



Washington State Liquor and Cannabis Board

Topic: Petition for Adoption, Amendment, or Repeal of a State Administrative Rule – Labeling of Marijuana Vaping Cartridges

Date: March 15, 2022

Presented by: Jeff Kildahl, Policy and Rules Coordinator

Background

On January 18, 2022, Philip Reimer submitted a petition for adoption of a new state administrative rule. Mr. Reimer proposes adopting a new rule to require the labeling of individual vaping cartridges independent of the outside packaging labels. Mr. Reimer proposes these labels should identify the cartridges as either Sativa or Indica.

In the rule petition, Mr. Reimer states:

☒ **1. NEW RULE - I am requesting the agency to adopt a new rule.**

Require the labeling of individual vaping cartridges independent of the outside packaging labels. These labels should identify the cartridge as either Sativa or Indica.

☒ The subject (or purpose) of this rule is: _____

Currently the outer package is labeled but the cartridge is not.

☒ The rule is needed because: _____

Any and all purchasers of marijuana vaping cartridges.

☒ The new rule would affect the following people or groups: _____

Issue

Whether or not the Board should adopt a new rule section or amend an existing section in chapter 314-55 WAC to require marijuana processors to place individual labels directly on marijuana vaping cartridges to identify the marijuana concentrate contained in the vaping cartridges as Sativa or Indica.

Authority

RCW 69.50.342 authorizes the Board, among other things, to adopt rules regarding labeling requirements and restrictions on advertisement of marijuana, useable marijuana, marijuana concentrates, cannabis health and beauty aids, and marijuana-infused products for sale in retail outlets.

WAC 314-55-105(2) identifies standards that apply to all packaging and labelling of marijuana concentrates.

WAC 314-55-550 supports and furthers protection of public health by allowing for the prohibition of certain ingredients or certain vaping devices, and supports and furthers the prevention of youth access.

Analysis

Marijuana vaping cartridges are small devices filled with marijuana concentrates that attach to a small, pen-shaped holders containing a battery or power source, or a heating element, and produce heated marijuana vapor for inhalation. Cartridges are manufactured in a variety of styles and different forms, and are made primarily of metal, glass, and plastic. Cartridges are pre-manufactured items that are purchased ahead of time and then filled with marijuana concentrates by licensed marijuana processors. Some marijuana vaping cartridges may also be refilled by the consumer when the concentrate runs out.

When used as intended, the mouthpiece of the marijuana vaping cartridge is held to the user's mouth and the vaping pen is activated. The pen component applies intense heat to the marijuana concentrate inside the cartridge to atomize the concentrate into a vapor, which is inhaled by the user to consume the marijuana product.

In a non-exhaustive internet search of marijuana vaping cartridges, it appears that many cartridge manufacturers or producer licensees do not individually label marijuana vaping cartridges. Given their small size, streamlined design, exposure to heat, and contact with the user's mouth, it may not be feasible for marijuana processors to affix or emboss a label directly to the marijuana vaping cartridge. The exterior, child-resistant retail packaging of marijuana vaping cartridges provides significantly more space to label the product with accurate analysis information readily available to the consumer. A change to current rules would also be necessary for the LCB to inspect and approve all labelling on marijuana vaping cartridges.

Public Health and Safety Concerns

Marijuana vaping cartridges contain marijuana concentrates formulated by licensed marijuana processors that may contain mixed marijuana plant material from different strains, including both Indica and Sativa types of marijuana, and may contain proprietary blends of ingredients that may alter the effect of the product on the consumer. In addition, these marijuana concentrates may contain supplemental amounts of cannabidiol (CBD) derived from hemp produced outside the I-502 system and added to alter the chemical profile of the concentrate. Formulations containing additional CBD may also alter the effect of the product on the consumer. Some strains of marijuana used to produce concentrates are likely hybrid varieties, with a wide range of potency or other effects or traits selected for by marijuana plant breeders. While the Board has regulatory authority to require labeling of marijuana products, there is currently not a requirement for any marijuana products to be labeled as Sativa or Indica.

Petition for Rulemaking—

A label on a marijuana vaping cartridge designating either Sativa or Indica might be applied to a variety of product formulations, depending on the ingredients of the concentrate, and may possibly convey a false sense of certainty of the product's effects to the consumer.

Conclusion

Based on the small size and design of marijuana vaping cartridges, requiring labeling on marijuana vaping cartridges as Sativa or Indica may significantly increase regulatory burden while offering marginal benefit. Such labeling to indicate Sativa or Indica on a cartridge would present only limited information to the consumer that may be of little or no added value. Detailed information currently required on the outside packaging of marijuana vaping cartridges provides more specific detail than labeling the cartridge itself.

Recommendation

Director's Office staff recommends that consistent with RCW 34.05.330(1)(a)(i), the Board denies Mr. Reimer's rule petition request to require additional labeling on individual marijuana vaping cartridges, received on January 18, 2022, for the reasons described above.

Board Action

After considering the recommendation of Director's Office staff, the Board accepts/denies the petition received on January 18, 2022, from Mr. Reimer for the reasons stated herein.

_____ Accept _____ Deny

David Postman, Chair

Date

_____ Accept _____ Deny

Ollie Garrett, Board Member

Date

Attachments

1. Cover letter and rule petition from Phil Reimer dated January 18, 2022.
2. Acknowledgement of rule petition
3. RCW 69.50.342
4. WAC 314-55-105
5. WAC 314-55-550