Written feedback based on topics provided at December E2SSB 5367 rulemaking engagement sessions

Discussion Topics

1. **Amended definition of “THC concentration”**
   * **Statutory change**: E2SSB 5367 expands the definition of “THC concentration” to include forms of THC, not only delta-9 THC, RCW 69.50.101

# Topics for consideration:

* + 1. What cannabinoids should be included in potency testing?
       - How to define and calculate “active THC;”

We don’t think this is a productive path.

There are too many factors when considering which cannabinoids should be classified as active and too many aspects of potential cognitive effects to achieve a standardized single measure for active THC/cannabinoids that reflects currently available information. We suggest instead keeping the definition of total THC as it is currently, and effectively avoiding the emergence of other THC like compounds by prohibiting synthetic/ semi-synthetic production.   
Because research necessarily lags behind in evaluating the effects of new compounds, we believe this is the only strategy that will ensure a reliable measure of a product’s total THC and corresponding impairment.

* + - * How to define and calculate “total THC.”

We prefer that the measurement be based on total THC and use the current formula for total THC concentration, or on an approach that labels each ‘type’ of THC present and the respective concentrations. In either case, the approach should evaluated annually by a subject area expert group based on what is actually being observed by enforcement and in retail cannabis products.

# Amended definition of “cannabis products”

* + **Statutory change**: E2SSB 5367 amended definition of “cannabis product” to include products that contain, “any detectable amount of THC.” RCW 69.50.101

# Topics for consideration:

* + 1. How to define “detectable amount of THC” or “detectable level.”

We recommend the lowest level feasible, especially for heavy products. The Cannabinoid Science WG report suggested a detection level of .03%. We have concerns about that testing recommendation. At .03% THC, products that weigh a substantial amount could contain an impairing amount of cannabinoids

* Example: **A 12 oz soda weighs approximately 350 grams. This means that the suggested .03% THC detectable limit would allow up 105 mg of THC. This is 10 standard adult servings.**

This item could be sold outside of licensed retailers (so long as the THC is derived from hemp by non-synthetic means. [This is the case](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10369762/) with some currently available hemp derived products)

* + While there are technical detection limits for HPLC, the limits for determining THC concentration in various products also depends on the product type/’matrix’

Of particular importance is the detection method and limit for heavy products: liquid products like sodas and edible products like gummies

* + - * LCB should consider methods that achieve a lower limit of detection for these products to support public health and consumer safety

Alternatively, both a percentage and per unit or package limit could be set/ established for a detectable limit. For example, Oregon limits hemp products sold to minors at 0.5mg THC. This option is less preferable than setting a lower percentage limit for heavy products, but is preferred over the simple 0.03% THC detection threshold.

# Prohibition on the use of synthetic cannabinoids

* + **Statutory changes:**
    1. E2SSB 5367 amended RCW 69.50.326 to explicitly prohibit CBD products containing a “synthetic cannabinoid” to be used as an additive concentration.

We think there should be a limit to the processes that can be used to produce THC or similar compounds from cannabis for use in products. It makes sense to limit processing of THC to the reasonable application of heat, light, and pressure.

.

1. E2SSB 5367 created a new section RCW 69.50.3251 that explicitly prohibits the producing, processing, manufacturing, or sale of any synthetically derived, or completely synthetic, cannabinoid is prohibited.

# Topics for discussion

* + 1. How to define “synthetically derived cannabinoid,” or “completely synthetic cannabinoid.”

Any compound or product that is developed from a non-plant natural starting point or that uses any processes other than heat, light, and pressure to produce THC compounds or products. These products would be outside the circle of allowable compounds and products.

# New definitions for “package” and “unit”

* + **Statutory change**: E2SSB 5367 created definitions for “package” and “unit.” (*RCW.69.50.101*)

# Topics for consideration:

* + 1. What implications does replacing “container” with “package” throughout the rule have?
       - Would licensees be required to change the way they are currently packaging and labeling cannabis products.
       - Would the cost of the changes be higher or lower than current packaging costs?
    2. How to define “serving” or “serving size.”

Key points/concerns

* Labels to convey that higher potency products carry higher risks than lower potency products (ADAI high THC consensus statement)
* Labels need to effectively convey risks to youth as well
* Labels needs to be graphic based (not based on mass/ weight) and focus heavily on safety
* Recent LCB survey shows importance of labeling for consumer education
* Consider universal warning symbol for individual unit, so that risk can be identified once units are removed from package.
* Note concern about containers that have more than one serving size because consumers don’t necessarily consider the impacts that 2 or 3 gummies might have on them as compared with the impacts that a serving size of 1 might have.