



Washington State Liquor and Cannabis Board Meeting

Wednesday, July 31, 2024, 10:00 am

This meeting was held in a hybrid environment

Meeting Minutes

1. CALL TO ORDER

Chair Postman called the regular meeting of the Washington State Liquor and Cannabis Board to order at 10:00 am on Wednesday, July 31, 2024. Member Ollie Garrett was also present.

2. YEARS OF SERVICE RECOGNITION – LISA RED, 25 YEARS OF SERVICE Monika Taylor, Program Specialist, Enforcement and Education

Monika Taylor: Thank you for letting us do this here Chair Postman and Board Member Garrett. I have the privilege of saying a couple of some words here about Lisa Red, who is a longtime employee. Lisa started in July of '99 as an office assistant in our Bremerton Enforcement Office. She moved then from there to the Tacoma Enforcement Office and later to our Licensing division in Olympia. There she processed certificates of authorizations for importers, distributors, and wholesalers. After that, she approved licensing floor plans. From there, she moved to the Criminal History Information Unit that we call the CRI Unit. There, she was approving liquor licensing applicants that had applied to obtain a license. After some law changes, she started approving tobacco licenses, vapor licenses, and also cannabis applicants.

A quote from Andrea Lee who is Lisa's coworker, "As a former cannabis licensing senior, it was quite amazing that she was able to step into the Cannabis CRI role and not lose a beat. As investigators, we were thankful that our licensee applications were moving forward with all the background checks she was doing. Her mentorship and guidance to navigate the ever-changing LCB's background check landscape has made the unit strong and with consistent accuracy, and most importantly, they stay out of court. Congratulations to 25 years of state service, and they all took place here at the LCB.

Chair Postman: Lisa, thank you very much for all of that. Your history follows lots of ups and downs for this agency. Big, small, and then you touch all those corners. So you should write a book sometime. Maybe.

Chair Postman: Thank you both. 25 years, that's impressive. Okay. We are going to move to some rulemaking action this morning. Our first item up be presented by Daniel Jacobs, and this is consideration of the CR 102 for Cannabis Payment Flexibility. Mr. Jacobs.

3. CANNABIS RELATED RULEMAKING

ACTION ITEM 3A – Board Approval of CR 102 for Cannabis Payment Flexibility

Daniel Jacobs, Policy and Rules Coordinator

Daniel Jacobs: Good morning, Chair Postman, Members Garrett, and Vollendroff. I'm here this morning to request approval of the CR 102 on Cannabis Payment Flexibility. If approved today, there will be a public comment period open until the public hearing on September 11th, and assuming no changes are made after the public hearing, the final rules will be filed on September 25th and effective October 26th. This project is amending WAC 314-55-115 on what methods cannabis licensees can use to purchase cannabis from other licensees and is the result of a petition that the Board accepted in March 2023. The CR 101 was filed on May 8th, and a survey with draft rule language was posted on the LCB website from June 3rd through July 8th. The majority of those who responded to the survey were on the manufacturing side of cannabis and mostly supported the proposed rule changes. I've attached the survey results as an attachment to the CR 102 memo, and I'm happy to go into more detail on the survey results if you'd like.

The only note of hesitation is that a decent portion of respondents expressed concerns about potential increase in NSF or insufficient fund issues, but as I'll shortly explain, NSF concerns are already addressed in existing rule language. WAC 314-55-115 identifies check, prepaid accounts, debit, or credit card, electronic fund transfer, or using a money transmitter as various methods that licensees can use to purchase cannabis from other licensees. The proposed rule changes clarify that just as with the other payment methods, when paying via check, the purchase order has to be done via an irrevocable invoice. Both parties have to preserve and keep records consistent with other LCB requirements, and the check has to be mailed no later than the next business day after cannabis delivery, and it has to be deposited no more than five business days post cannabis delivery.

Lastly, in this rule, we're also proposing to clarify that use of the word "delivery" refers to cannabis delivery as opposed to delivery of check. This is important because specifically mailing checks was sort of the impetus for the petition at the get go, and so when we talk about delivery, we want to clarify we're, again, as I said, talking about delivery of cannabis, not delivery of the check itself. We only received one comment on the 101, and again, that was asking about issues related to NSF checks. 314-55-115 already addresses NSF payments in Section 6, saying that insufficient fund issues have to be corrected by 3:00 PM on the business day after the NSF issue is reported; otherwise, it becomes an impermissible extension of credit, and impermissible extensions of credit are subject to penalties identified in 314-55-523. This rule change is going to impose no more than a minor cost on businesses in order to just familiarize themselves with the rules around checks, and they aren't going to have to learn anything new because they'll see that the same rules that apply to the other existing payment methods are now going to apply to checks.

The requirements themselves, as I said, are going to be familiar because, again, they are -- we just copied the requirements from the other payment methods, and that sort of wants to go into the last thing I want to talk about, which is the specific request in the petition. So the petition was submitted actually asking that checks be allowed to be mailed up to three days post-delivery. However, here we're proposing that the rule language only allow for one day post-delivery. And the reason is because if we changed it as requested in the petition, rather than making the terms for payment by mailing check sort of the same as with other payment methods, it would make them an exception. Currently, other payment methods like using a money transmitter or a debit or credit card, they have to be done one day post-delivery and completed five days post-delivery. If we allowed checks to be mailed up to three days post-delivery, again, that would give more time for checks than exists for the other payment methods.

Again, rather than making checks the exception compared to the other methods, the project team felt that at least it's a good starting point here. We want to sort of bring checks up to be on the same level as the other payment methods. And I think especially in light of the NSF concerns that were brought up in some of the CR 101 comments and in response to the survey, we don't want to exacerbate any of those concerns by giving a greater leeway for payment via check than exists for the other methods. Based on the above, I'm hereby requesting approval of the CR 102 on cannabis payment flexibility. Thank you, and I'm happy to answer any questions.

Chair Postman: Any questions for Mr. Jacobs on this? No. Um, I don't. I don't have any. Thank you for the work on this. I think it is the sort of evolution we need to be looking at, so I appreciate the effort you put into this one over the years or months. With that, I'd entertain a motion to accept the Board -- accept the staffs' recommendation to approve the CR 102 for Cannabis Payment Flexibility.

Member Garrett made a motion to approve the CR 102 for Cannabis Payment Flexibility. Chair Postman seconded. The motion was approved.

ACTION ITEM 3B – Board Approval of CR 102 for Engrossed Second Substitute Senate Bill 5367 Concerning the Regulation of Products Containing THC
Cassidy West, Policy and Rules Manager

Cassidy West: Great. Thank you, Chair Postman, Board Member Garrett. I am ready to go. It seems like everything is working here on my end as long as you all can hear me okay over there. All right. All right, great. Thank you. So today I'm here to -- or I am presenting -- requesting the Board approval to file a CR 102 to implement Engrossed Second Substitute Senate Bill 5367, which I will refer to as the THC Bill. The CR 101 initiating the rulemaking to amend or repeal sections of WAC 314-55, related to the Regulation of Products Containing THC, was filed on June 21, 2023 as WSR 23-13-129. If approved today, the hearing for these rules will be held on September 11th, and then the 102 will be -- oh, I'm sorry, the 103 will be filed on September 25th. This means that the rules would become effective on October 26th.

So a little bit of background. As you all know, the THC Bill was introduced by the agency to increase the prevalence and complexity of products containing various tetrahydrocannabinols other than delta-9 that emerged on the unregulated market beginning in 2018. The legalization of hemp under the Farm Bill acted as a catalyst for these products by allowing the cultivation and processing of hemp containing less than 0.3% delta-9 THC. However, the legislation inadvertently created a loophole by not regulating other cannabinoids, like delta-8 THC. So in response, some manufacturers began extracting CBD from hemp and converting it into synthetic or semisynthetic cannabinoids, like delta-8, leading to a rapid expansion of these products in an unregulated market. To rectify these oversights and prioritize consumer safety and public health, legislative measures were necessary to address the issue, hence, our agency-sponsored legislation.

Our rules were formulated in coordination with our internal divisions, who work very closely with Education and Enforcement. Our Licensing division, who approves the packaging for edibles and then Finance division. We also worked very closely with the Department of Health and the Department of Agriculture in our regularly scheduled class meetings that we have on the Collaborative Laboratory Services Program meetings. And this is so that we can ensure uniform standards and facilitate a seamless implementation of the regulatory modifications. Rule language is being proposed to amend several sections of Chapter 314-55 WAC as follows:

The definition sections will be amended, so WAC 314-55-010 cannabis servings and transaction limits are also proposed to be amended, and that's WAC 314-55-095. Quality assurance and quality control testing amendments are also being proposed, WAC 314-55-102, changes to packaging, and labeling requirements in WAC 314-55-105. Changes to WAC 314-55-106, which is cannabis warning symbol requirements. And then, finally, the last section changes to WAC 314-55-109, and that's related to cannabinoid additives. So the proposed rule also includes language reflecting the statutory changes that resulted from Substitute House Bill 1249, Chapter 9, laws 2020 -- laws of 2024, regarding the sale of limits and possession of retail cannabis products. The bill introduces a new category for low-dose liquid cannabis products, low-THC beverages so that retailers can sell more of those beverages than the current transaction limits allow currently -- what they allow now actually.

So we did not include this as part of the CR 101. However, these rules were -- already in effect, and so the language that we have included in our draft just reflects the statutory changes. So extensive public engagement was conducted to inform these rules. We held collaborative rulemaking discussions in December, so December 15th, 19th, and 21st. We discussed and reviewed policy options on key concepts, such as how to measure, report, and label THC content, and how to establish -- or establishing a detectable level for THC compounds. We followed up with a survey to be able to provide those who were unable to attend the discussions and then just get a little bit more substantive information. That was disseminated in January 2022. The survey closed on January 31st. We had 234 survey respondents, which is great. And so based on the results of the survey, we developed draft rules, which we then presented during the April and May rulemaking workshops that we held, which were virtual. We presented rules, we worked with stakeholders, we refined the rules, and then incorporated those changes, and

that's what you're looking at today. So stakeholder feedback played a very crucial role in shaping the proposed regulations to make sure that they're practical and enforceable.

Now I'll go through the proposed changes. So with regards to amending the definition section, we added references to new and existing definitions and statutes, or in rule just that are relevant to the legislation and to ensure consistency with the statutory changes. So the following definitions from RCW 69.50.101 are referenced now in our rules; cannabis, cannabis products, CBD concentration, cannabis concentrates, cannabis-infused products, and THC concentration. New definitions were created packaging unit by the legislation, and so those are also now included in our WAC. We also referenced definitions from RCW 69.52.04, tetrahydrocannabinol and synthetic cannabinoid, so those are referenced in there. And then we created a new definition for total THC, which means any tetrahydrocannabinol as defined in RCW 69.52.04 that is detected during the testing process and -- wait. Let me pause there for a second. The total THC that's present during the testing process, and if it exceeds an established threshold, which we'll get to in just a second, then we'll calculate the total THC, and this takes into account the conversion from the aesthetic to the neutral form.

And then just a quick technical change. We did add a new definition for WSDA referring to the Washington State Department of Agriculture, given the now coordination we have for the accreditation and lab standards going on. Denise is working on the rulemaking. So there is quite a bit of overlap there. I'll actually stop there just to note to stakeholders that we -- some of the changes that we have previously discussed in this rulemaking with regards to detectable levels and establishing that, we are focusing -- we do not want to create a gap as we're transitioning our accreditation over to WSDA, and so our rules are intended to not disrupt the current state. And if there are changes that need to be made regarding certain standards with how we certify or product standards, we're going to address that in a separate rulemaking. So I'm just going to keep on going.

So I'm going to move on to WAC 314-55-095, and this is Cannabis Serving and Transaction Limits. So we focused on delta-9, so the proposed rules limit the maximum amount of THC that may be in the single serving to 10 mg of active delta-9 THC, and then the amount of THC that may be in a single package, the 100 mg of active delta-9 THC. And we updated 095 to reflect those new definitions of "package" and "unit" that were changed by statute. So the limits that we established with the 10 mg and 100 mg are consistent with current industry standards and the products available on the market. New limits proposed limiting the amount of any additional single tetrahydrocannabinol compound, and it cannot exceed 0.5 mg per gram per serving, and the combined concentration of any additional tetrahydrocannabinol compounds cannot exceed 1 mg per gram per serving. And so we aren't currently aware of any products that have -- that would exceed these levels, but we do want to account for future innovation, so that's how we've incorporated that. And then we also, like I mentioned earlier, that included language for the low THC beverage statute House Bill 1249.

Now we're going to move on to WAC 314-55-102, Quality Assurance and Quality Control Testing. Testing for THC is only required specifically for delta-9 and delta-9 THC as they are the

most predominantly naturally-occurring cannabinoids in the plant or THC compounds in the plant and the proposed rules do not necessitate testing for additional specific THC compounds. Despite the legislation broadening the definition of THC concentration to encompass a range of compounds falling under the statutory definition of tetrahydrocannabinols, the levels of the THC compounds, such as delta-8 and THCV, we're counting it as THC, remain insignificantly low, so less than 1% by weight. Furthermore, research on the cannabinoid compounds remains very limited. So a new requirement is added to mandate testing reporting for THC compounds if it is labeled, advertised, or marketed as part of the product, and this is for consumer safety and transparency.

Chair Postman: Can you say that again? I missed that, Cassidy. When would it be required?

Cassidy West: If people are advertising that they have, let's say delta-8, for example, in their product, and they are not testing for it, then they need to test for delta-8 so that we know the delta-8 in it on the label the test results align with that.

Chair Postman: If they're claiming it in marketing, then that would mandate testing for it. Great. Thank you.

Cassidy West: Yeah. Thank you for that. So we replaced the term "potency analysis" throughout that section with "cannabinoid concentration analysis", and this aligns with WSDA regulations outlined in new Chapter 16-309 and 16-310. And then the equation for calculating total THC is adjusted to reflect that new definition of total THC in WAC 314-55-010. So total THC has to be calculated for delta-9, just like it currently is, but you also must calculate it for any additional THC compounds, if they are tested and present in amounts greater than 0.2 mg per gram. Again, we were looking at COAs. We didn't see many or very few, if any, levels of naturally-occurring tetrahydrocannabinols other than delta-9 showing up in these levels. So we don't expect testing labs to have to calculate total THC for all of these, all of a sudden new compounds because the reality is they're not occurring in high enough amounts for this to apply.

And so total THC is just calculated how it currently is with delta-9. Of course with the different compounds, we need to account for the different molar masses. And so we're going to -- so language is in there to reflect that. And we also clarified that certified laboratory means that a lab certified by the Board. Again, that kind of folds into that 2151 rulemaking that we also have ongoing on certification requirements for labs. The term "accreditation" is removed to reflect the transfer of cannabis testing lab standards to WSDA, and we also replaced the term "containers" with "packaging" throughout that section as well.

Okay. I'm going to move on to the packaging and labeling section, so WAC 314-55-105. The term "container" has been removed, and "packaging" was replaced, and I just want to reiterate this is just a technical change. Container means packaging, packaging means container. If there are issues with -- if there's confusion or additional clarity may be needed regarding layers of packaging, we have received stakeholder feedback that that might be something we need to look into. So I just want to note that we are aware that this change may have larger implications

where we need to provide clarity, which we'll follow up on. However, that's why we have this process so we can get stakeholder feedback on that. So we have a new labeling requirement, a total THC. It must be included on the label for the additional tetrahydrocannabinol. So currently, total THC has to be calculated for delta-9 already. But now if you do have -- if you are testing for a THC, and it shows up in amounts greater than 0.2 mg per gram, that total THC for that additional compound needs to now be included on the label.

We also replaced references of "unit" with "package" for consistency with statutory definitions. And for the cannabis edibles in liquid form, we replaced "package" with "bottle". Again, package, container, bottle are all the same things. We really are seeking stakeholder feedback to make sure that this is not creating any additional issues that we have not identified at this point. So that's it for packaging lately. I'm sorry. Go back for packaging labeling. We did clarify also for the servings that you have to have the serving size, the number of servings in the container, and the amount of product per serving. And so that's not really a change substantively of what people are doing, it's just clarity for how to do it.

Okay, now WAC 314-55-106 Cannabis Warning Logo Requirements. Here, we just replaced the term "package" with "container" to align with the statutory definitions of "unit" and "package". Encouraging again stakeholders to take a look at that. And then, finally, the section WAC 314-55-109, Cannabinoid Additives, is amended to reflect the statutory changes, so we replaced "potency analysis" with "cannabinoid concentration analysis", similar to exactly how it is in that WAC 314-55-102. We also clarified that licensees must use a certified lab by the Board. A certified lab is the lab certified by the Board, and so you'll just see that consistency there.

There are no additional requirements that we added that are not already -- that are not in statute. And then, finally, we, throughout all of the sections, we replaced the acronym WSLCB with LCB, consistent with WSR 34-11-037, and Jeff will be presenting the 103 on that today for the other sections of the WAC where we replace that acronym. And so agencies are required to consider costs imposed on businesses, and we applied a default cost of \$2000 when analyzing whether the rules would have a disproportionate impact on small businesses. The minor cost estimate is \$5304, so it does not exceed the threshold for any of the license types. Therefore, the implementation of these rules are not anticipated to result in more of a minor cost on businesses as defined in RCW 19.85.020. Thank you, and I'm happy to answer any questions.

Chair Postman: Okay, that's a lot. Questions for Ms. West on this one? I've got a couple quick ones. I want to go back to when you were talking about the establishing the threshold, and then the standards that WSDA is working on as well. We, even though we're transferring the testing over there, that's not going to change our established thresholds for what we -- right. Okay. Because those seemed like they were mixed up there. Okay. I mean I was mixing them up. Okay.

Cassidy West: Yeah. No, no. I apologize. So when you're looking at just -- when we started these rules, this was before the 2151 rulemaking, and so we were considering that we would have to make the changes because we didn't have that authority. So instead of saying certified

labs must do this thing, now cannabis licensees must use certified labs. Now that we have that rulemaking, we decided we're going to keep them separate. And so any sort of overlap that occurred with that, we did not change in this one, and so that will be reflected in the other one.

Chair Postman: So the certification, or whatever we call it, of a lab could change over there, but we're not going to be having to change our standards for thresholds of THC. Just, you know, okay, thank you. That that helps me.

Cassidy West: Yeah, it's a lot. Thanks.

Chair Postman: Yeah, it's just a very complicated -- one of the most complicated bills we have, and I just was, you know, I think you did great work on this. I know it was difficult, and I appreciate this look. I think it's a great package. It should be approved, but I'm also going to be interested in hearing what feedback we get going forward. We really need people to be able to, you know, understand and do this because as you mentioned yesterday, and I think it is worth repeating today, the whole point of this is to try to shut down the illicit market, which we believe is working on a loophole at best on hemp-derived THC. It's not to apply pressure within the 502 system, but we need to have rulemaking for ourselves, so we can establish sort of the good side of the market, which is within the 502 system and then shine the light on what's outside that route, right?

Cassidy West: Yes, exactly. Yes. So what is a cannabis product, and what is not a cannabis product? And so that really is just the root of this rulemaking.

Chair Postman: And I think the industry and the agency have done a good job that what's being sold in these stores generally is a legitimate compound or variation or whatever they want there. You know, there have been some cases, but overall, we've got a pretty shared definition. We don't outside, there's no definition. These people that are selling it outside the regulators are selling it by mail order, you know. So again, that's the focus for me. That's why we push this bill. That's why you've spent a year on the rules. And I hope we get some good support for that going forward. So that was it. And seeing no other questions, looking for a motion to take the staff recommendation for the Board to approve the CR 102 for Senate Bill 5367, referred to as the THC Bill.

Member Garrett made a motion to approve the CR 102 for Engrossed Second Substitute Senate Bill 5367. Chair Postman seconded. The motion was approved.

**ACTION ITEM 3C – Board Approval of CR 102 for Engrossed Second Substitute Senate Bill (E2SSB) 5080 Expanding and Improving the Social Equity in Cannabis Program
Justin Nordhorn, Policy and External Affairs Director**

Justin Nordhorn: Good morning, Chair Postman, and Member Garrett. Today, I'm presenting a request for filing of the CR 102 for Social Equity in Cannabis. If approved, there's going to be a

formal rulemaking public comment period open through the public hearing, which we're planning on holding on September 11th. If there are no changes made after the public hearing and the final rules, we file on September 25, 2024 and effective October 26th. This project is in response to Engrossed Second Substitute Senate Bill 5080 and implementation of said bill. The project will be amending WAC 314-55-570. It's updating regulations based on statutory changes in Senate Bill 5080. The CR 101 was filed on November 8th. The LCB conducted initial surveys of applicants who participated in the application process under House Bill 2870. So the LCB also contracted with Whitney Economics to address this statutory requirement around thresholds, and we'll be providing some of that information more online. And then we also conducted additional surveys in July of this year.

So the results from the first survey consisted of 73 respondents, and these responses were really instrumental in shaping the initial draft proposal of Senate bill -- or of the rules in response to implementing Senate Bill 5080. So following the first survey, the initial draft rules and scoring rubric were presented in open public meetings, and we received feedback from the community and stakeholders during public comment periods at Board meetings. We also had written comments throughout the rules process. We had comments coming into the Rules inbox. We had comments coming into the Social Equity inbox, and we've also received a total of about 30 written comments for this particular rule project.

Additionally, there were two public engagement sessions which were held on May 15th, which was a virtual session, and May 22nd, which was a hybrid. After those two sessions in May, we updated the draft yet again, of the proposed rules, and then these updated drafts were shared publicly with another accompanying survey that went out for a period of one week between July 11th and July 18th. As a result, there were 242 anonymous and valid survey responses, and so I'm going to cover a little bit of what that looked like at a high level here. So the majority of respondents identified themselves as community members, followed by House Bill 2870 applicants, and then existing cannabis business licenses. There were others also included, but those were the top three. About 66% did not attend any previous stakeholder engagement sessions. More than half, 56%, identified themselves as a member of historically marginalized communities. 26% of the overall respondents said they were planning on being applicants under the Senate Bill 5080 rule set.

And then looking at a subset of responses, removing 46% of the respondents who said they were not going to apply, and looking at the balance, that representation increased to 69% of those respondents who were planning on applying under 5080 identify themselves as members of historically marginalized communities. So some of the survey highlights that we have is, on the DIA, and -- I'll call out a couple of things on this. It was really split, so I'm going to just kind of put that out there in front. And when you're looking at percentages, keep in mind there were multiple survey responses. It wasn't just a yes/no. So, for example, 50%, half of the people that responded felt that the applicants who lived in a DIA for one to five years should be awarded points on the rubric. That doesn't necessarily mean that 50% were of the total opposite because some people had no preference, but 50% of those responding did indicate that folks who lived in DIA for one to five years should be awarded some sort of points in the rubric.

More than half, 57% of respondents said points should be awarded for cannabis-specific offenses, and that was in regard to a question around the drug offense approach. The -- about half, 53%, felt that the points should remain the same regardless of time served, which we hadn't built into the rules, but we did ask the question based on some feedback. Almost half, 48%, said that awarding 15 points for having a household income less than the median household income was too low. And then we looked at the subset of those who were planning on applying, and that actually increased to 60% felt that was too low. About half, 51%, felt that points should not be awarded for having previously owned a medical cannabis dispensary or collective garden prior to July 1, 2016. About half, 49%, reported points should not be awarded - to those who filed an application under House Bill 2870. A little more than half, 53%, believe that House Bill 2870 licensees and title certificate holders should be allowed to move their license if they were unable to secure a location.

More than half, 59%, of respondents reported affidavits should be allowed in some instances, and more support was indicated for affidavit use in the DIA area and the arrest and conviction area. So WAC 314-55-570 identifies qualifications to be a social equity applicant, where businesses can be located and provides regulation for the application process. And many of these updates are to the draft rules, including the updated draft scoring rubric, reflective of the survey feedback that I just covered. The scoring rubric was adjusted based on that survey, and the focus was also for the four areas under Senate Bill 5080 under those qualifications -- that are identified there. So changes to WAC 314-55-570 include a number of definition changes to include disproportionately impacted area, social equity plan, both of those to align with statute. We also amended definitions of family member, median-household income, preliminary letter of approval, social equity contractor, Social Equity Program Applicant, all that to include clarity.

So one of the things that we built in is a definition for a social equity registrant, and so this is a slight change from the previous rule set that we've had. And the definition for social equity applicant modified to distinguish two phases of the application process. So a registrant is an individual who has registered to be evaluated for qualifications under the social equity criteria. An applicant is an individual who has submitted an application, has been evaluated by the third-party contractor, received a qualifying score based on the scoring rubric and rule, and received a preliminary letter of approval. And the main difference here is what we're proposing is people don't have to go and apply to other state agencies before they come through. You don't have to have your entire business entity set up before you go into the registry and get -- go through the scoring criteria. So we're trying to reduce those barriers to entry. The application process has been amended to provide that registering through an online portal, it is mandatory because we need to know who is going to be sent over to the third-party vendor. But other than that, we've alleviated those other requirements.

So qualifications were modified by legislation, consequently the qualifications section in the scoring rubric and the preliminary regulations have been adjusted to align with the updated criteria for the social equity applicants. And the changes to the mobility requirements involve allowing House Bill 2870 applicants, who have not secured a location within 90 days after the

closure of a 5080 application window, to locate their license to a different county from its original location. The rule set also allows title certificate holders who qualify as social equity applicants to reinstate their license under the Social Equity Program with the eligibility determination and relocation options providing avenues for those social equity title certificate holders to reenter the market under the social equity considerations reflecting stakeholder feedback on inclusivity and equitable access to licensing opportunities. Appeal rights were also clearly established for the withdrawal and denials. Household income now consists of the combined total gross income for all household members ages 15 and older, including any taxes and deductions that may apply. This is in direct reference to the Census Bureau definition, and so we're aligning the DIAs with the Census Bureau. We're also trying to align this with Census Bureau, so we have that level of consistency. Local jurisdictions can object to the location of proposed cannabis retail licenses based on pre-existing ordinances limiting outlet density. So if a local jurisdiction has an ordinance established prior to the application of an applicant, we will have to adhere to that objection if they had that in place it. It can't be responsive or reactive to somebody applying, but they could have that in place beforehand. We also built in conflicts of interest safeguards to reduce the risk of any preferential treatment between a third-party vendor and applicants or licensees. The Senate Bill 5080 also required the LCB to identify county thresholds for retailers, producers, and processors, and these rules-established thresholds will be evaluated every three years beginning in 2029. So we did our initial evaluation with Whitney Economics, and then the next one will be in 2029, and then three years consecutively after that.

These thresholds indicate the number of potentially viable licenses by county based on economic review and projections of our contracted economists. And this is really important to point out. These are not -- we're not claiming in the rules and the information we're providing that these will be viable. Licenses projections on what the potential viability could be, so people who want to apply for a license can make informed decisions around what the market evaluation looked like. And so the retail opportunities are considered available but very limited in scope right now. It was estimated that 634 retailers may be economically viable by 2032 and so projecting out some of that is bringing in folks into the legal marketplace versus the unregulated marketplace, and those shifts would be representative in that. Producers have the capacity to supply more cannabis than demand right now. It doesn't mean that we're at full growing for what was approved, but this is the most limiting area. And so folks should be aware that the business opportunities in this particular area will be most likely the most challenging of the three license types.

And or processor licenses are considered to be the largest opportunity in the cannabis market, and Whitney Economics has estimated that there may be a demand between 1700 and 3000 by 2032, based on the different types of products and demand for those. So I'm happy to answer any questions, and I ask for the approval to file the CR 102 on Social Equity in Cannabis Program.

Chair Postman: One of the things the Whitney report said, you were just referencing the struggles on the producer side, particularly, and they say, one of their recommendations is don't

issue any additional producer license until supply capacity. Do we -- at this point, does the LCB have authority to hold back the producer license as part of this program?

Justin Nordhorn: Yeah, I think we could. I mean, so let me back up. We have to open up an application window for different license types to be able to have people apply. So the LCB could determine that they may not be in the best interest. However, the statute does call out that we need to be able to issue 10, and so we will probably have to open a license application window for that. We want to make sure people are really clear on what that the projection looks like if they choose to get into that now. Or somebody who comes in with a really good business plan or a good business owner, they may be very successful even in the established marketplace. However, the economic projections for businesses are really limited in that particular space.

Chair Postman: Okay. And my feeling is we should not restrict it, but I just wanted to be sure. I think we want to give people that opportunity. And the Whitney Report talks about the importance of presenting this data in a public facing way as much as possible. So when -- do we have that report online?

Justin Nordhorn: We don't have it posted yet online. I believe our Research team is going to come and present some of the findings to a Caucus, and then we'll have that available online. We are building it into the rules that we will have that online, and then it will be updated, like I said, starting in 2029 and every three years after that, so we can update those projections because a lot of things can change obviously with the State economy between now and then.

Chair Postman: Yeah. I think they did a lot of good work that, you know, they point out it's helpful for the regulator as well as licensees to see some of these trends and things like that to get us ahead of some of the problems. So good, I'm glad we're doing that. The online portal for registering, will we house that and manage that piece?

Justin Nordhorn: I believe so, I think. I believe that they register with the LCB. Those who register go to the third-party contractor for scoring and evaluation, and then those who are deemed as qualified applicants come back to the LCB to go through the more official application process, and that's when you'll have to establish your business entity and those types of areas around license application.

Chair Postman: This should both reduce costs for entry in the early parts of this as well as just make it easier, correct? Yeah? Okay. I think that's a great move. Okay. Member Garrett?

Ollie Garrett: Yeah, Justin, can someone email me on the number of title certificate holders and the demographics of those? I don't want to put you on the spot that I didn't ask, but can somebody email me that information?

Justin Nordhorn: Yeah. I'll connect with Licensing and see if we can get you that information this afternoon.

Ollie Garrett: Thank you.

Member Garrett made a motion to approve the CR 102 for the Engrossed Second Substitute Senate Bill 5080. Chair Postman seconded. The motion was approved.

4. GENERAL RULEMAKING

Jeff Kildahl, Policy and Rules Coordinator

ACTION ITEM 4A – Board Adoption of CR 103 for Updating LCB Name and Acronym in Title 314 WAC Rules

Jeff Kildahl: Good morning, Chair Postman, and Board Member Garrett. This morning I am requesting the Board's approval to file a CR 103 notice of permanent rulemaking to amend several sections in Title 314 WAC. This rulemaking was done through the expedited rulemaking process to make housekeeping changes to LCB's rules to update the former name of the agency, which was Liquor Control Board with the current name, Liquor and Cannabis Board, as it was officially changed in 2015, and also to update the acronym used for the agency from WSLCB to LCB for consistency with our current practices and usage. There were no comments received during the 45-day comment period on the proposed rule amendments and because this is expedited rulemaking, no public hearing was held on the rule amendments. After the CR 105 was filed, a number of rule sections, I believe it was 14 altogether, were removed from this rulemaking because they are involved in other current rulemaking projects. So if the CR 103 is approved, the permanent rule changes to update the agency acronym and agency name will take effect on August 31, 2024. So with that, I'm happy to answer any questions.

Member Garrett made a motion to approve the CR 103 for Updating the LCB Name and Acronym in title 314 WAC Rules. Chair Postman seconded. The motion was approved.

Chair Postman: Before we go to public comment, I overlooked something. I want to go back to the social equity, if we could have Justin join us again. It's the one that's just been approved, and we're not redoing that any, but could we just spend a minute? We didn't -- we spent a lot of time talking about the past but not today the changes in the rubric which is included, right? Can we throw that in as part of the rule package?

Justin Nordhorn: The rubric is part of the rule package. So first, let me apologize. I had a separate document that I was going to reference, and then I got through my other one and failed to mention the rubric changes. So I appreciate the opportunity to come back in just to provide the explanation in the public forum. And so when we looked at the feedback that we received, in the rubric, again, a lot of it was split 50/50, you know, or just over 50%, and so we opted to keep the one to five years within the scoring rubric, so folks would get points if they lived in the DIA for one to five years, even though it's not one of the qualifiers under state statute. So you still would have to qualify differently. That doesn't contribute to your qualifications. However, we're --

allowing points. And when we look at people living in a DIA, what if you lived in a DIA for three years, you got arrested, convicted, and put in prison. You know, shouldn't you have some sort of an opportunity to showcase it? You know, you lived there, and that disproportionate impact. So we felt it was appropriate to leave that particular piece in.

Justin Nordhorn: So the next category under convictions and offense -- or the offenses, convictions, and sentencing, we did modify this particular section of it, and so we focused on the cannabis offenses, and we did not exclude the drug offenses, but we lowered the points for drug offenses. The other thing that we did was prioritize the cannabis offenses based on the survey responses that if you have a cannabis offense and a drug offense, you will only get points for the cannabis offense. You get the higher points out of the two of those that you would have otherwise. And so before we were adding points together, and so in order to focus on the cannabis offenses, we felt the statute was clear on that. However, there was a lot of interest also in not just doing away with the drug charges. So we're -- offering in the proposed rules that cannabis convictions are at 40 points.

We have the family members actually increase up to 20 points, and then the full cannabis offenses, and then the other sub points if you're an applicant or a family member with a drug conviction, only 5 points. So there are points being awarded, but the focus has been shifted heavily towards cannabis offenses.

Justin Nordhorn: So the household income we had lowered in the initial proposed rules for this. We had lowered it significantly and predominantly because it was the evaluations for the year prior and not necessarily when you lived in the DIA or when you were impacted. So basically, if we open the application process in 2025, you're talking about your income for this year and that's it. And that's why we had lowered it. Now, the responses were very clear that we need to increase those points, and so we doubled those points from our previous proposal from 15 to 30 points, and so we have that stronger representation there. It is still the lower scoring area because of the time frame that's involved with just the one year prior to application, but we did respond with increasing those particular points. As I identified in some of the survey responses, there were a number of folks that -- over half that were saying that you should not get points for medical dispensary ownership prior to 2016 or as 2870 applicants. We opted to leave those two categories in.

When we look at the socially and economically disadvantaged category in statute, we believe these two fit into that particular provision, and there are impacts for those folks, and so we opted not to remove. There have been some adjustments in scores, and so the weight of all of the categories will shift slightly. So we went from 310 points to 250 points total. And so with the prior medical dispensary, you would get the top points if you were in a DIA versus having a dispensary out of a DIA, and we did provide some points if you were a 2870 applicant who did not get selected to move forward, and so we do have some of those. But from the previous proposals, we also had identified if you have ownership and current licensed businesses, and we were going to be awarding points for those who didn't versus having those. We excluded that from this particular draft, so we're no longer excluding points for folks who have that.

Licensees are eligible by statute to have five retail locations, and we didn't want to have that be a hinderance for current licensees to apply that they wouldn't get points elsewhere, and so we removed that particular provision looking at these things.

So those were the highlights of the rubric changes. I apologize I didn't cover those more specifically in the initial presentation.

5. PUBLIC COMMENT

Chair Postman invited citizens to address the Board regarding any issues related to LCB business. The Board heard from the following people:

Mary Williams: Hello. Thank you for hearing me today. My name is Mary Williams. I am a lived experience expert. I'm also an SUVP, and I have testimony today, in memory of Sheila Jackson Lee. Thank you very much. The things that I am here to talk about are in relation to my experience as well as my participation in WASE, Washington Against Sexual Exploitation, and my credentials as an SUVP came after I was able to escape the life of trafficking and stripping. I just want to really have you know that strip clubs are still a dangerous environment for performers and that performers are kind of interchangeable and disposable in these work environments. I do really stand in support of having a committee of lived experience experts to continue to work on this issue. But the risk as you guys all probably know are increased violence and substance use, especially, and now that we've added alcohol, that does not help with decision making and ability for people to control their impulses.

So we have the issues of both gun violence and physical violence, the hostile work environment, polysubstance use, and, of course, the possibility of being drugged or affected by fentanyl or Rohypnol that patrons may try to put in the drinks of dancers, etc., and then the ongoing issues around sexual assault to domestic violence and predatory behavior. So I am a person who had a polysubstance use history. As I said, I was able to escape that portion of my career life, but that was a daily thing that occurred in the clubs. And once you are a daily substance user, you're no longer in control, and it's very hard to get out of these situations. So we want to just make sure that people have access to off-ramps to get out of trafficking or situations that may be domestic violence or SUD-related. And we also want to make sure that these places are being regulated. As you know, since the pandemic, everything is up. Fentanyl use is up. DUIs are up. Violence is up. Gun violence is up. Youth violence is up. And so we really need to study and continue to gather impacts to make sure we have the most current research on the ways that this is affecting the clubs. Again, I'm really, unfortunately, upset that alcohol has been added to this mix, and I know Washington had a long history of not allowing that, which made us stand out. So I also encourage you to go back and look at the history and why that was put into place. So again, I stand in support of lived experience survivors being involved in this process and education for dancers, patrons, and the staff at these establishments. Thank you.

Rebekah Fonden: Good morning. I am also a member of WASE Forward. Along with my colleague, Mary, I'm a survivor of human trafficking. I've lived in Washington State my entire life. I'm currently a master's student at the University of Washington, Evan School of Public Policy, and I'm also here to address Senate Bill 6105 and the implementation of liquor licenses within the adult entertainment establishments. We, at WASE Forward, and I support the safety measures throughout this bill. We support safety for all. You know? Not just safety for some. And what that means is to really understand that there's a link between high crime rates, violence, human trafficking, and sexual exploitation that do run rampant through these clubs. A lot of these clubs, I believe 7 out of 11, are in high-crime areas in the city, and two are in [indistinct] zones. So as alcohol is introduced, these crime rates will exasperate. And this was shown a liquor license was given to -- in the City of Seattle years ago to one club, and a study was run in tandem with this. What was found is that crime did increase in that area, and the liquor license was actually not reissued. And so we're seeing crime in these areas.

I think it's really important to understand that people are trafficked out of clubs. Traffickers, you know, go in there to groom, traffic the women out of the clubs, and also kind of bring them out of the clubs. My colleague last week testified being trafficked out of a club as well. The violence is very real. We saw a Council member, a former Council member recently, that is charged with the murder of a dancer in Washington State. So this is a reality that we are facing, and we really want safety for all people that are in these clubs, and that means that people who are being human trafficking -- or, you know, are being trafficked within these clubs. So what we really urge of you is to cap the number of clubs with alcohol until we have two to three years to do a study to really understand the impact of these liquor licenses within our communities because people are being affected outside of the people who maybe are choosing to be in this. Human trafficking is really driven by poverty, you know, misogyny, and racism, and this is just something we need to understand this link. We really urge you to reach out. And as Mary said, we believe that an advisory committee would be good with lived experience experts and making sure that all of your investigators are trained on human trafficking identification and response. Thank you.

Brooke Davies: Good morning, Chair Postman, and Board Member Garrett. My name is Brooke Davies, here today on behalf of the Washington CannaBusiness Association. I just wanted to quickly follow up on my comments from the last Board meeting. I spoke about the approval process for already-approved packaging of edibles that are now seeking to be medically-compliant. There has been a lot of follow-up since then. I've spoken with folks in Licensing and also with Director Nordhorn. I just wanted to keep the issue before you. There was a webinar yesterday on this topic, and it was stated that, you know, there have been over 200 submissions, and things to me are moving pretty quickly in 14 days or less. However, I just want to still flag that, you know, we think it's totally appropriate that if you're reformulating the product to have higher servings or you're adding language to the product -- again, this is just edible products -- those should have to go through the full approval process.

But for products that are not being changed at all, they're just taking that extra step of testing the oil for heavy metals and adding the DOH-compliant sticker, it's great that it's going well now,

and it's only 14 days, but what we've seen historically is that that can really fluctuate depending on the number of submissions or staffing issues. And so what we're asking is there to be an expedited process for those products that are not changing anything on their packaging at all besides just the DOH symbol. So it seems like conversations are moving in a positive direction, and the agency is open to that, but just want to keep it before you as we haven't completely closed that loop yet. So, thank you.

Christopher King: Great morning. Okay. I am ready now. So just a couple of things here I want to talk about in the history of the LCB first off and foremost. I'm coming to you in the spirit of John Sherman, the senator from my state. Okay? The Sherman Act, you may have heard of it because you guys basically, are, and have been, and continue to be a free-speech-hating, a bad-faith-having, black-and-brown-hating, and serial Sherman Act-violating entity. And this is clearly evident. I took my skateboard around downtown there in the corridor between Lower Queen Anne and Belltown, and you have a gamut of stores down there for all your cronies in the area. They're -- some of them are right across the street from each other way less than 1000 feet apart, as I believe is required in Seattle, but they're all there. And they're designed to keep black and brown out.

So now after these 10, 11, and 12 years of dominance by your cronies, now they're crying and saying everything's too tight together. We don't know how they're going to do with the competition. All of these things. Okay? You guys have allowed this to happen. You've manifested it. You know, you gave stores to people that weren't qualified, and you did it on purpose. It's a vertical and horizontal monopoly that you've created. Okay? Yes, you did. And let me tell you, you're going to hear about it, and you're going to hear about it also in addition to the fact that the whole 3-minute rule that you put into play here, that's totally going to be found by a competent court of law to be reactionary and done to shut out black and brown voices, now that we have more and more to talk about and to complain about in the wake of this -- another failed social equity project. Okay? It's all going to come out. And I'll just leave it at that. But yeah, you can see in the video I put today. I've got other ones, too, where you can clearly see that these stores are clustered there.

There's even one of them I went to that's only open part-time, but anytime it's open, it's enough time to keep out black and brown from that neighborhood, and you know this. And some of your cronies are in there, Ian Eisenberg and all those guys. Remember, Ian Eisenberg wanted to have me out to lunch until they found out that I really meant what I meant to say that I'm serious about justice, and then he used a profanity in my name. Remember that? I do. Okay. So anyway, you know, here's a funny thing I thought about the other day. Mr. Postman, it was about exactly a year ago you looked at me and you cut me off in mid-sentence, and you said, "Oh, you're done." You like to say that to me all the time. "You're done." Okay? When I finish talking. You don't say that to too many other people. It's because I get under your skin. Because you know that I know what I'm talking about. So I thought about this the other day, and basically, you're done, Ollie Garrett's done, and the Board is done soon. Okay? It's just a matter of time. But just yesterday I met this fine woman from Colombia and -- no, no, she was Brazilian. Yes. And we talked for a while, and it was just a really beautiful chemistry, loved

talking to her. You got to wonder, what does my personal life have to do with you? It's because she's in the fashion industry, and I'm going to call her up and see if maybe she could buy some designer bags so you could pack your bags and get out of public service. Goodbye.

Sami Saad: Yeah. Much respect for you. No disrespect, but you guys know I represent that organization. Black Cannabis pioneers has been -- they started the medical cannabis. I want to let everybody know who I am. I really thank you so much. You look for me and you let me speak to give me my equal opportunity. My name is Sami Abdullah Saad. I am the first one own medical cannabis pioneer since 2009/2010 in Seattle. The whole community we fought hard for the social equity for those black and brown and to, you know, get acknowledged back in the business. We were being mistreated, we were being thrown out of this business, and we are being tricked by LCB in the past. We're not blaming you, Mr. Postman, and I'm not accusing Ms. Ollie Garrett, but unfortunately, you guys fail. I am one of the -- owners of medical cannabis or, actually retail cannabis, but still, it was not fair giving me you didn't give everyone, but giving me, you didn't even give me because I'm qualified, you know, for being in this first.

You give me because you put too much to somebody being arrested with cannabis, but I still feel all of this. I'm overqualified, whatever you look by now not giving as we requested, as thousands of people met with the social equity group and they have me as a study. I'm the only one met with the social equity group. But you guys disrespected us. We said the black pioneers or those pioneers own cannabis, they should have the first license because you forced them out. If you want to give Palestine to Israel right now, and we never new, you don't want to give those black people you destroyed their businesses? This is like [indistinct] bomb. You bomb those black businesses. You never want them to come back for a second. You cannot stop principle from applying, even we are pioneer, if we have license or not, and those pioneers before us, they deserve it, too. You give me a piece now. You didn't give me because I'm a pioneer. You're making pioneer like just a little but not a main priority to get. You lied to us, and you said, "This is for the pioneer." We're being disrespected. The same thing -- Ms. Ollie Garrett, I'm not against you, but if the community find out your ex-boyfriend have multiple licenses, so let me just speak. Why you -- why you want to cut me because I said the truth? Her ex-boyfriend has multiple Licensing. This is -- this is -- people, they take it as this is a corruption. The other thing, Mr. David. If you don't listen to us as pioneer, we want to fix this. Give 26 license is good to pioneer. You give somebody -- right now, somebody have licenses and I wish him the best. And he applied again for a license, and he got it. That's fine. You have to give us opportunity. You have to give those license. This is not fair. You make 26 licenses for pioneer? Another 26 license for the other groups.

Peter Manning: Good morning, Chair Postman, and Board Member Ollie Garrett. My name is Peter Manning. I'm President of Black Excellence in Cannabis. I am here today to talk about a comment that I made a couple weeks back where I pointed out that the LCB, with some of their employees, handed out licenses to those people that did not qualify. The law read "must". In law with the legislative intent, "must" means it's a must. There's no way around that. What I meant to say, and I still say, and I doubled down on this, you must have cannabis or marijuana on your articles of incorporation in order to obtain a license in 2015. So the LCB took up with some of

their staff members, disregarded that, and handed white retailers licenses, over 30 in King County that did not qualify, whereas, you have black people that met those qualifications that were overlooked for various reasons but it truly being their skin tone. Because I believe that the people that were in charge of that were straight racists. Data doesn't lie. Postman said that I couldn't prove that. Here's documentation of Ian Eisenberg applying for a cannabis retail license on the 12th. It would issue him a priority one on the 13th by none other than Nicola Reid, Rebecca Smith, Jeannie McShane, and Frank O'Dell.

But this is not the only one. Ian Eisenberg isn't the only one that benefited. There was over 30. But when you take black people and you look at their qualifications, they were overqualified than that of whites and still didn't qualify for a license in this state under this agency. That's racist.

We can prove that. We're going to prove that in court. But the point I'm going to make here, when we say something at Black Excellence in Cannabis, we can back it up. I think it's important to understand that we, as a community, need to understand black and brown people. It's not that we're incompetent or we're less smart than white people. White people have control to keep control over us, and they don't just have these qualifications, they steal opportunities, like they stole the opportunity from the black and brown community, and now they want to usher in the social equity half assed -- excuse my language -- on to the black and brown community dismantling to make it more palatable to whites. Thank you.

Mike Asai: Morning, Chair Postman, Board Member Garrett, and community. My name is Mike Asai, founder of Emerald City Collective and Vice President of Black Excellence in Cannabis. A side note, House Bill 2870 DIA was a minimum of five years, not one day, not two days. It was a minimum of five years. On May 8, 2024, many witnessed a blatant act of discrimination and disrespect. Chair Postman arbitrarily cut the time for public comments from 4 minutes to 3, specifically targeting black individuals who had signed up to oppose the proposed scoring rubric. After reflecting on this incident for the past two months, it is clear that Chair Postman's actions were not just disrespectful, unprofessional, they were racist. Is Chair Postman a racist? I cannot say that for sure. I don't know him personally, but the actions on May 8th were undeniably racially motivated.

To make matters worse, after the Board meeting, Chair Postman aggressively -- and I want you to hear this, Ollie -- aggressively confronted me, invading my personal space, cursing, shouting, pointing his finger in my face. This behavior was not only uncalled for, but an outright attempt to intimidate and silence me and the black community. For over a decade, white participants in the cannabis industry have -- consistently been allowed the full 4 minutes to speak, yet when black voices rise to challenge the status quo, our time is cut, and we are treated with hostility. Since March 2022, but even further -- but since March 2022 after COVID, Black Excellence in Cannabis has empowered our community to speak truth to power and hold this Board accountable.

Our efforts were even acknowledged by Board Member Garrett in early of 2023 on the Eddie Rye show. Furthermore, I must address the scandalous denial of Peter Manning's appeal. He

was wrongly scored by Ponder, who inconsistently applied their own criteria. This reeks of bias and corruption, and I have a question for this agency. What was the conflict of interest -- the conflict of interest by Rick Garza on the first choice of the third-party vendor? Because it was changed. Peter Manning's comments about Nicola Reid, Becky Smith, and Jeannie McShane are entirely valid. In 2016, Nicola Reid recognized Bella Soleil as a medical cannabis dispensary, yet in her 2024 declaration, she falsely claims Peter Manning never had a medical cannabis dispensary. Who's lying here? It's not Peter Manning. So I must ask, is the LCB now actively trying to silence the black community? Are you attempting to discourage us or scare us into submission? Your actions on May 8th speak volumes. We will not be silenced. We will not be discouraged, and we will not be scared. Our voices are powerful. Our concerns are legitimate. We demand the respect and consideration that has been denied to us. Thank you.

5. ADJOURN

Chair Postman adjourned the meeting at 11:22 am.

Minutes approved this 9th day of September 2025



Jim Vollendroff
Board Chair



Ollie Garrett
Board Member



Peter Holmes
Board Member

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

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