



# Washington State Liquor Control Board

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## Washington State Liquor Control Board Meeting

Wednesday, December 3, 2014, 10:00 a.m.  
LCB Headquarters - 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, December 3, 2014. Member Ruthann Kurose was also present. Member Chris Marr was absent.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Kurose moved to approve the November 5, 2014, meeting minutes.

SECOND: Chair Foster seconded.

ACTION: Motion passed unanimously.

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

##### **ACTION ITEM 3A - Board Adoption of (CR 103) for Caterer's License**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUTS 3A 1-3). She provided a brief background noting that the rules are needed to implement legislation passed during the 2014 legislative session (ESHB 2680 - Caterer's License). The Board was briefed on the background of this rule making as well as public comment.

If approved Ms. McCall will file the rules with the Office of the Code Reviser and will send an explanation of the rule making to all persons who submitted comments. The effective date of the rules will be 31 days after filing.

Ms. McCall then requested approval from the Board to adopt the rules.

MOTION: Member Kurose moved to adopt the (CR 103) for Caterer's License.

SECOND: Chair Foster seconded.

ACTION: Motion passed unanimously.

**ACTION ITEM 3B - Board Adoption of (CR 103) for Wine & Cider Growlers & Multiple Licenses Under the Same Entity at a Single Location**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUTS 3B 1-6). She provided a brief background noting that the rules are needed to implement legislation passed during the 2014 legislative session (SHB 1742 - Wine Growlers & SSB 6442 - Cider Growlers). The Board was briefed on the background of this rule making as well as public comment.

If approved Ms. McCall will file the rules with the Office of the Code Reviser and will send an explanation of the rule making to all persons who submitted comments. The effective date of the rules will be 31 days after filing.

Ms. McCall then requested approval from the Board to adopt the rules.

MOTION: Member Kurose moved to adopt the (CR 103) for Wine & Cider Growlers & Multiple Licenses Under the Entity at a Single Location.

SECOND: Chair Foster seconded.

ACTION: Motion passed unanimously.

**ACTION ITEM 3C - Request for Exception to WAC 314-11-072 as it Pertains to Spirit Retail License Holders**

JoAnn Sample, Management Analyst, began the briefing with an issue paper (HANDOUT 3C 1). She provided a brief background noting that economic conditions have created an opportunity for a former contract liquor store, owned by licensees Cathy and George Rector, to modify their business model. The elimination of sales to the general public will enable the business to evolve into a more successful role in the community as the purveyor of spirits to on-premises retailers only. WAC 314-11-072 allows the Board to approve the modification of a retail licensed premises to exclude sales to the general public.

Ms. Sample also noted that there would be no substantive costs involved in implementing this action and the costs would be absorbed into current appropriations. She then requested approval for the exception.

Chair Foster said this is a win win approach.

Member Kurose agreed and noted the importance of supporting former state-owned liquor stores.

MOTION: Member Kurose moved to approve the Request for Exception to WAC 314-11-072 as it Pertains to Spirit Retail License Holders.

SECOND: Chair Foster seconded.

ACTION: Motion passed unanimously.

#### 4. PUBLIC HEARING (A)

##### **PUBLIC HEARING 4A - Revisions to the Marijuana Rules**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUTS 4A 1-3). She provided a brief background noting that the revisions are needed to provide additional clarity to the marijuana rules, the marijuana license applicants, and potential marijuana licensees. This rulemaking includes the following:

- The emergency rule the Board adopted on May 28, 2014, for the Good Laboratory Practices Checklist
- Board Interim Policy 03-2014 Food Processing Facility Inspection
- The emergency rules adopted by the board on June 25, 2014, requiring all marijuana-infused products, labeling, and packaging be approved by the board, and the prohibition on products that are especially appealing to children
- Implementation of the changes to the marijuana retailer and processor licenses in ESHB 2304 from the 2014 legislative session.
- Revisions to rules to further clarify requirements of recreational marijuana licensees

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

##### Phil Wayt - Northwest Producers, Processors & Retailers Association

Mr. Wayt introduced Mr. Dan Devlin, of Db3 Incorporated, noting that he has analyzed the proposed rules in great detail.

##### Dan Devlin - Db3 Incorporated (Licensed Producer/Processor)

Mr. Devlin, of Db3 Incorporated, provided comments in (5) key areas (CITIZEN HANDOUT 1).

##### 1. WAC 314-55-010 - Definitions

(6) "Employee" means any person performing services on a licensed premises for the benefit of the licensee. Their concern with this definition is in regards to will call transportation. He said they would like to ensure that a retail customer picking up an order takes on responsibility of that product at our dock. He suggest that section 314-55-085 (5) (a) "Only the marijuana licensee, and employee of the licensee, or a certified testing lab may transport product" also includes that the customer (whether that is the retailer or a producer or a processor) can also transport product, and would take on responsibility for that product at pick up.

## 2. WAC 314-55-010 - Definitions

(25) "Selling price" means the total amount of consideration. No deductions from the total amount of consideration are allowed for the following: (b) all costs of transportation to the seller; and (d) Delivery charges." Their concern with this proposed rule change is that it includes items in the excise tax that are outside of the initiative 502 definition: Sec 27 (2) "There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each wholesale in this state of usable marijuana or marijuana-infused product by a licensed marijuana processor to a licensed marijuana retailer." Delivery charges are not included in the excise tax for this initiative, nor are they included in any other industry.

Given the significant cost difference in delivery zones around the state, not allowing processors the ability to adjust for the delivery cost differential does a serious disservice to the retail shops in rural and outlying communities that represent a more costly delivery. It is in their best interest, as well as this industry's to allow for a true delivery fee as well as a will call pickup.

## 3. WAC 314-55-077 - What is a marijuana processor license and what are the requirements and fees related to a marijuana processor license?

(4) "Products containing more than one serving must be packaged in a package that remains child resistant after the package is opened". Db3 supports LCB's focus on establishing rules that protect children, however any new rules (short of immediate consumer safety) need to be accompanied by a grace period to allow a Licensee affected by the new rules time to accommodate the changes without incurring an obsolesces cost. He proposed a 9 month grace period for any changes to the industry that would cause a company to source new materials, new packaging or discontinue an item. Additionally, he suggested an allowance be made for the inclusion of a re-closeable child resistant container provided with the retail selling unit, for the consumer's use after the original package is opened.

(5) "Marijuana-infused products such as, but not limited to brightly colored products, are prohibited"

- o This is a very broad judgmental rule and if it is to be used to ban or recall products that have previously been approved, then a grace period must be given to allow for the time to adjust the previously approved product as well as consume pre-printed packaging and or ingredients that would become obsolete.

(5)(C) "Vinegars and oils derived from natural sources may be infused with dried marijuana if all plant material is subsequently removed from the final product". They would like to include marijuana extracts as another option for infusing oils and vinegars.

(5)(F) "The liquor control board may designate other food items that may not be infused with marijuana". Their concern with this statement is that it is too broad, and opens up any item to be rejected for any reason, including personal preference or opinion. There needs to be rules and guidelines rather than just an arbitrary unrestricted authority. They propose that this section be removed, and new sections be added if there are specific categories of infused marijuana items that will not be accepted by the LCB.

## 4. WAC 314-55-102 Quality Assurance Testing

(9) Table of required quality assurance tests "Concentrate or infused extract made with ethanol or other approved food grade solvent". The removal of "meant for inhalation" would require Licensees who use ethanol to extract THC to test their intermediate product, as well as their finished good product. He indicated that it does not make sense to have to test a work in-process ingredient (the THC extraction),

only to have to test it again as a finished good. This is added expense, as well as added lead time with no added food safety. Testing all finished good items is what is important for making sure safe products are going into the market place. We propose that testing be only required for finished goods items.

#### 5. WAC 314-55-104 - Marijuana processor license extraction requirements

(8) "Processors may use food grade glycerin, ethanol, and propylene glycol solvent to create extracts. All ethanol must be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere." Per the reasons listed above, it is not necessary (or desirable) to remove all of the ethanol from the extract. However, Db3 does support the use of closed-loop systems to capture all reclaimed solvents. Therefore, he suggested that the wording of this proposed rule be changed to:

*(8) "Processors may use food grade glycerin, ethanol, and propylene glycol solvent to create extracts. All ethanol must of the ethanol that is to be removed from the extract shall be removed in a manner to recapture the solvent and ensure that it is not vented into the atmosphere."*

#### Stesha Ries - Representing WAMJA Green Chiefs

Ms. Ries stated that Mr. Devlin touched on several of the points she planned to present. She especially wanted to address deliver charges noting her concern pricing that include their costs to deliver far distances. Delivery charges are not included in the excise tax for this initiative. She would like to see a uniform fee that they can count on across the state - this would level the playing field. She urged the need for transparency.

She also commented on testing measures for edibles and the challenges in testing for *batches* and lengthy lab turnarounds. She also addressed childproof packaging noting that it is imperative but asked for an alternate packaging solution for packages that contain more than one serving.

#### Christine Masse - Representing Spinning Heads Inc.

Ms. Masse, attorney representing Spinning Heads Inc., a licenses Tier 3 marijuana producer and processor and noted that she submitted her written comments to Ms. McCall (CITIZEN HANDOUT 2). She asked to Board to consider addressing the definition of "employee" to address the use of independent contractors. She said the definition is too broad and is problematic for both licensees and the LCB. She said it can lead to unintended consequences and there are a number of places within the regulations where "employees" is listed and provided certain privileges. She said the definition creates results that are arbitrary and beyond the scope of the statute. Ms. Masse said she would be happy to suggest alternative language. Ms. Masse also addressed her concerns with the processor to processor language and the delivery charges.

#### Demetri - Independent Consultant

Mr. Demetri stated the importance of hearing, and working with, the people in the field. He also noted that the process needs to stay focused on standard business practices to bring down prices for the end user. He did appreciate that public has the opportunity to attend Board meetings and express their concerns.

The Board suggested Mr. Demetri also speak to his local legislators as they are the ultimate decision makers.

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

## 5. MARIJUANA LICENSING UPDATE

Frank O'Dell, Marijuana Licensing & Regulations Program Specialist, provided the weekly marijuana licensing update in Becky Smith's absence. He highlighted the following:

### Producer/Processor Applications

- 327 Producer/Processor licenses have been issued
  - 239 Producer/Processor
  - 64 Producer
  - 24 Processor
- 22 licenses are pending payment
- 17 moved to enforcement for inspection
- 32 are waiting for applicant to build/hold

### 3,274,201 M Square Feet Approved for Plant Canopy

### Change in Applications

- |                              |              |              |
|------------------------------|--------------|--------------|
| ▪ Change in Operating Plan   | Assigned: 35 | Completed: 8 |
| ▪ Change in Governing People | Assigned: 10 | Completed: 1 |
| ▪ Add a Financier            | Assigned: 4  | Completed: 2 |

### Retail Applications

- 89 Retail licenses have been issued
- 2 are pending payment
- 13 moved to enforcement for inspection

## 6. EMPLOYEE ANNOUNCEMENTS

### Employee Retirements - Justin Nordhorn, Chief

Chief Justin Nordhorn recognized Glenda Posch, Customer Service Specialist, for 27 years of dedicated service. He noted that Ms. Posch began her state service in September 1987 as a part-time Clerk Typist 2 in Longview. She was successfully promoted to Secretary for Region 1, working alongside the "Agent of Charge". She was a critical support and resource for these officers and management. In 2009, she moved into headquarters to maintain the Customer Service Desk. He added that Ms. Posch's example of customer service and passion for public safety is inspirational and the agency is grateful for her dedication, good attitude, and friendship.

Chair Foster then read a letter from Governor Jay Inslee which recognized Ms. Posch for her expertise and professionalism and for her committed service to the people of Washington State.

Ms. Posch thanked everyone and said she has felt valued at the LCB and will miss everyone. She said she feels like she is leaving a family. She hopes to keep in touch.

The Board congratulated Ms. Posch for her commitment and dedication to the agency.

## 7. NEW BUSINESS/OLD BUSINESS

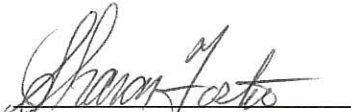
No new or old business was reported.

Chair Foster then invited citizens to address the Board regarding any issue(s) related to LCB business. No one came forward.

## ADJOURN

Chair Foster adjourned the meeting at 11:10.

Minutes approved this 17<sup>th</sup> day of DECEMBER, 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://lcb.wa.gov/boardmeetings/board\\_meetings](http://lcb.wa.gov/boardmeetings/board_meetings)  
For questions about agendas or meeting materials you may email [maureen.malahovsky@lcb.wa.gov](mailto:maureen.malahovsky@lcb.wa.gov) or call 360.664.1717