

Cannabis Business Blog

Washington State Liquor Control Board Rules Now Prohibit Marijuana Consumption in Liquor Licensed Premises: Implications for Licensed Hotel Properties

By Jared Van Kirk on 12.19.14 | Posted in Cannabis, Garvey Schubert Barer, Hotel Guest Room Privacy, Hotels, Washington

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Since Washington voters passed I-502 in 2012, there has been much discussion concerning how hoteliers should respond to guests who seek to use (or are caught using) marijuana on a hotel property, either in a public area or in a guest room. Could a hotel even promote itself as friendly to marijuana tourists?

Use of marijuana in view of the general public remains illegal under [state law](#) and Liquor Control Board [regulations](#) have long required liquor licensees to conduct their licensed premises in compliance with such state drug laws. Allowing guests to smoke anything, including marijuana, in public spaces may also violate public smoking laws and smoke-free workplace laws. So, it was fairly clear that guests could not use marijuana in the public areas of a hotel, and a hotel could not allow guests to use marijuana (smoked or otherwise) in any public place. But that left open the question of whether a hotel could allow guests to use marijuana in smoking-friendly rooms, either explicitly or simply by taking no affirmative action against use of marijuana in guest rooms.

[Amended Liquor Control Board rules](#) that went into effect earlier this year appear to answer this question with respect to properties with hotel liquor licenses. [WAC 314-11-015](#) addresses the responsibilities of all liquor licensees, including hotel licensees. The amendments state that licensees and their employees may not:

Engage in or permit any employee or other person to engage in the consumption of any type of marijuana, usable marijuana, or marijuana-infused products in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee.

or

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Permit any person consuming, or who has consumed within the licensed premises, any type of marijuana, usable marijuana, or marijuana-infused products to remain on any part of the licensed premises.

“[Licensed premises](#)” includes all areas under the legal control of the licensee and available to or used by customers, which would include guest rooms.

It is unclear whether the Liquor Control Board intended these amendments to require hotels with premises licenses to exclude marijuana use in guest rooms and require licensed hotels to remove patrons who have used marijuana in guest rooms. However, as written, the amended rule states that a hotel licensee may not permit any person to consume marijuana in any part of the property owned or controlled by the licensee nor remain on any part of the licensed premises after consuming marijuana on the licensed premises. The letter of these rules require licensed hotels to prohibit use of marijuana in all areas of their property, including guest rooms, and to remove patrons who are found to have consumed marijuana on their property.

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: Cannabis, Marijuana, recreational marijuana, WSLCB