



# Washington State Liquor Control Board

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## Frequently Asked Questions about the I-502 Proposed Rules

**Topic:** Initiative 502

**Date:** July 3, 2013

### Licensing

#### **When can I get my license?**

We will begin accepting applications for all three license types (producer, processor and retailer) for 30 days on September 16, 2013 and expect to begin issuing licenses, at the earliest, in December 2013. Due to the anticipated turnout and rush to obtain a license it is possible that the process may take longer than the projected 90 days. The best way to stay up to date on the implementation process and when the applications become available is to register for [email notifications](#) on the WSLCB website.

#### **Why are you only accepting applications for 30 days?**

Opening up the licensing window for 30 days affords anyone who is qualified to apply for a license the opportunity to do so. Whether you are a small grower or larger company you will be given the same opportunity to get a license. Closing the window after 30 days allows the Board the opportunity to assess the market and see what changes, if any, are needed regarding the number of licenses. The Board may also reopen the window at its discretion.

#### **How many producer and processor licenses will be issued?**

Presently the WSLCB does not intend to limit the amount of producer or processor licenses it will issue. The LCB will open a 30 day window in September where anyone can apply, and qualified applicants will receive licenses.

#### **How many retail licenses will be issued?**

The number of retail locations will be determined using a formula that distributes the number of locations proportionate to the most populous cities within each county. Locations not assigned to a specific city will be at large. Once the number of locations per city and at-large have been identified, the specific locations will be selected by lottery in the event the number of applications exceeds the allotted amount for the cities and county.

#### **How will the lottery work?**

WSLCB staff are developing the guidelines for the retail license lottery. As more information becomes available we will notify stakeholders via the [I-502 Listserv](#).

#### **If the local authority objects to my proposed location after filing my application can I move my location without refiling?**

Applicants will be able to change the location of a potential license if the local authority objects, as long as the application is still in the processing stage, without filing a new application.

#### **Will a criminal record impact my ability to get a license?**

The WSLCB will employ a disqualifying criminal history point system similar to liquor. An exception would be allowed for two misdemeanor convictions of possession within three years. A felony conviction will prohibit you from obtaining a marijuana license if the conviction was in the last 10 years.

### **How do I prove three months residency?**

There are many ways to prove residency. Some examples include:

- Get a Washington State driver's license or ID card, which has an issue date on it
- Present three months worth of utility bills, pay stubs, etc.
- Register to vote

You can find out more about state residency requirements at [Access Washington](#).

### **How do I show I'm current on my taxes?**

Prospective licensees will be required to sign an attestation that they are current on their taxes. Failure to do so or misrepresentation of the status of your taxes is grounds to deny the application.

### **Can I get my \$250 application fee back?**

Marijuana application fees are non-refundable.

### **Is it true that the WSLCB is just going to license current medical marijuana outlets to retail marijuana?**

No. Retail licenses will be issued to qualified applicants who meet the licensing criteria. A medical marijuana outlet that wants to convert to a recreational outlet will have to go through the same application process as any other potential applicant. If they were to obtain a retail license they would only be allowed to sell marijuana purchased from the recreational system, they would not be allowed to comingle medical and recreational marijuana.

### **Can local jurisdictions prevent me from opening a location?**

The LCB has no authority to dictate zoning requirements to local governments. Municipalities could conceivably zone marijuana/related businesses out of their geographical area, check with your local authority to understand their requirements.

### **Since there are a limited number of retail licenses available can I apply for a retail license and a processor and/or producer license at the same time to ensure that I'm not left out and then withdraw the processor and/or producer license application in the event that I get the retail license?**

No. Applicants must decide ahead of time which license type they are pursuing. If an applicant applies for a retail license in addition to one of the other two license types all of the applications will be rejected.

### **Can I be a processor and a producer?**

Yes. Licensees may hold a both a producer and processor license together.

### **Is there a producer/processor license?**

No. Applicants must apply for, and obtain, both licenses separately and must pay the application and renewal fees on both licenses.

### **Do I have to pay the 25% tax on sales between producer and processor if I hold both licenses?**

No. If you hold a producer/processor license you avoid the 25% tax that would be applied to a producer to processor sale.

### **Do I have to provide proof from my landlord that they are aware of how their property is being used?**

No. The provision requiring an applicant to provide a signed affidavit showing their landlord is aware of the marijuana related business using their property has been removed.

**There is a bus stop in front of my location; will that disqualify me from getting a license?**

The rules define "public transit center" as a facility located outside of the public right-of-way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge.

**Can I have multiple locations?**

Yes. However each location must be licensed separately and the licensee must meet the previously mentioned requirements on license types.

**How will the WSLCB measure distance from a restricted area to a potential marijuana location?**

I-502 directs the WLCB to measure, in a straight line, from the perimeter of a restricted area to the perimeter of a potential location.

**If I'm providing financial backing do I have to be a resident?**

Yes. Financiers will be required have three months Washington state residency and to pass the same criminal background checks as a licensee.

**Testing**

**How can I get my laboratory certified to test marijuana?**

The LCB will contract (via the request for proposals process) with a firm who will be responsible for accrediting labs.

**How will I get my products tested?**

The LCB will furnish a list, via our website, of accredited labs for producers to contract with for testing services.

**Traceability/Product**

**What is the traceability system?**

A robust and comprehensive traceability software system will that will trace product from start to sale. Licensees will have to use tracking software that is compatible with LCB's traceability system and allows the LCB to monitor and track any plant at any time.

**When do my plants need to be entered into the traceability system?**

Prior to reaching eight inches in height or width each plant must be tagged and tracked individually

**How do I obtain startup inventory?**

Within fifteen days of starting production operations a producer must have all non-flowering marijuana plants physically on the licensed premises and recorded into the traceability system. No flowering marijuana plants may be brought into the facility during this fifteen day timeframe. After the 15 days pass, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.

**Growing**

**Where can I grow?**

- **Indoors/Greenhouse**

Fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.

- **Outdoor**

Outdoor production may take place in non-rigid 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.

**Can a current farm just convert its crop to marijuana?**

Converting a crop to marijuana would require a producer license and the farm would have to meet all of the guidelines set forth in the rules pertaining to outdoor growing.

**Can I grow in my personal residence?**

No. The rules state that “the Board will not approve a license for any location where law enforcement access, without notice or cause, is limited. This includes personal residences.” Private residences are afforded a degree of privacy under the 4<sup>th</sup> amendment of the U.S. Constitution that is incompatible with the regulatory requirements of I-502.

**Are there any limits on how much marijuana I can produce or keep on hand?**

Presently the LCB does not plan to limit the amount of marijuana on hand at licensed locations. All marijuana products must be tracked through the traceability software.

**How many plants can I grow? Are there any size restrictions on growing operations?**

Presently the WSLCB is not capping the number of plants that a producer can grow or how large of a production facility they operate. However producers will have to track and trace every plant and grant access to that information upon request of the WSLCB.

**How can I get my marijuana certified as organic?**

Marijuana may not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

## **Processing**

**Why can't I advertize marijuana's medical benefits?**

The WSLCB is regulating the recreational marijuana market and does not evaluate the medical claims of a recreational product. Prospective licensees who want to produce/market marijuana for medical purposes should research Washington's medical marijuana laws.

**How will you prevent children from accidentally ingesting marijuana products?**

Marijuana infused products must be packaged in child resistant packaging in accordance with Title 16 CFR 1700 of the Poison Prevention Packaging Act.

**What happened to the “Produced in Washington” icon?**

During the public comment period the WSLCB heard a variety of comments on the icon and ultimately decided to remove it from the rules. The intent of the icon was to provide parents, teachers, etc with a visual aid that helped them readily identify a product as marijuana. Many of the comments were positive and appreciated the WSLCB's work on this issue, while others were concerned that the icon may be seen

as promotional. The Board does reserve the ability to require an icon be included on packaging in the future for public safety purposes if they deem it necessary.

**Why does the Board want to ban concentrates?**

The Board's analysis believes that the definition of usable marijuana or infused product in I-502 does not cover concentrates. While the Board was willing to allow concentrates they are not inclined to break the law to do so.

**Does hash qualify as usable marijuana?**

No. Under the definitions of I-502 hash does not qualify as usable marijuana.

**Can I infuse concentrates with an inert oil, or similar substance, and sell it?**

Yes. This would qualify as a marijuana infused product.

**What is the minimum level of added marijuana for a product to be considered a marijuana infused product?**

The Board has not set minimum thresholds for what constitutes an "infused" product.

**Retail**

**Can I run a retail delivery business?**

No. Third party delivery is not allowed. All retail sales must take place in a licensed retail establishment.

**Can a medical marijuana outlet and a retail outlet share the same space?**

No. The two operations would have to be separate. Retail outlets are only allowed to sell marijuana that comes from a licensed processor and licensed processors are not allowed to sell to unlicensed entities, such as a medical marijuana outlet.

**Are there any restrictions on retail hours of operation?**

Retail marijuana operations may take place between the hours of 8:00AM and 12:00AM.

**Why can't I hold the marijuana before purchase?**

I-502 is very clear that there can be no open containers of marijuana, or consumption of marijuana at licensed locations. The WSLCB cannot write rules that contradict the law.

**Why can't I smell the marijuana before purchase?**

Retail licensees are allowed to provide a sample jar with a plastic or metal mesh screen to allow customers the ability to smell the product before purchasing. Opened marijuana products are not allowed inside a licensed retail outlet.

**Miscellaneous**

**Will the WSLCB be setting prices?**

No. The WSLCB will not set prices but licensees are not allowed to sell marijuana products below their acquisition cost.

**Can I provide samples?**

Producers are allowed to provide samples to a processor and processors are allowed to provide samples to a retailer. Retailers are not allowed to supply samples to the public.