



## WASHINGTON CANNABUSINESS ASSOCIATION 2018 REGULATORY AGENDA

Since the passage of Initiative 502, the Liquor and Cannabis Board has done an outstanding job in crafting rules for the developing cannabis industry. WACA supports maintaining the integrity of the current licensing process - rigorous standards for licensing are important to ensure that reputable businesses are allowed to earn and retain licenses.

As with all complex regulatory systems, changes are needed to perfect the existing rules structure. There must be clear, consistent rules and processes in order for businesses to be able to operate within the legal marketplace. With that in mind, WACA proposes the following adjustments to the regulatory structure. These changes are meant as constructive suggestions to strengthen the rules for 502 licensees with the goal of supporting a safe, quality-controlled and regulated marketplace.

### **1. Allow Producers to advance a tier level under certain circumstances**

The state should adopt a process in which a Producer who can prove that they consistently sell 85% of their production and are operating at least 51% of their canopy could apply to move up a tier. A similar system is in place in Colorado. By allowing only those Producers who are consistently operating at the top of their license to scale up, the state avoids excessive and inappropriate expansion of canopy statewide. At the same time, small, developing businesses can expand appropriately to meet demand and compete with established - often larger - businesses.

### **2. Removal of quarantine requirement before transportation of product to retail**

While we understand why these rules were enacted in the first place, they have not provided real value to the state, industry partners, businesses, consumers or patients. Instead, this step in the process creates costly delays in getting product to market. WACA proposes changing the rules to allow product to go to market once final testing has occurred and the product has passed. This will allow for last minute changes, additions or corrections to orders without delaying delivery. Retailers have an unnecessary challenge returning products if Producer/Processors are not providing 24-hours of advance notice of deliveries. The ability to gather and return products to Producer/Processors when they are making a delivery will keep product moving and from stagnating unnecessarily. As some Producer/Processors only deliver once a month or every other week, eliminating the 24-hour quarantine would increase efficiency for the entire marketplace.

### **3. Allow Processor to Processor service contracts**

Currently, the rules prevent "service" arrangements where, for example, Processor A transfers cannabis to Processor B, Processor B extracts the cannabis and returns the resulting product to Processor A, and Processor A pays through either a service fee for the extraction, or allows Processor B to retain a portion of the extracted yield as compensation. These arrangements should be allowed - provided that proper traceability and record keeping is maintained – and will increase market efficiency.

Service Line Agreements are a customary business practice in most industries. To cause a Producer to have to sell to a Processor and then buy back product causes delays to the process, adds unnecessary cash or money transfers and adds nothing of value for any involved party, including consumers and patients. Service License Agreements will create a regulated, contractual relationship status between Producers and Processors, ensuring that Producers will only have to pay for the services they are contracting, while avoiding the unnecessary step of selling products only to be required to buy them back.

#### **4. Create a mitigation system for minor violations**

Currently, licensees that receive four violations of any one type, regardless of the severity, face the threat of losing their license. While this penalty is appropriate for severe violations - those that endanger children or the general public - it is not appropriate for minor violations. There should be a process for mitigation and correction for minor violations that allows the licensee to correct innocent mistakes within a set period of time. If the licensee fails to rectify the issues, the more severe penalty should apply.

Examples of minor violations are:

- Failure to maintain traceability – this violation has a significant range in severity. A minor violation of traceability, e.g. failing to properly account for sniff jars, should not be treated the same as a major violation.
- Exceeding maximum delivery time frame
- Operating/floor plan violations for minor issues (e.g. moving a display case)
- Employees not wearing name badges
- Inventory discrepancies within 1% variance
- Not displaying proper signage

#### **5. Create service level standards at the WSLCB to ensure regulatory certainty and consistency**

In order to ensure the most efficient and consistent application of the regulatory structure, the WSLCB should develop systems and standards that are clear, transparent and predictable. These include:

- Transparent expected response time frames for licensing and enforcement activities
- Expedited timelines for simple licensee changes such as change of floor plan, change of location, additional minority ownership, change of operating agreement or removal of members
- Clear, transparent process for appealing packaging and label denials
- Provision of examples of policy interpretations such as examples of packaging that are acceptable and unacceptable
- Create a licensee ombudsman, or single point of contact for addressing issues such as those listed above

#### **6. Create consistency in application of clean air laws across jurisdictions in Washington State**

Air quality is regulated by the Washington Department of Ecology and by local air quality agencies under RCW 70.94. Currently, there is inconsistent treatment of cannabis Producers by clean air agencies across the state, with some agencies levying excessive fees and requirements on cannabis businesses. The inconsistent treatment of businesses is not based in science and causes unnecessary economic harm to local businesses. There should be clear, consistent requirements and treatment of cannabis Producers statewide.