



## Washington State Liquor Control Board Meeting

Wednesday, February 19, 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, February 19, 2014. Member Ruthann Kurose and Member Chris Marr were also present.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Kurose moved to approve the February 12, 2014, meeting minutes.

SECOND: Member Marr seconded.

ACTION: Motion passed unanimously.

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

##### **ACTION ITEM 3A - Board Approval to File the I-1183 SBEIS with the Code Reviser's Office**

Karen McCall, Agency Rules Coordinator, began the briefing with a packet of materials (HANDOUTS 1-2). She referred to the January 30, 2014, Small Business Economic Impact Statement (SBEIS) for I-1183 that included a summary of findings and steps taken by the LCB to reduce the costs of the rules on small businesses.

Ms. McCall noted that the LCB faced two legal challenges to two sets of rules that were filed by the Washington Restaurant Association, Northwest Grocery Association and Costco Corporation, raising various legal issues. The cases were consolidated for briefing and hearing in Thurston County Superior Court. One of the challenges asserted was that the Board had improperly failed to prepare a SBEIS to analyze the impact of the proposed rules on small businesses. The Thurston County Superior Court found the Board had failed to prepare an SBEIS, and therefore found the rules invalid, but directed the Board to prepare a SBEIS. The Board prepared this SBEIS to comply with the court's direction.

Ms. McCall requested approval to file the SBEIS on rules to implement I-1183 with the Code Reviser's Office.

MOTION: Member Kurose moved to approve filing the I-1183 SBEIS with the Code Reviser's Office.

SECOND: Member Marr seconded.

ACTION: Motion passed unanimously.

### **ACTION ITEM 3B - Board Approval of Revisions to Interim Policy BIP 01-2014 Assessing Penalties for Late Payments to the Board**

Karen McCall, Agency Rules Coordinator, provided the background of the interim policy (HANDOUT 1) noting that the purpose of Interim Policy is to clarify how the Board will assess a late payment when there is no postmark on the envelope containing the payment due to the Board.

#### Current WAC Language

- "A penalty of two percent per month will be assessed on any payments postmarked after the twenty-fifth day quarterly report is due. When the twenty-fifth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day."
- "A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day."

#### WACs to be Revised

314-02-109 - What are the quarterly reporting and payment requirements for a spirits retailer license?

314-19-015 - What are the reporting and tax payment requirements? (for wine and beer)

314-23-020 - What are the reporting and tax payment requirements for a spirits distributor licensee?

314-23-041 - What are the monthly reporting and payment requirements for a spirits certificate of approval licensee?

314-28-080 - What if a distillery or craft distillery licensee fails to report or pay, or reports or pays late?

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

MOTION: Member Kurose moved to approve the revisions to Interim Policy BIP 01-2014 Assessing Penalties for Late Payments to the Board.

SECOND: Member Marr seconded.

ACTION: Motion passed unanimously.

## LCB STAFF RECOMMENDATIONS

Deputy Director, Randy Simmons, began the briefing noting that the LCB is ready to issue licenses for cannabis and will be scheduling final inspections next week. He said that we will be issuing licenses in March.

Mr. Simmons then provided a brief update regarding moratoriums and bans in local jurisdictions. He said that the recent AGO Opinion stated that local jurisdictions had the right to ban cannabis businesses but there is nothing in the law that allows the LCB *not* to issue licenses so we will be issuing licenses to applicants in areas where there are bans, understanding that this may place a burden on the applicant. To ease that burden, the LCB will allow applicants to withdraw and have their application fee refunded if they are denied by their local jurisdiction.

Chair Foster said that this aligns with LCB policy.

Member Marr stated that some local governments need additional time to gather public input and assess zoning issues and he is confident that they will soon be on board.

Member Kurose said that this is consistent with the LCB goals and policies and reaffirms our position.

### **ACTION ITEM 3C - Board Approval for Interim Policy BIP 02-2014 for Limits on Marijuana Producer Applications**

Deputy Director, Randy Simmons, provided a brief background on plant canopies outlining the process leading to the Interim Policy BIP 02-2014 (HANDOUT 1). Currently WAC 314-55-075 (5) states, "Any entity and/or principals within any entity are limited to no more than three marijuana producer licenses." The Board opened a 30-day application window for marijuana licenses on November 20, 2013 through December 20, 2013. During that period the board received 2,858 marijuana producer applications. The plant canopy of these applications far exceeds a manageable plant canopy set by the board in rules adopted October 16, 2013. 912 of these applications are for applicants that applied for more than one marijuana producer application.

#### Proposed Policy Statement

In an effort to meet a manageable plant canopy for marijuana production, the Board will limit any entity and/or principals within any entity to one marijuana producer license if qualified at this time. If any entity and/or principals within any entity has more than one marijuana application pending, staff will contact the applicant and give them the following options:

- The applicant can withdraw their additional applications and have their \$250 application fee refunded to them; or
- The applicant can choose to have their additional application placed in a "hold status" up to one year or until the Board determines more marijuana producer licenses are needed.

Mr. Simmons requested approval from the Board to approve the interim policy.

MOTION: Member Marr moved to approve the Interim Policy BIP 02-2014 for Limits on Marijuana Producer Applications.

SECOND: Member Kurose seconded.

ACTION: Motion passed unanimously.

**ACTION ITEM 3D - Board Approval to Lower the Percentage of Plant Canopy for all Marijuana Producer Applications**

Deputy Director, Randy Simmons, began his briefing on the recommendation (HANDOUT 1) noting that WAC 314-55-075 (8) states, "If the total amount of square feet of marijuana production exceeds two million square feet, the Board reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage."

The total plant canopy of all marijuana producer applications exceeds two million square feet. Staff is requesting Board approval to lower the plant canopy of each tier for marijuana producer applications by 30 percent.

Mr. Simmons requested approval from the Board to lower the percentage of plant canopies.

MOTION: Member Marr moved to approve lowering the percentage of plant canopy for all marijuana producer applications.

SECOND: Member Kurose seconded.

ACTION: Motion passed unanimously.

**BOARD STATEMENTS:**

Member Chris Marr

Member Marr also noted that early on in the process he was a proponent of a small number of large producers and was concerned about gaming and clear market signals. He added that as we went through the process and received public input it was clear that we needed to move in the direction that we did. When the production caps were established we did not have a fully developed traceability system - consumption data has changed. We will need to revisit this number again but we need to move into the market and get the stores open. He supports this solution and commended staff for their hard work.

Member Ruthann Kurose

Member Kurose supported the staff recommendations for the next steps and believes they are based on sound staff advice. She noted that consumption rates were a more significant factor because there was very little data to pull from given there is no system blueprint. Kurose stressed we have a responsibility to the Department of Justice to scale down the growing ability to prevent diversion. In addition the I-502 law tasks us with setting up a controlled market not a free market. Member Kurose also believes it is important to ensure that small-scale businesses have opportunities as well as large-scale businesses to participate in this market. The recommendation to limit production to 70% of tier allowance and one

license per applicant seems to be the fairest way to reduce production capacity. She added that as the market is better defined we can increase the canopy to meet the demands of the marketplace. These next steps will allow us to get the marketplace up and running.

Chair Sharon Foster

Chair Foster expressed her appreciation to LCB staff for their hard work and thanked them for the many individual briefings they provided to keep the Board informed throughout the process. She added that this is a complicated process and it takes time to do it right. She said that we will have a strong, regulated market place that the Depart of Justice will support.

**NEW BUSINESS/OLD BUSINESS**

No new or old business reported.

**ADJOURN**

Chair Foster adjourned the meeting at 10:40 and stated that the Board and staff would be available for questions form the media immediately following the Board meeting.

Minutes approved this 26th day of FEBRUARY, 2014

Not Present  
Sharon Foster  
Board Chair

Ruthann Kurose  
Ruthann Kurose  
Board Member

Chris Marr  
Chris Marr  
Board Member

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