

## Cannabis Business Blog

# Modifications to Help Liquor and Cannabis Board Licensees During COVID-19

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On Tuesday, March 17, 2020, the Washington State Liquor and Cannabis Board (LCB) published temporary modifications in an effort to help licensees weather mandated closures or other business interruptions during COVID-19.

Below we provide a summary of these temporary modifications and guidance on how to take advantage of them:

### **Alcohol distributors may accept product returns from and issue refunds to alcohol retailers.**

Distributors must email Lieutenant Robert Knowles at [robert.knowles@lcb.wa.gov](mailto:robert.knowles@lcb.wa.gov) the license number(s) of the alcohol retailer and the product returned.

This temporary modification does not affect the existing ban on exchanging product, which prohibits distributors from exchanging product currently held by a retailer for new or different product.

### **Alcohol licensees may offer curbside service and delivery to customers.**

- Some licensees already have “to-go” or “off-premises privileges.” For these licensees, simply submit the Temporary Delivery and Curbside Service Form to the LCB.
- For licensees who do not have off-premises privileges, you must file both an Application for Added Endorsement, and Temporary Delivery and Curbside Service form with the LCB.

Please note: The LCB is working with local jurisdictions to waive the usual 20-day (or more) waiting period that would otherwise apply in this circumstance. As such, the required waiting period to obtain these temporary privileges may vary by local jurisdiction.

The exchange of product must still take place within the boundaries of the “licensed property.” For example, once the LCB approves your temporary curbside service request, you could be permitted to deliver product to a customer in your parking lot even though the licensed

premises technically stops at the door.

**Cannabis retailers may offer curbside services to qualified patients or their designated providers.**

Please be clear on this point: Cannabis retailers may stay open as long as they implement appropriate social distancing measures.

Curbside service does not include the use of drive-through windows.

As with alcohol licensees, the exchange of product must still take place within the boundaries of the licensed property.

To the extent a licensee would be required to file a form or application with the LCB to take advantage of these temporary modifications in an effort to increase revenues during this time, Foster Garvey is offering a flat fee for many of these services. It is our goal to help clients manage these difficult times by taking full advantage of every available modification.

For additional resources relating to the LCB's response to COVID-19, you may visit the [coronavirus section of the LCB's site](#). And as always, if we can be of any assistance to you at this time, please know that our team is here for you.

**Warning Regarding Federal Law:** The possession, distribution, and manufacturing of marijuana is illegal under federal law, regardless of state law which may, in some jurisdictions, decriminalize such activity under certain circumstances. Penalties for violating federal drug laws are very serious. For example, a conviction on a charge of conspiracy to sell drugs carries a mandatory minimum prison term of five years for a first offense and, depending on the quantity of marijuana involved, the fine for such a conviction could be as high as \$10 million. In addition, the federal government may seize, and seek the civil forfeiture of, the real or personal property used to facilitate the sale of marijuana as well as the money or other proceeds from the sale. Although the U.S. Department of Justice (DOJ) recently rescinded its guidance regarding prioritization of criminal prosecutions of individuals and entities operating in compliance with effective state regulatory systems, DOJ left in place long standing guidance to federal prosecutors regarding how to exercise this discretion. Individuals and companies are cautioned to consult with experienced attorneys regarding their exposure to potential criminal prosecution before establishing business operations in reliance upon the passage of state laws which may decriminalize such activity. Federal authority to prosecute violations of federal law as crimes or through seizures and forfeiture actions is not diminished by state law. Indeed, due to the federal government's jurisdiction over interstate commerce, when businesses provide services to marijuana producers, processors or distributors located in multiple states, they potentially face a higher level of scrutiny from federal authorities than do their customers with local operations.

**Tags:** alcohol distributors, alcohol licensees, alcoholic beverage industry, cannabis retailers, COVID-19, Washington Liquor and Cannabis Board, WLCB