



Washington State Liquor and Cannabis Board Meeting

Wednesday, May 24, 2023, 10:00 am

This meeting was held in a hybrid environment

Meeting Minutes

1. CALL TO ORDER

Chair David Postman called the regular meeting of the Washington State Liquor and Cannabis Board to order at 10:00 am on Wednesday, May 24, 2023. Member Ollie Garrett was also present.

2. APPROVAL OF MEETING MINUTES

Member Garrett made a motion to approve the August 30, 2022 and November 1, 2022 Caucus minutes. Chair Postman seconded. The motion was approved.

3. ALCOHOL RELATED RULEMAKING

ACTION ITEM 3A – Board Approval of CR 101 for Liquor Legislative Implementation Daniel Jacobs, Policy and Rules Coordinator

Daniel Jacobs: Good morning, Chair Postman, and Member Garrett, members of the public. I'm here this morning presenting the CR101 on the 2023 Liquor Legislation implementation and requesting the Board's approval for this filing (HANDOUT 3A). As I mentioned during yesterday's Caucus, this project covers three bills that were passed during the most recent Legislative session, House Bill 1730, Engrossed Substitute House Bill 1731, and House Bill 1772. As a reminder, these bills have been voted on, passed by Legislature, and signed by the Governor. So this isn't optional rulemaking, per se, more that we are just following through on legislation already passed.

Again, to recap, 1730 allows individuals under the age of 21 to work as chefs, cooks, sanitation workers, and in other positions that don't interact with customers or touch alcohol in any way in liquor licensee premises that are typically off limits to those under 21, and then identifies certain conditions under which those folks can work there. And 1731 grants permits to owners of short-term rentals -- think Airbnb and VRBO -- to allow them to give free bottles of wine to renters as long as they verify the ID in person, they warn the renters about public consumption laws, and they provide an opportunity for renters to decline the free wine. The bill also allows the short-term rental owner to get wine at wholesale in addition to retail.

Lastly, 1772 prohibits the sale, manufacture, and gifting of products combining alcohol and THC or cannabis. If approved for filing today, there is going to be a public comment period until June 26th. We're planning on having draft rules and the CR102 tentatively filed by August 2nd, which would put a public hearing at the end of September. And again, assuming everything goes as planned, we would have rules in effect by November 11th. Based on this, I would ask for your approval to file this CR101 today. Thank you. I'm happy to answer any questions.

Member Garrett made a motion to approve the CR 101 for Liquor Legislative Implementation. Chair Postman seconded. The motion was approved.

ACTION ITEM 3B – Board Approval of CR 101 for Trade Areas
Kathy Hoffman, PhD, MPA Research Manager

Kathy Hoffman: Thank you, and good morning, Chair Postman, and Board Member Garrett. This morning I would like to ask for your approval to file a CR101 or a pre-proposal statement of inquiry regarding WAC 314-55-1071, which pertains to Trade Areas (HANDOUT 3B). For background, the Board adopted this rule in 2013 after alcohol privatization because the term "trade area" wasn't defined in statute. The rule, among other things, defines trade areas, an area where there is no spirits retail license within a 20-mile travel distance at the time of application. And so, operationally, this meant that after 2013, spirits retail licenses couldn't be located within a 20-mile travel distance of each other, and that matters for new applicants and existing licensees in terms of outlet density and a handful of other factors. The rule provides one exception to this location requirement for applicants seeking licensure in an area or location where the mode of travel is something other than a car. And that's for locations in island communities that are only accessible by boat.

And so now, 10 years later, we'd like to explore whether rule revision is needed based on today's demographics and other socioeconomic factors. So if approved for filing today, the comment period on the CR101 will end on July 7th, and I hope to bring a CR102 to you by late August, if not sooner than that, and that would set the public hearing date for late September. Under that timeline, we'd be able to bring final rules for your consideration and potential adoption in mid-October, with an effective date of mid-November. So asking for your approval to file the CR101 today, and happy to answer any questions.

Chair Postman: I think it's a good idea, and we should visit this. I would just -- and I know this is already part of what you've looked at, but since the Board now wasn't here then, as much as you can rebuild for us what that conversation was about, and things of that sort would be helpful. Then I'd also just be interested in what we've seen in terms of growth of stores and how many times, if we have any idea where somebody couldn't do it because of that trade area restriction. You know what I mean? I would just like to get some handle on how big of an issue we're talking about here.

Kathy Hoffman: Yeah. I'm happy to do that, and I will say I've done some reconstruction of the events that led up to the initial rule promulgation, so happy to provide that to the Board.

Chair Postman: Okay, great. Okay, with that, then is there a motion to approve the CR101 on Trade Areas?

Member Garrett made a motion to approve the CR 101 for Trade Areas. Chair Postman seconded. The motion was approved.

ACTION ITEM 3C – Board Approval of CR 102 for Implementation of Substitute Senate Bill 5448 Concerning Liquor License Privileges for Delivery of Alcohol

Kathy Hoffman, PhD, MPA Research Manager

Kathy Hoffman: I would like to request your approval to file the CR 102 to implement portions of Substitute Senate Bill (SSB) 5448 (HANDOUT 3C). That bill does concern liquor licensee privileges for the delivery of alcohol that Governor Inslee signed into law earlier this month. So for background, in 2021, the Legislature codified certain liquor license privileges that were similar to the allowances our agency temporarily provided to liquor licensees during the COVID-19 pandemic through Engrossed Second Substitute House Bill 1480, and I'll just refer to that as 1480 from here on out.

The privileges were set to expire, consistent with 1480, on July 1 of this year. And the CR 102 memo that I provided to the Board details our rulemaking on 1480. The CR 101 -- I'm sorry, the 102 memo on 1480 is attached to the current memo for your reference. So during the 2023 Legislative Session, the Legislature revised the privileges that were codified in 1480 through 5448 in the following ways, and I'll detail those now and try to keep it brief, though. So the Temporary Liquor License Privileges for Take Out and Outdoor Service will become permanent on July 1 instead of expiring on that date. The authorization to sell alcohol products curbside as well as the authorization for spirits, beer, and wine restaurant licensees to sell cocktail kits with mini bottles for takeout and delivery won't be extended, so those expire.

The authorization for specific licensees to sell alcohol products for delivery under the temporary privileges will now be extended, but only until July 1, 2025. And so while these delivery sales are authorized, the delivery must be performed only by an employee of an alcohol delivery endorsement holder who is 21 or older and holds a MAST 12 permit. And along with that, the signature requirement was extended, meaning that the signature of a person over 21 receiving the delivery must be obtained at the time of delivery. And then finally, the delivery must be accompanied by a purchased meal prepared and sold by the license holder, and alcohol sold as part of the delivery must either be in a factory, sealed, or a tamper-resistant container. And so while these provisions are already part of our temporary rules, which also are set to expire on July 1, they now become law, at least in part, until July 1, 2025.

The proposal before you incorporates these provisions into current rule, and so if you look at the proposed text, you'll note that the reference to curbside service, spirits, mini bottles, and cocktail

kits are proposed to be removed, and the word temporary is removed where appropriate as is referenced to the rule expiration date of July 1 of this year. We've also added direct reference to 5448 as specific sections of the bill were appropriate. So as I've mentioned, 5448 goes into effect on July 1, and to support regulatory stability and business continuity, we're relying on the exception rule process described in the Administrative Procedure Act that allows agencies to waive pre-notice inquiry or the CR 101 process when adopting law or incorporating it by reference into rule, and that's what we're doing here.

The public comment and hearing components of standard rulemaking are the same and so is final adoption. So to meet the July 1 effective date of 5448 as closely as possible, and make sure that these changes are reflected in current rule as soon as possible, our timeline then is slightly different, meaning that if approved today, the public hearing will be held on Tuesday, June 27th at 10:00 AM because there isn't a Board meeting scheduled for July 28th, which is typically when we have hearings. And as you know, no Board meeting occurs during a public hearing on rulemaking. June 27th is the earliest that we could host a public hearing under both the APA and Code Reviser timelines. So this will allow us to bring you a 103 at the regularly scheduled Board meeting of July 5th and, if approved, the adopted rules would become effective immediately upon filing. So I'll stop there, ask for any questions and for your approval to file the CR 102 today.

Member Garrett made a motion to approve the CR 102 for Implementation of Substitute Senate Bill 5448 Concerning Liquor License Privileges for Delivery of Alcohol. Chair Postman seconded. The motion was approved.

3. GENERAL PUBLIC COMMENT

Chair Postman invited citizens to address the Board regarding any issues related to LCB business.

David Busby: Awesome. Thanks. I'm here to talk about CCRS and the DDE set up. There's a bit of a problem with the data that we put into CCRS in that the reporting system doesn't know where the materials came from, and I have a bit of a suggestion that will take more than four minutes on how to put some improvements into the CCRS system so that it would be able to track these conversion steps and some product history or inventory history, where it came from. I understand that the LCB was having some problems getting records from licensees when they were attempting to do some product recall, and this would, I think the word is "ameliorate" that kind of issue. And I think -- that's really all I had to say. Where would I -- who should I send that to? And Mr. Postman, you're in my address book. Is it okay if I just start with you?

Chair Postman: That'd be great, and then I can send it to the right staff people. That's just what I was going to suggest.

David Busby: Cool. Thanks. That's it.

Christopher King: Great. Good morning. I won't keep you too long. Just a couple of points of light that I've seen in other jurisdictions that I think are germane to this jurisdiction. I noted a couple weeks ago there was a situation. It seems like Washington just goes on in its own vacuum of law and fact when it comes to cannabis operations. You know, we had my black friends that were in court, and the judge told him -- told them that there were all these things they were talking about were very unlikely and improbable. And you know we have this situation in Oregon where the Secretary of State resigned amid cannabis consulting controversy, you know? And because they were a public official that was engaged, and there's a contract she signed with a cannabis company while in office and helping to work in that milieu, you know, as a public official and then doing consulting on the side. So that's a questionable area, and I think that proves as much.

So I sit here and tell people criticize me all they want. I don't really care. The facts are the facts. And so it's not outlandish to think that that could be a conflict of interest when you have people working in the public arena and also helping out like say at Tabor 100 and, again, that issue was not brought to public fair by me, it was brought by someone else who was trying to criticize me, actually. That's the irony of it. You know when you point one finger at somebody, you got several coming back at you. So that's just the facts right there. Yeah. Yeah. And her name is Sheima Fagan. That's her name. And yeah, so that was the -- that was interesting there, too.

But I have another one which is even more on point right now, and that this one pertains to the fake security company. All right? This is a -- this is a good one here. The security company that was accused of hiring imposter police officers that was linked to the embattled police department, and the Commissioner said, "I can already tell that monkey business is going on, and I'm sick of it." All right? And this was in March, and it was, Chad Parton is the Post-Commissioner, and "This was the thin blurred line" is the headline of this published May 11th out of Nashville, Tennessee. It became very clear at the March 25 meeting at the Post Commission that its tolerance with one police department had reached its limit. You know, these laws are not going to be violated. At issue, an investigation found not only was the Millersville Interim Police Chief, Melvin Brown Jr. uncertified, but so was Assistant Chief Glen Allred. Okay?

So with you guys, you've got all these uncertified "officers," you know, that haven't even worked for a state -- a law enforcement agency, which I have, and you got to Commission them under this plan that was set forth by Roger Goodman, a lawyer. Okay? And you're just going to slap a badge on these guys, and these guys are the same guys that went out in the field and mingled with local jurisdictions to taint the minority community. That was all these clandestine plans that went out, like, that all came out during the Art West litigation, in which you guys paid him handsomely to go shut up and buy his house that he brags about on the waterfront. Just a fact. So yeah. So that's a problem there. And so it's serious business they said. I can -- you know, it's without certification. A police officer in Tennessee cannot work in full-time law enforcement, and you guys know the LCB is a regulatory agency. It's not a law enforcement agency ab initio. Okay? So all these other jurisdictions are coming out and proving what I've been saying all

along. And I'm just going to leave you with that and wish you a good day. I have to get back to work.

Bye-bye.

Gregory Foster: Good morning, Chair Postman, Member Garrett. It's good to see you today. I wanted to come and talk with you a little bit about the DDX situation emergency and just sort of ask some questions and put some stuff out there. The announcement was made April 6 by Ms. Wax, who is here in the room with us, and we had 18 licensees that had an administrative hold put on their licenses, it seemed like a big deal. And a week later, an emergency rulemaking effort was cancelled. You had stakeholder meetings a couple of days later and a follow up announcement that kind of reinforced the course of action that had been laid out. And then we heard on April 18th, Ms. Wax also provided an update during the Board Caucus, a pretty comprehensive update, which indicated that agency staff along with collaboration with other agencies and their staff members had collected soil and water samples, and that would take about 30 days to get those processed. And so that was over a month ago, and since that time, all that we've heard publicly from the Board or during public meetings was during a May 10th EMT Meeting kind of some incidental updates.

And we have Mr. Webster here also, the Legislative Director for the agency, and want to thank you for going to bat for the budget provisos in 5187. We had \$200,000 that WSDA is actively going to be giving out for soil remediation efforts. They have that posted on their website, so they're moving forward with that despite the swishiness in the language as far as who it would apply to. And then also, there is an SB 5200, the Capital budget, there's the \$5 million Ecology pilot program. And I noted on that one, it's contingent for that to move forward, it says, "If the Liquor and Cannabis Board determines the soil in the pilot program location, which is in Okanogan County, produce cannabis products that meet or exceed state action levels of 0.1 part per million."

So it's up to you all to make the call whether that program moves forward, and so that's sort of uncertain there. Like, how are you going to make the call? Can we know if that is actually moving forward? Because that's a big deal. You know, that's \$5 million that could be put to good use. So really, I'm coming forward just to ask that we continue to provide some public updates as far as what is actually going on that the agency is doing around this piece. You know the soil and water samples should be -- you should have some results back. And kind of wondering, has the agency actually expanded its search beyond this one small area since we know that the usage of DDT was widespread around the state. We also saw there were additional recalls of processors that are not in Okanogan County, so kind of wondering about the wholesale supply chain and implications there. Really happy to see Ms. Hoffman putting together the Cannabinoid Science Work Group to talk about this, especially around pyrolysis of cannabis products and whether that's an issue with DDX and research of uptake of pesticides in the flowers. And please follow up with that AP reporter who put out a kind of big deal up on the initial piece, since it's kind of stigmatizing if we don't actually know what's happening. Thank you.

4. ADJOURN

Meeting adjourned at 10:34 am.

Minutes approved this 9th day of April 2025

Not Present



Jim Vollendroff
Board Chair

Ollie Garrett
Board Member

Peter Holmes
Board Member

Minutes Prepared by: Deborah Soper, Administrative Assistant to the Board

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| <p>LCB Mission - Promote public safety, public health, and trust through fair administration, education, and enforcement of liquor, cannabis, tobacco, and vapor laws.</p> |
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