

WSR 22-16-119
PROPOSED RULES
LIQUOR AND CANNABIS
BOARD

[Filed August 3, 2022, 11:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-22-042.

Title of Rule and Other Identifying Information: Chapter 314-55 WAC. The Washington state liquor and cannabis board (board) proposes amendments to modernize existing rule, and proposes a new rule section in response to recommendations of the social equity in cannabis task force, and requirements of RCW 69.50.335. The proposed rule amendments also implement 2SHB 1210, chapter 16, Laws of 2022, effective June 9, 2022, that changes the word "marijuana" to "cannabis" throughout Washington state law.

Chapter 314-55 WAC, amendments to existing rule: Amending WAC 314-55-015 General information about marijuana licenses, 314-55-020 Marijuana license qualifications and application process—Licensing change requests, 314-55-040 Marijuana applicant or licensee background checks, 314-55-045 What marijuana law or rule violation history might prevent an applicant from receiving a marijuana license?, 314-55-050 Reasons the WSLCB may seek denial, suspension, or cancellation of a marijuana license application or license, 314-55-055 Marijuana retailer license forfeiture, 314-55-070 Process if the WSLCB denies a marijuana license application, 314-55-079 Marijuana retailer license—Privileges, requirements and fees, 314-55-082 Insurance requirements, 314-55-110 What are my responsibilities as a marijuana licensee?, 314-55-120 Ownership changes, 314-55-125 Change of location, and 314-55-137 Receiverships.

Chapter 314-55 WAC, new section related to establishing the social equity in cannabis program: New WAC 314-55-570 Social equity in cannabis program.

Hearing Location(s): On September 14, 2022, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the board will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Board members, presenters, and staff will all participate remotely. The public may log in using a computer or device, or call-in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments. For more information about board meetings, please visit https://lcb.wa.gov/Boardmeetings/Board_meetings.

Date of Intended Adoption: Not earlier than September 28, 2022.

Submit Written Comments to: Katherine Hoffman, Policy and Rules Manager, 1025 Union Avenue, Olympia, WA 98501, email rules@lcb.wa.gov, fax 360-704-5027, by September 14, 2022.

Assistance for Persons with Disabilities: Contact Anita Bingham, ADA coordinator, human resources, phone 711 or 1-800-833-6388, fax 360-664-9689, TTY 711 or 1-800-833-6388, email anita.bingham@lcb.wa.gov, by September 7, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to establish the social equity in cannabis program as described in RCW 69.50.335, concerning cannabis retailer licenses, and to implement RCW

69.50.336. These proposed rules create a regulatory framework for the distribution of licenses that are currently available from cannabis retailer licenses that have been subject to forfeiture, revocation, or cancellation by the board, or cannabis retailer licenses that were not previously issued by the board, but could have been issued without exceeding the limit on the statewide number of cannabis retailer licenses established by the board before January 1, 2020. The proposed rule amendments also implement 2SHB 1210, chapter 16, Laws of 2022, effective June 9, 2022, that changes the word "marijuana" to "cannabis" throughout Washington state law.

Reasons Supporting Proposal: E2SHB 2870, chapter 236, Laws of 2020, codified as RCW 69.50.335 and 69.50.336, found that in the interest of remedying harms resulting from the enforcement of cannabis-related laws in disproportionately impacted areas, creating a social equity in cannabis program would further an equitable cannabis industry by promoting business ownership among individuals who have resided in areas of high poverty and high enforcement of cannabis-related laws. The social equity in cannabis program is authorized by RCW 69.50.335 and 69.50.336 and, consistent with these statutes, offers assistance to individuals most directly and adversely impacted by the enforcement of cannabis related laws, and who are interested in starting cannabis business enterprises.

Statutory Authority for Adoption: RCW 69.50.342, 69.50.335.

Statute Being Implemented: RCW 69.50.335, 69.50.336; 2SHB 1210, chapter 16, Laws of 2022.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

Name of Proponent: Washington state liquor and cannabis board, governmental.

Name of Agency Personnel Responsible for Drafting: Katherine Hoffman, Policy and Rules Manager, 1025 Union Avenue, Olympia, WA 98501, 360-664-1622; Implementation: Rebecca Smith, Licensing and Regulation Director, 1025 Union Avenue, Olympia, WA 98501, 360-664-1615; and Enforcement: Chandra Brady, Enforcement and Education Director, 1025 Union Avenue, Olympia, WA 98501, 360-664-1726.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required under RCW 34.05.328 because the subject of the proposed rule making does not qualify as a significant legislative rule or other rule requiring a cost-benefit analysis under RCW 34.05.328 (5) (c).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 34.05.310 (4) (e).

Explanation of exemptions: This rule proposal implements the social equity in cannabis program as required by RCW 69.50.335 and consistent with the social equity in cannabis task force recommendations as described in RCW 69.50.336. This proposal also implements 2SHB 1210, chapter 16, Laws of 2022, effective June 9, 2022, that changes the word "marijuana" to "cannabis."

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how

costs were calculated. Agencies are required to consider costs imposed on business[es] and costs associated with compliance with proposed rules. Agencies are not required under chapter 19.85 RCW to consider indirect costs not associated with compliance. Here, the agency considered potential administrative costs that a licensee may incur complying with the proposed rules.

The Liquor and cannabis board applied the North American Industry Classification System (NAICS) codes 453998 for marijuana (cannabis) stores. The industry description for this code is presented in the table below, and can be accessed at <https://www.census.gov/library/publications/2017/econ/2017-naics-manual.html>.

The board applied a default estimated compliance cost when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3). This reflects four hours of administrative time at \$50 per hour, for a total of \$200. The agency assumes this activity would include activities such as completing and submitting forms to LCB, and telephone calls.

2017 Industry NAICS Code	Estimated Cost of Compliance	Industry Description	NAICS Code Title	Minor Cost Estimate	1% of Avg Annual Payroll (Threshold)	0.3% of Avg Annual Gross Business Income (Threshold)
453998	\$200	Marijuana [Cannabis] stores, medicinal and recreational	All other miscellaneous store retailers (except tobacco stores)	\$3,615.53	\$3,024.31 2018 Dataset pulled from ESD	\$3,615.53 2018 Dataset pulled from DOR

As the table demonstrates, the estimated cost of compliance does not exceed the thresholds for any of the license types. Therefore, implementation of these rules are not anticipated to result in more-than-minor costs on businesses as defined in RCW 19.85.020(2).

August 3, 2022
David Postman
Chair

OTS-3706.1

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-015 General information about ((marijuana)) cannabis licenses. (1) To be issued and maintain a license to produce, process, or sell cannabis at retail, a person or entity applying for a cannabis license must meet ((certain)) all of the qualifications ((under this chapter to receive a marijuana license, which are continuing qualifications required to maintain the license)) described in this chapter.

(2) All applicants, licensees, and employees working in each licensed establishment must be at least ((twenty-one)) 21 years of age. No one under ((twenty-one)) 21 years of age ((is allowed to)) may enter or remain on a ((marijuana)) cannabis licensed premises except as provided in RCW 69.50.357.

~~(3) ((Minors restricted signs must be posted at all marijuana) Mandatory signs must be conspicuously posted at all cannabis licensed premises consistent with the requirements in WAC 314-55-086.~~

~~(4) ((A marijuana license applicant may not exercise any of the privileges of a marijuana license until the WSLCB approves the license application.)) The privileges of a board issued cannabis license may be used only after the board issues official written approval.~~

~~(5) The ((WSLCB)) board will not approve ((any marijuana license for a location where law enforcement access, without notice or cause, is limited. This includes a personal residence.~~

~~(6) The WSLCB will not approve any marijuana license for a location on federal lands.~~

~~(7) The WSLCB will not approve any marijuana license)) an application for a cannabis license under any of the following circumstances:~~

~~(a) The proposed cannabis location would limit law enforcement access without notice or cause, including a personal residence;~~

~~(b) The proposed cannabis business would be located on federal lands;~~

~~(c) The proposed cannabis business would be located within the exterior boundaries of the reservation of a federally recognized tribe without the express written consent of the tribe consistent with WAC 314-55-020(4). ((If a tribe receives written notice from the WSLCB of a license application or change request under RCW 69.50.331 and the tribe does not respond to the WSLCB within thirty days of the date of that notice, the WSLCB will assume the tribe does not consent to the location of the applicant or licensee and the applicant or licensee must find a different location.~~

~~(8)) (d) The ((WSLCB will not approve any marijuana retailer license for a location)) application for a cannabis retail license is located within another business ((with the exception of the)) unless that other business is a research license ((consistent with)) as described in WAC 314-55-073. More than one license may be located in the same building if each licensee has their own area separated by full walls with their own entrance, or if the same business entity holds a producer license and a processor license at the same location under a single license number. Product may not be commingled.~~

~~((9) Every marijuana licensee)) (6) The board may impose special conditions to an approval for a cannabis license. Special conditions include, but are not limited to, involvement of any former licensee in the operations of the licensed business, their former employees, or any person not qualifying for a cannabis license.~~

~~(7) All cannabis licensees must conspicuously post and keep posted its license, or licenses, and any additional correspondence ((containing)) issued by the board describing special conditions ((and restrictions imposed by the WSLCB in a conspicuous place on the premises)).~~

~~((10) In approving a marijuana license, the WSLCB reserves the right to impose special conditions as to the involvement in the operations of the licensed business of any former licensees, their former employees, or any person who does not qualify for a marijuana license.~~

~~(11) A marijuana producer, processor or retailer licensed by the WSLCB must conduct)) (8) A cannabis licensee must use sanitary practices in the production, processing, storage, and sale of ((marijuana-infused products using sanitary practices)) all cannabis products.~~

~~((12) Marijuana))~~ (9) Cannabis licensees may not allow the consumption of ~~((marijuana or marijuana-infused))~~ cannabis or cannabis-infused products on or within the licensed premises.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-015, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-015, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-015, filed 5/20/15, effective 6/20/15. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-015, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 21-02-096, filed 1/6/21, effective 2/6/21)

WAC 314-55-020 ((Marijuana)) Cannabis license qualifications and application process—Licensing change requests. Each ~~((marijuana))~~ cannabis license application is unique and ~~((investigated))~~ evaluated individually. The ~~((WSLCB))~~ board may inquire and request documents regarding all matters in connection with the ~~((marijuana))~~ cannabis license application. ~~((The application requirements for a marijuana license include, but are not limited to, the following:))~~

~~(1) ((Consistent with RCW 69.50.331 (7) and (10)), the WSLCB shall send a notice to cities and counties, tribal governments, and port authorities regarding the marijuana license application within said jurisdiction. The local authority, tribal government, or port authority has twenty days to respond with a recommendation to approve the application or an objection to the applicant, location, or both.~~

~~(2) Consistent with RCW 69.50.331 (8) (f), the WSLCB shall send a notice to tribal governments when an applicant or licensee is proposed to be located within the exterior boundaries of the reservation of a federally recognized Indian tribe. The tribal government will have twenty days to respond with an approval to the application. If written approval is not received within thirty days, the WSLCB will assume the tribe does not consent to the applicant's location and the applicant must find a new location.~~

~~(3) Applicants for a new marijuana producer, processor, retailer, transportation, or research license and those who apply to change their location must display a sign provided by the WSLCB on the outside of the premises to be licensed notifying the public that the premises are subject to an application for a marijuana license. Posting notices must occur within seven days of submitting the location confirmation form for new licenses or the change of location application for existing licensees. The WSLCB may check for compliance with this requirement at its discretion. The sign must:~~

~~(a) Not be altered. The licensee must post the sign sent by the WSLCB without changing, adding, or subtracting from the text;~~

~~(b) Be conspicuously displayed on, or immediately adjacent to, the premises subject to the application and in the location that is most likely to be seen by the public;~~

~~(c) Be of a size sufficient to ensure that it will be readily seen by the public, at a minimum these signs must be eight and one-half by eleven inches;~~

- ~~(d) Be posted within seven business days of the date the notice is sent to the applicant by the WSLCB; and~~
- ~~(e) The notice must be posted for fourteen consecutive days.~~
- ~~(4) All marijuana license applicants must meet the qualifications required by the WSLCB before they will be granted a license.~~
- ~~(5) The WSLCB will verify that the proposed business meets the minimum requirements for the type of marijuana license requested.~~
- ~~(6) Consistent with RCW 69.50.331 (8) (e), the WSLCB will issue a certificate of compliance if the proposed business premises meets the minimum distance requirements as of the date the application was received by the WSLCB. If the physical location changes during the application process, the certificate of compliance will be issued for the date that the premises change was received by the WSLCB. Applicants who were granted licenses prior to adoption of this rule are allowed to operate the business at the location notwithstanding a later occurring, otherwise disqualifying minimum distance factor.~~
- ~~(7) The WSLCB will conduct an investigation of the applicants' criminal history and administrative violation history, per WAC 314-55-040 and 314-55-045.~~
- ~~(a) The criminal history background check will consist of completion of a personal/criminal history form provided by the WSLCB and submission of fingerprints to a vendor approved by the WSLCB. 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) Financiers will also be subject to criminal history investigations equivalent to that of the license applicant. Financiers will also be responsible for paying all fees required for the criminal history check.~~
- ~~(8) The WSLCB will conduct a financial investigation in order to verify the source of funds used for the acquisition and startup of the business, the applicants' right to the real and personal property, and to verify the true party(ies) of interest.~~
- ~~(9) The WSLCB may require a demonstration by the applicant that they are familiar with marijuana laws and rules.~~
- ~~(10) The WSLCB may conduct an inspection of the proposed or currently licensed business location, to determine if the applicant has complied with all the requirements of the license or change to the license or premises requested.~~
- ~~(11) Under RCW 69.50.331 (1) (c), all applicants applying for a marijuana license must have resided in the state of Washington for at least six months prior to application for a marijuana license. All business entities including, but not limited to, partnerships, employee cooperatives, associations, nonprofit corporations, corporations and limited liability companies, applying for a marijuana license must be formed in Washington. All members, governors, or agents of business entities must also meet the six month residency requirement. Managers or agents who manage a licensee's place of business must also meet the six month residency requirement.~~
- ~~(12) (a) As part of the application process, each applicant must submit an operating plan outlining required elements for the location as provided in this chapter pertaining to the license type being sought. The operating plan must be submitted using an operating plan format supplied by the WSLCB. This operating plan must also include a~~

floor plan or site plan drawn to scale which illustrates the entire operation being proposed.

~~(b) After obtaining a license, the license holder must notify the WSLCB in advance of any change in their operating plan. Prior approval is required before the change may be implemented.~~

~~(13) The WSLCB may place licensing change applications made by a licensee on hold if the change application is reasonably related to an ongoing investigation.~~

~~(a) The WSLCB may withdraw licensing change applications pending the results of an adjudicative proceeding regarding a violation of chapter 314-55 WAC. Depending on the outcome of the adjudicative proceeding, the licensee may reapply for the withdrawn licensing change application(s).~~

~~(b) Examples of licensing change applications that may be affected under this subsection include:~~

~~(i) Application for additional funding;~~

~~(ii) Application for added medical marijuana endorsement;~~

~~(iii) Assumption of a license;~~

~~(iv) Change in governing people, percentage owned, or stock/unit ownership;~~

~~(v) Change of location;~~

~~(vi) Expanding plant canopy to maximum allotted;~~

~~(vii) Request to alter marijuana site or operating plan;~~

~~(viii) Request to add a processor license; and~~

~~(ix) Splitting a producer and processor license.~~

~~(14)(a) To aid the WSLCB in monitoring the industry as it develops, the WSLCB requests that all applicants and licensees seeking renewal provide the following information:~~

~~(b) **Employees compensation and benefits data.**~~

~~(i) Will the applicant/licensee provide a living wage (at least one hundred fifty percent of the state minimum wage) to eighty-five percent or more of its hourly employees?~~

~~(ii) Will the applicant/licensee provide health insurance to at least eighty-five percent of its hourly employees?~~

~~(iii) Will the applicant/licensee provide a defined benefit pension plan to at least eighty-five percent of its hourly employees?~~

~~(iv) Will the applicant/licensee provide five or more paid sick days annually to at least eighty-five percent of its hourly employees?~~

~~(v) Is there a signed labor peace agreement or collective bargaining agreement with a labor organization in place?~~

~~(15) Applicants applying for a marijuana license must be current in any tax obligations to the Washington state department of revenue and other state agencies, as an individual or as part of any entity in which they have an ownership interest. Applicants must sign an attestation that, under penalty of denial or loss of licensure, that representation is correct.~~

~~(16) The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.~~

~~(17) Upon failure to respond to the WSLCB licensing and regulation division's requests for information and/or documentation within the timeline provided, the application may be administratively closed or denial of the application will be sought.) **Cannabis license qualification criteria and application process.** To be issued a license, all cannabis license applicants must meet the qualifications required by the board. The board will verify that the proposed business meets the~~

minimum requirements for the type of cannabis license requested. The qualifications and application process for a cannabis license include:

(a) **A background check** to evaluate whether the applicant qualifies for a license, consistent with WAC 314-55-040 and 314-55-045.

(i) The background check includes completion of a personal and criminal history form provided by the board. The applicant is responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(ii) Financiers are subject to background checks equivalent to that of a license applicant. Financiers are responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) **Inquiry** to verify the source of funds used to acquire an existing business and start the business, the applicant's right to the real and personal property, and to verify the true party or parties of interest.

(c) **An inspection** of the proposed or currently licensed business location to determine if the applicant has met all of the requirements of the license or proposed changes to the licensed premises.

(d) **A residency check to confirm Washington state residency.** Under RCW 69.50.331 (1)(b), all applicants applying for a cannabis license must have resided in the state of Washington for at least six months prior to applying for a cannabis license.

(i) All business entities including, but not limited to, partnerships, employee cooperatives, associations, nonprofit corporations, corporations and limited liability companies applying for a cannabis license must be formed in Washington state.

(ii) All members, governors, or agents of business entities must also meet the six-month residency requirement. Managers or agents who manage a licensee's place of business must also meet the six-month residency requirement.

(e) **Applicants must be current in any tax obligations** to the Washington state department of revenue and other state agencies, as an individual or as part of any entity in which they have an ownership interest. Applicants must sign an attestation that, under penalty of denial or loss of licensure, statements concerning the status of tax obligations are true and correct.

(f) **Operating plan.** Each cannabis license applicant must submit an operating plan outlining required elements for the location as provided in this chapter pertaining to the type of license being sought. The operating plan must be submitted using an operating plan template supplied by the board. The operating plan must also include a floor plan or site plan drawn to scale that illustrates the entire operation being proposed.

After obtaining a license, the license holder must notify the board's licensing and regulation division and receive prior approval before making any changes in their operating plan, floor plan, or both.

(g) If an applicant does not respond to the board's licensing and regulation division requests for information, documentation, or both within the timelines provided, the application may be administratively withdrawn, closed or denied.

(2) **Certificate of compliance.** Consistent with RCW 69.50.331 (8)(e), the board will issue a certificate of compliance if the proposed business premises meets the minimum distance requirements as of the date the application was received by the board. If the physical location changes during the application process, the certificate of

compliance will be issued for the date that the premises change was received by the board. Applicants who were granted licenses prior to adoption of this rule may operate their business at the location notwithstanding a later occurring, otherwise qualifying minimum distance factor.

(3) **Notice of cannabis license application.** Consistent with RCW 69.50.331 the board will send a notice to cities and counties, tribal governments, and port authorities regarding the cannabis license application within the jurisdiction. The local authority, tribal government, or port authority has 20 days to respond with a recommendation to approve the application or an objection to the applicant, location, or both.

(4) **Notice of cannabis license application to tribal governments.** Consistent with RCW 69.50.331, the board will send a notice to tribal governments when an applicant or licensee proposes to be located within the exterior boundaries of the reservation of a federally recognized Indian tribe. The tribal government has 20 days to respond with an approval to the application. If written approval is not received within 30 days, the board assumes the tribe does not consent to the applicant's location and the applicant must find a new location.

(5) **Displaying notice of new cannabis license application or application for change of location of an existing licensed business.** Applicants for a new cannabis producer, processor, retailer, transportation, or research license or those who apply to change their location must display a notice provided by the board on the outside of the premises to be licensed notifying the public that the premises are subject to an application for a cannabis license. The notice must be posted within seven days of submitting the location confirmation form for new licenses or the change of location application for existing licensees. The board may check for compliance with this requirement at its discretion. The notice must:

(a) Not be changed. The licensee must post the notice sent by the board without changing the text in any way;

(b) Be noticeably displayed on, or immediately next to, the premises subject to the application and in the location that is most likely to be seen by the public;

(c) Be of a size that can be readily seen by the public. At a minimum these notices must be 8 1/2 x 11 inches;

(d) Be posted within seven business days of the date the notice is sent to the applicant by the board; and

(e) The notice must be posted for 14 consecutive days.

(6) **Application holds and withdrawals.** The board may place licensing change applications made by a licensee on hold if the change application is reasonably related to an ongoing investigation.

(a) The board may withdraw licensing change applications pending the results of an adjudicative proceeding regarding a violation of this chapter. Depending on the outcome of the adjudicative proceeding, the licensee may reapply for the withdrawn licensing change application(s).

(b) Examples of licensing change applications that may be affected under this subsection include:

(i) Application for additional funding;

(ii) Application to add a medical cannabis endorsement;

(iii) Assumption of a license;

(iv) Change in governing people, percentage owned, or stock/unit ownership;

(v) Change of location;

- (vi) Expanding plant canopy to maximum allotted;
- (vii) Request to change cannabis site or operating plan;
- (viii) Request to add a processor license; or
- (ix) Splitting a producer or processor license.

(7) Industry tracking.

(a) To help the board track employment and personnel trends of the industry as it continues to develop, the board requests that applicants seeking new licensure and licensees seeking license renewal provide the following information:

(b) Employee compensation and benefit data:

- (i) Whether the applicant/licensee provide a living wage (at least 150 percent of the state minimum wage) to 85 percent or more of its hourly employees;
- (ii) Whether the applicant/licensee will provide health insurance to at least 85 percent of its hourly employees;
- (iii) Whether the applicant/licensee will provide a defined benefit pension plan to at least 85 percent of its employees;
- (iv) Whether the applicant/licensee will provide five or more paid sick days annually to at least 85 percent of its employees;
- (v) Whether there is a signed labor peace agreement or collective bargaining agreement with a labor organization in place.

(8) The issuance or approval of a license is not a license for, or an approval of, any violation of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.

(9) **Social equity applicant.** A person qualifying for the social equity in cannabis program under WAC 314-55-570 may apply for a cannabis license consistent with the provisions of this chapter.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 21-02-096, § 314-55-020, filed 1/6/21, effective 2/6/21. Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-020, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-020, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-020, filed 5/20/15, effective 6/20/15. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-020, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 21-18-125, filed 9/1/21, effective 10/2/21)

WAC 314-55-040 Cannabis applicant or licensee background checks.

(1) The board conducts a background check of a new applicant or for license renewals to evaluate whether the applicant or licensee qualifies or requalifies for a license. The background check includes a criminal record check through the Washington state patrol and the Federal Bureau of Investigations database.

(2) **Review and evaluation of information produced by background checks.** The board will review the information produced by background checks to determine whether the applicant or licensee qualifies for a new or renewed license. Information from the background check may not preclude approval, but will be considered in determining the applicant's eligibility for licensure.

(3) The board will conduct a threshold review for the following types of convictions:

Conviction Type	Conviction Class	Time Consideration	Determination
Felonies	Class A and B convictions	10 years	Threshold review if 1 or more
	Class C convictions	7 years	Threshold review if 2 or more
Misdemeanors	Gross misdemeanors and misdemeanors	3 years	Threshold review if 3 or more

(a) Active state supervision and active federal supervision resulting in determination of threshold review.

(b) The board will conduct a threshold review of any license applicant or license renewal if the background check indicates that the applicant or renewing licensee is under active state supervision, active federal supervision, or both.

(4) **Pending criminal charge review and evaluation.** The board will review and evaluate the applicant or renewing licensee's pending criminal charges. Review and evaluation criteria include, but are not limited to:

(a) A determination of whether the convictions of pending charge(s) alone or compiled would put an individual over the conviction allowance above.

(b) The application may be placed on hold for (~~ninety~~) 90 days and if there is no disposition within (~~ninety~~) 90 days, the application will be withdrawn.

(5) **Threshold review evaluation criteria.** When a background check results in a determination for a threshold review, the board will consider the following criteria:

(a) Time since the conviction, or pending offenses;

(b) Nature and specific circumstances of the offense;

(c) Relationship of the offense or incident to the nature of the work performed;

(d) Number of offenses or incidents;

(e) If criminal, any relevant evidence of rehabilitation, such as information about compliance with conditions of parole or probation, including orders of no contact with victims and witnesses, and the individuals conduct and experience since the time of the offense; and

(f) Any other relevant information, including information submitted by the applicant or licensee, or requested by the board.

(6) **Continued reporting.** Cannabis licensees must report any criminal convictions to the board within (~~thirty~~) 30 days. New convictions will be considered upon receipt or at the time of renewal.

[Statutory Authority: RCW 69.50.331 and 69.50.342. WSR 21-18-125, § 314-55-040, filed 9/1/21, effective 10/2/21. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-040, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-040, filed 5/20/15, effective 6/20/15. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-040, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-045 (~~What marijuana law or rule violation history might prevent an applicant from receiving a marijuana license?)~~ **Cannabis license applicant administrative violation review.** (1) ~~The (WSLCB) board will (conduct an investigation of all applicants' marijuana law or rule administrative violation history. The WSLCB will not normally issue a marijuana license to)~~ determine if a cannabis license applicant has been issued any administrative violations under this chapter.

(2) The presence of administrative violation history will not result in automatic application denial, but will be considered in determining the applicant's eligibility for licensure. The board will not normally issue a cannabis license to a person, or ((to)) an entity with a true party of interest violation, ((who has)) or a person with the following violation history((; or to any person who has demonstrated a pattern of disregard for laws or rules.)) within the following periods of consideration:

<u>((Violation Type</u> <small>(see WAC 314-55-515)</small>	<u>Period of Consideration</u>
<ul style="list-style-type: none"> • Three or more public safety violations; 	<ul style="list-style-type: none"> • Violations issued within three years of the date the application is received by the board's licensing and regulation division.
<ul style="list-style-type: none"> • Four or more regulatory violations; • or • One to four, or more license violations. 	<ul style="list-style-type: none"> • Violations issued within the last three years the true party(ies) of interest were licensed.))

<u>Violation Type</u> <small>(See WAC 314-55-509)</small>	<u>Period of Consideration</u>
<u>Three or more Category II violations (WAC 314-55-521) or Category III violations (WAC 314-55-522)</u>	<u>Violations issued within two years of the date the application is received by the board's licensing and regulation division.</u>
<u>Four or more Category IV violations (WAC 314-55-523)</u>	
<u>One to four or more Category V violations (WAC 314-55-524) or Category VI violations (WAC 314-55-525)</u>	

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-045, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-045, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-050 (~~(Reasons the WSLCB may seek)~~) **Withdrawal, denial, suspension, or cancellation of a ((marijuana)) cannabis license application or license.** ((Following is a list of reasons the WSLCB may)) (1) The board has the discretion to withdraw, deny, suspend, or cancel a ((marijuana)) cannabis license application or license ((Per)) consistent with RCW 69.50.331, ((the WSLCB has broad discretionary authority to approve or deny a marijuana license application)) for reasons including, but not limited to, the following:

((1) Failure to meet qualifications or requirements)) (a) Not meeting the initial or ongoing qualifications, requirements, or both for ((the)) a specific ((marijuana)) cannabis license, as outlined in this chapter and chapter 69.50 RCW ((-

(2) Failure or refusal to submit)) ;

(b) Not submitting information or documentation requested by the ((WSLCB)) board during the application evaluation process ((-

(3) The applicant makes a misrepresentation of)) ;

(c) Misrepresenting fact, or ((fails to disclose)) not disclosing a material fact to the ((WSLCB)) board during the application process or any ((subsequent investigation)) review or follow-up review that may occur after a license has been issued ((-

(4) Failure to meet the criminal history)) ;

(d) Not meeting the background check standards outlined in WAC 314-55-040 ((-

(5) Failure to meet the marijuana)) ;

(e) Not meeting the cannabis law or rule violation history standards outlined in WAC 314-55-045 ((-

(6) The source of funds identified by the applicant to be used)) ;

(f) Using funds that cannot be verified for the acquisition, startup and operation of the business ((is questionable, unverifiable)), or ((determined by the WSLCB to be gained in a manner which is in violation by)) obtained in a way that violates the law ((-

(7) Denies the WSLCB)) ;

(g) Not allowing the board or its authorized representative access to any place where a licensed activity takes place ((or fails to produce)) ;

(h) Not producing any book, record or document required by law or ((WSLCB)) board rule ((-

(8) Has been denied or)) ;

(i) The applicant or licensee has had a ((marijuana)) cannabis license or medical ((marijuana)) cannabis license denied, suspended, or canceled in another state or local jurisdiction ((-

(9) Where)) ;

(j) The city, county, tribal government, or port authority has submitted a substantiated objection ((per the requirements in)) 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).

((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 ((11)) (3) of this section, the ((WSLCB shall)) board will not issue a new ((marijuana)) cannabis license if the proposed licensed business is within ((one thousand)) 1,000 feet of the perimeter of the grounds of any of the ((following entities)) facilities listed in (a) through (h) of this subsection. The distance ((shall)) will be measured as the shortest straight line distance from the property line of the proposed ((building/business)) 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 ((twenty-one)) 21 or older).

((11)) (3)(a) A city or county may, by local ordinance, permit ((the licensing of marijuana)) cannabis businesses licensing within ((one thousand)) 1,000 feet but not less than ((one hundred)) 100 feet of the facilities listed in subsection ((10)) (2) of this section except elementary and secondary schools, and playgrounds.

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

((12) Has failed to pay taxes or fees required under chapter 69.50 RCW or failed to provide production, processing, inventory, sales and transportation reports to documentation required under this chapter.

(13) Failure to submit an attestation that they are current in any tax obligations to the Washington state department of revenue.

(14) Has been denied a liquor or marijuana license or had a liquor license or marijuana license suspended or revoked in this or any other state.

(15) The operating plan does not demonstrate, to the satisfaction of the WSLCB, the applicant is qualified for a license.

(16) Failure to operate in accordance with the WSLCB approved operating plan.

(17) The WSLCB 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.))

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-050, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-050, filed 5/18/16, effective 6/18/16; WSR 14-06-108, § 314-55-050, filed 3/5/14, effective 4/5/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-050, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-12-046, filed 5/30/18, effective 6/30/18)

WAC 314-55-055 ((Marijuana)) Cannabis retailer license forfeiture. (1) (a) A ((marijuana)) cannabis retailer's license is subject to forfeiture if the retailer is not fully operational and open to the public after ((twelve)) 12 months of issuance of the license ((or November 1, 2018, whichever is later)). No ((marijuana)) 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 ((twelve)) 12 consecutive weeks within a ((twelve-month)) 12-month period after issuance of the license ((before or after the effective date of this section)):

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

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

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

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

((ii)) (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 ((marijuana)) cannabis retailer from becoming operational.

((b)) (3) Exceptions to license forfeiture.

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

((c) Adequate)) (b) Sufficient documentation ((will be)) is required to verify any of the exceptions to license forfeiture in this section. ((It is the licensee's responsibility to)) Licensees must inform the ((WSLCB)) 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 ((marijuana)) cannabis retail license from forfeiture under subsection (2) ~~((a))~~ of this section or ~~((b))~~ (a) of this ~~((section))~~ subsection is removed, then the ~~((twelve-month))~~ 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.

~~((3))~~ (4) A ~~((retailer that))~~ cannabis retail licensee who receives a notice of license forfeiture under this section from the WSLCB 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 no later than ~~((twenty))~~ 20 days after service of the notice. Requests submitted in paper form may be delivered to the WSLCB in person during normal business hours at ~~((3000 Pacific))~~ 1025 Union Avenue S.E., Olympia, WA ((98501)) 98504, or mailed to the WSLCB. Mailed appeal requests must be addressed to: WSLCB, ATTN: Adjudicative Proceedings Coordinator, P.O. Box 43076, Olympia, WA 98504-3076 or, for certified mail, WSLCB, ATTN: Adjudicative Proceedings Coordinator, ~~((3000 Pacific))~~ 1025 Union Avenue S.E., Olympia, WA ((98501)) 98504.

[Statutory Authority: RCW 69.50.325, 69.50.342, and 69.50.345. WSR 18-12-046, § 314-55-055, filed 5/30/18, effective 6/30/18.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-070 ((Process if the WSLCB denies a marijuana)) Cannabis license application denial. If the ((WSLCB)) board denies a ((marijuana)) cannabis license application, ((the)) an applicant or applicants may:

(1) Request an administrative hearing ((per)) consistent with chapter 34.05 RCW, the Administrative Procedure Act.

(2) Reapply for the license ((no sooner)) not earlier than one year from the date ((on)) of the final order of denial.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-070, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-070, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 21-15-124, filed 7/21/21, effective 8/21/21)

WAC 314-55-079 ((Marijuana)) Cannabis retailer license—Privileges, requirements, and fees. (1) A ((marijuana)) cannabis retailer license allows the licensee to sell only useable marijuana, ((marijuana)) cannabis concentrates, ((marijuana-infused)) cannabis-infused products, ((marijuana)) cannabis paraphernalia, and lockable boxes to store ((marijuana)) cannabis at retail in licensed retail outlets to persons ~~((twenty-one))~~ 21 years of age and older, except as allowed for persons under ~~((twenty-one))~~ 21 years of age consistent with RCW 69.50.357 and WAC 314-55-080.

(2) The ((WSLCB)) board may accept applications for ((marijuana)) cannabis retail licenses at time frames published on its website at www.lcb.wa.gov. Using estimated consumption data and population data obtained from the office of financial management (OFM) population data, the ((WSLCB)) board will determine the maximum number of ((marijuana)) cannabis retail locations per county.

(a) The number of retail locations will be determined using a method that distributes the number of locations proportionate to the most populous cities within each county and to accommodate the medical needs of qualifying patients and designated providers. Locations not assigned to a specific city will be at large. At large locations can be used for unincorporated areas in the county or in cities within the county that have no retail licenses designated.

Consistent with WAC 314-55-570 (4) (d), social equity licenses that are currently designated to specific cities may be located anywhere within the county in which the city is located. A license may not be transferred outside of that county.

(b) The number of retail licenses determined by the board can be found on the ((WSLCB)) board website at www.lcb.wa.gov.

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

(4) Application and license fees.

(a) The application fee for a ((marijuana)) cannabis retailer's license is ((two hundred fifty dollars)) \$250 consistent with RCW 69.50.325 (3) (a). The applicant is responsible for fees required by the approved vendor for fingerprint evaluation.

(b) The annual fee for issuance and renewal of a ((marijuana)) cannabis retailer license is ((one thousand three hundred eighty-one dollars)) \$1,381 consistent with RCW 69.50.325 (3) (a). The ((WSLCB)) board will conduct random ((~~criminal history~~)) background 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~~)) background checks.

(5) Internet sales and delivery of product to customers ((are)) is prohibited.

(6) Sales of ((marijuana-infused)) cannabis-infused products not permissible under WAC 314-55-077 are prohibited.

(7) ((Marijuana)) Cannabis retailers may not sell ((marijuana)) cannabis products below the current acquisition cost.

(8) All ((marijuana)) cannabis products must be stored behind a counter or other barrier to ensure a customer does not have direct access to the product.

(9) A ((marijuana)) cannabis retailer may not sell lockable boxes for less than the cost of acquisition or sell boxes received as a donation. The donation of lockable boxes must come from a person or entity that is not a licensed ((marijuana)) cannabis producer, processor, or retailer.

(10) ((Marijuana)) Cannabis retailer licensees are allowed to have a maximum of four months of their average inventory on their licensed premises at any given time.

(11) A ((marijuana)) cannabis retailer may transport product to other locations operated by the licensee or to return product to a ((marijuana)) cannabis processor as outlined in WAC 314-55-085.

(12) A ((marijuana)) cannabis retailer may accept returns of open ((marijuana)) cannabis products. Products must be returned in their

original packaging with the lot, batch, or inventory ID number fully legible.

(13) A ((~~marijuana~~)) cannabis retailer may dispose of ((~~marijuana~~)) cannabis products as provided in WAC 314-55-097.

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

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 21-15-124, § 314-55-079, filed 7/21/21, effective 8/21/21. Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-079, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342, 69.50.345, 2016 c 170, 2016 c 171, and 2016 c 17. WSR 16-19-102, § 314-55-079, filed 9/21/16, effective 10/22/16. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-079, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-079, filed 5/20/15, effective 6/20/15; WSR 14-10-044, § 314-55-079, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-079, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-082 Insurance requirements. ((~~Marijuana~~)) Cannabis licensees must obtain insurance coverage ((~~as set out in this section. The intent of the required~~)). Insurance is required to protect the consumer ((should there be)) if any claims, suits, actions, costs, damages or expenses ((arising)) arise from any negligent or intentional act or omission of the ((marijuana)) cannabis licensees. ((Marijuana)) Cannabis licensees ((shall furnish evidence in the form of)) will provide the board with a certificate of insurance ((satisfactory to the WSLCB that insurance, in)) demonstrating that the following ((kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.)) types and minimum amounts of insurance have been obtained:

(1) Commercial general liability insurance: The licensee ((shall at all times)) must carry and maintain commercial general liability insurance or commercial umbrella insurance for bodily injury and property damage arising out of licensed activities at all times. The limits of liability insurance ((shall)) will not be less than ((one million dollars)) \$1,000,000. Upon board request, a licensee must provide proof of insurance.

(a) This insurance ((shall)) must cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants.

(b) The insurance ((shall)) must also cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury.

(2) Insurance carrier rating: The insurance required in subsection (1) of this section ((shall)) must be issued by an insurance company authorized to do business within the state of Washington. Insurance is to 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.

(3) Additional insured. The state and its employees, agents, and volunteers shall be named as an additional insured on insurance policies required under this section. All policies shall be primary over any other valid and collectable insurance.

(4) Failure to maintain or provide proof of insurance as required may result in license cancellation.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-082, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-082, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-082, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-110 (~~(What are my responsibilities as a marijuana licensee?)~~) Licensee responsibilities. (1) ((~~Marijuana~~)) Cannabis licensees are responsible for the operation of their licensed business in compliance with the ((~~marijuana~~)) cannabis laws and rules of the ((~~WSLCB~~)) board, chapters 69.50 and 69.51A RCW, 314-55 WAC, and any other applicable state laws and rules.

(2) The penalties for violations of ((~~marijuana~~)) cannabis laws or rules are in WAC ((~~314-55-515~~)) 314-55-509 through ((~~314-55-535~~)) 314-55-525, as now or hereafter amended. The rules also outline aggravating and mitigating circumstances that may affect what penalty is applied if a licensee or employee ((~~violates a marijuana~~)) does not comply with a cannabis law or rule.

(3) Licensees and their employees must conduct the business and maintain the licensed premises, surrounding area, and vehicles transporting product, in compliance with the following laws, as they now exist or may later be amended:

- (a) Titles 9 and 9A RCW, the criminal code;
 - (b) Title 66 RCW, the liquor laws;
 - (c) Chapters 70.155, 70.345, 82.24, and 82.26 RCW and RCW 26.28.080, the tobacco laws;
 - (d) Chapter 69.50 RCW, the uniform controlled substances laws;
- and

(e) Chapter 69.51A RCW, the medical ((~~marijuana~~)) cannabis laws.

(4) Licensees ((~~have the responsibility to~~)) must control their conduct and the conduct of employees, customers, and visitors on the licensed premises at all times. Except as otherwise provided by law, licensees or employees may not:

- (a) Be disorderly or apparently intoxicated by liquor, marijuana, or controlled substances on the licensed premises;
- (b) Permit any disorderly person to remain on the licensed premises;

(c) Engage in or allow behavior on the licensed premises ((~~that provokes conduct which presents~~)) that is a threat to public safety;

(d) Engage, or permit any employee or other person to engage in, conduct on the licensed premises which is prohibited by any portion of Title 9, 9A, or 66 RCW, or chapters 69.50 and 69.51A RCW;

(e) Engage in or permit any employee or other person to engage in the consumption of any type of (~~marijuana, usable marijuana, marijuana~~) cannabis, usable cannabis, cannabis concentrate, or (~~marijuana-infused~~) cannabis-infused product on the licensed premises.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-110, filed 5/18/16, effective 6/18/16.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-120 Ownership changes. (1) Licensees must receive prior board approval before making any of the following ownership changes (see WAC 314-55-035 for the definition of "true party of interest"):

Type of change	Type of application	Fee
Change in the true parties of interest or owners in a: Sole proprietorship, general partnership, limited partnership, or limited liability partnership.	New application.	Application fee and annual fee for current license privilege.
Change in the true parties of interest or owners for a publicly or privately held corporation. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.	Application for change in corporate officer and/or stockholder.	\$75
Change in the true parties of interest or owners in a limited liability company.	Application for change of limited liability company member and/or manager.	\$75
Accepting additional funds from a new or previously approved financier.	Added financier.	\$75

(2) Licensees must notify the ((WSLCB)) board if there are any changes to marital status of any true party of interest in the license.

(3) The ((WSLCB)) board may inquire into all matters in connection with any ((such)) sale of stock/units or proposed change in officers/members.

(4) If the ((WSLCB)) board receives an application to change the ownership structure of a licensee, the application will be withdrawn unless one or more of the following is submitted:

- (a) Proof that the party being removed was notified that they were being removed and they did not object within ~~((ninety))~~ 90 days;
- (b) Signed documentation from the true party of interest being removed for the licensed entity that they agree with the removal; or
- (c) A final court document removing them.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-120, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-120, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-120, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-125 Change of location. (1) Changing a ~~((marijuana))~~ cannabis license to a new location requires a change request application to the ~~((WSLCB, per the process outlined))~~ board and initiated through business licensing services, as described in WAC 314-55-020. ~~((WSLCB))~~ Board approval for change request applications must be obtained prior to any change of location of the licensed business.

(2) A change of location occurs any time a move by the licensee results in any change to the physical location address.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-125, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-125, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

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

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

(i) Delivery to the board at ~~((3000 Pacific))~~ 1025 Union Avenue S.E., Olympia, WA ~~((985017))~~ 98504; or

(ii) Mailed to the ~~((WSLCB))~~ board. Mailed notice must be addressed to: WSLCB, ATTN: Licensing - Receiverships, P.O. Box 43076, Olympia, WA 98504-3076 or, for certified mail, WSLCB, ATTN: Licensing - Receiverships, ~~((3000 Pacific))~~ 1025 Union Avenue S.E., Olympia, WA ~~((98501))~~ 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 ~~((WSLCB))~~ it receives original notice of the action and the receiver is selected ~~((in accordance with WSLCB's requirements will~~

WSLCB treat the licensee as compliant with this section)) consistent with board requirements.

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

(a) Upon compliance with the requirements ((set forth below)) 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 ((WSLCB)) 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 ((marijuana)) 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 ((WSLCB)) 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 ((active status)) good standing on the preapproved receiver list maintained by the ((WSLCB)) board; or

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

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

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

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

(v) Disclose any interests the person has in any ((marijuana)) 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 ((WSLCB)) 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.**

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

- (i) Submit a complete application with the ((WSLCB)) 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;
- and
- (v) Disclose any interest the proposed receiver has in any ((~~marijuana~~)) 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 ((WSLCB)) the board at any time, a substitute receiver may be proposed for ((WSLCB)) board approval. The substitute receiver must provide all information required by this subsection.
- (d) If the proposed receiver is not approved by ((WSLCB)) 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 ((WSLCB)) board.

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

- (a) As operators and controllers of licensed ((~~marijuana~~)) 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 ((~~marijuana~~)) cannabis producer or licensed ((~~marijuana~~)) cannabis processor shall have a financial interest in, or simultaneously serve as a receiver for, a licensed ((~~marijuana~~)) cannabis retailer; and
 - (ii) No person shall serve as a receiver for, or be a true party of interest in, more than five ((~~marijuana~~)) cannabis retail licensees or more than three ((~~marijuana~~)) cannabis producer, processor, or producer/processor licensees at the same time.
- (b) If the ((WSLCB)) 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 ((WSLCB)) board.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-137, filed 10/31/18, effective 12/1/18.]

OTS-3707.3

NEW SECTION

WAC 314-55-570 Social equity in cannabis program. (1) Definitions.

(a) **"Disproportionately impacted area (DIA)"** means a census tract within Washington state where community members were more likely to be impacted by the war on drugs. These areas are determined using a standardized statistical equation to identify areas of high unemployment, low income, and demographic indicators consistent with populations most impacted by the war on drugs, including areas with higher rates of arrest for drug charges. The board will provide maps to identify disproportionately impacted areas. The maps will reflect census tracts from different time periods to account for gentrification.

(b) **"Family member"** means:

(i) A biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom the applicant stands in loco parentis (in place of the parent), is a legal guardian, or is a de facto parent, regardless of age or dependency status;

(ii) Grandchild, grandparent, parent, or sibling of a child as defined in (b)(i) of this subsection;

(iii) Spouse or domestic partner;

(iv) Any individual who regularly resides in the applicant's home or where the relationship creates an expectation that the applicant care for the person and that individual depends on the applicant for care, or that the individual care for the applicant and that the applicant depends on the individual for care.

(c) **"Median household income"** means the most recent median household income within the state of Washington as calculated by the United States Census Bureau.

(d) **"Person"** means a real human being, distinguished from a corporation, company, or other business entity.

(e) **"Preliminary letter of approval"** means an approval letter issued to a social equity program applicant for purposes of securing a grant from the department of commerce and a location and other necessities to complete the licensing process.

(f) **"Social equity program applicant"** means a person(s) who meets the requirements of the social equity program.

(g) **"Social equity contractor"** means a third party responsible to review and score social equity program applications.

(h) **"Social equity licensee"** means a person or entity that holds a social equity cannabis license or any person or entity who is a true party of interest in a social equity in cannabis license as described in WAC 314-55-035.

(i) **"Social equity plan"** means a plan that addresses the following elements including, but not limited to:

(i) A description of how issuing a cannabis retail license to the social equity applicant will meet social equity goals as described in statute;

(ii) The social equity applicant's personal or family history with the criminal justice system, including any offenses involving cannabis; and

(iii) Business plans involving partnerships or assistance to organizations or residents with connections or contributions to populations with a history of high rates of enforcement of cannabis prohibition.

(j) **"Social equity title certificate holder"** means a cannabis retail license title certificate holder that meets the requirements of a social equity program applicant as determined by the social equity contractor, and is unable to open for business in the city or county where the cannabis retail license is located.

(2) **Social equity applicant requirements.**

(a) To be considered for the social equity program under this chapter and RCW 69.50.335, the following requirements must be met by each applicant:

(b) At least a 51 percent majority, or controlling interest, in the applicant, must be held by a person, or persons, who has or have resided in Washington state for six months prior to the application date, consistent with RCW 69.50.331, and meets at least two of the following qualifications:

(i) **Qualification 1:** The social equity applicant or applicants have lived in a disproportionately impacted area in Washington state for a minimum of five years between 1980 and 2010; or

(ii) **Qualification 2:** The social equity applicant or a family member of the applicant has been arrested or convicted of a cannabis offense; or

(iii) **Qualification 3:** The social equity applicant's household income in the year prior to submitting the application was less than the median household income within the state of Washington as calculated by the United States Census Bureau.

(3) **Social equity application process.**

(a) **Application window.**

(i) The board will open the application window for an initial period of 30 calendar days.

(ii) At its sole discretion, the board may reopen the application window:

(A) After initial evaluation of applications is received and locations are still available; or

(B) If additional allotments become available after the initial application window has closed pursuant to RCW 69.50.335.

(b) **Initial application requirements.**

(i) The social equity application must be submitted electronically through the department of revenue's business licensing online application system.

(ii) The social equity applicant must apply to the department of revenue's business licensing service within the 30-day application window. All required information must be completed on the application and payment must be submitted within the 30-day application window for the application to be accepted.

(iii) The social equity applicant, whether applying as a person, persons, or entity, may apply for a cannabis license only once during each application window described in subsection (4)(c) of this section.

(iv) An application to reinstate the license of a social equity title certificate holder will not be considered a new social equity license application. The social equity title certificate holder may submit an application for a social equity license and an application to reinstate their existing license through the social equity program.

(v) A location address is not required at the time of application.

(c) **Social equity contractor review.** Once the application window is closed, the social equity contractor will evaluate and prioritize all applications received within the 30-day application window.

(i) The social equity applicant must select one county where they wish to operate their business and notify the social equity contractor of their selection in the form and manner required by the social equity contractor.

(ii) The social equity applicant must submit documentation verifying the eligibility requirements described in (c)(D)(viii) of this

subsection to the social equity contractor in the form and manner required by the social equity contractor.

(iii) Examples of documentation that may verify eligibility requirements include, but are not limited to:

(A) School records, rental agreements, utility bills, mortgage statements, loan documents, bank records, or tax returns that show the applicant's address(es), or a signed declaration that includes the applicant's address(es) indicating that the applicant resided in a DIA; or

(B) The applicant's arrest or conviction records, or family member's arrest or conviction records and an affirmation of the familial relationship signed by the applicant and the family member; or

(C) The applicant's tax returns demonstrating their income for the prior year; or

(D) Any other documentation that verifies the eligibility requirements described in (c)(D)(viii) of this subsection.

(iv) If additional materials are needed, the social equity applicant will receive a letter electronically from the social equity contractor directing the applicant to submit additional application materials directly to the social equity contractor.

(v) The social equity applicant must submit complete and accurate additional application materials directly to the social equity contractor within 15 business days of the date of the letter. It is the responsibility of the social equity applicant to comply with the application requirements in this section and ensure the application is complete, accurate, and successfully submitted to the social equity contractor.

(vi) If the application is determined to be incomplete by the social equity contractor, the social equity applicant will be provided with 14 days to submit a complete application. The social equity contractor will score the application based on the materials submitted within the time frame.

(vii) The social equity contractor will review the application materials, including the social equity plan provided by the social equity applicant to determine if the applicant meets the requirements of a social equity applicant.

(viii) After the social equity contractor determines that the requirements have been met, the social equity contractor will score social equity applications using the following scoring rubric to prioritize social equity applicants:

Social Equity Application Scoring Rubric		
Category	Eligibility Requirements	Point Scale
	1. Lived in a disproportionately impacted area (DIA)	40
	1a. How long have you lived in a DIA? 5y-10y = 10 points 10+ years = 20 points	40
	2. Convicted of a drug offense? (Self)	10
	2a. Convicted of a cannabis offense? (Self)	40
	3. Convicted of a drug offense? (Family)	5
	3a. Convicted of a cannabis offense? (Family)	5
	4. If you were convicted of a cannabis offense, what type of sentence did you receive: Fine = 10 points Served probation = 20 points Confined to home = 40 points Served time in jail or prison = 80 points	80
	5. Did you or your family member's incarceration keep you from getting employment?	5
	6. Did you lose your home or ability to purchase a home or rent a home as a result of your convictions or arrests?	5
	7. Is your household income less than the median household income within the state of Washington as calculated by the United States Census Bureau?	40
	8. Did you own or operate a medical cannabis dispensary or collective garden, licensed as a business, prior to July 1, 2016 (10 points)? or Did you own and operate a medical cannabis dispensary or collective garden licensed as a business in a DIA (30 points)?	10 30 in a DIA
	9. Have you held or do you currently hold 51 percent majority/controlling interest of a state cannabis (marijuana) retailer license? No = 10 points Yes = 0 points	10
	Total Points	310 points

(ix) The social equity contractor will provide the board with a list of eligible and scored social equity applicants.

(x) Neither the social equity contractor nor its employees shall benefit from any license or licenses granted as a result of their review.

(d) (i) **Board review.** Social equity applicants that are scored highest by the social equity contractor within the county selected by the social equity applicant will be processed by the board.

(ii) In the event of a tie, the board will use a double blind lottery conducted by an independent third party to identify the application(s) that will be processed.

(e) **Preliminary letter of approval.** Once the social equity applications that will be processed are identified as described in this section, eligible social equity applicants will be issued a preliminary letter of approval.

(4) **Additional provisions.**

(a) **Time restrictions.** There are no time restrictions for a social equity applicant to select and secure a location.

(b) **Ownership changes.** Social equity applicants may not make ownership changes to an application after the application has been reviewed, scored, and prioritized by the social equity contractor.

(c) **Social equity applicants may apply for a social equity license once per application window.** If a social equity applicant ap-

plies more than once, the board will accept only the first application.

(d) **License mobility.** Social equity licenses that are currently designated to specific cities may be located anywhere within the county in which the city is located. However, the license may not be transferred outside of that county.

(e) **Qualifying for the social equity program will not result in or guarantee cannabis business license approval.** Social equity applicants must meet all license qualifications in WAC 314-55-077 and this chapter to receive a license.

(f) **License transfer and assumption.** Licenses awarded under this section may not be transferred or assumed within the first year of the license being issued. Licenses awarded under this section may only be transferred to or assumed by individuals or groups of individuals who meet the definition of a social equity program applicant for a period of five years from the date of the initial license was approved.

(5) **Social equity title certificate holders.** A title certificate holder that meets the requirements of a social equity program applicant as determined by the social equity contractor may reinstate their retail cannabis license anywhere within the county that they hold their title certificate.

(6) **Application withdrawal.** The board will withdraw a social equity application if:

(a) The social equity program application or additional materials are determined to be incomplete or incorrect by the social equity contractor;

(b) The social equity program application materials are not timely received by the social equity contractor; or

(c) The social equity applicant(s) requests withdrawal of the social equity program application at any time in the application process. The social equity applicant(s) must request withdrawal in writing. The voluntary withdrawal of a social equity program application does not result in a hearing right.

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