughout the term of the receivership;

(iii) Submit to and pass a criminal background check;

(iv) Provide any financial disclosures requested by the board;

and

(v) Disclose any interests the person has in any cannabis licensee(s).

(b) Review and qualification requirements in this subsection only apply to persons or entities actively participating in the management of the receivership and do not apply to spouses of those persons or persons involved in a business entity or fellow members of a business entity that are not actively involved in the management of the receivership.

(c) A receiver placed on the preapproved receiver list maintained by the board must annually update all information and disclosures required under this subsection to remain eligible to act as a receiver and be on the preapproved receiver list. Annual updates must be made one calendar year after the date the receiver is approved.

(5) **Appointing a receiver who is not preapproved by the ((WSLCB)) LCB.**

(a) Within two days of filing of any action to appoint a receiver, a proposed receiver must:

(i) Submit a complete application with the board to serve as receiver for the licensee;

(ii) Be a Washington resident for six months prior to appointment as a receiver and maintain residency throughout the term of the receivership;

(iii) Submit to and pass a criminal background check;

(iv) Provide any financial disclosures requested by the ((WSLCB)) LCB; and

(v) Disclose any interest the proposed receiver has in any cannabis licensee(s).

(b) Review and qualification requirements in this subsection only apply to persons or entities actively participating in the management of the receivership and do not apply to spouses of those persons or persons involved in a business entity or fellow members of a business

entity that are not actively involved in the management of the receivership.

(c) If the proposed receiver is denied approval by the board at any time, a substitute receiver may be proposed for board approval. The substitute receiver must provide all information required by this subsection.

(d) If the proposed receiver is not approved by the board at the time the receiver is appointed by the court, the receiver will not be considered compliant with this section, and may be subject to penalty under chapter 69.50 RCW, or as provided in this chapter and may result in the receiver being disqualified to act as a receiver by the board.

(6) Limitations on a person's ability to serve as a receiver.

(a) As operators and controllers of licensed cannabis establishments, receivers are subject to the same limits as licensees or any other person. Those limits include, but are not limited to:

(i) No person serving as a receiver of a licensed cannabis producer or licensed cannabis processor shall have a financial interest in, or simultaneously serve as a receiver for, a licensed cannabis retailer; and

(ii) No person shall serve as a receiver for, or be a true party of interest in, more than five cannabis retail licensees or more than three cannabis producer, processor, or producer/processor licensees at the same time.

(b) If the board determines that a receiver is violating or has violated the restrictions in this subsection, the receiver may be disqualified to act as a receiver by the board.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-140 Death or incapacity of a cannabis licensee. (1)

The appointed guardian, executor, administrator, trustee, or assignee must notify the (~~WSLCB's~~) LCB's licensing and regulation division in the event of the death, incapacity, bankruptcy, or assignment for benefit of creditors of any licensee.

(2) The (~~WSLCB~~) LCB may give the appointed guardian, executor, administrator, trustee, or assignee written approval to continue cannabis sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(a) The person must be a resident of the state of Washington.

(b) A criminal background check may be required.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a cannabis license for the business.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-155 Advertising requirements and promotional items—Coupons, giveaways, etc. The following provisions apply in addition to the requirements and restrictions in RCW 69.50.369.

(1) **Advertising generally.** The following requirements apply to all advertising by cannabis licensees in Washington state.

(a) All cannabis advertising and labels of useable cannabis, cannabis concentrates, and cannabis-infused products sold in the state of Washington must not contain any statement, or illustration that:

- (i) Is false or misleading;
- (ii) Promotes over consumption;
- (iii) Represents the use of cannabis has curative or therapeutic effects;
- (iv) Depicts a child or other person under legal age to consume cannabis, or includes:

(A) The use of objects, such as toys, inflatables, movie characters, cartoon characters suggesting the presence of a child, or any other depiction or image designed in any manner to be likely to be appealing to youth or especially appealing to children or other persons under legal age to consume cannabis; or

(B) Is designed in any manner that would be especially appealing to children or other persons under 21 years of age.

(b) No cannabis licensee shall place or maintain, or cause to be placed or maintained, an advertisement of a cannabis business or cannabis product, including cannabis concentrates, useable cannabis, or cannabis-infused product:

(i) In any form or through any medium whatsoever within 1,000 feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged 21 years or older unless the 1,000 minimum distance requirement has been reduced by ordinance in the local jurisdiction where the licensed retailer is located and the licensed retailer is located within 1,000 feet of a restricted location listed in this paragraph;

(ii) On or in a private vehicle, public transit vehicle, public transit shelter, bus stop, taxi stand, transportation waiting area, train station, airport, or any similar transit-related location;

(c) All advertising for cannabis businesses or cannabis products, regardless of what medium is used, must contain text stating that cannabis products may be purchased or possessed only by persons 21 years of age or older. Examples of language that conforms to this requirement include, but are not limited to: "21+," "for use by persons 21 and over only," etc.

(d) A cannabis licensee may not engage in advertising or marketing that specifically targets persons residing out of the state of Washington.

(2) **Outdoor advertising.** In addition to the requirements for advertising in subsection (1) of this section, the following restrictions and requirements apply to outdoor advertising by cannabis licensees:

(a) Except for the use of billboards as authorized under RCW 69.50.369 and as provided in this section, licensed cannabis retailers may not display any outdoor signage other than two separate signs identifying the retail outlet by the licensee's business name or trade name, stating the location of the business, and identifying the nature of the business. Both signs must be affixed to a building or permanent structure and each sign is limited to 1,600 square inches.

(i) All text on outdoor signs, including billboards, is limited to text that identifies the retail outlet by the licensee's business or trade name, states the location of the business, and identifies the type or nature of the business.

(ii) No outdoor advertising signs, including billboards, may contain depictions of cannabis plants or cannabis products. Logos or art-

work that do not contain depictions of cannabis plants or cannabis products as defined in this section are permissible.

(A) A depiction of a cannabis plant means an image or visual representation of a cannabis leaf, plant, or the likeness thereof that explicitly suggests or represents a cannabis leaf or plant.

(B) A depiction of a cannabis product means an image or visual representation of useable cannabis, cannabis-infused products, or cannabis concentrates, or an image that indicates the presence of a product, such as smoke, etc.

(iii) Stating the location of the business may include information such as the physical address or location, directional information, website address, email address, or phone number of the licensed business.

(iv) Identifying the nature of the business may include information related to the operation of the business, what the business is engaged in, or the goods the business offers for sale.

(v) Double-sided signs or signs with text visible on opposite sides are permissible and count as a single sign so long as the sign is contained in or affixed to a single structure.

(b) No cannabis licensee may use or employ a commercial mascot outside of, and in proximity to, a licensed cannabis business.

(c) Outdoor advertising is prohibited on signs and placards in arenas, stadiums, shopping malls, fairs that receive state allocations, farmers markets, and video game arcades, whether any of the foregoing are open air or enclosed, but not including any such sign or placard located at an adult only facility.

(d) The restrictions in this section and RCW 69.50.369 do not apply to outdoor advertisements at the site of an event to be held at an adult only facility that is placed at such site during the period the facility or enclosed area constitutes an adult only facility, but must not be placed there more than 14 days before the event, and that does not advertise any cannabis product other than by using a brand name, such as the business or trade name or the product brand, to identify the event. Advertising at adult only facilities must not be visible from outside the adult only facility.

(e) A sign affixed to the licensed premises or in the window of a licensed premises indicating the location is open for business, closed for business, the hours of operation, that the licensed location has an ATM inside, or other similar informational signs not related to the products or services of the cannabis business are not considered advertising for the purposes of this section.

(f) "Adopt-a-Highway" signs erected by the Washington state department of transportation under a current valid sponsorship with the department of transportation are not considered advertising for the purposes of this section.

(3) Advertising placed on windows within the premises of a licensed cannabis retail store facing outward must meet the requirements for outdoor advertising as provided in RCW 69.50.369 and this section.

(4) Promotional items such as giveaways, coupons, and distribution of branded or unbranded merchandise are banned. For the purposes of this section, a "giveaway" does not include representative samples of products (edible products and topicals only) carried by a licensed retailer that are not infused with cannabis and are offered to customers on licensed cannabis retail premises for sampling purposes only.

(5) Cannabis retail licensees holding a medical cannabis endorsement may donate product to qualifying patients or designated providers

who hold a valid recognition card. Retail licensees may not advertise "free" or "donated" product.

(6) Except for outdoor advertising under subsection (2) of this section, all advertising must contain the following warnings that must be in type size at least 10 percent of the largest type used in the advertisement:

(a) "This product has intoxicating effects and may be habit forming.";

(b) "Cannabis can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";

(c) "There may be health risks associated with consumption of this product."; and

(d) "For use only by adults 21 and older. Keep out of the reach of children."

(7) For the purposes of this section, the following definitions apply:

(a) "Adult only facility" means:

(i) A location restricted to persons age 21 and older by the ((WSLCB)) LCB or classified by the ((WSLCB)) LCB as off limits to persons under 21 years of age; or

(ii) A venue restricted to persons age 21 and older and where persons under 21 years of age are prohibited from entering or remaining, including employees and volunteers.

(b) "Billboard" means a permanent off-premises sign in a fixed location used, in whole or in part, for the display of off-site commercial messages with a minimum size of five feet in height by 11 feet in width.

(c) "Off-premises sign" means a sign relating, through its message and content, to a business activity, product, or service not available on the premises upon which the sign is erected.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-160 Objections to cannabis license applications. (1) **How can persons, cities, counties, tribal governments, or port authorities object to the issuance of a cannabis license?** Per RCW 69.50.331, the ((WSLCB)) LCB will notify cities, counties, tribal governments, and port authorities of the following types of cannabis applications. In addition to these entities, any person or group may comment in writing to the ((WSLCB)) LCB regarding an application.

Type of application	Entities the ((WSLCB)) <u>LCB</u> will/may notify
<ul style="list-style-type: none"> Applications for an annual cannabis license at a new location. 	<ul style="list-style-type: none"> Cities and counties in which the premises is located will be notified. Tribal governments and port authorities in which the premises is located may be notified.

Type of application	Entities the ((WSLCB)) LCB will/may notify
<ul style="list-style-type: none"> Applications to change the class of an existing annual cannabis license. 	
<ul style="list-style-type: none"> Changes of ownership at existing licensed premises. 	<ul style="list-style-type: none"> Cities and counties in which the premises is located will be notified. Tribal governments and port authorities in which the premises is located may be notified.

(2) **What will happen if a person or entity objects to a cannabis license application?** When deciding whether to issue or deny a cannabis license application, the ((WSLCB)) LCB will give substantial weight to input from governmental jurisdictions in which the premises is located based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises; and other persons or groups. Note: Per RCW 69.50.331, the ((WSLCB)) LCB shall not issue a new cannabis license if any of the following are within 1,000 feet of the premises to be licensed: Any elementary or secondary schools, playgrounds, recreation centers or facilities, child care centers, public parks, public transit centers, libraries, game arcade where admission is not restricted to persons 21 years of age or older.

(a) If the ((WSLCB)) LCB contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. If the ((WSLCB)) LCB, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.

(b) If the ((WSLCB)) LCB denies a cannabis license application based on the objection from a governmental jurisdiction, the applicant(s) may either:

(i) Reapply for the license no sooner than one year from the date on the final order of denial; or

(ii) Submit a written request on a form provided by the ((WSLCB)) LCB for an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. The request must be received within 20 days of the date the intent to deny notification was mailed.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-165 Objections to cannabis license renewals. (1) How can local cities, counties, tribal governments, or port authorities object to the renewal of a cannabis license?

(a) The ((WSLCB)) LCB will give governmental jurisdictions approximately 90 days written notice of premises that hold annual cannabis licenses in that jurisdiction that are up for renewal.

(b) Per RCW 69.50.331, if a county, city, tribal government, or port authority wants to object to the renewal of a cannabis license in its jurisdiction, it must submit a letter to the ((WSLCB)) LCB detailing the reason(s) for the objection and a statement of all facts on which the objections are based.

(c) The county, city, tribal government, or port authority may submit a written request to the ((WSLCB)) LCB for an extension for good cause shown.

(d) This letter must be received by the ((WSLCB)) LCB at least 30 days before the cannabis license expires. The objection must state specific reasons and facts that show issuance of the cannabis license at the proposed location or to the applicant business how it will detrimentally impact the safety, health, or welfare of the community.

(e) If the objection is received within 30 days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation may be pursued by the enforcement division.

(f) Objections from the public will be referred to the appropriate city, county, tribal government, or port authority for action under subsection (2) of this section. Upon receipt of the objection, the ((WSLCB's)) LCB's licensing and regulation division will acknowledge receipt of the objection(s) and forward to the appropriate city, county, tribal government, or port authority. Such jurisdiction may or may not, based on the public objection, request nonrenewal.

(2) **What will happen if a city, county, tribal government, or port authority objects to the renewal of a cannabis license?** The ((WSLCB)) LCB will give substantial weight to a city, county, tribal government, or port authority objection to a cannabis license renewal of a premises in its jurisdiction based upon chronic illegal activity associated with the licensee's operation of the premises. Based on the jurisdiction's input and any information in the licensing file, the ((WSLCB)) LCB will decide to either renew the cannabis license, or to pursue nonrenewal.

<p>(a) ((WSLCB)) <u>LCB</u> decides to renew the cannabis license:</p>	<p>(b) ((WSLCB)) <u>LCB</u> decides to pursue nonrenewal of the cannabis license:</p>
<p>(i) The ((WSLCB)) <u>LCB</u> will notify the jurisdiction(s) in writing of its intent to renew the license, stating the reason for this decision.</p>	<p>(i) The ((WSLCB)) <u>LCB</u> will notify the licensee in writing of its intent to not renew the license, stating the reason for this decision.</p>

(a) ((WSLCB)) LCB decides to renew the cannabis license:	(b) ((WSLCB)) LCB decides to pursue nonrenewal of the cannabis license:
<p>(ii) The jurisdiction(s) may contest the renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the ((WSLCB)) LCB. The request must be received within ((twenty)) <u>20</u> days of the date the intent to renew notification was mailed. If the ((WSLCB)) LCB, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.</p>	<p>(ii) The licensee may contest the nonrenewal action and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the ((WSLCB)) LCB. The request must be received within ((twenty)) <u>20</u> days of the date the intent to deny notification was mailed.</p> <p>(iii) If the licensee requests a hearing, the governmental jurisdiction will be notified.</p> <p>(iv) During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the cannabis license until a final decision is made.</p>

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-185 ((WSLCB)) LCB right to inspect premises or vehicles associated with a license to produce, process, sell, research, or transport cannabis. (1) The following must be available for inspection at all times by an enforcement officer of the ((WSLCB)) LCB:

(a) All licensed premises used in the production, processing, storage, transportation, research, or sale of cannabis, useable cannabis, cannabis concentrates, cannabis-infused products, or any premises or parts of premises used or in any way connected, physically or otherwise, with the licensed business;

(b) Any vehicle assigned for the purpose of transporting cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products at any licensed location, or while en route during transportation;

(c) Records as outlined in this chapter; and

(d) Cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products on the licensed premises for the purpose of analyzing samples (the licensee will be given a receipt for any product removed from the premises for this purpose).

(2) Every person being on a licensed premises or within a transporting vehicle, or having charge thereof, must admit an enforcement officer of the ((WSLCB)) LCB demanding to enter therein in pursuance of this section in the execution of his/her duty, and must not obstruct or attempt to obstruct the entry of such officer, or refuse to

allow an officer to examine the premises, vehicles, records, and products subject to this section of the licensee.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-200 How will the ((WSLCB)) LCB identify cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products during checks of licensed businesses? Officers shall identify cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products during on-site inspections of licensed producers, processors, and retailers of cannabis by means of product in the traceability system, and/or by observation based on training and experience. Products that are undetermined to be cannabis, useable cannabis, and cannabis-infused products will be verified by the following:

- (1) Officers may take a sample large enough for testing purposes;
- (2) Field test kits may be used if available and appropriate for the type of product being verified; and
- (3) Those samples not able to be tested with a field test kit may be tested through the Washington state toxicology or crime lab.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-210 Will the ((WSLCB)) LCB seize or confiscate cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products? The ((WSLCB)) LCB may seize, destroy, confiscate, or place an administrative hold on cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products under the following circumstances:

- (1) During an unannounced or announced administrative search or inspection of licensed locations, areas of unlicensed locations used for business or commercial purposes, or vehicles involved in the transportation of cannabis products, where any product was found to be in excess of product limitations set forth in WAC 314-55-075, 314-55-077, and 314-55-079.
- (2) Any product not properly logged in inventory records or untraceable product required to be in the traceability system.
- (3) Cannabis, cannabis concentrates, useable cannabis, and cannabis-infused product that are altered or not properly packaged and labeled in accordance with WAC 314-55-105.
- (4) During a criminal investigation, officers shall follow seizure laws detailed in RCW 69.50.505 and any other applicable criminal codes.
- (5) The ((WSLCB)) LCB may destroy any cannabis, cannabis concentrate, useable cannabis, and/or cannabis-infused products in its possession that is not identifiable through the Washington cannabis traceability system or otherwise in a form that is not compliant with Washington's cannabis statutes or rules, chapters 69.50 RCW and 314-55 WAC.
- (6) ((WSLCB)) LCB officers may order an administrative hold of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products to prevent destruction of evidence, diversion or other

threats to public safety, while permitting a licensee to retain its inventory pending further investigation, pursuant to the following procedure:

(a) If during an investigation or inspection of a licensee, a ((WSLCB)) LCB officer develops reasonable grounds to believe certain cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products constitute evidence of acts in violation of the state laws or rules, or otherwise constitute a threat to public safety, the ((WSLCB)) LCB officer may issue a notice of administrative hold of any such cannabis, useable cannabis, cannabis concentrate, or cannabis-infused products. The notice of administrative hold shall provide a documented description of the cannabis, useable cannabis, cannabis concentrate, or cannabis-infused products to be subject to the administrative hold.

(b) The licensee shall completely and physically segregate the cannabis, useable cannabis, cannabis concentrate, and cannabis-infused products subject to the administrative hold in a limited access area of the licensed premises under investigation, where it shall be safeguarded by the licensee. Pending the outcome of the investigation and any related disciplinary proceeding, the licensee is prohibited from selling, giving away, transferring, transporting, or destroying the cannabis, useable cannabis, cannabis concentrate, and cannabis-infused products subject to the administrative hold.

(c) Nothing herein shall prevent a licensee from the continued cultivation or harvesting of the cannabis subject to the administrative hold. All cannabis, useable cannabis, cannabis concentrate, and cannabis-infused products subject to the administrative hold must be put into separate harvest batches from product not subject to the administrative hold.

(d) Following an investigation, the ((WSLCB)) LCB may lift the administrative hold, order the continuation of the administrative hold, or seek a final agency order for the destruction of the cannabis, useable cannabis, cannabis concentrate, and cannabis-infused products.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-220 What is the process once the ((WSLCB)) LCB summarily orders cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products of a cannabis licensee to be destroyed? (1)

The ((WSLCB)) LCB may issue an order to summarily destroy cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products after the ((WSLCB's)) LCB's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate destruction of cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Destruction of any cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary destruction order unless otherwise provided in the order.

(3) When a license has been issued a summary destruction order by the ((WSLCB)) LCB, an adjudicative proceeding for the associated vio-

lation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee, then a hearing shall be held within 90 days of the effective date of the summary destruction ordered by the ((WSLCB)) LCB.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-225 Cannabis recalls. (1) **Definitions.** For the purposes of this section, the following definitions apply:

(a) "Affected product" means cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products subject to a recall.

(b) "Affected licensee" means a licensee whose cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products are subject to a recall. More than one licensee may be an affected licensee in a recall.

(2) **Exempt market withdrawals.**

(a) A licensee may withdraw from the market cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products by its own determination for reasons that do not pose a risk to consumers such as for aesthetic reasons or other similar deficiencies in product or packaging.

(b) If a licensee initiates a market withdrawal for a reason that does not pose a risk to consumers, the licensee must notify the ((WSLCB)) LCB by contacting the local ((WSLCB)) LCB enforcement officer assigned to the local area within 48 hours of beginning the market withdrawal. Licensees withdrawing cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products under this subsection (2), for reasons other than risk to consumers, are exempt from the remaining requirements of this section.

(3) (a) **When a recall is required.** A recall is required when circumstances exist that pose a risk to consumers. Factors that contribute to a determination of a recall situation include, but are not limited to, the following:

(i) Evidence that pesticides not approved by the board are present on or in cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products above the action levels prescribed by board rule;

(ii) Evidence that residual solvents are present on or in cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products at levels above the action levels prescribed by board rule; or

(iii) Evidence of another condition that poses a risk to consumers including, but not limited to, ingredients in cannabis-infused products that are unfit for human consumption.

(b) **Licensee-initiated recalls.**

(i) If a licensee initiates a recall due to a condition that poses a risk to consumers and would make a recall appropriate under this subsection (3), the licensee must:

(A) Immediately notify the local ((WSLCB)) LCB enforcement officer; and

(B) Secure, isolate, and prevent the distribution of all cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products that may have been exposed to the condition warranting the

recall. The licensee is prohibited from destroying any affected product prior to notifying the ((WSLCB)) LCB and coordinating with the local ((WSLCB)) LCB officer on destruction activities.

(ii) If the ((WSLCB)) LCB determines the licensee fails to engage in recall efforts that meet the urgency of the risk to consumers, the ((WSLCB)) LCB may seek a board-directed recall as provided in this section depending on the circumstances.

(c) **((WSLCB)) LCB investigation-initiated recalls.**

(i) If the ((WSLCB)) LCB determines that a recall is not appropriate after an investigation, the ((WSLCB)) LCB enforcement division may release administrative holds placed on cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products as part of the investigation as appropriate, unless an administrative hold is necessary under a continuing investigation.

(ii) If the ((WSLCB)) LCB determines that a recall is appropriate after an investigation, the ((WSLCB)) LCB notifies the board and requests the board issue a recall. If the board issues a recall, the ((WSLCB)) LCB notifies the affected licensee that is the source of the issue giving rise to a recall.

(d) **Recall plans.** All licensees must develop a recall plan within 60 days of the effective date of this section that sets the procedures the licensee will follow in the event of a recall of the licensee's product or products under the licensee's control. If a licensee becomes an affected licensee as part of a recall and the affected licensee distributed affected product to consumers or to retailers, the affected licensee must immediately notify all licensees that received affected product, and issue a press release and other appropriate public notification to inform consumers of the recall and identifying information about the affected product recalled.

(i) A recall plan must include, at a minimum, the following:

(A) Designation of a member of the licensee's staff who serves as the licensee's recall coordinator;

(B) Procedures for identifying and isolating product to prevent or minimize its distribution to consumers;

(C) Procedures to retrieve and destroy product; and

(D) A communications plan to notify those affected by the recall, including:

(I) How the affected licensee will notify other licensees in possession of product subject to the recall; and

(II) The use of press releases and other appropriate notifications to ensure consumers are notified of the recall and affected product information if the affected product was distributed to consumers.

(ii) A recall must follow the procedures outlined in the recall plan unless otherwise agreed by the ((WSLCB)) LCB and the licensee. The affected licensee must ensure recall procedures are conducted to maximize recall of affected product and minimize risks to consumers.

(e) **Destruction of affected product.** An affected licensee must coordinate destruction of affected product with the local ((WSLCB)) LCB enforcement officer and allow ((WSLCB)) LCB enforcement to oversee the destruction of affected product recalled to ensure the destruction of affected product that poses risks to consumers.

(f) **Recall reports and audit.** The affected licensee must track the total amount of affected product and the amount of affected product returned to the affected licensee as part of the recall effort. The affected licensee must report to the ((WSLCB)) LCB periodically on the progress of the recall efforts. The periodic reports must occur at

a minimum of once a week or as otherwise specified and agreed to by the ((WSLCB)) LCB and the affected licensee in the recall plan.

(g) **Recall closure.** If the ((WSLCB)) LCB determines that the recall efforts are successful and risks to public health and safety are no longer present, the ((WSLCB)) LCB may recommend closure of the recall to the board.

(4) **Board-directed recall.**

(a) Upon the recommendation by the ((WSLCB)) LCB enforcement division, the board may issue a directed recall if:

(i) The affected licensee does not comply with a recall under subsection (3) of this section;

(ii) The affected licensee does not comply with the recall plan or recall reporting requirements under subsection (3) of this section; or

(iii) The ((WSLCB)) LCB enforcement division determines that affected product may be diverted or is being diverted from the licensed business, or another circumstance that makes the affected licensee's destruction of the product inadvisable or a risk to consumers.

(b) If the board issues a directed recall, the ((WSLCB)) LCB will notify consumers of the recall and all licensees that may possess product affected by the recall if notice has not yet occurred.

(c) Under a directed recall, the ((WSLCB)) LCB enforcement division may seek an order for destruction of the affected product from the board.

(i) If the board issues an order for destruction, the ((WSLCB)) LCB enforcement division may seize and conduct the destruction of affected product.

(ii) An order for destruction will include notice to the licensee and opportunity for hearing before destruction, unless there is evidence of an immediate danger to public health, safety, or welfare to justify an immediate order for destruction, with an opportunity for an expedited hearing after the destruction.

(d) If a destruction order is issued and the ((WSLCB)) LCB seizes product affected by the recall and conducts the destruction of the product, the affected licensee may be responsible for reimbursing the ((WSLCB)) LCB for costs associated with product destruction.

(e) If the board finds that an immediate danger to the public health, safety, or welfare requires immediate ((WSLCB)) LCB action, a licensee may also be subject to summary suspension under RCW 66.08.150(4).

(5) The ((WSLCB)) LCB will maintain a recall web page on its website of all current and closed recalls of record.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-230 What are the procedures the ((WSLCB)) LCB will use to destroy or donate cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products to law enforcement? (1) The ((WSLCB)) LCB may require a cannabis licensee to destroy cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products found in a licensed establishment to be in excess of product limits set forth in WAC 314-55-075, 314-55-077, and 314-55-079.

(2) Destruction of seized cannabis, useable cannabis, cannabis concentrates, cannabis-infused products, or confiscated cannabis after

case adjudication, will conform with the ((~~WSLCB~~)) LCB evidence policies, to include the option of donating cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products, set for destruction, to local and state law enforcement agencies for training purposes only.

(3) Cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products set for destruction shall not reenter the traceability system or market place.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-310 Transportation license. (1) A transportation license allows the licensee to physically transport or deliver cannabis, cannabis concentrates, and cannabis-infused products between licensed cannabis businesses within Washington state. The application fee for the transportation license is \$250 and the annual fee is \$1,300.

(2) Applicants for the transportation license must submit the following information:

(a) Personal/criminal history forms for all true parties of interest (see WAC 314-55-035);

The criminal history background check will consist of completion of a personal/criminal history form provided by the ((~~WSLCB~~)) LCB and submission of fingerprints to a vendor approved by the ((~~WSLCB~~)) LCB. The applicant will be responsible for paying all fees required by the vendor for fingerprinting. These fingerprints will be submitted to the Washington state patrol and the Federal Bureau of Investigation for comparison to their criminal records. The applicant will be responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) Documents showing the right to the physical location to be licensed (purchase and sale agreement or lease in the name of the applicant);

(c) Copies of the current UTC common carrier permits. All vehicles and trailers must also be permitted by UTC as common carriers;

(d) Corporate information form or limited liability information form as applicable;

(e) Proof of insurance.

(i) Licensees shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the consumer should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the licensees. Licensees shall furnish evidence in the form of a certificate of insurance satisfactory to the ((~~WSLCB~~)) LCB that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.

(ii) Commercial general liability insurance: The licensee shall at all times carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of licensed activities. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants. The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of

the licensee's premises/operations, products, and personal injury. The limits of liability insurance shall not be less than \$1,000,000.

(iii) Insurance carrier rating: The insurance required in (e) (i) of this subsection shall be issued by an insurance company authorized to do business within the state of Washington. Insurance must be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(iv) Additional insured. The state and its employees, agents, and volunteers shall be named as an additional insured on all general liability, umbrella, and excess insurance policies. All policies shall be primary over any other valid and collectable insurance.

(3) **Transport manifest.** A complete printed transport manifest on a form provided by the ((WSLCB)) LCB containing all information required by the ((WSLCB)) LCB must be kept with the product at all times.

(4) **Records of transportation.** Records of all transportation must be kept for a minimum of three years at the licensee's location and are subject to inspection if requested by an employee of the ((WSLCB)) LCB or local law enforcement:

(a) Copies of transportation manifests for all deliveries;

(b) A transportation log documenting the chain of custody for each delivery to include driver(s) and vehicle(s) associated with each delivery;

(c) Bank statements and canceled checks for any accounts relating to the licensed business;

(d) Accounting and tax records related to the licensed business;

(e) Records of all financial transactions related to the licensed business, including invoices, contracts and/or agreements for services performed or received that relate to the licensed business;

(f) All employee records, to include training.

(5) **Transportation of product.** Cannabis or cannabis products that are being transported must meet the following requirements:

(a) Only the transportation licensee or an employee of the transportation licensee who is at least 21 years of age may transport product. All drivers must carry a valid Washington driver's license with the proper endorsements when operating a vehicle in the transportation of product. All passengers in the vehicle transporting cannabis or cannabis products must be employees of the transportation licensee who are at least 21 years of age;

(b) Cannabis or cannabis products must be in a sealed package or container approved by the ((WSLCB)) LCB pursuant to WAC 314-55-105;

(c) Sealed packages or containers cannot be opened during transport;

(d) Cannabis or cannabis products must be in a locked, safe and secure storage compartment that is secured to the inside body/compartment of the vehicle transporting the cannabis or cannabis products;

(e) Any vehicle transporting cannabis or cannabis products must be delivered or returned to the shipper within 48 hours from the time of pickup;

(f) Live plants may be transported in a fully enclosed, windowless locked trailer, or in a secured area within the inside body/compartment of a van or box truck. A secured area is defined as an area where solid or locking metal partitions, cages, or high strength shatterproof acrylic can be used to create a secure compartment in the fully enclosed van or box truck. The secure compartment in the fully

enclosed van or box truck must be free of windows. Live plants may not be transported in the bed of a pickup truck, a sports utility vehicle, or passenger car.

(6) For purposes of this chapter, any vehicle assigned for the purposes of transporting cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products shall be considered an extension of the licensed premises and subject to inspection by enforcement officers of the ((WSLCB)) LCB. Vehicles assigned for transportation may be stopped and inspected by a ((WSLCB)) LCB enforcement officer at any licensed location, or while en route during transportation.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-410 Cooperatives. (1) A cooperative may be formed by qualifying patients and/or designated providers to share responsibility for growing and processing cannabis only for the medical use of the members of the cooperative. A cooperative must meet the following criteria:

(a) All cooperative members must be at least 21 years of age. The designated provider of a qualifying patient under 21 years of age may be a member of a cooperative on the qualifying patient's behalf;

(b) All cooperative members must hold valid recognition cards as defined by RCW 69.51A.010;

(c) No more than four qualifying patients or designated providers may become members of a cooperative;

(d) Qualifying patients or designated providers may only participate in one cooperative;

(e) A cooperative member may only grow plants in the cooperative and may not grow plants elsewhere;

(f) Cooperative members must participate in growing plants. Cooperative members must provide nonmonetary resources and assistance in order to participate. A monetary contribution or donation is not considered assistance;

(g) Cooperative members may grow up to the total amount of plants for which each cooperative member is authorized on his or her recognition card. At the location, the qualifying patients or designated providers may possess the amount of useable cannabis that can be produced with the number of plants permitted, but no more than 72 ounces;

(h) Cooperative members may not sell, donate, or otherwise provide cannabis, cannabis concentrates, useable cannabis, or other cannabis-infused products to a person who is not a member of the cooperative;

(i) A cooperative may not be located within a one mile radius of a cannabis retailer;

(j) A cooperative must be located at the domicile of one of the cooperative members. Only one cooperative may be located per property tax parcel; and

(k) To obscure public view of the premises, outdoor cannabis production must be enclosed by a sight obscure wall or fence at least eight feet high.

(2) People who wish to form a cooperative must register the location with the ((WSLCB)) LCB. The location registered is the only location where cooperative members may grow or process cannabis. The following is required to register a cooperative:

- (a) Submit a completed Cannabis Cooperative Registration Form;
 - (b) Submit copies of each person's recognition card who is seeking to be part of the registered cooperative;
 - (c) Submit a deed, lease, rental agreement, or other document establishing ownership or control to the property where the cooperative is to be located. If the property is leased or rented, a sworn statement from the property owner granting permission to engage in a cooperative must also be submitted that includes a telephone number and address where the owner can be contacted for verification;
 - (d) Submit a sketch outlining the location where the cannabis is planned to be grown.
- (3) ((WSLCB)) LCB will contact the primary contact listed for each registered cooperative on an annual basis to ensure validity of recognition cards and to confirm the status, whether active or inactive, of the cooperative. If the ((WSLCB)) LCB finds that the cooperative no longer meets the criteria required under this section, the ((WSLCB)) LCB may not renew the cooperative registration.
- (4) ((WSLCB)) LCB may inspect a cooperative between the hours of 8:00 a.m. and 8:00 p.m. unless otherwise agreed upon by cooperative members and ((WSLCB)) LCB staff.
- (5) If a person or persons seeking to register the cooperative fails to meet the requirements of a registered cooperative as provided in this section, the ((WSLCB)) LCB will deny the cooperative registration.
- (6) If the ((WSLCB)) LCB finds a registered cooperative violated the requirements of this section, the ((WSLCB)) LCB will revoke the cooperative's registration.
- (7) A person may request an administrative hearing to contest a denial of registration, nonrenewal, or a revocation of a cooperative's registration under this section as provided in chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-415 What are the recordkeeping and reporting requirements for cooperatives? (1) Cannabis cooperatives must keep records that clearly reflect all activity, inventory, and conditions of the cooperative. The following records must be kept in a format prescribed by the ((WSLCB)) LCB. All records must be maintained on the cooperative premises for a three-year period and must be made available for inspection if requested by an employee of the ((WSLCB)) LCB, the department of health, the department of revenue, or local law enforcement.

- (a) Cooperatives must maintain a plant log to track each cannabis plant from the time it enters the cooperative. At minimum, tracking must include:
 - (i) Unique plant identification numbers for each plant at the cooperative;
 - (ii) The date the plant was brought into the cooperative; and
 - (iii) The date the plant leaves the cooperative, including the reason, (e.g., harvested, destroyed, or member left the cooperative).
- (b) Cooperatives must maintain a log to track all harvested plant material from time of harvest until all harvested material has been dispersed. At minimum, tracking must include:
 - (i) A unique identification number for each harvest;

- (ii) The total dry weight of harvested material;
 - (iii) The date quantities are removed from the harvested material;
 - (iv) The amount removed from the harvested material;
 - (v) The reason quantities are removed from the harvested material (e.g., taken for use by qualifying patient, used for extraction, etc.); and
 - (vi) The current weight of the harvested material.
- (c) Cooperatives must maintain a log to track all extracts produced from the time they are produced until all extracted material has been dispersed. At minimum, tracking must include:
- (i) A unique identification for the extract batch;
 - (ii) The date the extract batch was created;
 - (iii) The total initial weight of the extract batch;
 - (iv) ID number of the harvest the material used to make the extract came from;
 - (v) The weight of cannabis plant material used to create the batch;
 - (vi) The date quantities are removed from the extract batch;
 - (vii) The quantity removed from the extract batch and reason; and
 - (viii) The current weight of the extract batch.
- (2) Cooperatives must submit monthly activity report(s) to the ((WSLCB)) LCB. The required monthly reports must be:
- (a) On an electronic system designated by the ((WSLCB)) LCB;
 - (b) Filed every month, including months with no activity;
 - (c) Submitted to the ((WSLCB)) LCB on or before the 20th day of each month, for the previous month. (For example, a report listing activity for the month of January is due by February 20th.);
 - (d) Filed separately for each cooperative; and
 - (e) All records must be maintained and available for review for a three-year period on licensed premises.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-417 Sales of immature plants or clones and seeds from licensed producers to members of cooperatives, qualifying patients, and designated providers. This section details the requirements for sales of immature plants or clones and seeds by licensed producers to members of a registered cooperative, qualifying patients, and designated providers.

(1) Medical cannabis patients who enter into the medical cannabis authorization database established and maintained by the department of health, receive a recognition card, and are members of a cooperative that has been granted a registration by the Washington state liquor and cannabis board ((WSLCB)) LCB may purchase immature plants or clones and seeds to be grown in the cooperative from a licensed cannabis producer.

(2) Qualifying patients and designated providers who hold a valid unexpired recognition card and have been entered into the medical cannabis authorization database established and maintained by the department of health, may purchase immature plants or clones and seeds from a licensed cannabis producer.

(3) Members of a registered cooperative, qualifying patients, and designated providers who wish to purchase immature plants or clones and seeds from a licensed producer must:

- (a) Personally go to the licensed producer to complete the purchase and transfer of any cannabis plants purchased; and
- (b) Provide the following information to a licensed producer:
 - (i) Proof of identification in the form of a state-issued identification card or other valid government-issued identification;
 - (ii) A valid recognition card; and
 - (iii) If the person purchasing immature plants or clones or seeds is a member of a registered cooperative, a copy of the letter from the ((WSLCB)) LCB confirming the person is a member of a registered cooperative.

(4) The physical transfer of cannabis plants between licensed producers and members of a cooperative, qualifying patients, or designated providers must take place on the premises of the licensed producer. Deliveries of cannabis plants by a licensed producer to members of a cooperative, qualifying patients, or designated providers are prohibited.

(5) Members of registered cooperatives, qualifying patients, and designated providers are limited to purchasing no more than the maximum amount that the medical cannabis patient's authorization form allows of any combination of immature plants or clones and seeds in a single sale or cumulative sales within a calendar month from a licensed producer. It is the responsibility of the member of the registered cooperative, qualifying patient, or designated provider to ensure that they possess no more than the maximum number of plants allowed under their authorization forms and as provided in chapter 69.51A RCW.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-508 Review of orders on stay. (1) The licensee, or agency, may petition the ((WSLCB)) LCB for review of an initial order on stay. Any petition for review must be in writing and received by the ((WSLCB)) LCB within ((ten)) 10 days of service of the initial order. If neither party has requested review within ((ten)) 10 days of service, the initial order shall be deemed the final order of the ((WSLCB)) LCB for purposes of RCW 34.05.467.

(2) If the ((WSLCB)) LCB receives a timely petition for review, the ((WSLCB)) LCB shall consider the petition within ((fifteen)) 15 days of service of the petition for review. Consideration on review shall be limited to the record of the hearing on stay.

(3) The order of the ((WSLCB)) LCB on the petition for review shall be effective upon personal service unless another date is specified in the order and is final pursuant to RCW 34.05.467. Final disposition of the petition for stay shall not affect subsequent administrative proceedings for suspension or revocation of a license.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-523 Category IV. Violations that are significant regulatory violations.

**Category IV
Significant Regulatory Violations**

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Noncompliance with record keeping requirements. WAC 314-55-087	\$500 monetary fine	5-day suspension or \$1,250 monetary fine	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Cannabis illegally given away, including being sold below the cost of acquisition, true value, or both. WAC 314-55-017(3) WAC 314-55-018 (2)(f) WAC 314-55-018(5) WAC 314-55-077 (11)(b)	\$500 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Retail sales: Use of an unauthorized money transmitter. WAC 314-55-115(5)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Misuse or unauthorized use of cannabis license (operating outside of license class). RCW 69.50.325	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option	60-day suspension or \$20,000 monetary option
Selling or purchasing cannabis on credit. WAC 314-55-018 WAC 314-55-115	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option	60-day suspension or \$20,000 monetary option
Engaging in nonretail conditional sales, prohibited practices, or both. WAC 314-55-017(1) WAC 314-55-018	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Operating/floor plan: Violations of a ((WSLCB)) LCB approved operating plan. WAC 314-55-020 (11)(a)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Failure to maintain required insurance. WAC 314-55-082 WAC 314-55-310	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Unauthorized sale to a retail licensee (processor). RCW 69.50.360 RCW 69.50.363 WAC 314-55-077 WAC 314-55-083(4)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$10,000 monetary fine	Tier 1: \$7,500 Tier 2: \$15,000 Tier 3: \$30,000 monetary fine	Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Packaging and labeling. WAC 314-55-105	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Unauthorized or unapproved product storage or delivery (processor/producer). WAC 314-55-085(5)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Unauthorized or unapproved product storage or delivery (transporter). WAC 314-55-310 (5)(d)	\$1,250 monetary fine	\$2,500 monetary fine	\$5,000 monetary fine	\$10,000 monetary fine
Failure to meet cannabis waste disposal requirements. WAC 314-55-097	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Sampling violations (processors/producers: Vendor, educational, and internal quality control samples). WAC 314-55-096	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Sampling violations (retail). WAC 314-55-096(5) WAC 314-55-096(6)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Failure to maintain required security alarm. WAC 314-55-083(2)	\$1,250 monetary fine	\$2,500 monetary fine	\$5,000 monetary fine	\$10,000 monetary fine

OTS-5406.1

AMENDATORY SECTION (Amending WSR 18-05-006, filed 2/7/18, effective 3/10/18)

WAC 314-60-010 Purpose. The purposes of this chapter are to:

- (1) Describe the organization of the Washington state liquor and cannabis board (~~((WSLCB))~~) (LCB);
- (2) Detail how the (~~(WSLCB))~~ LCB complies with laws governing the disclosure (release) of public records; and
- (3) Explain how an individual or organization may obtain public records.

AMENDATORY SECTION (Amending WSR 22-23-054, filed 11/9/22, effective 12/10/22)

WAC 314-60-015 Agency description—Contact information. (1) (a) The Washington state liquor and cannabis board (~~((WSLCB))~~) (LCB) is an agency created to exercise the police power of the state in adminis-

tering and enforcing laws and regulations relating to alcoholic beverage control (Title 66 RCW), cannabis (chapter 69.50 RCW), tobacco (chapter 70.155 RCW), and vapor products (chapter 70.345 RCW).

(b) The board issues licenses relating to liquor, cannabis, tobacco, and vapor products; and collects taxes imposed on liquor and cannabis.

(c) The ((WSLCB)) LCB is responsible for enforcing laws preventing access to tobacco products by persons under the age of 18 years (chapter 70.155 RCW). The board enforces the tobacco tax laws and the department of revenue administers tobacco tax laws (chapters 82.24 and 82.26 RCW).

(2) The Washington state liquor and cannabis board is organized into seven divisions:

- (a) Board administration;
- (b) Director's office;
- (c) Licensing and regulation;
- (d) Enforcement and education;
- (e) Finance;
- (f) Information technology; and
- (g) Human resources.

(3) (a) The administrative offices of the Washington state liquor and cannabis board are located at 1025 Union Avenue S.E., Olympia, WA 98501.

(b) ((WSLCB)) LCB staff is also located at enforcement offices maintained in major cities throughout the state.

Enforcement offices addresses and contact numbers are located on the ((WSLCB's)) LCB's website at lcb.wa.gov.

(4) An organizational chart is available from the board's public records office which illustrates the general structure of the ((WSLCB's)) LCB's operations. More information on the construct of the ((WSLCB)) LCB is also available on the ((WSLCB's)) LCB's website at lcb.wa.gov.

AMENDATORY SECTION (Amending WSR 22-23-054, filed 11/9/22, effective 12/10/22)

WAC 314-60-025 Public records officer. (1) The ((WSLCB)) LCB public records officer:

(a) Receives all public records requests made to the ((WSLCB)) LCB;

(b) Provides "fullest assistance" to persons seeking ((WSLCB)) LCB public records;

(c) Oversees the ((WSLCB's)) LCB's compliance with the Public Records Act, including locating, processing, and releasing records responsive to public records requests;

(d) Creates and maintains an index of certain ((WSLCB)) LCB public records, to the extent required by RCW 42.56.070; and

(e) Prevents the fulfillment of public records requests from causing excessive interference with essential functions of the department.

(2) Any person wishing to access ((WSLCB)) LCB public records should contact the ((WSLCB's)) LCB's public records officer or designee at:

Mailing Address:

Public Records Officer
Liquor and Cannabis Board
P.O. Box 43090
Olympia, WA 98504

Building Address:

1025 Union Avenue S.E.
Olympia, WA 98501
Phone: 360-664-1693
Email: publicrecords@lcb.wa.gov

Current contact information is also available on the ((~~WSLCB~~)) LCB's website at lcb.wa.gov.

(3) The public records officer may designate one or more ((~~WSLCB~~)) LCB staff to carry out the responsibilities set forth in subsection (1) of this section; and other staff may process public records requests. Therefore, use of the term public records officer in this chapter may include the public records officer's designee(s) or any other staff assisting in processing public records requests, where indicated by context.

AMENDATORY SECTION (Amending WSR 22-23-054, filed 11/9/22, effective 12/10/22)

WAC 314-60-070 Availability of public records. (1) Many records are available on the ((~~WSLCB's~~)) LCB's website at lcb.wa.gov. Requestors are encouraged to search for and view records on the ((~~WSLCB's~~)) LCB's website in lieu of or prior to making a public records request. An index of public records is available as provided in subsection (3) of this section.

(2) Requestors are encouraged to contact the public records officer to determine the location and availability of records prior to or at the time of making a public records request.

(3) **Hours for inspection of records.**

(a) Public records are available for inspection and copying at the main office of the board during normal business hours of the ((~~WSLCB~~)) LCB, Monday through Friday, from 9:00 a.m. to noon and from 1:00 p.m. to 4:30 p.m., excluding state legal holidays.

(b) Records must be inspected at the offices of the ((~~WSLCB~~)) LCB and may not be removed from ((~~WSLCB~~)) LCB offices. The majority of public records are located at the ((~~WSLCB's~~)) LCB's central office, although some may be located in other locations, including the regional offices.

(4) **Records index.** The ((~~WSLCB~~)) LCB maintains an index as required under RCW 42.56.070 and updates the index on a biennial basis at minimum. The index of public records is available on the ((~~WSLCB's~~)) LCB's website at lcb.wa.gov, including:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency; and

(c) Declaratory orders issued pursuant to RCW 34.05.240 containing an analysis or decision of substantial importance to the agency in carrying out its duties.

(5) **Organization of records.** The ((WSLCB)) LCB will maintain its records in a reasonably organized manner. The ((WSLCB)) LCB will take reasonable actions to protect records from damage and disorganization.

AMENDATORY SECTION (Amending WSR 22-23-054, filed 11/9/22, effective 12/10/22)

WAC 314-60-080 Requests for public records. An individual may request a public record orally or in writing. The ((WSLCB)) LCB encourages all public records requests be submitted in writing. Public records requests may be sent to the ((WSLCB)) LCB via email at publicrecords@lcb.wa.gov.

(1) A form for public records requests prescribed by the ((WSLCB)) LCB is available at its main office and on its website at lcb.wa.gov. A written request or public records request form must be submitted or presented to the public records officer or designee and may be sent to the ((WSLCB)) LCB via email at publicrecords@lcb.wa.gov. The request should include the following information:

(a) The name, organization, mailing address, telephone number, and email address of the requestor;

(b) The date and time of day of the request;

(c) Identification of the public records sought, in a form or description adequate for the public records officer to identify and locate the records;

(d) If the matter requested is referenced within the current index maintained by the board, a reference to the requested record as described; and

(e) The address where copies of the record are to be mailed or emailed, or notification that the requestor wants to examine the record at the ((WSLCB)) LCB.

(2) If the public records officer or designee accepts a request other than in writing, he or she will confirm receipt of the information and the substance of the request in writing.

AMENDATORY SECTION (Amending WSR 18-05-006, filed 2/7/18, effective 3/10/18)

WAC 314-60-085 Processing public records requests. (1) **Order of processing public records requests.** The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within five business days after receipt of the request, the public records officer or designee will do one or more of the following:

(a) Provide the records or make the records available for inspection and copying depending on the nature of the request;

(b) If copies are requested and payment of a deposit for copies, if any, is made or terms of payment agreed upon, send the copies to the requestor;

(c) Provide a reasonable estimate of when records will be available; or

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) **If no response is received.** If the public records officer does not respond in writing within five business days after the day of receipt of the request for disclosure, the requestor should consider contacting the public records officer to ensure that the ((WSLCB)) LCB received the request.

(4) **Protecting the rights of others.** If the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer or designee may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(5) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part, under chapter 42.56 RCW or as otherwise provided by law. If the ((WSLCB)) LCB believes that a record is exempt from disclosure and should be withheld, the public records officer or designee will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer or designee will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) **Inspection of records.**

(a) Consistent with other demands, the ((WSLCB)) LCB shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. If, after inspecting a record or records, the requestor wishes to receive a copy of a particular record or records, he or she should so indicate to the public records officer or designee. Copies will be provided pursuant to subsection (7) of this section.

(b) The requestor must review the assembled records within ((thirty)) 30 days of the ((WSLCB's)) LCB's notification to him or her that the records are available for inspection. The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to review the records. If the requestor or a representative of the requestor fails to review the records within the ((thirty)) 30-day period or make other arrangements, the ((WSLCB)) LCB may close the request. If the requestor subsequently files the same or a substantially similar request, that subsequent request will be considered a new request and will be processed in the order allowing the greatest number of requests to be processed in the most efficient manner.

(7) **Providing copies of records.**

(a) Upon request, the public records officer or designee will provide copies of requested records. Copies may be provided in either hard copy or electronic format, as requested. The cost for copies is set forth in WAC 314-60-090 and costs for copies of records must be paid to the ((WSLCB)) LCB prior to delivery of copies of records.

(b) Copies may be mailed or emailed to the requestor, or made available for pickup at the ((WSLCB's)) LCB's offices, depending on the format of the records and the request of the requestor. If the copies are available for pickup at the ((WSLCB's)) LCB's offices, the requestor must pay for and pick up the copies within ((~~thirty~~)) 30 days of the ((WSLCB's)) LCB's notification to him or her that the copies are available for pickup. The ((WSLCB)) LCB will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the ((WSLCB)) LCB to make arrangements to pay for and pick up the copies. If the requestor fails to pay for or pick up the copies within the ((~~thirty~~)) 30-day period, or fails to make other arrangements, the ((WSLCB)) LCB may close the request. If the requestor subsequently files the same or a substantially similar request, that subsequent request will be considered a new request and will be processed in the order allowing the greatest number of requests to be processed in the most efficient manner.

(8) **Electronic records.** The process for requesting electronic public records is the same as for requesting paper public records. When a person requests records in an electronic format, the public records officer will provide the nonexempt records, or portions of such records that are reasonably locatable, in an electronic format that is used by the ((WSLCB)) LCB and is generally commercially available, or in a format that is reasonably translatable from the format in which the ((WSLCB)) LCB keeps the record.

(9) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection or copies of records in installments, if he or she reasonably determines that it would be practical to provide the records in that way. Costs for each installment of copies of records must be paid to the ((WSLCB)) LCB prior to delivery of the installment. If, within ((~~thirty~~)) 30 days, the requestor fails to pay for one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(10) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the ((WSLCB)) LCB has completed the records request and made any located nonexempt records available for inspection.

(11) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer or designee will close the request and indicate the closure to the requestor.

(12) **Later discovered documents.** If, after the ((WSLCB)) LCB has informed the requestor that it has provided all available records and closed a request, the ((WSLCB)) LCB becomes aware of additional responsive records existing at the time of the request, it will promptly inform the requestor of the additional records and provide them on an expedited basis.

AMENDATORY SECTION (Amending WSR 18-05-006, filed 2/7/18, effective 3/10/18)

WAC 314-60-090 Costs of providing copies of public records. (1)

No fee is charged for the inspection of public records.

(2) The ((WSLCB)) LCB does not charge any fee for access to or downloading records posted on its internet website prior to a request, unless the requestor specifically requests that posted records be provided by other means, such as a printed copy or electronic copies provided by the ((WSLCB)) LCB.

(3) (a) The board finds it would be unduly burdensome to calculate the actual costs of providing public records to requestors as the type of request and staff time to copy and provide records vary widely. The board does not have the resources to conduct a study of these costs, and conducting a study would interfere with other essential agency functions. Additionally, through the 2017 legislative process, the public and requestors commented on and were informed of authorized fees and costs, including costs for electronic records, provided in RCW 42.56.120 (2) (b) and (c), (3) and (4).

(b) The following fee schedule adapted from RCW 42.56.120 applies to physical and electronic copies of public records provided by the ((WSLCB)) LCB. Copy charges may be combined to the extent more than one type of charge applies to copies responsive to a particular request.

Public Records Fee Schedule	
Charge:	Record Type:
15 cents/page	Photocopies, printed copies of electronic records when requested by the requestor, or for the use of agency equipment to make photocopies.
10 cents/page	Scanned records, or use of agency equipment for scanning.
5 cents for each 4 electronic files or attachment	Files and attachments loaded and delivered on a digital storage media (CD, DVD, or thumb drive).
10 cents per gigabyte	Records transmitted in electronic format or for use of agency equipment to send records electronically.
Actual cost	Digital storage media or devices.
Actual cost	Any container or envelope used to mail copies.
Actual cost	Postage or delivery charges.

Public Records Fee Schedule	
Actual cost	Customized service charge (in addition to fees for copies - See copying fees above), if the board estimates that the request would require use of information technology expertise to prepare data compilations, or provide customized electronic access when such compilations and customized access services are not used by the agency for other agency purposes. The board will notify such requestor of the customized service charge to be applied, why the charge applies, and an estimate of the cost of the charge, and will allow the requestor to amend the request in order to avoid or reduce the cost of the customized service charge.
Option for Copies:	
Up to \$2 flat fee	As an alternative to the copy charges above, the board may charge a flat fee of up to \$2 for any request when the agency reasonably estimates and documents that the costs are equal to or more than \$2. If applied to the initial installment, additional flat fees will not be charged for subsequent installments.

(4) If the requestor asks the ((WSLCB)) LCB to provide a summary of the applicable charges before any copies are made, the ((WSLCB)) LCB will provide an estimate and will allow the requestor to revise the request to reduce the number of copies to be made to reduce the charges. The ((WSLCB)) LCB may require a deposit of up to ((ten)) 10 percent of the cost of providing copies for a request, including a customized service charge.

AMENDATORY SECTION (Amending WSR 18-05-006, filed 2/7/18, effective 3/10/18)

WAC 314-60-100 Exemptions. (1) The Public Records Act (chapter 42.56 RCW) exempts a number of types of records from public inspection, production, and copying that the board may assert when responding to a request for public records. In addition, records are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by ((WSLCB)) LCB for inspection and copying:

(a) **Autopsy, post mortem or medical examiner reports.** Requests for these records should be referred to the agency which originated the record(s): Coroner's office, medical examiner's office, etc. (RCW 68.50.105)

(b) **Claim file information.** On any industrial insurance claim. (RCW 51.28.070)

(c) **Criminal history reports.** Certain criminal history information concerning nonconviction data is prohibited from disclosure under chapter 10.97 RCW. Law enforcement agency reports should be referred to the agency that originated the report. (RCW 10.97.080)

(d) **Crime victims.** Files and information. (RCW 7.68.140)

(e) **Attorney client privileged communications, mediation communications.** Communications protected by RCW 5.60.060(2), 42.56.290 and 7.07.030 exempt from disclosure.

(f) **Medical records and data.** Medical records, drug records, accident victims and other persons to which ((WSLCB)) LCB has access. (RCW 42.56.360(2) and chapter 70.02 RCW)

(g) **Social Security numbers.** (RCW 42.56.250(3) and 42 U.S.C. Section 405 (c) (2) (C) (vii) (1))

(h) **Trade secrets.** As defined in RCW 19.108.010, including blueprints, diagrams, drawings, formulas, photos, etc., requested to be held confidential by the affected person. Should be labeled "RESTRICTED TRADE INFORMATION." (RCW 39.10.470(2) and 49.17.200)

(2) The ((WSLCB)) LCB is prohibited by statute from disclosing lists of individuals for commercial purposes under RCW 42.56.070.

AMENDATORY SECTION (Amending WSR 18-05-006, filed 2/7/18, effective 3/10/18)

WAC 314-60-110 Review of denials of public records requests.

(1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by submitting a written request for review. The written request must specifically refer to the written statement by the public records officer or designee which constituted or accompanied the denial. A written petition for review may be sent to:

Public Records Officer
P.O. Box 43080
Olympia, Washington 98504-3080
360-664-1693
publicrecords@lcb.wa.gov

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer shall refer it to the administrative director. The administrative director shall immediately consider the matter and either affirm or reverse such denial. The request shall be returned with a final decision, within two business days following the ((WSLCB's)) LCB's receipt of the request for review of the original denial, or within such other time as the ((WSLCB)) LCB and the requestor mutually agree to.

(3) If the ((WSLCB)) LCB denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter as provided in WAC 44-06-160.

(4) **Judicial review.** Any person may obtain court review of denials of public records request.

OTS-5334.1

AMENDATORY SECTION (Amending WSR 99-10-066, filed 5/4/99, effective 6/4/99)

WAC 314-68-040 What are the procedures for a private individual to bring alcoholic beverages into the state from outside the United States for personal or household use? Fill out a board declaration form, which is available from the United States Custom Service.

(1) Compute the state taxes and markup using the chart on the form.

(2) Sign the form.

(3) Keep a copy for your records and give a copy to the United States Customs Service.

(4) Send a copy of the form with payment within (~~ten~~) 10 days to the Washington State Liquor (~~Control~~) and Cannabis Board, Purchasing Division, Olympia, Washington.

(5) The board will mail a receipt to the individual who signed the form, authorizing use of the alcoholic beverages for personal or household use.

AMENDATORY SECTION (Amending WSR 99-10-066, filed 5/4/99, effective 6/4/99)

WAC 314-68-050 What are the procedures for a private individual to bring alcoholic beverages into the state from another state for personal or household use? (1) You must obtain prior authorization from the board before bringing alcoholic beverages into the state from another state for personal or household use. Any private individual who fails to obtain prior authorization will be subject to the provisions of RCW 66.44.160, "Illegal possession, transportation of alcoholic beverages."

(2) To obtain approval if you know the quantity of alcoholic beverages you will bring into the state:

(a) Mail a list of the items to be brought into the state to the Washington State Liquor (~~Control~~) and Cannabis Board, Purchasing Division, Olympia, Washington.

(b) The liquor purchasing agent will compute the tax and markup.

(c) The board will mail an authorization once the payment of the applicable equivalent markup and tax is paid.

(3) To obtain approval if you do not know the quantity of alcoholic beverages you will bring into the state:

(a) Mail a certification that markup and tax will be paid to the Washington State Liquor (~~Control~~) and Cannabis Board, Purchasing Division, Olympia, Washington.

(b) The liquor purchasing agent will review the certification to pay equivalent markup and tax and mail an authorization to bring the alcoholic beverages into the state along with a declaration form.

(c) Once you have brought the alcoholic beverages into the state:

(i) Fill out the declaration form.

(ii) Compute the state taxes and markup using the chart on the form.

(iii) Sign the form.

(iv) Keep a copy for your records.

(v) Mail a copy of the form with payment within (~~ten~~) 10 days to the Washington State Liquor (~~Control~~) and Cannabis Board, Purchasing Division, Olympia, Washington.

OTS-5335.1

AMENDATORY SECTION (Amending Order 44, filed 5/4/76)

WAC 314-72-020 Application. Pursuant to WAC 197-10-800, the liquor (~~control~~) and cannabis board has reviewed its authorized activities and found them to be exempt under the provisions of chapter 197-10 WAC.