



Washington State Liquor and Cannabis Board

To: David Postman, Board Chair
Ollie Garrett, Board Member
Russ Hauge, Board Member

From: Kathy Hoffman, Policy and Rules Manager

Date: September 15, 2021

Copy: Rick Garza, Agency Director
Toni Hood, Deputy Director
Justin Nordhorn, Policy and External Affairs Director
Chandra Brady, Director of Enforcement and Education
Becky Smith, Licensing and Regulation Director

Subject: Request for approval to rescind Board Interim Policy (BIP) 01-2017 concerning registered cooperatives purchasing direct from licensed producers.

Senate Bill (SB) 5052 passed during the 2015 legislative session, creating medical marijuana cooperatives that allowed up to four medical marijuana patients to grow marijuana for their own use. It also provided that medical marijuana patients and their designated providers could grow plants for personal medical use. However, SB 5052 did not provide a legal pathway for cooperatives, medical marijuana patients, or designated providers to acquire plants to grow in a cooperative or for personal medical use, and I-502 did not contemplate direct retail sale of marijuana plants to consumers. Legislation passed in 2016 allowed members of a registered cooperative to purchase plants from licensed marijuana producers but remained silent on the ability of other medical marijuana patients to acquire plants.

Engrossed Second Substitute Senate Bill (ESSB) 5131 passed during the 2017 legislative session amended several sections of chapter 69.50 RCW to allow members of a registered cooperative, qualifying patients and designated providers to purchase immature marijuana plants or clones and seeds directly from licensed producers, providing legal access to immature marijuana plants or clones and seeds. The bill became effective on July 23, 2017, and BIP 01-2017 provided guidance and clarity to licensed producers, members of registered cooperatives, qualifying patients, and designated providers about the requirements for sales of immature marijuana plants, or marijuana clones and seeds.

The policy went into effect on July 23, 2017, and was designed to end on the date rules became effective to implement the policy. To that end and to implement the legislation, WAC 314-55-075 was amended and new section WAC 314-55-417 was created concerning the sale of immature plants or clones and seeds from licensed producers to members of cooperatives, qualifying patients, and designated providers. The Board subsequently adopted the rules on October 31, 2018 as WSR #18-22-055, effective December 1, 2018. For these reasons, BIP 01-2017 is no longer necessary.

If the Board approves rescission of BIP 01-2017, the agency will send notice to stakeholders, and remove the BIP from the LCB website.


The Board approves/disapproves the rescission of BIP 01-2017.

☒X

Approve

☐

Disapprove


David Postman, Chair

9.15.2021
Date

☒X

Approve

☐

Disapprove


Ollie Garrett, Board Member

9.15.2021
Date

☐

Approve

☐

Disapprove

Not Present
Russ Hauge, Board Member

9.15.2021
Date



Liquor and Cannabis Board Revised Interim Policy BIP-01-2017

Subject: Registered Cooperatives Purchasing Direct from
Licensed Producers

Effective Date: July 23, 2017

Ending Date: Upon adoption of rules to implement this policy.

Approved:



Jane Rushford, Chair



Ollie Garrett, Board Member



Russ Hauge, Board Member

Purpose:

When SB 5052 passed during the 2015 legislative session, it created medical marijuana cooperatives allowing up to four patients to grow medicinal marijuana for their own use and included provisions for medical marijuana patients and their designated providers to grow plants for personal medical use. However, the bill did not provide a legal pathway for cooperatives, medical marijuana patients, or designated providers to acquire plants to grow in a cooperative or for personal medical use. Additionally, I-502 did not allow for the retail sale of plants directly to consumers. Legislation was passed in 2016 to allow members of a registered cooperative to purchase plants from licensed marijuana producers, but remained silent on the ability of other medical marijuana patients to acquire plants.

ESSB 5131 was passed by the Legislature in the 2017 session and amends several provisions in chapter 69.50 RCW to allow members of a registered cooperative, qualifying patients and designated providers to purchase immature marijuana plants or clones and seeds directly from licensed producers to provide legal access to marijuana immature plants or clones and seeds. The bill becomes effective July 23, 2017. This interim policy provides guidance and clarity to licensed producers, members of registered cooperatives, qualifying patients, and designated providers for the requirements for sales of marijuana immature plants or clones and seeds.

Policy Statement

(1) For the purpose of this Interim Policy, the following definitions apply as provided in ESSB 5131 as passed by the Legislature:

(a) "Designated provider" has the same meaning as provided in RCW 69.51A.010.

(b) "Immature plant or clone" means a marijuana plant or clone that has no flowers, is less than 12 inches in height, and is less than 12 inches in diameter.

(c) "Qualifying patient" has the same meaning as provided in RCW 69.51A.010.

(2) Medical marijuana patients who enter into the medical marijuana authorization database established and maintained by the Department of Health, receive a recognition card, and are members of a cooperative that has been granted a registration by the Washington State Liquor and Cannabis Board (WSLCB) may purchase immature plants or clones and seeds to be grown in the cooperative from a licensed marijuana producer.

(a) Members of a cooperative who wish to purchase plants from a licensed producer must provide proof of identification as provided in WAC 314-55-150, a valid recognition card, and a copy of the letter from the WSLCB confirming the person is part of a registered cooperative to be able to purchase immature plants or clones and seeds from a licensed producer.

(3) Qualifying patients and designated providers who hold a valid unexpired recognition card and have been entered into the medical marijuana authorization database established and maintained by the Department of Health, may purchase immature plants or clones and seeds from a licensed marijuana producer.

(a) Qualifying patients and designated providers who wish to purchase plants from a licensed producer must provide proof of identification as provided in WAC 314-55-150 and a valid unexpired recognition card to be able to purchase immature plants or clones and seeds from a licensed producer.

(4) Licensed producers must adhere to the requirements of WAC 314-55-083 when allowing entry to the licensed premises and conducting the sales with members of a registered cooperative, qualifying patients, and designated providers.

(5) Due to the 24-hour waiting period required under WAC 314-55-083 for all transfers of marijuana plants, members of a registered cooperative, qualifying patients, and designated providers who wish to purchase plants from a licensed producer must contact a licensed producer they wish to purchase from at least 24 hours in advance of arriving at the licensed producer's place of business to ensure the producer has immature plants or clones or seeds available for sale and to allow for the required waiting period to pass prior to physically taking possession of marijuana plants, clones, or seeds to be purchased.

(6) Qualifying patients, designated providers, and a member of a registered cooperative listed on the letter from WSLCB confirming the registration of the cooperative must

personally go to the licensed producer to complete the purchase and transfer of any marijuana plants purchased.

(7) The physical transfer of immature marijuana plants or clones and seeds must take place on the premises of the licensed producer. Deliveries of marijuana plants by a licensed producer to members of a cooperative, qualifying patients, or designated providers are prohibited.

(8) Members of registered cooperatives, qualifying patients, and designated providers are limited to purchasing no more than the maximum amount that the medical marijuana patient's authorization form allows of any combination of immature plants or clones and seeds in a single sale or cumulative sales within a calendar month. It is the responsibility of the member of the registered cooperative, qualifying patient, or designated provider to ensure that they possess no more than the maximum number of plants allowed under their authorization forms and as provided in Chapter 69.51A RCW.

(9) Sales tax applies to sales of immature plants or clones and seeds by licensed producers to members of a registered cooperative. The marijuana excise tax does not apply to sales of immature plants or clones and seeds.