



Washington State Liquor and Cannabis Board Meeting

Wednesday, December 16, 2015, 2016, 10:00 a.m.
LCB Headquarters - Boardroom
3000 Pacific Avenue SE, Olympia WA 98501

Meeting Minutes

1. CALL TO ORDER

Acting Chair Russ Hauge called the regular meeting of the Washington State Liquor Control Board to order at 10:00 a.m. on Wednesday, December 16, 2015. Member Ruthann Kurose was present on the phone.

2. EMPLOYEE ANNOUNCEMENTS

A. Public Service Recognitions –Mike Kashmar, Chief Financial Officer, recognized Shelly Reisher, Fiscal Analyst, for 25 years of state service. She began her career as a clerk typist in 1990 with DSHS. She promoted and worked for Dept. of Natural Resources from 1992 to 1998. In 1998 she transferred to Dept. of Ecology. Shelly promoted to WSLCB in 2011. She enjoys the coworkers at WSLCB and is reliable, organized, efficient and pleasant to work with. Congratulations Shelly for your 25 years of service.

B. Employee Retirement – Chief Justin Nordhorn presented LT Gallegos with his badge on a plaque and a retirement letter from Governor Inslee.

Frank was hired by the Board as a liquor enforcement officer in 1995, after retiring from LA PD. He actually worked as a temporary in 1992 five months, and obviously liked it, as he came back for another 20 years. He began working in the Everett Office and continued on the Snohomish county team until he was promoted to lieutenant in Region 2 (Seattle) in August 2007. In May of 2012 he returned to Region 3 to run Northeast King County.

Frank is a quiet leader, with a strong work ethic. He is a worker focused on public safety with humility – his team recognizes this and reacts in kind to keep their communities safer. Frank has a special talent of finding high-risk areas that minors and intoxicated persons are attempting to get alcohol and targeting those areas for enforcement. There is little doubt that during his career, Frank wrote more MIPs than any other LCB officers in the state.

Frank will be tough to replace and we wish him well in his retirement.

C. Swearing In of New Officers – Chief Justin Nordhorn - Presenter

Chief Nordhorn swore in the following officers:

Officer Jonathan Miller
Region 2 – Federal Way
Start Date: October 5, 2015

Jonathan Miller came to the LCB from the Pierce County Police Department and has a bachelor's degree in business management from the Washington State University. He joined the King County team and is assigned to the Federal Way office.

Officer Austin Shively
Start Date: January 5, 2015
Academy start date: February 2015
Academy Graduation June 30, 2015
Retail – Pasco Enforcement Office

Officer Justin Pattison
Start Date: January 5, 2015
Academy start date: February 2015
Academy Graduation June 30, 2015
Region 1 – Olympia Enforcement Office

Officer Jon Christner
Start Date: April 1, 2015
Academy start date: May 2015
Academy Graduation – October 21, 2015
Region 4 – Spokane Enforcement Office

Officer Garrett Marvin
Start Date: June 1, 2015
Academy start date: May 2015
Academy Graduation – October 21, 2015
Region 4 – Spokane Enforcement Office

Officer Terry Jones
Start Date: May 4, 2015
Academy start date: July 2015
Academy Graduation – November 25, 2015
Region 1 – Tacoma Enforcement Office

He then congratulated all of the officers and noted their fantastic work. He also acknowledged their friends and family who were in the audience to support them.

The Board also congratulated the officers and thanked Chief Nordhorn for his dedication.

3. ACTION ITEMS (A-D)

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUT(S) 3A 1-3, 3B 1-3, 3C 1-8, 3D 1-2).

A. ACTION ITEM 3A - Board Approval of (CR 102) for B/W Gift Delivery Internet Sales

Proposed Changes

New Section. WAC 314-03-040 Consumer orders, internet sales, and delivery for beer and/or wine gift delivery licenses. Created a new rule clarifying the requirements for a beer and/or wine gift delivery licensee to sell over the internet and delivery beer and wine to their customers.

Timeline

If approved for filing, the tentative timeline for the rule making process is outlined below:

- January 20, 2016 - Code Reviser publishes notice, LCB sends notice to rules distribution list
- February 10, 2016 - End of written comment period
- February 10, 2016 - Public Hearing
- February 24, 2016 – Ask Board to adopt rules
- February 24, 2016 - Agency sends notice to those who commented both at the public hearing and in writing
- If the Board adopts the rule it will become effect March 26, 2016 (31 days after filing)

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

MOTION: Member Ruthann Kurose moved to approve the filing of proposed rules (CR 102) for B/W Gift Delivery Internet Sales.

SECOND: Acting Chair Russ Hauge seconded.

ACTION: Motion passed unanimously.

B. ACTION ITEM 3B - Board Adoption of (CR-103) for Non-Profit Arts Organization Licenses

Comments

Two written comments were received in support of this rule revision. No comments were received at the public hearing held on December 2, 2015.

Proposed Changes

Amended Section. WAC 314-02-090 Non-Profit Arts Organization License. Language has been added to allow consumption in the seating areas during performances

Ms. McCall then requested the Board adopt CR-103 for Non-Profit Arts Organization Licenses.

MOTION: Member Ruthann Kurose moved adoption CR 103 for Non-Profit Arts Organization Licenses

SECOND: Acting Chair Russ Hauge seconded.

ACTION: Motion passed unanimously.

C. ACTION ITEM 3C - Board Adoption of (CR 103) for Rules to Implement 2015 Liquor Legislation

Comments

New rules and revisions to current rules are needed to implement the following legislation that passed during the 2015 legislative session:

- HB 1004 Alcohol Tasting by Students

- HB 1342 Microbrewery Sale of Cider
- ESSHB 1807 Small Businesses Selling Spirits
- SSB 5280 Beer and cider Growlers in Grocery Stores
- E2SSB 5353 Allowances for WA Distilleries
- SSB 5504 Liquor Stocking by Distributors
- SSB 5596 Winery Special Permit
- SB 5662 Promotional Items to Special Occasion Licensees by Domestic Breweries and Microbreweries

Proposed Changes

Amended Section. WAC 314-02-100 What is a grocery store? Added requirements for beer and wine growler sales. (SSB 5280)

Amended Section. WAC 314-02-104 Central warehousing. Added requirements for spirits retail licensees having spirits product delivered to another spirits retail licensees premises. (ESSHB 1807)

Amended Section. WAC 314-02-109 What are the quarterly reporting and payment requirements for a spirits retail licensee? Change the penalty amount on late payments from 2% to 1%. (ESSHB 1807)

Amended Section. WAC 314-05-025 Application process for a special occasion license. Changed the name of the board to liquor and cannabis board.

New Section. WAC 314-05-035 Branded promotional items. Created a rule to allow special occasion licensees to accept branded promotional items from domestic breweries and microbreweries and associated requirements. (SB 5662)

Amended Section. WAC 314-12-140 Prohibited practices – Contracts – gifts – Rebates. Added language allowing nonretail licensees employees between 18 and 21 years old to handle liquor under certain conditions and requirements. (SSB 5504)

Amended Section. WAC 314-20-015 Licensed brewers – Retail sales of beer on brewery premises – Beer served without change on premises – Spirits, beer, and wine restaurant operation. Added language allowing domestic breweries and microbreweries to sell cider produced by a domestic winery for on and off premises. Also included the allowance from past legislation allowing breweries and microbreweries to sell beer produced by another domestic brewery or microbrewery under certain conditions. (HB 1342)

Amended Section. WAC 314-28-010 Records. Changed the name of the board to liquor and cannabis board.

New Section. WAC 314-28-095 Farmer's market spirits sales. Added language clarifying the conditions and requirements regarding spirits sales at farmer's markets. (E2SSB 5353)

New Section. WAC 314-28-100 Consumer orders, internet sales, and delivery for distillery and craft distillery licensees. Created a rule clarifying the conditions and requirements for internet sales and delivery of spirits to customers by distillers and craft distillers. (E2SSB 5353)

Amended Section. WAC 314-38-060 Special permit for technician or community colleges, regional university, or state university, as authorized by RCW 66.20.010 (12) shall be called a class 15 permit. Revised rule to include regional university and state university. (HB 1004)

New Section. WAC 314-38-080 Class 18 special winery permit. Created a rule clarifying the requirements for the new special winery permit. (SSB 5596)

New Section. WAC 314-38-090 Class 19 special distillery permit.

Created a rule clarifying the requirements for the new special distillery permit. (E2SSB 5353)

Ms. McCall then requested the Board Adoption of (CR 103) for Rules to Implement 2015 Liquor Legislation.

MOTION: Member Ruthann Kurose moved adoption CR 103 Rules to Implement 2015 Liquor Legislation.

SECOND: Acting Chair Russ Hauge seconded.

ACTION: Motion passed unanimously.

D. ACTION ITEM 3D Board Decision on Petition for Rulemaking to Repeal Marijuana Rules Problem or Opportunity

A petition for rulemaking was submitted by John Worthington, a private citizen. Mr. Worthington is requesting the board repeal all current rules adopted to implement Initiative 502. Mr. Worthington feels the board did not achieve the policy goals in Initiative 502. Mr. Worthington also feels the board violated RCW 35.05.375 which covers rulemaking procedures. He asserts that other agencies worked on rules that affect marijuana, but that the work of those agencies is not reflected in the Board's rulemaking file. Materials sent with the petition refer to a "partnership" and that the Board "conducted rulemaking" with various entities that was not identified in the rulemaking file.

Background

The current rules for recreational marijuana are found in chapter 314-55 WAC. The board adopted the original rules to implement Initiative 502 in October, 2013. Since then several revisions to those rules and new rules have been adopted. Mr. Worthington submitted several hundred pages of attachments to his petition for rulemaking. All pages were provided to the board members for review. The actual petition for rulemaking is attached to this issue paper for your review.

Recommendation

Director's Office staff recommends the board deny the petition for rulemaking for the following reasons:

- The Petition does not object to the substance of any particular rule, but only to the Board's rule adoption process and alleged effect of the rules. Staff believes the proper rulemaking processes were followed and the rules properly implement the initiative.

MOTION: Member Ruthann Kurose moved to deny the petition.

SECOND: Acting Chair Russ Hauge seconded.

ACTION: Petition is disapproved.

4. ADDITIONAL BUSINESS

WSLCB staff recommendation on marijuana retail cap – Becky Smith, Licensing & Regulation Director

Beck Smith provided a summary of where we have been and where we are heading in the future. In September 2013 we identified the number of allocations for retail stores using our census data. On October 16, 2013 the board adopted rules including lottery and licensing cap. We licensed those retail stores at 334. On September 23, 2015 the board adopted emergency rules to remove the lottery language and the cap from retail stores. We did state at that time that we would be moving forward with redoing a cap, but it was important we start that process. It takes a number of months to license an applicant and we wanted to make sure that as of July 2016 we had enough retail stores to ensure patients had access. The WSLCB began accepting license applications on Oct. 12, 2015. Thus far, the WSLCB has received 1,194 retail applications. Of those who have applied, 39 have been determined as priority one and 42 have been determined as priority two. Applicants must still meet all other WSLCB licensing criteria before being licensed.

Following an analysis of the entire marijuana marketplace in Washington State, the Washington State Liquor and Cannabis Board (WSLCB) has a recommendation to increase the number of retail marijuana stores from the current cap of 334 to a new cap of 556. The methodology for the cap will be part of emergency rules which will be announced Jan. 6, 2016. The allocation of retail licenses determined by the board will be published on the WSLCB website at lcb.wa.gov.

Earlier this year the legislature enacted, and Gov. Inslee signed, legislation (SSB 5052) entitled the Cannabis Patient Protection Act. The new law charges the WSLCB, the state Department of Health and other agencies with drafting regulations that integrate the medical marijuana marketplace into the tightly controlled recreational marketplace. The WSLCB is charged with licensing retail applicants using a priority-based system.

BOTEC Analysis Corporation provided its final report, estimating the Size of the Medical Cannabis Market in Washington State, on Dec. 15, 2015. In its report, BOTEC provided a range of the value of the overall marijuana market in Washington State. Its best estimate of the overall market value is a median figure at \$1.3 billion annually. Its best estimate on the breakdown is: \$480M medical (37 percent of market), \$460M state-licensed recreational stores (35 percent of market) and \$390M illicit (28 percent of the market). BOTEC estimates that there are 331 marijuana dispensaries across the state. The majority of those in the populated centers around the state. Their report indicates the highest need of marijuana in ten counties.

The number of retail locations will be determined using a method that distributes the number of locations proportionate to the most populous cities within each county and to accommodate the medical needs of qualifying patients and designated providers. Locations not assigned to a specific city will be at large.

WSLCB recommendation is to increase the number of available licenses in the ten counties with the highest medical sales by 100 percent. Exceptions include Yakima and Benton Counties which have bans and moratoria in all major population centers. The 100 percent increase will transfer to the next two

highest for medical needs, Skagit and Cowlitz Counties. Those counties and jurisdictions not in the top ten for medical sales will receive an increase of the number of licensees by 75 percent. The new cap does respect the will of 35 local jurisdictions that have implemented moratorium and ban. So did not increase the number of licenses in those areas.

In addition to new retail licensees, 70 percent of existing retail recreational marijuana stores have received an endorsement on their license to sell medical marijuana.

Becky Smith and other WSLCB staff will be available for questions following the meeting.

The board thanked Becky Smith for providing the report.

5. ADDITIONAL BUSINESS

Acting Chair Russ Hauge then invited citizens to address the Board regarding any issues related to LCB business.

John Worthington - Citizen

Mr. Worthington said he has filed a public records request in the past and feels documents were missing from the rule making file.

Micah Anderson - Citizen

Mr. Anderson said that distribution of cannabis has not been decriminalized and wanted to inform the board that WSLCB is violating state laws.

ADJOURN

Acting Chair Russ Hauge adjourned the meeting at 10:38.

Minutes approved this 13 day of January, 2016

Not Present
Jane Rushford
Board Chair

Ruthann Kurose
Ruthann Kurose
Board Member

Russ Hauge
Russell Hauge
Board Member

Minutes prepared by: Lisa Faker, Executive Assistant to the Board.

LCB Mission - Promote public safety and trust through fair administration and enforcement of liquor, tobacco and marijuana laws.

Complete meeting packets are available online: http://lcb.wa.gov/boardmeetings/board_meetings
For questions about agendas or meeting materials you may email lisa.faker@lcb.wa.gov or call 360.664.1717