



Vapor Products and Public Health

House Commerce and Gaming Committee

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Presentation Overview

- Current legal landscape
- Current regulatory landscape
- Licensing
- Enforcement
- Online sales
- Legislative history
- Executive order and implementation
- Next steps
- System gaps



Current Legal Landscape

Cannabis Vapor Products

- LCB has comprehensive regulatory authority
 - Licensing over producers, processors and retailers
 - Enforcement of laws and rules
 - Track products from production to retail sale
 - Lab certification and product testing
 - Restrictions on products and packaging/labeling

Vapor Products (non-THC)

- Very limited regulatory authority
 - Limited licensing
 - Youth compliance checks (sales to minors)
 - No regulation over ingredient listing
 - No required testing
 - No seizure authority



Fields of Cannabis Testing

Current Testing Requirements

Required

- Moisture
- Water activity
- Potency
- Foreign matter inspection
- Microbiological testing
- Mycotoxin
- Residual solvents

Optional (must also be certified to test for each)

- Heavy metals
- Pesticides



Current Regulatory Landscape

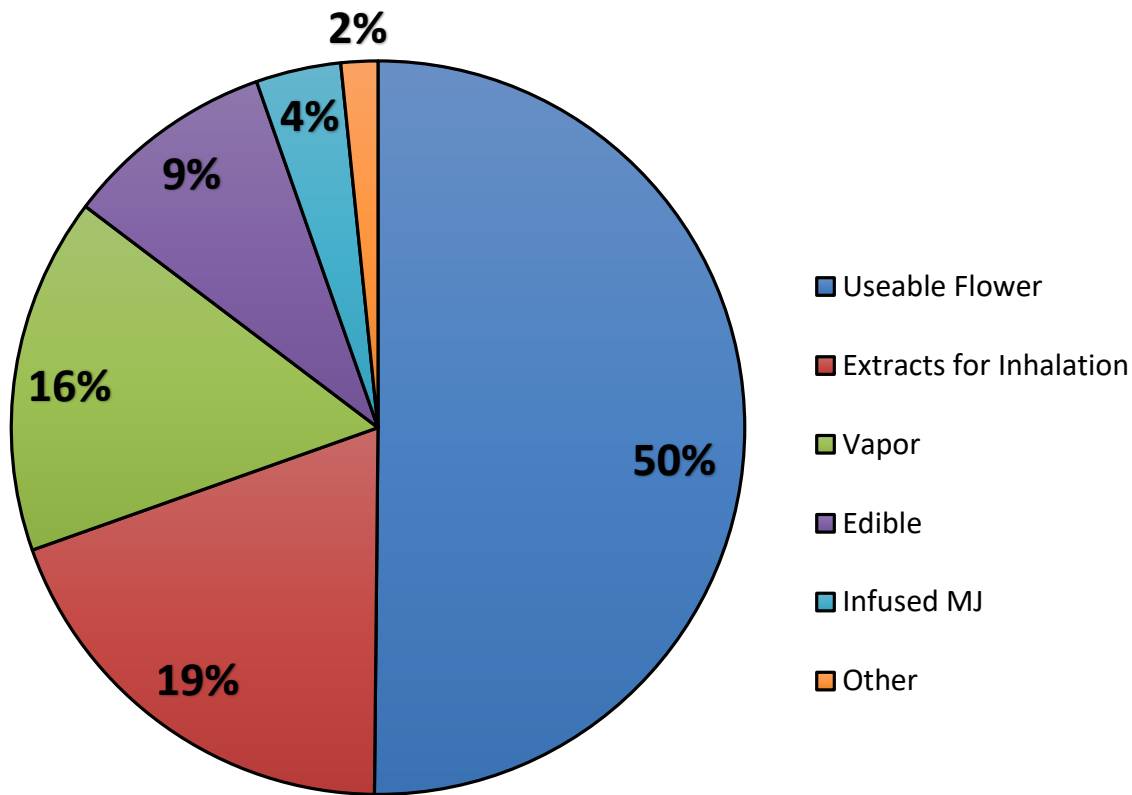
Cannabis Licenses (Total = 1,836)

- Producer/Processor 971
- Producer 149
- Processor 233
- Retailers 483

Vapor Products (non-THC) Licenses

- Distributors 281
- Retailers 3, 653

Cannabis Product Types





Licensing Requirements

Cannabis Licensing Requirements

- Criminal history investigation
 - All parties, including spouses
 - FBI background checks
- Financial background investigation
 - Identifies source of funds
- Six-month residency requirement
 - Entity must be formed in Washington State
- Property must be more than 1,000' from: schools, child care centers, transit centers, game arcades, libraries, playgrounds, public parks.

Vapor Products (non-THC) Licensing

- Criminal history



Enforcement

Cannabis Enforcement

- 28 cannabis enforcement officers
 - Target – 3 compliance checks annually per retail licensee for sale to minors (483 retailers)
 - 2018 -- 1,265 compliance checks, 51 minor sales (96%)
 - 2019 YTD -- 879 compliance checks, 39 minor sales (95%)

Vapor Product (non-THC) Enforcement

- 5 vapor enforcement officers
 - 3653 vapor product retailers (non-cannabis)
 - FY 2017-18 – 880 checks with 136 sales (85%)
 - FY 2018-19 – 856 checks with 123 sales (86%)



Vapor Product (non-THC): Online Sales

Enforcement Challenges

- Most online sellers don't have a state distributor license
- Most online sellers located out of state
- Many lack safeguards (age verification) to prevent underage sales

Enforcement Focus

- LCB enforcement focused on tax evasion and underage sales
- 25% of five officers time devoted to internet enforcement
- Officers contact them to communicate they need:
 - A state Distributor license
 - To pay applicable taxes
 - Implement safeguards to prevent underage sales



Vapor Product (non-THC): Legislative History

2016

- ESSB 6328 (Concerning Vapor Products)
 - Creates vapor licenses
 - Restricts online sales to prevent youth access
 - Restricts consumption within 500' of schools

2019

- ESHB 1873 (Vapor Product Taxation)
 - Creates wholesale tax on vapor products
 - Creates Foundational Public Health Services Account
 - Authorizes Governor to compact with tribes regarding vapor taxes
- EHB 1074 (Tobacco 21)
 - Restricts sales of cigarettes, other tobacco products to persons 21 and over
 - Restricts entry to vapor retail stores and vapor tasting events to age 21
 - Authorizes Governor to compact with tribes regarding raising minimum age of sales to 21



LCB's Actions to Address Public Health

Action Prior to Executive Order

- As soon as deaths and illnesses linked to vapor products, LCB acted:
- Coordinated with Governor's Office and affected agencies immediately.
- Convened internal meetings starting 9/10
- Convened industry meetings: 9/13 and 9/20
 - Better understand processing of vapor products
 - Coordinate Marijuana Vapor Product Ingredient Disclosure form



Executive Order

- Executive Order 19-03 issued September 27
Addressing the Vaping Use Public Health Crisis
- State Board of Health adopted emergency rules into
Chapter 246-80 WAC on October 9
Flavored vapor products banned effective October 10



LCB's Responsibilities

- Consumer warnings
- Ingredient disclosure (Cannabis licensees only)
- Enforcement of bans
- Immediately ban identified causes of the outbreak
 - Vitamin E acetate
- Legislation



Board Actions

Date	Action	Explanation
10/16/19	Emergency rule adopted during regular Board meeting.	Consumer warning sign required at cannabis retail licensees.
10/16/19	Emergency rule adopted during regular Board meeting.	Marijuana Vapor Product Ingredient Disclosure form required.
10/23/19	Emergency rule adopted during special Board meeting	Penalty structures for licensees violating flavor ban, warning sign and disclosure form.
10/30/19	CR-102 on Marijuana Packaging and Labeling rules proposed during regular Board meeting.	Marijuana Vapor Product Ingredient Disclosure form requirement integrated here; specifies same items need to be listed on packaging.
10/30/19	Board Interim Policy 15-2019 approved during regular Board meeting.	For a limited time, allows licensed marijuana retailers to return flavored marijuana concentrates for inhalation and flavored marijuana extracts for inhalation to licensed marijuana processors for credit against future purchases of marijuana products.



Steps Taken

**Consumer
Warnings**
available immediately
9/27



Washington State
Liquor and Cannabis Board



WARNING

Severe lung injuries, including deaths, have recently been linked to vapor products.

Marijuana vapor products have been linked to most patients but nicotine vapor products may still play a role in this outbreak.

The Department of Health recommends you:

- Do not use vapor products containing marijuana.
- Strongly consider refraining from using vapor products that contain nicotine.
- Do not buy any vapor products off the street.
- Do not modify or add any substances to vapor products not intended by the manufacturer.

For more information on this issue or to learn more about how to quit vaping, go to the Department of Health website: doh.wa.gov/VapingLungInjury.



Steps Taken: Cannabis Licensees

Ingredient Disclosure

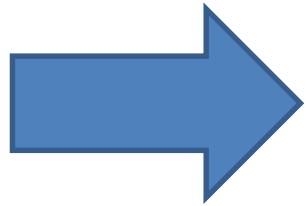
- Emergency rule passed 10/16
- 213 received as of 11/15
- 12/1 deadline
- Web-based solution in development

Immediately Ban Identified Cause/s of Outbreak

- Recall processes and procedures are established in rule; invoked for Vitamin E acetate on 11/18
- Disclosure form will help LCB identify products that may contain substance(s) connected to outbreak.



Maximize Compliance



Maximize public health benefit

- Inter-agency communications to licensees key
- Educationally-focused outreach/visits by LCB officers
- Goal: Visit all **4,100+** licensees by Thanksgiving (**483** THC + **3,653** vapor)
- Mostly in compliance



Steps Taken: Enforcement

Cannabis

- 359 visited as of 11/18
- Most are in compliance when arrive (98%)
- Processor visits begin 12/1
- Graduated enforcement

Vapor Products (non-THC)

- 2730 visited as of 11/18
- Most are in compliance (94%)
- Began revisits to non-compliant stores 11/12 and those for whom we had community complaints
- Emergency rules for vapor (penalties)



Working Closely with State Partners

- Weekly calls for planning and coordination
- Co-branded materials with Department of Health
- Email to Cannabis Licensees
- Email to many vapor product licensees; hard copy mailer to all vapor and tobacco licensees
- Department of Ecology flyer on safe disposal
- Department of Revenue flyer on inventory tax credit
- Posting materials on [LCB Vapor and Public Health](#) website
- Actively communicating with licensees and public on messaging with Department of Health



LCB Website

For Public

- CDC guidance

For Licensees

- 4 ways to dispense of product
- Allowed and not allowed guidance
- Separate info for Cannabis and Non-THC Vapor Products
- Enforcement

What's New
Vapor and Public Health
CDC Recommendations for the Public
Ban on Flavored Vapor Products Effective 10/10/19
Cannabis Licensees
Tobacco and Vapor Licensees (non-THC)
Tobacco and Vapor Age of Sale Goes to 21 on 1/1/2020
Vapor Tax Effective Oct. 1



Next Steps

- Continued coordination with agencies
- Licensee education (all stores by Thanksgiving)
- Continue clarifying information on website
- Penalties if needed after education
- Web-based Marijuana Vapor Product Ingredient disclosure
- Consider additional measures needed to address vitamin E acetate in the cannabis marketplace



Vapor Product System Gaps

Context

- LCB role in tobacco tax compliance
 - Tax compliance on behalf of the Department of Revenue
 - Tobacco tax enforcement funded at \$2.5 million per biennium
 - Taxes collected -- \$50 million+ since 2015

Funding

- Recently assigned enforcement role in vapor products – unfunded
- Estimated enforcement costs: \$2.1 million for 2019-21 biennium
- Revenue estimates for E2SHB 1873 need review

Regulatory

- Currently reviewing options for 2020 legislation



Washington State Liquor and Cannabis Board

Questions?