



# Washington State Liquor Control Board

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## Washington State Liquor Control Board Meeting

Wednesday, October 1, 2014, 10:00 a.m.  
LCB Headquarters Building - Board Room  
3000 Pacific Avenue SE, Olympia WA 98501

### Meeting Minutes

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#### 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, October 1, 2014. Member Ruthann Kurose and Member Chris Marr were also present.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Marr moved to approve the September 24, 2014, meeting minutes.

SECOND: Chair Foster seconded.

ACTION: Motion passed unanimously.

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

##### **ACTION ITEM 3A - Board Adoption of Revised Interim Policy 04-2014 for Caterer's License**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUT 3A 1). She provided a brief background noting that this rulemaking is the result of ESHB 2680 which passed in the 2014 legislative session creating a Caterer's License. An interim policy is required until permanent rules are adopted by the Board.

Ms. McCall then requested approval from the Board to adopt the revised interim policy.

MOTION: Member Kurose moved to adopt the revised Interim Policy 04-2014 for Caterer's License.

SECOND: Member Marr seconded.

ACTION: Motion passed unanimously.

### **ACTION ITEM 3B - Board Approval to File Supplemental (CR 102) for Caterer's License**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUTS 3B 1-3). She provided a brief background noting that this rulemaking is the result of legislation that passed in the 2014 legislative session - ESHB 2680 Caterer's License. She noted that a public hearing was held on September 10, 2014, for the caterer's license rulemaking. Comments received at the public hearing as well as written comments received from Representative Larry Springer, the sponsor of ESHB 2680, requires the Board to revise the proposed rules to meet the intent of the law.

#### Proposed Changes

New Section: WAC 314-02-112 - What is a caterer's license? Explains the requirements for the caterer's license and the activities allowed under the license. Requires the applicant to hold a "commissary kitchen" license issued by the city or county and the ability to prepare meals.

#### Timeline

October 1, 2014	Board is asked to approve filing the proposed rules (CR 102 filing)
October 15, 2014	Code Reviser publishes notice - LCB sends notice to rules distribution list
November 5, 2014	Public hearing held
November 5, 2014	End of written comment period
November 12, 2014	Board is asked to adopt the rules
November 12, 2014	Agency sends notice to those who commented
November 12, 2014	Agency files adopted rules with the Code Reviser (CR 103)
November 13, 2014	Rules are effective (31 days after filing)

Ms. McCall requested approval from the Board to file a Supplemental CR 102.

MOTION: Member Kurose moved approve filing the supplemental (CR 102) for Caterer's License.

SECOND: Member Marr seconded.

ACTION: Motion passed unanimously.

### **ACTION ITEM 3C - Board Approval to File Supplemental (CR 102) for Wine & Cider Growlers & Multiple Licenses Under the Same Ownership at a Single Location**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUTS 3C 1-6). She provided a brief background noting that this rulemaking is the result of legislation passed in the 2014 legislative session - SHB 1742 Wine Growlers and SSB 6442 Cider Growlers. She noted that a public hearing was held on September 10, 2014, for the wine and cider rulemaking. Written comments received from stakeholders prompted the revisions to the proposed rules.

#### Proposed Changes

Revised Section: WAC 314-02-015 - What is a spirits, beer, and wine restaurant license? Added language that a licensee holding an endorsement to sell kegs of malt liquor can also sell cider for off-

premises consumption in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

Revised Section: WAC 314-02-041 - What is a hotel license? Added language that a hotel licensee can sell cider for off-premises consumption in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap in the restaurant area by the licensee at the time of sale.

Revised Section: WAC 314-02-045 - What is a beer and/or wine restaurant license? Added language that a licensee holding an off-premises endorsement can sell cider for off-premises consumption in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

Revised Section: WAC 314-02-070 - What is a tavern license? Added language that a licensee holding an off-premises endorsement can sell cider for off-premises consumption in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

Revised Section: WAC 314-02-105 - What is a beer and/or wine specialty store? Added language that a licensee with an endorsement to sell beer in sanitary containers for off-premises consumption may also sell cider in sanitary containers brought to the premises by the purchaser or furnished by the licensee or manufacturer and filled at the tap by the licensee at the time of the sale.

Revised Section: WAC 314-20-017 - Brewery and microbrewery retail liquor licenses - Selling kegs and containers. Added language that a brewery or microbrewery holding a spirits, beer, and wine restaurant may sell cider for off premises consumption only in sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of the sale.

Revised Section: WAC 314-24-160 - Domestic wineries - Retail sales of wine on winery premises - Wine served without charge on premises-Spirits, beer and wine restaurant operation. Added language that a domestic winery may sell wine of its own production in kegs or sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled at the tap at the time of sale.

Revised Section: WAC 314-24-161 - Domestic winery-Additional locations for retail sales only. Added language that an additional location may sell wine of its own production in kegs or sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled at the tap at the time of sale. Also added requirements for a winery additional location that wishes to hold a retail restaurant at the additional location.

### Timeline

October 1, 2014	Board is asked to approve filing the proposed rules (CR 102 filing)
October 15, 2014	Code Reviser publishes notice - LCB sends notice to rules distribution list
November 5, 2014	Public hearing held
November 5, 2014	End of written comment period
November 12, 2014	Board is asked to adopt the rules
November 12, 2014	Agency sends notice to those who commented
November 12, 2014	Agency files adopted rules with the Code Reviser (CR 103)
November 13, 2014	Rules are effective (31 days after filing)

Ms. McCall requested approval from the Board to file the supplemental CR 102.

MOTION: Member Kurose moved to approve filing supplemental (CR 102) for Wine & Cider Growlers & Multiple Licenses Under the Same Ownership at a Single Location.

SECOND: Member Marr seconded.

ACTION: Motion passed unanimously.

**ACTION ITEM 3D - Board Decision on Petition for Rule Making for WAC 314-02-104  
Petitioned by Washington Liquor Store Association**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUTS 3D 1- 2). She provided a brief background noting that the Washington Liquor Store Association (WALSA) submitted a petition for rulemaking requesting the Board make revisions to WAC 314-02-104 to allow former state and contract liquor store retailers to utilize group purchasing. WALSA believes that RCW 66.24.630 (3)(d) allows this practice. Arizona, New Jersey, Illinois, and Oregon were given as examples of states that allow this type of activity. In checking with these states it was found that all four states have laws that allow the activity. WALSA included in their petition for rulemaking a request that the Board use its influence over the legislature to revise the law on group purchasing to facilitate more effective group purchasing by small spirit retail licensees.

Ms. McCall stated that the Director's Office staff recommends the Board *deny* the petition for rulemaking for the following reasons:

- Legislation is required to allow a "purchasing group" to combine orders for several licensees and place and pay for the order in the name of the purchasing group.
- RCW 66.24.630 does not allow group purchases as requested by the petitioner.
- WAC 314-02-104 includes language that allows small independent spirits retailers to utilize the central warehousing provision to the extent the law allows.

MOTION: Member Marr moved to approve the petition proposed by the Washington Liquor Store Association for Central Warehousing.

SECOND: Member Kurose seconded for purposes of discussion.

DISCUSSION: Member Marr gave credit to the Washington Liquor Store Association for their efforts on this important issue and how far they moved it forward. He did state that the LCB cannot compel distributors to sell into a particular market but that he is willing to consider revising the central warehousing rules. He said he would like to see suggestions brought forward from stakeholders. He also encouraged other stakeholders to weigh in on this issue. Member Marr then stated that at this time he would be approving the staff recommendation to deny.

DISCUSSION: Member Kurose said she supports the former liquor store owners and that she would like to approve the petition for rule making so she will be denying the staff recommendation to deny as presented today.

DISCUSSION: Chair Foster wished WALSA luck in the legislative process but indicated that she would be approving the staff recommendation to deny the rulemaking for the reasons presented by Ms. McCall.

VOTE: Chair Foster voted to approve the recommendation from LCB staff to deny.

VOTE: Member Marr voted to approve the recommendation from LCB staff to deny.

VOTE: Member Kurose voted against the recommendation from LCB staff to deny.

ACTION: Motion passed two to one.

#### **4. MARIJUANA LICENSING UPDATE**

Becky Smith, Marijuana Licensing & Regulations Manager, provided the weekly marijuana licensing update with the following highlights:

##### Producer/Processor Applications

- 250 producer/processor licenses have been issued
  - 185 producer/processor
  - 54 Producer
  - 11 Processor
- 11 licenses are pending payment
- 32 moved to enforcement for inspection
- 42 are waiting for applicant to build

##### 2.8 M Square Feet Approved for Plant Canopy

- (2,942,950 - increase of 81,392)

##### Retail Applications

- 63 retail licenses have been issued
- 8 are pending payment
- 20 moved to enforcement for inspection

##### Change in Applications

- 10 accepted and assigned

#### **5. NEW BUSINESS/OLD BUSINESS**

No new or old business was reported.

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

##### Lynn Domingo - Seattle Citizen

Ms. Domingo provided a packet of information (CITIZEN HANDOUT 1) to the Board to help guide her discussion points regarding expediting the rule making process. She thanked the Board for the

opportunity to discuss the issue of shortages of I-502 cannabis in Washington State. She addressed the slow production of recreational cannabis and distribution of the commodity to businesses and consumers. She plans to ask the Governor to sign a 120 day emergency ruling allowing the diversion of medical marijuana to the commercial retail industry. She also spoke with Senator Jeanne Kohl-Welles.

Ms. Domingo also asked the Board to *motion* today to allow the diversion of medical marijuana to the commercial recreational industry. She proposed that the LCB enter into the initial state of rulemaking to expedite product to producers and processors. She noted that the documents she provided will expedite the process and help guide the passage to safe and accessible non-cartel distribution of product to processors and producers.

Member Marr thanked Ms. Domingo for presenting solutions for this issue. He noted that this rule change would require a change in law. He added that there are indicators that the supply chain shows a good amount of product coming on the market in the next few months.

Chair Foster thanked Ms. Domingo for her input and added that the LCB cannot change the rule until there is a change in the legislature.

Member Kurose noted that there are legal barriers and conflicts with the Department of Justice but appreciated that Ms. Domingo presented some interesting ideas that the Board will review.

Director Garza came forward to state that the legal barrier to this issue is that product can only be purchased inside the current marketplace.

The Board said they would provide a response to Ms. Domingo's request for a change in rule but would not be providing a decision during today's meeting.

## **6. SPORTS ENTERTAINMENT FACILITY (SEF) WORK SHOP**

Member Marr introduced the SEF issue by noting that the work shop is intended to address the concerns of SEF licensees and the unique challenges that they face. He noted that over the past year the LCB has been approached by SEF licensees to consider modifying SEF operating agreements, the rules in general, and possibly even statute changes. The language was created 18 years ago and does not consider new technologies such as live streaming.

### LCB Presenters

Alan Rathbun, Licensing and Regulations Director  
Dora Duval, Licensing and Regulations Licensing Manager  
Captain Jennifer Dzubay

### SEF Background

Mr. Rathbun noted that the SEF license was created by the legislature in 1996 (RCW 66.24.570), likely for the benefit of large sports venues because it provides the regulatory advantage of multiple alcohol service locations under a single license. Over time, the application of the SEF license has spread to additional venues including:

- Entertainment venues (including amphitheaters)
- Smaller, seasonal sporting venues

- Fairgrounds
- Race tracks
- Performing art centers
- Tribal event centers

Ms. Duval provided the background on the concerns being brought forward by the SEF licensees. She noted that the regulatory framework (WAC 314-02-056 through 059) is based on the license holder proposing an operating plan that demonstrates their method for assuring public safety through the prevention of alcohol service to minors, over service of alcohol and other additional regulatory requirements. Additionally the Board has established a matrix where the level of alcohol service in SEF venues is limited by the type of events held at the facility.

As the types of venues who hold the SEF license have expanded, LCB staff has seen an increase in requests to modify alcohol service delivery and other amendments to the regulatory requirements. Due to the growing amount of change requests the Board has scheduled two workshops to solicit comments from licensees and other interested parties regarding the SEF license and related regulations.

The workshops are scheduled as follows:

Wednesday, October 1

10:30am - 12:00pm (during the Board meeting)  
 LCB Headquarters  
 3000 Pacific Ave SE  
 Olympia, WA

Thursday, October 9

1:30pm - 3:00pm (Member Marr will attend)  
 Red Lion Hotel Pasco  
 2525 N 20th Avenue  
 Pasco, WA

Below are several areas identified by LCB staff for potential regulatory (rule or statute) revisions:

Alcohol Service Matrix (WAC 314-02-058)

- Should more event types be categorized?
- Do the risks for alcohol consumption vary with the type of event?
- Are the types of alcohol service appropriately aligned to the type of event?

Events and Entertainment

SEF event categories are defined in WAC 314-02-057 (2). The types of events that qualify as an "Entertainment Event", and whether or not an admission charge is required, has been a point of disagreement between applicants/licensees and WSLCB staff.

- Are the event categories sufficient to adequately define the events held at SEF licensed venues?
- In order for an "event" to qualify, must it be held at the facility or may it be "streamed" via audio/visual media?
- RCW 66.24.570 states that a SEF "includes" facilities where sporting events are presented for the price of admission. Should the Board's rules differentiate between sporting events and other events as to whether the "price of admission" is required?

SEF Operating Plan Agreement (WAC 314-02-058)

- Should this rule be modified to provide further guidance on the required ratio of service and security staff to the size of the audience?
- Should further guidance be given regarding training requirements?
- Should the rule specify the maximum number of alcoholic beverages served during a single transaction?

- Does the monthly notification of scheduled events process work?

Other elements that have historically caused applicants and licenses concern

- Statutory limit only allowing the sale of "private label wine" (RCW 66.24.570(5))
- Statutory limit on brand advertising offered by manufacturers, importers or distributors (RCW 66.24.570(6))

Ms. Dzabay provided brief comments on enforcement issues and concerns as well as a few examples of violations statistics.

Chair Foster then opened the work shop and invited guests to come forward to share their thoughts and concerns about the SEF license.

Rich Welfringer - General Manager of Center Plate, Tacoma Dome

Mr. Welfringer stated that Center Plate would like their patrons to be able to "walk around" with beer or wine but the matrix does not allow this ability for all consumer shows such as RV shows, garden shows, home shows, sports shows, etc. He indicated that they were approved previously for 2 years for these types of events but that approval has it has lapsed and he would like to see that availability come back for these events. He stated that a *walk around service* is highly requested by their *mature* customers groups.

Bart Waldman - Executive Vice President of Governmental Affairs for the Seattle Mariners

Mr. Waldman focused on two primary points:

- 1) Would like additional flexibility for events when they would stream audio visual events on a big screen when the team opens in another state -or- opening the park for neighborhood events in the community such as Breast Cancer Walks or Seahawks tailgating parties. When they provide these types of events they are required to provide entertainment and charge an admission fee. They want to be able to serve the neighboring events but they do not want to replace retailers. The definition of *special events* needs to be redefined.
- 2) Would like to offer hard liquor service of some type such as margarita stands and daiquiri stands. The current rules are from the 1990's and need to be updated and modified.

Member Marr asked Alan Rathbun if these changes could be made under rule.

Mr. Rathbun said the flexibility exists.

Steve Dominquez - Seattle Mariners

Mr. Dominquez focused on two primary points:

- 1) Would like to allow hard alcohol liquor to be consumed in the seats - same as beer and wine. This is a request made regularly by the consumer.
- 2) Would like to offer outlets for hard alcohol sales, which is also requested by the consumer.

Corey Brandt - Lee Restaurants, Seattle Key Arena

Mr. Brandt seconded Mr. Dominquez and Mr. Waldman's points. A large part of their business is concerts, such as Elton John, and they would like to offer hard alcohol. He said that their mature audiences (50 and older) that attend these types of events do not appreciate being restricted with what they are allowed consume. He asked that this outdated rule be looked at.

Katherine Fritchie - The Garland Theater, Spokane

Ms. Fritchie represented the Garland Theater in Spokane and stated that they waited for the theater license to come around to Spokane but when it came it didn't work for them so they went with the SEF license. In addition to showing movies, they offer live streams of Seahawks games and other shows and would like to have the ability to serve cocktails in the theater during these events.

Dan Sharp - Washington State Fair

Mr. Sharp would like to have the ability to sell wine or alcohol produced in Washington State. Currently they are only allowed to offer their own private label and they would like the flexibility to showcase Washington products under their license.

He also asked for consumer shows, such as sportsman and RV shows, to have *walk around service* available. He noted that their facility is unlike others as they have groups of buildings rather than one main building so they would like their guests to be able to go building to building with their drinks.

Ed Goines - General Counsel for First & Goal, Seattle Seahawks

Mr. Goines stated that he shares many of the concerns expressed today. He added that he would like to work with LCB staff on the SEF modification process as it moves forward.

Bo Godfrey - Yakima Fair

Mr. Godfrey discussed two issues:

- 1) Would like to be able to return unused beer following an event. They have large events and at times the over order beer and cannot return it.
- 2) When catering a *hosted* event they are required to charge their clients for alcohol in advance and it is difficult to know prior to an event how much to charge. This is an inconvenience to their customers and also creates credit issues.

Alan Rathbun noted that this would involve defining the term *consignment*.

Marcus Charles - Seattle Events Solutions

Mr. Charles spoke on behalf of smaller scale venues asking for considerations that would ensure an even playing field in terms of privileges.

Edie Burke - Seattle Key Arena

Ms. Burke noted that *darkened house* issues are challenging regarding venue checks in relation to other states.

Director Garza offered closing remarks noting that SEF licenses are very unique. He suggested that if anyone has additional input for this process to please provide it to staff in writing. He looks forward to everyone's participation.

Member Marr encouraged internal and external transparency in all proposals and communications efforts.

Chair Foster thanked everyone for their input.

**ADJOURN**

Chair Foster adjourned the meeting at 12:00.

Minutes approved this 15<sup>TH</sup> day of OCTOBER, 2014



Sharon Foster  
Board Chair



Ruthann Kurose  
Board Member



Chris Marr  
Board Member

Minutes Prepared by: Maureen Malahovsky, Confidential Secretary to the Board

**LCB Mission**

Promote public safety by consistent and fair administration of liquor and cannabis laws through education, voluntary compliance, responsible sales and preventing the misuse of alcohol, cannabis and tobacco.

Complete meeting packets are available online: <http://www.liq.wa.gov/board/board-information>