



## Washington State Liquor Control Board Meeting

Wednesday, May 28, 2014, 10:00 a.m.  
LCB Headquarters Building  
3000 Pacific Avenue SE, Olympia WA 98501

### Meeting Minutes

#### 1. CALL TO ORDER

Chair Sharon Foster called the regular meeting of the Washington State Liquor Control Board to order at 10:00 a.m. on Wednesday, May 28, 2014. Member Ruthann Kurose and Member Chris Marr were also present.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Kurose moved to approve the May 21, 2014, meeting minutes.

SECOND: Member Marr seconded.

ACTION: Motion passed unanimously.

#### 3. ACTION ITEMS (A-B)

##### **ACTION ITEM 3A - Board Adoption of Emergency Rule for Good Laboratory Practice Check List**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUTS 1-2). She provided a brief background noting that this emergency rule is needed to set in place the standards that must be met by third party laboratories that wish to test marijuana for the recreational marijuana market. The emergency rule is necessary for the preservation of the public health, safety, and general welfare. The rule will become effective upon filing with the Code Reviser's Office and will expire September 25, 2014, 120 days after filing.

Ms. McCall will be asking the Board to file a CR 101 on June 11, 2014, for a rulemaking to include revisions to marijuana rules in Chapter 314-55 WAC which will include this rule as well as rules to implement 2014 legislation.

## Timeline

May 28, 2014 Board is asked to approve filing the emergency rule  
May 28, 2014 Emergency rules becomes effective  
Sept. 25, 2014 Emergency rule expires

Ms. McCall requested approval from the Board to adopt the emergency rule.

**MOTION:** Member Kurose moved to approve the adoption of the Emergency Rule for Good Laboratory Practice Check List.

**SECOND:** Member Marr seconded.

**ACTION:** Motion passed unanimously.

### **ACTION ITEM 3B - Board Approval to File (CR 102) for Responsible Vendor Program (RVP)**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUTS 1-3). She provided a brief background noting that during the March 12, 2014, Board meeting Kim Sauer, the MAST/RVP Supervisor, provided the Board with information and statistics on the Responsible Vendor Program. Ms. Sauer also asked the Board for approval to open rulemaking to extend the RVP to beer and wine retailers. The proposed rules create a new section for off-premises beer and wine retailers to be included in the Responsible Vendor Program.

The RVP was established in Initiative 1183. It is a free, self-monitoring, and voluntary program that rewards retailers that take positive steps to ensure alcohol is sold responsibly. We currently offer the RVP only to spirits retailers. More than 65% of the spirits retailers have joined the program. Retailers participating in the program produced the highest compliance rates at 94.5%. During fiscal year 2013, off-premises beer and wine retailers produced the lowest compliance rates at 79%.

The components of the RVP include the following actions by the licensee:

- Establish and enforce an in-house alcohol policy
- Post signs to deter illegal purchases by patrons
- Train employees on responsible liquor sales such as acceptable forms of ID, how to check ID, and consequences of selling alcohol illegally. Employee training is required annually.
- Maintain employee training records for inspection
- Post the RVP member certificate at the main entry of the premises

There are more than 5,000 off-premises beer and wine retailers. Making the RVP available to this large number of retailers is a positive step to ensure alcohol is sold responsibly.

## Proposed Changes

Amended Section: WAC 314-02-108 - Responsible vendor program. Added language to clarify this section is for spirits retail licensees.

New Section: WAC 314-02-1081 - What is the responsible vendor program for beer and wine retail licensees selling beer and wine for off-premises consumption? Created a new section specifically for off-premises beer and wine retail licensees. The section includes the following information for off-premises beer and wine licensees:

- How to become a responsible vendor;
- What a licensee must do to qualify for the responsible vendor program;
- Employee training standards;
- How a licensee maintains the responsible vendor certification; and
- The sanctions when a licensee violates liquor laws or regulations.

#### Timeline

May 28, 2014 Board is asked to approve filing the proposed rules (CR 102 filing)  
June 18, 2014 Code Reviser publishes notice - LCB sends notice to rules distribution list  
July 9, 2014 Public hearing held  
July 9, 2014 End of written comment period July 16, 2014  
July 16, 2014 Board is asked to adopt rules  
July 16, 2014 Agency sends notice to those who commented  
July 16, 2014 Agency files adopted rules with the Code Reviser (CR  
Aug. 16, 2014 Rules are effective (31 days after filing)

Ms. McCall requested approval from the Board to file proposed rules.

MOTION: Member Kurose moved to approve filing (CR 102) for the Responsible Vendor Program (RVP).

SECOND: Member Marr seconded.

ACTION: Motion passed unanimously.

#### **4. PUBLIC HEARINGS (A-B)**

##### **PUBLIC HEARING 4A - Penalty Assessments on Late Payments**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUTS 1-6). She provided a brief background noting that this rule making necessary because postmarks are often absent on mail. Bar codes have replaced postmarks in most cases. Current rules on how penalties will be assessed on late payments revolve on the postmark on the envelope. Language is needed in LCB rules to explain to licensees how penalties will be assessed on late payments when there is no postmark on the envelope.

#### Proposed Changes

Amended Section: WAC 314-02-109 - What are the quarterly reporting and payment requirements for a spirits retailer license? Added the following language; "Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed."

Amended Section: WAC 314-19-020 - What if a licensee doesn't report or pay the taxes due, or reports or pays late? (for wine and beer) Added the following language; "Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed."

Amended Section: WAC 314-23-022 - What if a distributor doesn't report or pay the taxes due, or reports or pays late? Added the following language; "Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed."

Amended Section: WAC 314-23-042 - What if a certificate of approval doesn't report or pay the taxes due, or reports or pays late? Added the following language; "Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed."

Amended Section: WAC 314-28-080 - What if a distillery or craft distillery licensee fails to report or pay, or reports or pays late? Added the following language; "Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed."

Chair Foster opened the public hearing and invited the first citizen to the podium to provide comments.

No comments were offered and Chair Foster closed the public hearing.

#### **PUBLIC HEARING 4B - Revisions to Brief Adjudicative Proceedings (BAP) Rules**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUT(S)1-2, 3). She provided a brief background noting that this rule making is necessary as the Administrative Procedures Act (RCW 34.05.482) gives agencies the ability to utilize an abbreviated administrative hearing process, the Brief Adjudicative Proceeding (BAP), where the issues or interests involved do not warrant use of full adjudicative procedure. The Board adopted rules for Brief Adjudicative Proceedings in November 2012. Revisions to the rules are needed to include marijuana application denials and suspensions in the BAP.

#### Proposed Changes

Amended Section: WAC 314-42-110 - Brief adjudicative proceedings. Added new sections for marijuana license denials and suspensions to the list of issues where a brief adjudicative proceeding may be conducted.

Amended Section: WAC 314-42-115 - Preliminary record in brief adjudicative proceedings. Added sections for what the preliminary record shall consist of for marijuana license denials and suspensions.

Chair Foster opened the public hearing and invited the first citizen to the podium to provide comments.

No comments were offered and Chair Foster closed the public hearing.

Member Marr then asked if an appellant will always have the option to choose a BAP over a full administrative hearing?

Alan Rathbun, Licensing & Regulations Director, said the rule process is to set up a permissible use of the adjudicative proceedings after the denial of a license. Depending on the facts of each case we will offer a BAP or a full adjudicative process with a judge.

Chari Foster noted there is a big difference in time between the two processes.

Member Marr added that the Board, as a judicial body, is not allowed to get involved in the specifics of a denial or an action as it goes through the process of a BAP or an administrative hearing.

Name - Phil Wayt, Representing NW Producers/Processors Association

Mr. Wayt did want to make a comment regarding BAPs asking if the BAP option will apply to the segment of applicants that were denied the marijuana retail lottery process?

Alan Rathbun, Licensing & Regulations Director, said yes, that they would be allowed to participate in the BAP process and would be receiving a letter soon.

## **5. WEEKLY MARIJUANA LICENSING UPDATE**

Becky Smith, Marijuana Licensing & Regulations Manager, provided the weekly licensing highlights including:

Issued Licenses (as of 4:00 pm, May 27, 2014)

43 licenses have been issued (increase of 3 from last week):

- 35 Producer/Processor
- 7 Producer
- 1 Processor

0 licenses are pending final processing by CS

10 licenses are pending payment:

- 6 Producer/Processor
- 3 Producer
- 1 Processor

Plant canopy:

- Licensed - 348,784 square feet
- Including licenses pending payment or final processing - 365,484 square feet

Final Inspections

91 applications have been referred to Enforcement for final inspections:

- 52 are complete
- 6 needs follow up inspection

- 13 are scheduled for inspection
- 12 are waiting for applicant to finish build
- 8 are awaiting scheduling

7 more applications will be referred to enforcement for final inspection this week

Producer, Processor, Producer/Processor

2239 applications have been assigned - 12 new ones assigned since last week

19 Licensing investigators:

- 13 Investigators working just non-retail files
- 1 Investigator working primarily retail files
- 5 Investigators are working both retail and non-retail files

Average case load of 117.8 per Licensing Investigator (open/active applications):

- 619 applications have not yet been assigned to an Investigator

Retail applications:

- 176 Retail applications have been assigned to 6 investigators
- 158 Retail applications yet to be assigned

Ms. Smith noted that we will not be working applications in areas with moratoria or bans at this time.

The Board members each informed Ms. Smith that her weekly reports have been very well received as they have been visiting stakeholders from around the state and disseminating the statistics. They continue to find that people want the detailed information and they thanked her and her staff for their efforts to pull this information together each week.

**6. STAKEHOLDER PRESENTATION - Impact of I-1183 (Research Study)**

Dr. Linda Becker, DSHS Division of Behavioral Health & Recovery, provided a report to the Board on the Impact of Washington State Initiative 1183 (HANDOUT 1). She first noted that this is an interim report and the study will continue for another year and they look forward to coming back to the Board at that time with the final results. She then acknowledged the many partners from across the state who supported the study and she noted that it was funded by Public Health Law Research which is a national program of the Robert Wood Johnson Foundation. They hope the research will help guide policy decisions.

Dr. Becker's overview of the report highlighted the following:

- Change in the law
- Compliance rates
- Methods used
- Timeframes
- Laws and policies
- Model for change
- Change in distribution environment

Change in consumption  
Alcohol consumption and predictors of consumption  
Youth surveys  
Revenue benefits (working closely with LCB and DOR)  
Impacts:

- Emergency department visits
- Alcohol thefts
- DUI and alcohol-related fatal crashes

Next data to be released in December 2014 includes:

- Hospitalization
- Deaths
- Births
- Traffic
- Crime
- Alcohol treatment
- Sexually transmitted disease
- Updated adult consumption

Dr. Becker noted that they are also comparing Washington's data with Oregon's data to capture trends. These comparisons will be represented in the final report as well as updated consumption indicators.

Member Marr noted that there is a major study that reflects that in the (16) states that have medical marijuana there has been a decrease in alcohol consumption and DUIs. He asked if Dr. Becker's study will eventually reflect that type of data.

Dr. Becker said yes. They are currently adding marijuana related questions to the young adult survey although she noted that it is a complicated question to ask.

Member Kurose asked if the report reflects whether kids are drinking at an earlier age.

Dr. Becker said that it does not. The average age remains at 13 ½ years but they are unsure why.

The Board thanked Dr. Becker for her presentation.

## **7. NEW BUSINESS/OLD BUSINESS**

No new or old business reported.

Chair Foster invited citizens to address the Board regarding any issue(s) related to LCB business.

### Kathy Hartwell - Kitsap County Citizen

Ms. Hartwell raised concerns about I-502 retail stores and the lottery process. She stated that the information reflected on the current public spreadsheets is not up to date and wanted know if those spreadsheets will be updated so applicants will know their status in the lottery.

Becky Smith, Marijuana Licensing & Regulations Manager, responded that the public spreadsheets will be updated when the information is available.

Ms. Hartwell then suggested that successful applicants that made it into the lottery that did not have valid locations be treated as if they were never in the lottery and not allowed to find an alternate location. This is unfair to the people that had valid locations.

Ms. Smith said that if we find that an applicant's location was invalid that we would move to denial.

Mary McKnew - Marijuana Applicant

Ms. McKnew expressed concern about the current BioTrack traceability system noting that it is not American's with Disability Act (ADA) compliant in terms of technology. She said she has been working with LCB staff and BioTrack staff but with no success. She is concerned about the 15 day window to access the traceability system after a licensee pays (which they have) but they are unable to access the system via the ADA program. She said that BioTrack has not been helpful in hearing nor implementing their ideas to improve the system. She stated that these systems do exist and are accessible and she doesn't understand why they are not be used as models. She asked that the LCB hire someone that is an expert in this area.

Dave Brown - Marijuana Applicant

Mr. Brown also expressed frustration about the current BioTrack traceability system noting that the ADA requirements have not been met. He is unable to provide or extract data. He understands that because the technology was not built into the original system that it will be very expensive to implement it now but it must be done.

Mr. Brown does not want to lose the opportunity to have a role in this industry.

Member Marr asked what specifically they would like in terms of accommodation compliance in the traceability system.

Mr. Brown said the primary challenge is around the system having a graphic interface versus a keyboard interface. The only solution BioTrack has implemented so far is the ability to wave your cursor over an icon and it will announce what it is. But if you are unable to see the screen this is not useful. He added that as a vendor he needs to be able to meet the requirements that the state has set up and he is unable to do that. He believes he should be offered an alternative to provide his information.

**ADJOURN**

Chair Foster adjourned the meeting at 11:10.

Minutes approved this 4<sup>th</sup> day of JUNE, 2014



Sharon Foster  
Board Chair



Ruthann Kurose  
Board Member



Chris Marr  
Board Member

Complete meeting packets will be available online following each meeting: <http://www.liq.wa.gov/board/board-information>