



Washington State Liquor and Cannabis Board

SHB 1453 Draft Rules Discussion

Monday, June 3, 10 a.m. – Noon

Thursday, June 6, 1 p.m. – 3 p.m.

Daniel Jacobs, Policy & Rules Coordinator

Daniel.Jacobs@lcb.wa.gov

rules@lcb.wa.gov



Washington State Liquor and Cannabis Board

Objective

To obtain public feedback on draft rule language to implement SHB 1453.

For feedback or questions, contact rules@lcb.wa.gov



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Notes

During the meeting please keep the following in mind:

- While the Teams chat feature will be ON, any written questions submitted in chat will be saved in the rulemaking file and are **subject to public disclosure**.
- Questions and comments in the session's Team chat will not be responded to in real time, but will be **addressed at the end of the session**.
- Participants will be muted and will only be unmuted when the session's leader enables their microphone.
- To ask questions during the sessions, participants must **use the raise hand** function and they will then be unmuted to ask their question.
- If you would like to submit questions before, during or after the engagement session, feel free to email the rules team at rules@lcb.wa.gov.



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SHB 1453 Rulemaking Project Timeline

Date		Stage
April 24, 2024		CR 101 Filed – Rulemaking officially begins, filed as WSR 24-10-043
June 3 & 6, 2024	<u>WE ARE HERE</u>	Stakeholder Engagements
June 6, 2024		SHB 1453 Effective Date
June 18, 2024	Tentative	CR 102 Filed – Draft Rules Proposed
June 18 – July 31, 2024	Tentative	Public Feedback Period on Draft Rules
July 31, 2024	Tentative	Public Hearing
August 14, 2024	Tentative	CR 103 Filed – Final Rules filed
September 14, 2024	Tentative	Rules effective



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Substitute House Bill 1453 – adding to RCW 69.50.535

(2) (a) Until June 30, 2029, the tax levied by subsection (1) of this section does not apply to sales by a cannabis retailer with a medical cannabis endorsement to qualifying patients or designated providers who have been issued a recognition card, of cannabis concentrates, useable cannabis, or cannabis-infused products, identified by the department as a compliant cannabis product in chapter 246-70 WAC and tested to the standards in WAC 246-70-040.

(b) Each seller making exempt sales under this subsection (2) must maintain information establishing eligibility for the exemption in the form and manner required by the board.

(c) The board must provide a separate tax reporting line on the excise tax form for exemption amounts claimed under this subsection (2).



SHB 1453 – Broken Down

(2) (a) **Until June 30, 2029**, the tax levied by subsection (1) of this section does not apply to **sales by a cannabis retailer with a medical cannabis endorsement** to **qualifying patients or designated providers who have been issued a recognition card**, of **cannabis concentrates, useable cannabis, or cannabis-infused products**, identified by the department as a compliant cannabis product in chapter 246-70 WAC and tested to the standards in WAC 246-70-040.

(b) Each seller making exempt sales under this subsection (2) must **maintain information establishing eligibility for the exemption in the form and manner required by the board**.

1. Expires June 30, 2029
2. Retailer holds medical cannabis endorsement
3. Purchaser must be qualified patient or designated provider
4. DOH compliant product as identified in WAC 246-70
5. Retailers must keep records for eligibility as prescribed by Board



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Interim Guidance

- Because there will be a gap between SHB 1453 effective date 6/6/24 and tentative rules effective date 9/14/24, Board has issued interim guidance via gov delivery on 5/29/24
- Can be found [here](#).
- Recommends keeping documents mostly consistent with rule language to be previewed later.



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WAC Changes

Status	WAC	Description
New	314-55-090	New rule section for new temporary excise tax exemption including recording keeping and definitions
Amended	314-55-083	Adds reference to WAC 314-55-090.
Amended	314-55-087	Record requirements and adds reference WAC 314-55-090
Amended	314-55-089	Record requirements, technical changes and adds reference to WAC 314-55-090
Consistent with WSR 24-11-037, changing “WSLCB” to “LCB”		



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WAC 314-55-090 – NEW RULE

- In order to address issues and compliance with new excise tax exemption, in addition to amending current rules around reporting and recordkeeping, the Board is proposing to create a new rule dedicated solely to this new temporary excise tax exemption
- If the tax exemption expires in June 2029, the rule will be repealed then. If it is extended, the rule can be extended.



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WAC 314-55-090(1) – Elements to apply Excise Tax Exemption

(1) Pursuant to RCW 69.50.535(2), the excise tax levied in RCW 69.50.535(1) does not apply to sales of cannabis that satisfy all of the following conditions:

(a) The sale is made by a cannabis retailer holding a valid medical cannabis endorsement issued pursuant to RCW 69.50.375, and compliant with WAC 314-55-080;

(b) The sale is made to a qualifying patient or designated provider who has a valid recognition card issued pursuant to RCW 69.51A.230, and is in the database;

(c) The sale is of cannabis concentrates, useable cannabis, or cannabis-infused products identified by the department as a compliant cannabis product in chapter 246-70 WAC and tested to the standards in chapter 246-70 WAC;



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WAC 314-55-090(2) – Record Keeping Requirements

(2) Cannabis licensees must retain the following information for five years, consistent with WAC 314-55-087, for every sale where the excise tax is exempted per RCW 69.50.535(2):

(a) Date of sale;

(b) Unique identifying number of qualifying patient making purchase;

(c) Stock keeping unit (SKU) of cannabis concentrates, useable cannabis, or cannabis-infused products identified by the department as a compliant cannabis product in chapter 246-70 WAC and tested to the standards in chapter 246-70 WAC;

(d) Sales price of cannabis concentrates, useable cannabis, or cannabis-infused products identified by the department as a compliant cannabis product in chapter 246-70 WAC and tested to the standards in chapter 246-70 WAC.



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WAC 314-55-090(3) Taxability Presumption

(3) For any sale where the excise tax was not collected, if a cannabis licensee cannot produce the documentation identified in subsection (2) of this section when requested by the LCB, such excise tax shall be presumed to have been incorrectly exempted, and the retailer shall be responsible for remitting to the LCB the amount of excise tax that should have been collected. Penalties may apply to any incorrectly exempted excise tax payments that need to be remitted as described in this subsection, consistent with WAC 314-55-092.

(emphasis added)



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WAC 314-55-090(4) Definitions

- (a) "Database" means the medical cannabis authorization database as defined in RCW 69.51A.010.
- (b) "Department" means the Washington state department of health.
- (c) "Designated provider" has the same meaning provided in RCW 69.51A.010.
- (d) "Qualifying patient" has the same meaning provided in RCW 69.51A.010.
- (e) "Recognition card" has the same meaning provided in RCW 69.51A.010.
- (f) "Unique identifying number" refers to the unique identifying number described in RCW 69.51A.230.



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Other Changes – WAC 314-55-083(4)(j)

(4) ... The following information is required and must be kept completely up-to-date in a system specified by the ~~WSLCB~~ LCB:

...

(j) Cannabis excise tax records, including records required for medical cannabis patient excise tax exemptions in WAC 314-55-090;



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Other Changes – WAC 314-55-087(1)

(1)... [records that have to be kept for five years include]...

...

(r) Detailed sale records including, but not limited to, date of sale, sale price, item sold, and taxes assessed;

(s) Records for medical cannabis patient excise tax exemptions as required in WAC 314-55-090.



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Other Changes – WAC 314-55-089(1)

[regarding retailer monthly required reports]..

(b) (ii) Each report will identify total product sales and total medical product sales where the excise tax was exempted, in the form and manner required by the LCB;

(c) ... a report ~~listing~~ summarizing transactions for the month...

...

(e) All records must be maintained and available for review for a ~~three~~ five-year period on licensed premises (see WAC 314-55-087).



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Other Changes – WAC 314-55-089(4)

(b) (i) A cannabis retailer licensee must collect from the buyer and remit to the (~~(WSLCB)~~) LCB a cannabis excise tax of 37 percent of the selling price on each retail sale of useable cannabis, cannabis concentrates, and cannabis-infused products, except as identified in WAC 314-55-090 and RCW 69.50.535(2).

(ii) Records of medical cannabis excise tax exemptions provided must be maintained as required in WAC 314-55-087 and 314-55-090.



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Other Changes – WAC 314-55-089(5)

[Streamlining language around payment methods for excise tax payments]

(a) By mail to (~~WSLCB, Attention: Accounts Receivable, P.O. Box 43085, Olympia, WA 98504~~) LCB;

(b) By paying through online access (~~through the WSLCB traceability system~~); or



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Thank You!

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Rules at rules@lcb.wa.gov