



## Washington State Liquor Control Board Meeting

Wednesday, February 11, 2015, 10:00 a.m.  
LCB Headquarters - Boardroom  
3000 Pacific Avenue SE, Olympia WA 98501

### Meeting Minutes

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#### 1. CALL TO ORDER

Chair Jane Rushford called the regular meeting of the Washington State Liquor Control Board to order at 10:00 a.m. on Wednesday, February 11, 2015. Member Ruthann Kurose and Member Russell Hauge were also present.

Chair Rushford opened the meeting by first thanking her esteemed Board Colleagues. She also acknowledged the engaged stakeholders and their participation. She then recognized the dedicated agency staff and their commitment.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Kurose moved to approve the January 14, 2015, meeting minutes.

SECOND: Member Hauge seconded.

ACTION: Motion passed unanimously.

#### 3. ACTION ITEM (A)

##### **ACTION ITEM 3A - Board Approval of Emergency Marijuana Rules**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUTS 3A 1-3). She provided a brief background noting that the emergency rules are needed to clarify the types of marijuana-infused products the Board will allow marijuana processor to produce and marijuana retailers to sell to consumers. The emergency rules also include a requirement for the Board to approve all marijuana-infused products, packaging, and labeling; new definitions; a prohibition on conditional sales, and prohibited practices between the marijuana tiers. The emergency rules are necessary for the preservation of the public health, safety, and general welfare. She then highlighted each section.

## Timeline

Ms. McCall said the rule will become effective upon filing with the Code Reviser's Office and will expire June 11, 2015, 120 days after filing. The emergency rules will become part of the permanent rulemaking the Board opened on June 11, 2014, which also includes revisions to marijuana rules in chapter 314-55 WAC which will include these rules as well as rules to implement 2014 legislation.

Ms. McCall then requested Board Approval of Emergency Marijuana Rules.

Member Kurose stated that there are reasonable clarifications necessary for public safety and to improve our regulatory process.

MOTION: Member Kurose moved to approve of Emergency Marijuana Rules.

SECOND: Member Hauge seconded.

ACTION: Motion passed unanimously.

## **4. PUBLIC HEARING (A)**

### **PUBLIC HEARING 4A - Fair Trade Practices Rulemaking**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUTS 4A 1-2). She provided a brief background noting that Michael Cho, of the Washington Liquor Store Association, petitioned the Board for rulemaking to clarify RCW 66.28.170. The Board currently has Advisory No. 2012-02 on the website that clarifies this statute but wishes to place it current view of pricing issues in a new section in Chapter 314-23 WAC.

## Timeline

The Board held a work session on Fair Trade Practices on September 11, 2013, to hear comments from stakeholders on these issues. A public hearing on the proposed rules was held on April 23, 2014. Stakeholders provided testimony and written comments on the proposed rule language at the public hearing. On May 14, 2014, the Board gave their approval for the Agency Rules Coordinator to draft revised proposed rules for Fair Trade Practices to bring back to the Board at a later date. On July 23, 2014, the rules coordinator posted a Small Business Economic Impact Survey with supplemental proposed rules for fair trade practices on the Liquor Control Board website. An email was sent to all stakeholders on the rules distribution list requesting they complete the survey and return to the Board by August 8, 2014. Washington Restaurant Association requested the Board accept responses to the survey until August 24, 2014, and the Board agreed to do so.

Chair Rushford opened the public hearing and invited the first citizen to the podium to provide testimony.

### Thomas Oldfield - Tacoma Attorney Representing Hilltop Enterprises Inc.

Mr. Oldfield stated that his clients believe channel pricing presents a substantial problem and violates the statute. The proposed regulations under WAC 314-23-070 and WAC 314-23-080.2 should not be adopted as they both are beyond the authority of the LCB and should not be adopted. Holders of a spirits

retail license are in direct competition with distributors holding a distributors license for sales to bars and restaurants. Where the liquor is consumed is not relevant to the transaction between a liquor store and the distributor.

David Cho - President of the Washington State Liquor Store Association

Mr. Cho provided a powerpoint document (CITIZEN HANDOUT 1) and stated that unlike their larger competitors who obtained their licenses with only licensing fees, they obtained their licenses as a *purchase* from the state. He said their numbers are small but they fill a vital role as a specialty retailer. The rules favor special interest groups. They are being forced to sell their business licenses at fire sale values. Channel pricing was never discussed when they purchased their licenses and after privatization the LCB made the 17% change. He requested that the Board modify pricing discrimination to “fair competition” and “efficient distribution” as stated in objectives of I-1183; prohibit all price discrimination other than legitimate “volume discounts: as the Initiative originally intended.

Jon Martin - Owner of a Former State Liquor Store in Ocean Shores

Mr. Martin noted that the restaurant business is a vital 30% of his business. He stressed that the rule needs to be consistent with other states. He believes channel pricing as proposed is predatory and illegal. The pricing makes it impossible to compete.

Brad Tower - Representing Washington State Liquor Store Association

Mr. Tower stated that the rules are a clear violation of statute and they are seeking clarity at the Board level. He said there is undue influence in the Tiers. The current language goes against the statute in differential pricing and they are opposed to that portion of the rulemaking.

Holy Chisa - NW Grocery Association

Ms. Chisa first raised concern about WAC 314-23-065 (d) noting she is not sure why this is considered unfair trade and it needs a qualifier. She also noted WAC 314-23-080 this would inadvertently affect small distillers that would like them to promote their products. Lastly she noted WAC 314-2085 (3) should be considered for quantity discounts. She provided additional written comments to the Board (CITIZEN HANDOUT 2).

Josh McDonald - Executive Director of Washington Wine Institute

Mr. McDonald stated that thanked the Board and agency staff for their hard work on this issue. He added that they are interested in ensuring their wineries having access to on premise sales to their consumers. They support the rules as written and look forward to working with the LCB.

Travis Rosenthal - Owner of Tango/Rumba (Seattle Bar)

Mr. Rosenthal stated that they offer over 400 different rums from around the country and storage is an issue in buying large volumes. They have rum producers that want utilize their back bar to serve as a tasting room which would help him compete with larger businesses. He asked that the Board stick to their mission of public safety focusing on safety issues and work within the boundaries of the mission.

Lane Hoss - Anthony's Restaurants

Ms. Hoss said they have built their reputation of working with local farmers, fisherman, wineries and breweries as well as offering value to their guests which in great part is due to volume discounts. They also want to be able to purchase liquor under the same guidelines as they to their food products. Not all restaurants have the storage space to accommodate back stock. They ask that commonly owned companies with bills being paid by one office be allowed pricing based on gross quantity.

Tom Arthur - Representing Seven Restaurants in Seattle

Mr. Arthur stated that their restaurants vary in size and they should be able to negotiate pricing with their suppliers just as they do with other products and equipment. They operate on small margins and the rule changes need to include price negotiation.

Monique Trudnowski - Owns and Operates a Restaurant

Ms. Trudnowski stated that she is speaking for the people that write the paychecks and keep the doors open. She said there is no mechanism for purchasing pasta and other commodities used by her restaurant and she wants to be able to purchase alcohol in the same way. She asked the Board to keep channel pricing.

Biniam Habte - Owner of Former State Owned Liquor Store

Mr. Habte stated that there is much confusion regarding differences between small liquor stores and small restaurants. He said that when he bought his liquor store it was advertised by the LCB that channeling in place but the Board reversed their decision and it changed everything. Two thirds of the former state owned liquor stores are now out of business.

Katie Jacoy - Western Council for the Wine Institute

Ms. Jacoy asked that the Board recognize that it is important that on premise site tastings benefit the wine industry. Channel pricing permits them to address two distinctly different areas of their industry and is permitted under the current law and she encouraged the Board to adopt the rules as written.

Julia Gorton - Washington Restaurant Association

Ms. Gorton first recognized the hard work that the LCB staff put in to this two year process but they are opposed to the proposed rules and request that the Board not adopt them. The price differentials are not unlawful and they believe this was fully understood as they transitioned to a private market. The current proposal restricts their industry beyond what the statute calls for and will have a harmful impact. They have spent a great deal of time on this issue and they will be delivering a large binder containing that effort to the Board members and Karen McCall later today.

Michael Cho - Owner of Former State Owned Liquor Store

Mr. Cho introduced himself as the person that initiated this process and stated that the process is now three years in and they are back to the same place. He provided a 36 page memo to the Board (CITIZEN HANDOUT 3) and asked that they review it carefully. He wants the rules to be based on good public policy, fairness, and effectiveness. Hundreds of small business owners have been damaged by this policy and many are losing their life savings as a consequence of this rulemaking.

Frances Cho - Owner of Gig Harbor Liquor Store

Ms. Cho is looking forward to working with new Board members on this important issue. She noted that restaurants are paying much less than what small liquor stores are paying. She suggested that businesses that don't have enough space to store their product should come to them and use their space. She urged the Board to do the right thing.

Andy Thielen - Owner of Olympia Liquor Store

Mr. Thielen noted that he attended all of the meeting opportunities prior to purchasing his former state owned liquor store yet channel pricing was never brought up. He reviewed the initiative stating that it does not mention channel pricing. He said that they cannot buy for the price that restaurants buy for.

Chair Rushford closed the public hearing and thanked everyone for their input.

## 5. MARIJUANA LICENSING UPDATE

Frank O'Dell, Marijuana Supervisor, provided the weekly marijuana licensing update with the following highlights:

### Producer/Processor Applications

- 409 Producer/Processor licenses have been issued
  - 299 Producer/Processor
  - 78 Producer
  - 32 Processor
- 34 licenses are pending payment
- 27 moved to enforcement for inspection
- 50 are waiting for applicant to build/hold
  - \* 4,092,929 M square feet approved for plant canopy

### Retail Applications

- 119 Retail licenses have been issued
- 6 are pending payment
- 13 moved to enforcement for inspection
  - \* 101 (out of 119) retailers are reporting sales

## 6. ADDITIONAL BUSINESS

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

### Dean French - Owner of DTF Consultants

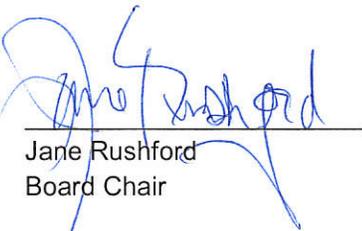
Mr. French asked the Board to please consider the term "consultant" regarding the marijuana trade. He needs to hire pesticide experts for his business and is unable to go outside the cannabis industry.

Director Rick Garza asked Mr. French to provide his concerns in writing so staff will be able to assist him.

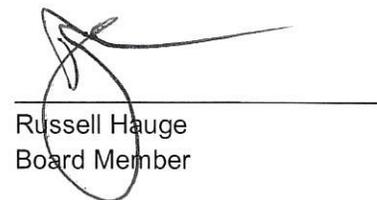
## ADJOURN

Chair Rushford adjourned the meeting at 11:10.

Minutes approved this 25 day of February, 2015

  
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Jane Rushford  
Board Chair

  
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Ruthann Kurose  
Board Member

  
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Russell Hauge  
Board Member

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