



Board Caucus Meeting

Tuesday, April 26, 2022, 10:00am

This meeting was held via web conference only

Meeting Minutes

CAUCUS ATTENDEES

Chair David Postman
Member Ollie Garrett
Dustin Dickson, Executive Assistant

GUESTS

Nicola Reid, Compliance and Adjudications Manager
Kathy Hoffman, Policy and Rules Manager
Audrey Vasek, Policy and Rules Coordinator
Jeff Kildahl, Policy and Rules Coordinator

APPROVAL OF MEETING MINUTES

Member Garrett made a motion to approve the April 19, 2022, Board Caucus minutes. Chair Postman seconded. The motion was approved.

MEMORANDUM OF AGREEMENT – SAUK-SUIATTLE INDIAN TRIBE **Nicola Reid, Compliance and Adjudications Manager**

Nicola Reid: Good morning, Chair Postman and Board Member Garrett. Today, I'm going to be bringing forth a Memorandum of Agreement that we have negotiated with the Sauk-Suiattle Indian Tribe.

We've worked together effortlessly, and initially they will start with just one location that they may expand in the future, and so with that, I'm wondering if you have any questions or if there's any additional information I can provide.

Chair Postman: Not from me, you and I had a chance to talk about it last week. I think it's a great step forward, and I'm glad we were able to get it done. They can start business, and we'll see what comes in the future.

Nicola Reid: Thank you, Chair Postman.

Chair Postman: And, not seeing any other questions, I'll entertain a motion to approve the Memorandum of Agreement for the license from the Sauk-Suiattle Tribe.

Member Garrett made a motion to approve the April 19, 2022, Memorandum of Agreement with the Sauk-Suiattle Tribe. Chair Postman seconded. The motion was approved.

RULES PETITIONS – REVIEW AND CONSIDERATION

Audrey Vasek, Policy and Rules Coordinator

Audrey Vasek: Thank you and good morning, Chair Postman and Board Member Garrett. Thanks for the opportunity to be here today to present the staff recommendations on two rule petitions related to alcohol service at food trucks that the Board received from Sydney Simon on March 1st.

So, I'll just jump right in. Sydney Simon's first rule petition requests amendment of the definition of building, in WAC 314-07-010(2), so that stationary food trucks could become eligible for licenses to sell spirits, beer, and wine. The second petition from Sydney Simon requests a similar amendment to the same WAC to allow stationary food trucks to engage in "to-go" sales of spirits, beer, and wine.

I'll begin with the issue presented by the first petition, whether the Board should amend that definition of building in WAC, so that stationary food trucks could become eligible for spirit, beer, and wine sales. For some background on the current law and rule, food trucks are not eligible for any of the liquor license types available in statute. For example, the restaurant and snack bar license types require licensees to sell alcohol for consumption on-premises, and on-premises liquor license premises is defined in rule, in WAC 314-02-010(15), as a building in which a business is located inside that is allowed to sell alcohol for consumption on the licensed premises. Building is further defined in WAC 314-02-010(2), and that's the definition in question, as "a stationary structure, with floor to ceiling solid walls and a roof. A food truck is not a building". So, essentially, in order to sell alcohol on premises, licensee is required to have an indoor area for alcohol service. While there are rules that allow on-premises licensees to engage in outdoor service of alcohol, those rules are grounded in the fact that on-premises licensees have an indoor area for alcohol service also. For example, the rules for outdoor alcohol service in WAC 314-03-205 state that the licensee must have a building that provides indoor dining or production in order to qualify for an outdoor service area. Additionally, although the petition from Sydney Simon focuses on stationary food trucks or businesses that fall in a gray area, to use language from the petition, between food truck and building, food trucks are potentially mobile structures. Expanding the definition of building in rule to include potentially mobile structures, such as food trucks, would create tension and conflict with other rules and statutory requirements.

So, for example, the Board's licensing system requires licensees to have a physical location. The Board is required to make certain that all licensees have exclusive rights to an area in which they're serving alcohol, notify the local authority of the license application, and notify churches, schools, and public institutions within 500 feet of the physical location. The RCWs and WACs are cited in the rule petition, so I won't bore you with the string of citations right now.

For potentially mobile structures, the Board is not able to determine the physical location of where the licensee will serve alcohol. Unlike a traditional building, a stationary food truck could be located in one location at the time of the license application, but could potentially be moved at another time, so we wouldn't be able to determine any of those required things, like how far they are from surrounding churches, schools, public institutions, if they have permission from the local authority, et cetera. There's also public health and safety concerns related to allowing alcohol service at food trucks related to the increased alcohol outlet density, as described in more detail in the petition as well. And there's some concerns related to the inability of food trucks to monitor alcohol consumption and access in the areas where alcohol would likely be consumed, surrounding these potentially mobile structures.

I also just wanted to take a moment to address the COVID-19 effects on businesses that Sydney Simon's petition raised. In the email containing both the rule petitions, Sydney Simon states these amendments are needed because "parts of this rule have been enforced for some businesses, not others, it's not in line with new changes to WSLCB rules since the beginning of the coronavirus pandemic and makes growth of businesses struggling to survive and revitalize the economy of Washington State harder than needs necessitating". So, just to address some of those concerns that the definition of building does not align to the new changes to rule, the agency does recognize the negative impact of the COVID-19 pandemic on businesses, and the difficulties that these businesses have faced over the past several years. For example, beginning in March of 2020, the agency worked to find temporary ways for businesses to expand their operations using methods that would not put the health of employees or customers at risk. With House Bill 1480, certain temporary privileges were extended related to alcohol to-go sales and outdoor alcohol service. That was one of those outcomes of those agency efforts. However, with that bill, with 1480, the legislature did not change the underlying requirements for restaurants or snack bars or create new food truck license types. So, that definition of building in WAC is already in alignment with agency rules to implement 1480.

With respect to the second petition, a lot of the same issues are covered, but there is an additional issue of the to-go sales of spirits, beer, and wine. In order to obtain an endorsement to sell alcohol to-go, a business needs to have an eligible liquor license -- that is specified in 1480. There's the three types of temporary endorsements: the to-go sales of manufacturer sealed products, the to-go sales of cocktails and wine by the glass, and the to-go sales of growlers. Those are specified in the bill as being available to different types of licenses listed out, and a business that's ineligible to obtain any of the specified liquor licenses in 1480 would be ineligible to sell to-go alcohol. With respect to whether a food truck would be eligible to obtain a liquor license - if they're not eligible then, they would also not be eligible for to-go sales.

For those reasons, agency staff find that the issue of whether to allow alcohol service at food trucks would be a significant -- is a significant policy issue and it would be premature to address without legislative direction. So, we do not recommend amending the definition of building in WAC 314-107-010, to allow stationary food trucks to sell alcohol, whether to-go or otherwise. The staff recommendation at this time would be for the Board to deny both of the rule petitions submitted by Sydney Simon on March 1st.

I know that was a lot of material. That concludes my presentation, I'm happy to answer any questions you might have about either of the petitions.

Chair Postman: Can you just remind everybody really quickly -- we had a similar petition before us earlier this year, I think, which we also -- the recommendations were to reject and we did that. How did that differ from these two?

Audrey Vasek: The earlier petition was only asking for beer and wine sales, it was not asking for to-go sales. This actually asks for more than the previous petition did.

Chair Postman: Okay. And you said, absent legislative action, this isn't something we'd want to do. And certainly, the petitioners could go to the legislature and try to get a statute that would allow such a thing, and it seems to me, that would be the better path, only because it's something of a major change. Unlike with the COVID allowances, where we did, frankly, relax some restrictions around people with existing licenses. I can't think of a case where the actual issuance of licenses changed, do you know what I'm saying? The threshold for getting the license initially didn't change. And just knowing the food truck world, and I love them, that'd be a major change in the dynamic around those trucks, and I think it's worthy of a bigger conversation with state policymakers.

So, that would be my suggestion, I think your recommendation is a good one -- the staff recommendation. Member Garrett, any questions, or anything to add on this issue?

Ollie Garrett: No, I think you just addressed some of the things that I addressed when I was meeting with Audrey. At first, I was saying, is there something, since we're seeing more requests for food trucks -- and we know that some restaurants that have shuttered have gone to food trucks, because it's less expensive, and is it something we're going to be seeing more of. But when she went on to explain everything that she discussed earlier, of requirements and things, I agreed it was a bigger issue that needs to go before the legislators, not us.

Chair Postman: Yeah, and I think that if there is a legislative discussion about it then we'd be happy to engage in that and discuss what we think would be the right way to do something of that sort. I don't know what our position would be on the bill itself, because there is no bill, but we have expertise here that we could share.

Member Garrett: Yes.

Chair Postman: Okay, with that we're going to do two motions, one on each of these rule petitions, and the motion would be to accept the staff recommendation to deny the petition. The first one is a motion to accept the recommendation by staff on the petition to amend 314-07-010(2) to allow a stationary food truck to be considered a building so a food truck can be licensed for on-premises spirits, beer, and wine sales.

Member Garrett made a motion to accept the staff recommendation to deny the petition to amend 314-07-010(2) to allow a stationary food truck to be considered a building so a food truck can be licensed for on-premises spirits, beer, and wine sales. Chair Postman seconded. The motion was approved.

Chair Postman: Okay. That's approved. We're going to have to do the second one now, too. A motion for the petition to amend 314-07-010(2), to allow a stationary food truck to be considered a building so a food truck can be licensed to receive a "to-go" endorsement for spirits, beer, and wine sales, please.

Member Garrett made a motion to accept the staff recommendation to deny the petition to amend 314-07-010(2) to allow a stationary food truck to be considered a building so a food truck can be licensed to receive a "to-go" endorsement for spirits, beer, and wine sales. Chair Postman seconded. The motion was approved.

BOARD MEETING PREP AND RULES UPDATE

Kathy Hoffman, Policy and Rules Manager

Kathy Hoffman: I'll just briefly speak to you on social equity rules, no updates to provide today, since that's the project that I'm working on exclusively, and Audrey and Jeff will prepare you for what they'll be presenting in the Board meeting tomorrow. No other updates on any of the other rules in progress at the moment. But I also want to give a future rules update, I haven't done that in a while, and we're at a point where we can start thinking about those sorts of things.

The agency has been thinking about general amendments to rules, so, these are more, repealing rules, removing redundancies, duplication, those kinds of things. Audrey is going to be taking on that project in a couple of weeks, maybe in a month or so when some of her projects are moved forward and we're in the final stages. So, we're looking forward to that

As you know, there's continued discussion around delta-8 and associated concerns with THC compounds. We do have three deliberative dialogues scheduled now, we announced the first a couple of weeks ago, it'll happen tomorrow, April 27th, 1-2:30 pm. We're fortunate to have Dr. Nephi Stella come back to join us as well -- we knew we had our original three panelists, and Nephi notified me a couple of weeks ago he'd be joining as well. So, again that'll happen tomorrow. The next will happen on May 31st, and the final deliberative dialogue, if needed, will happen on June 21st. That'll inform rulemaking that will be coming up on May 11th.

Robert will be bringing a CR 101 to you to begin exploring additional definitions that we might need around THC compounds. If you remember, earlier this year, we promulgated rules around THC compound evaluation and established WAC 314-55-560. And we have a couple of definitions in there, a handful of them, going to take a look at those and see if we need to expand or repeal.

And I also want to take this opportunity to say, Robert has joined us permanently and will be working on cannabis rules. So, that will be his first cannabis project.

Another project that we're looking at opening, related to this subject of THC compounds - making sure consumers know what they're getting in their products - is reopening packaging and labeling rules to take a look at what we've got in terms of what's being disclosed, and

what's being put on packaging. Jeff will take that project on, I'm guessing as soon as his other projects conclude.

I'll also be opening up -- we've been wanting to do this, at least for a few years -- our advertising rules. There's a lot for us to update there. The last time we opened those rules, I want to say it was 2018 for the last update. So, we'll be taking a look at those, and you know that's going to be a big project. A lot of updates, and the landscape of advertising has expanded significantly since 2018, so a lot of stuff to look at there.

Then finally, just with respect to general stakeholder engagement, there's been a lot of discussion around federal legalization. Chair Postman, I know that's of great interest to you and Board Member Garrett. We'd like to begin hosting what we call "World Cafe" sessions. We've spoken internally about this, but it's a broader stakeholder engagement model than "deliberative dialogue" or "listen and learn" models. We're putting those together right now. I imagine those will be announced probably in late May or early June once we have the dates in place and we have a better idea of where we might hold these. I think when we were thinking about putting these together, we were still contemplating hosting a "World Cafe" in a virtual environment, but we may not be as virtual in the middle of June. So, we'll see what happens with that. I just wanted to make sure we got that out there, it's started to build some interest in the discussion and we're really looking forward to those conversations. There will be a series of three "World Cafes" based on what people are excited about, what they think they look forward to with federal legalization, things that might concern them, and then things that Washington can do to get ready for federal legalization, in whatever form it takes. I'll stop there for questions.

Chair Postman: One, you and your team are amazing, but I got exhausted hearing that you're going to open advertising, labeling, and we're starting a conversation around THC compounds, again. If you have that capacity that's great, but it's going to be a busy year, because before long we're going to be looking towards the 2023 legislative session.

Kathy Hoffman: And we're hoping that this work around, especially THC compounds -- we've designed it so it will move us towards the legislative session, so the interim is short. We only have three or four months to really engage meaningfully in these conversations and move these things forward. So yes, it's an aggressive timeline, but there's a lot of work to be done in a very short period of time.

Chair Postman: And now the "World Cafe". So, "World Cafe" is just a name for a type of gathering, convening, and it's just a way to get people together to, hopefully, prompt some conversation. And some of this came out of, frankly, comments we heard from licensees at Board meetings around this issue of what national legalization or decriminalization or normalization, or whatever it would look like in the end, would mean. We've talked about this a little bit, but you know, there are parts of the 502 system that some of our licensees want to really hold on to and protect in the national marketplace. Others that might seem old school versus what Congress could come up with, and maybe there's an evolution that has to exist. So, we want to talk about all of that. We hope Congress will listen to the states where there are recreational adult use sales today, especially those that are the most experienced in terms of what does work well, what doesn't, and our regulatory body will not be the only voice there, of

course. You all, licensees, have your own ways of communicating that, but it just struck me that we should see what we can get on the same page about. If there are some mutual goals, let's try to figure it out. The way that Kathy and Justin and the team have cut up these three events it's going to be interesting, and a little challenging, because it's not what we normally do, right? Because the first one is as you say, Kathy, is what are you looking forward to? So, that is a session where we're all going to try to be positive, and say, "if I could write the bill", or, "this is what we would want", and frankly we all live in an overly, needlessly negative framework, so we're going to try to move out of that for that conversation. I hope we can do that. And then we'll come back, and we'll talk about what other concerns. It's just an exercise, frankly, and we hope we get really good participation, no one's required, other than our staff will be, to attend, but we're going to really encourage licensees to join us, and have this conversation, and we'll figure out a process to see if we come up with some mutual goals. I think it would be really powerful if we do. So, those are my thoughts. I look forward to it. I will now hand it over to either Audrey or Jeff for an update on what will be presented at the Board meeting tomorrow. Thanks, Jeff.

Board Approval of CR 105 for Implementing 2022 Legislation: Second Substitute House Bill 1210 – Replacing “Marijuana” with “Cannabis” – Jeff Kildahl, Policy and Rules Coordinator

Jeff Kildahl: Good morning Chair Postman and Member Garrett. At tomorrow's Board meeting, I plan to request your approval of a CR 105 -- expedited rulemaking package -- to implement Second Substitute House Bill 1210, which passed the Washington State legislature during the 2022 legislative session.

In passing this bill, the legislature found that the use of the term “marijuana” in the United States has discriminatory origins and should be replaced with the more scientifically accurate term, “cannabis”. For this reason, the bill replaces the term “marijuana” with the term “cannabis” throughout the Revised Code of Washington, including Chapter 69.50 RCW, the Uniform Controlled Substances Act. And the bill also directs the LCB to replace the term “marijuana” with “cannabis” throughout the rules of the Liquor and Cannabis Board. That occurs about 1,200 times, give or take, in Title 314 WAC.

The purpose of the expedited rulemaking will be to replace every occurrence of the term “marijuana” with the term “cannabis”, and no other changes to Title 314 WAC are proposed.

Under expedited rulemaking, there is a different timeline, from regular rulemaking, and under this timeline, the public will have a 45-day public comment period to comment on the proposed rule amendments. This comment period lasts until July 1st, 2022. And, barring any substantial changes to the rule text, we would plan to bring the CR 103 package to you on July 6, 2022. Under that timeline, we would have the rules in effect 31 days later, on August 6th, 2022.

This ends my presentation for today, can I answer any questions?

Chair Postman: Just making sure my layman's view of this - and the reason it's expedited, and we're not going to have all the steps we normally do, is because we're mandated to do this, we don't have a preliminary CR 101 or anything, because the legislature said, "do it", right?

Jeff Kildahl: Right. Section 168 of the bill specifies that this rulemaking has to be done through the expedited rulemaking process, so that puts it on a faster track for implementation.

Board Approval of CR 101 for Implementing 2022 Legislation: Senate Bill 5940 Contract Packaging Services Endorsement – Audrey Vasek, Policy and Rules Coordinator

Audrey Vasek: Good morning, again, Chari Postman and Board Member Garrett. So, just some brief information about the items for tomorrow's Board meeting on the alcohol side.

I'll be requesting approval to file a CR 101, or pre-proposal statement of inquiry, related to implementation of 2022 legislation, Senate Bill 5940. For background, this is the bill that created a new endorsement allowing domestic alcohol manufacturer licensees, in other words, breweries, wineries, and distilleries, to contract with each other and other non-liquor licensed businesses if the contract doesn't include alcohol products, to provide certain packaging services. So, this includes things such as canning, bottling, bagging, mixing and repacking, and that bill takes effect June 9th, 2022.

A new rule section and revisions to existing rules are needed to align our agency rules with the new law and help inform licensees about this new endorsement and its requirements.

In terms of timeline, if the CR 101 package is approved tomorrow, I'll file it with the Code Reviser, and the informal comment period will begin. Notice will be published in the State Register on May 18th, and during this timeframe, the project team will begin to meet to create conceptual draft rules and review public comments. We anticipate bringing a CR 102 to the Board to consider on July 6, and our target date for bringing a set of final rules to the Board is August 31st, 2022.

Hearing Regarding Axe Throwing at Liquor Licensed Establishments – Audrey Vasek, Policy and Rules Coordinator

Audrey Vasek: Okay. And then, tomorrow is also the public hearing for the CR 102 rule proposal related to axe throwing at liquor licensed premises.

Some background on this -- the CR 102 was filed on March 16th, and we held a "listen and learn" session on February 3rd to gather public feedback. So far, we've only received three questions/comments related to this CR 102 rule proposal, and those were all in support.

After the comment period closes on April 27th, tomorrow, we'll meet again to consider those public comments, and if no substantive changes need to be made to the proposed rules, the CR 103 and final rules could be filed on May 11th, at the earliest. If they are approved that day, then

they would go into effect on June 11th.

BOARD MEMBER AND EXECUTIVE ASSISTANT REPORTS

Chair Postman: And we're now to our last agenda item, which is Board member and Executive Assistant reports. Anything, Member Garrett?

Member Garrett: I have a social equity task force meeting this afternoon, right after litigation review, for the rest of the afternoon.

Chair Postman: It will be interesting to hear how that goes.

Meeting adjourned at 10:30 am.

Minutes approved this 5th day of November 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

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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