

Issue Paper

Marijuana Packaging and Labeling Requirements

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Presented by: Kathy Hoffman, Policy and Rules Coordinator

Description of the Issue

Washington State marijuana packaging and labeling regulations have evolved since their initial promulgation in 2013. Originally designed to provide a basic framework, requirements included, but were not limited to what products must be packaged in child-resistant containers, what warning language needed to be on accompanying material, and what traceability information needed to be on every product label. Over time, rules related to packaging and labeling of marijuana products have been revised in response to legislation, and industry growth. Other factors, such as the use of biodegradable packaging, and reduction of the regulated community's environmental impacts suggest that additional options to support industry sustainability should be explored.

However, protecting children and youth from accidental exposure to marijuana products continues to be a public safety priority in Washington State. Assuring that marijuana product packaging is designed and constructed to be significantly difficult for children and youth to open, and requiring labeling that clearly communicates the adult nature of the product continue to be one of the WSLCB's highest priorities. As the industry has grown and evolved, so has the need for the WSLCB to consider refining regulations around the packaging and labeling of these products.

This Issue Paper requests approval from the Board to begin the first stage of rule development by filing a CR 101 to amend and update both WAC 314-55-077(8) and (9), and WAC 314-55-105 regarding marijuana packaging and labeling requirements.

Reasons why rules may needed:

Rules may be needed for the following reasons:

1. WSLCB received two rule petitions from The Cannabis Alliance on March 11, 2019 as follows:
 - The first petition requested that the WSLCB open WAC 314-55-105 to consider removing the current requirement that marijuana-infused liquid edible products must include a measuring device, such as a measuring cup or dropper;
 - The second petition requested that the WSLCB open WAC 314-55-105 to revised the current requirement that marijuana-infused products for

oral ingestion must be packaged in plastic 4 mil or greater in thickness, and instead, reduce the requirement to plastic 2 mil or greater in thickness.

The Board accepted both of these petitions on April 30, 2019, and consistent with the provisions of RCW 34.05.330, agreed to open the identified rule to consider the petitions and language proposed therein.

2. Engrossed Substitute Senate Bill (ESSB) 5298 (Chapter 393, Laws of 2019) involving marijuana product labeling will become effective January 1, 2020. Among other revisions, ESSB 5298 amended RCW 69.50.345, RCW 69.50.346, and created a new section describing the legislature's intent to allow additional information on the labels and labeling of marijuana products to assist in making purchases of these products. WSLCB is required to align existing rule with the amendments of this legislation, and to the extent possible, within the timeline established by the legislature.
3. The Board approved five Board Interim Policies (BIP) on January 9, 2019 as follows:
 - BIP 05-2018 – Implementation of Cannabis Packaging and Labeling Rule changes;
 - BIP-07-2018 – Marijuana labeling –False and misleading definition clarification;
 - BIP-08-2018 – Marijuana labeling - Curative of therapeutic effects;
 - BIP-09-2018 – Marijuana labeling - Marijuana infused edibles colors and homogenization, specific to WAC 314-55-077(8) and (9); and
 - BIP-10-2018 – Marijuana labeling – Marijuana infused edibles colors.

These BIP end on the effective date of rules to implement each policy. Since the specific sections of rule that these BIP pertain to (WAC 314-55-105) will be open for inquiry based not only The Cannabis Alliance petitions, but on the rule revisions that are necessary to comply with the provisions of ESSB 5298, it is appropriate and timely to consider including the language and provisions of these BIP in rule.

4. The Board may also consider technical and clarifying revisions and adjustments to WAC 314-55-105 and WAC 314-550-077(8) and (9) that will increase clarify and compliance opportunity.

Process

The rule making process begins by announcing LCB's intent to consider changes to existing rules by filing a CR 101 form. This allows staff, stakeholders, industry partners, and all members of the authorizing environment to begin discussing proposed rule changes. At the CR 101 stage of the rulemaking process, no proposed language is offered. Any interested party may comment on the subject of this possible rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule activity pertaining to this preproposal inquiry. The notice will identify the public comment period and where comments can be sent.

