



Washington State Liquor Cannabis Board Meeting

Wednesday, April 20, 2016, 10:00 a.m.
LCB Headquarters - Board room
3000 Pacific Avenue SE, Olympia WA 98501

Meeting Minutes

1. CALL TO ORDER

Chair Jane Rushford called the regular meeting of the Washington State Liquor and Cannabis Board to order at 10:00 a.m. on Wednesday, April 20, 2016. Member Ruthann Kurose was also present. Chair Rushford first acknowledged her fellow Board member and thanked the staff for their efforts in preparing for the Board meeting.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Kurose moved to approve the April 6, 2016 meeting minutes.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

3. RULE SCHEDULE UPDATE – Presenter – Karen McCall, Sr. Policy and Rules Coordinator

Karen McCall provided a rules schedule update and gave a summary of rules completed and scheduled since the last update. (HANDOUT 1)

4. ACTION ITEMS (A-F)

ACTION ITEM 4A - Board approval to file CR 101 to implement 2016 legislation HB 2520 concerning the sale of marijuana to regulated cooperatives, HB 2521 allowing for proper disposal of unsellable marijuana by a licensed marijuana retail outlet, and SB 6341 concerning the provision of personal services and promotional items by cannabis producers and processors.

Joanna Eide, Rules and Legislative Coordinator, began the briefing with materials (HANDOUTS 4A 1-2). She provided a background noting that this proposed rulemaking will be to implement the following bills:

- HB 2520 concerning the sale of marijuana to regulated cooperatives.
- HB 2521 allowing for proper disposal of unsellable marijuana, and

- SB 6341 concerning the provision of personal services and promotional items by cannabis producers and processors.

HB 2520 requires all plants grown in a cooperative be procured from a licensed producer. This includes plants and clones. Rules to implement HB 2520 will address how members of a cooperative may legally procure marijuana from licensed producers. As part of implementing the provisions of this bill, LCB staff will also adjust the traceability system to ensure that plants sold by producers to members of a cooperative are accounted for.

HB 2521 adds a provision to RCW 69.50.357 to allow a licensed retailer to open marijuana concentrates, useable marijuana, or marijuana infused products for the purposes of disposal as authorized by the Board.

- Currently, retailers may only send product back to a processor for disposal and this bill aims to allow more flexibility for licensees.
- Rules to implement this bill will provide the conditions and requirements retailers must follow for disposal of marijuana if they choose to dispose of unsellable marijuana themselves.
- Retailers may still choose to return unsellable marijuana to producers if preferable.

SB 6341 allows producers and processors to provide branded promotional items of nominal value to retailers, including but not limited to items such as lighters, postcards, pencils, matches, shirts hats, visors, and other similar items. (See subsections (1)(a)(i) through (iv)). These provisions are similar to those we see in the liquor industry.

- The bill also allows producers and processors to list the retailers who carry their products on their websites and vice versa.
- It also allows producers, processors, and retailers jointly or along with regional, state, or local industry associations, to produce brochures and materials promoting tourism in Washington that contain information about retail licensees, producers, processors and their products.
- Lastly, the bill allows producers and processors to offer personal services intended to inform, educate or enhance customers' knowledge or experience of the manufacturer's products at a licensed premises. Personal services may include participation in events and the use of informational activities at a licensed retailer's premises.
- Rules to implement this bill will primarily be focused on providing parameters under which personal services may be offered, as well as addressing that matches and lighters cannot be uses on the retailer's premises to consume marijuana as that is prohibited under state law.

Ms. Eide then requested approval to file a CR-101 to implement 2016 marijuana legislation.

MOTION: Member Kurose moved to approve filing a CR-101 to implement 2016 marijuana legislation.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 4B - Board approval to file CR 101 to implement 2016 legislation regarding regulating vapor products (SB 6328).

Joanna Eide, Rules and Legislative Coordinator, began the briefing with materials (HANDOUTS 4B 1-2). She provided a background noting that this rulemaking is to implement the provisions of SB 6328 concerning the regulation of vapor products, passed by the legislature this session. This bill will also require changes to some rules surrounding tobacco products regulations. SB 6328 creates three new licenses for those who manufacture, distribute, and retail vapor products, as well as set many conditions on the packaging, display and selling of vapor products. Since the bill imposes a new statewide regulatory structure for vapor products and there were many versions of this bill this past session and this final version was passed so late during the special session, she is currently working with LCB staff to identify all changes to rules necessary as a result of its passage. Many of the provisions will go into effect apart from any rulemaking requirements, but several of the provisions will not go into effect until license forms are established. The bill also requires the LCB to establish procedures with Dept. of Health and local health agencies if vapor products are found to pose a substantial risk to health and safety.

Ms. Eide then requested approval to file a CR-101 to initiate permanent rulemaking to implement SB 6328.

MOTION: Member Kurose moved to approve filing a CR-101 to initiate permanent rulemaking to implement SB 6328.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 4C - Board approval to file CR 101 to implement 2016 budget proviso relating to electronic payment of the marijuana excise tax.

Joanna Eide, Rules and Legislative Coordinator, began the briefing with materials (HANDOUTS 4C 1-2). She provided a background noting that this rulemaking to implement a proviso related to requiring electronic payments of the marijuana excise tax that the legislature included in the 2016 Supplemental Budget. The proviso allows the creation of a waiver from the electronic payment requirement through establishing rules.

- Rules will still allow payment through check, cashier's check or money order in addition to electronic payment.
- We understand that it is still difficult for many licensees to obtain bank accounts through financial institutions, however, those resources are becoming more available and we hope that this will continue.
- Large safety/security risk for those licensees who pay excise taxes in cash.
- Alternatives to cash payments will promote efficiency.
- With more licensees coming into the market, these considerations for safety and efficiency will only become more important.

Ms. Eide then requested approval from the Board to file a CR 101.

MOTION: Member Kurose moved to approve the filing of CR 101 to implement 2016 budget proviso relating to electronic payment of the marijuana excise tax.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 4D - Board approval to file CR 101 to initiate permanent rulemaking for lab testing and QA rules review.

Joanna Eide, Rules and Legislative Coordinator, began the briefing with materials (HANDOUTS 4D 1-2). She provided a background noting that this rulemaking is regarding marijuana production, lab standards, marijuana testing requirements, and quality assurance rules among other related subjects.

- Last meeting when I brought the PT requirements and lab certification revocation/suspension emergency rules to you, I also mentioned that LCB staff is currently convening a work group consisting of LCB staff, Dept. of Ag, DOH, Ecology, laboratory representatives, and industry representatives. We will use this work group's experience and expertise to gather information and receive recommendations to improve, enhance, and clarify rules related to marijuana production, testing requirements, lab standards, and quality assurance to potentially include in this rulemaking project.
- We solicited interest for industry members and labs to be included on this work group. We selected members from this group considering location in the state, type of licensee, which tier, indoor vs. outdoor operations.
- We invited those who expressed interest but were not selected to be part of the work group to operate as reviewers as we still appreciate the knowledge, experience, and input they can provide. We want to maximize the benefit of this project, which can only be accomplished through having as much information as possible. We greatly appreciate all those who have volunteered their time and dedication to improvements in the rules.
- The first meeting of the work group is planned to occur next week.

Ms. Eide then requested approval from the Board to file the CR 101.

MOTION: Member Kurose moved to approve the filing of the CR 101 to initiate permanent rulemaking for lab testing and QA rules review.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 4E - Board decision on petition for rulemaking to allow a producer to assume another existing producer license.

Joanna Eide, Rules and Legislative Coordinator, began the briefing with materials (HANDOUT 4E 1). She provided a background noting the petition was submitted by Max Hewitt on behalf of Robert McKinley, CEO of Grow Op Farms. The petition is for rulemaking to allow licensed producers to assume additional producer licenses from producers who wish to sell their business or are going out of business.

Permanent rules allow producers to hold up to three licenses; however, they were limited to one license for each producer by interim policy after 502 was passed. This was due to canopy considerations as more people applied for producer licenses than the canopy maximum could support. We are still processing initial applications and have applications for 2nd and 3rd producer licenses which are now on hold (400-500). We're pretty much on hold no matter what as we've met and likely exceeded canopy needs.

The petition is asking that existing licensees be able to assume existing licenses, which would not necessarily mean an increase to canopy. We have heard from many small producers that they are struggling, and some would like to be able to sell their business to another producer. I have spoken to staff and they agree that something should be done to accommodate the reality that there are producer licenses that are no longer being used or might not be used soon.

No rulemaking would actually be required to do what is asked by this petition – it would only require a change to the interim policy. However, there are a lot of logistical considerations to account for as far as how existing licenses available for assumption would be allocated. For these reasons, and because the agency plans to continue to look into the issue and potentially act on it later this year, director's office staff recommends that the Board deny the petition for rulemaking at this time.

MOTION: Member Ruthann Kurose moved to deny the petition.

SECOND: Chair Rushford seconded.

ACTION: Petition is disapproved.

ACTION ITEM 4F - Board decision on petition for rulemaking to create a new rule regarding testing for bloom fertilizers and establishing proper plant flushing standards.

Joanna Eide, Rules and Legislative Coordinator, began the briefing with materials (HANDOUT(S) 4F 1). She provided a background noting a petition for rulemaking was submitted by John Worthington, a private citizen. Mr. Worthington requests the WSLCB to adopt a new rule regarding testing for bloom fertilizers and establishing proper plant flushing procedures. Mr. Worthington states in the petition that bloom fertilizers are not healthy to smoke, vaporize, or ingest, and asks that the rule be applicable to both medical and recreational marijuana.

As mentioned earlier, we are convening a work group that will be looking at many issues, including marijuana production as it relates to the use of chemicals. Through the expertise available in the work group, including a member from the Dept. of Ag's Pesticide Registration Unit, we will be able to take a closer look at the issues raised in the petition. For this reason, Director's office staff recommends that the Board approve the petition and include this topic in the discussion of the Quality Assurance Work Group that will make recommendations for regulatory improvements to marijuana productions requirements,

testing requirements, and lab standards, as detailed in the request to file a CR-101 to initiate permanent rulemaking on these subjects presented to the Board today.

MOTION: Member Ruthann Kurose moved to approve the petition.

SECOND: Chair Rushford seconded.

ACTION: Petition is approved.

5. ADDITIONAL BUSINESS

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

David Osgood – Law office of David Osgood

Mr. Osgood stated he represents a number of marijuana and liquor clients. He is here to talk about the cap of retail stores in Seattle. Currently there are several licenses for sale in the price range of \$2 million. There are 19 licenses issued in Seattle that have not opened at the location and some of those are for sale. There are dispensaries that have been shut out of the retail market. City of Seattle supports the request for additional licenses. Seattle is allowed fewer retail locations per capita than other cities. Mr. Osgood would like the Board to reconsider the cap on licenses.

Jared Dyson – Lucius Leaf

Mr. Dixon could not get a license in Walla Walla due to the cap and errors by LCB. They were told to move their location to Seattle. They were then told Seattle was closed. They were promised a license and would like LCB to reconsider.

Mark Childs – Oly Smoke 52

Mr. Child stated he is a tier one producer/processor. He wanted to address HB 6041 and supports this. He also wants LCB to consider producer/processors who reduced their tier size because the canopy size had been met before deciding if you allow mergers or opening the producer/processor licenses.

Mike Paxhia – Herbal Healing

Mr. Paxhia stated that his producer/processor location was shut down by the city of Bremerton because they do not consider it agricultural. He was told if he closed the producer/processor license, applied for the retail license and was a priority one or two he would be granted a retail license. One week before his inspection was complete, they closed his location due to the cap. He has been offered \$200K for his priority spot. He should have an opportunity since he had done things correctly and it is unfair.

Jose Chavira – Lucius Leaf

Wanted to reemphasize comments already made regarding the retail cap and express how difficult this process has been.


Chair Rushford asked for contact information from all the citizens that spoke so we could have someone contact them to clarify some of the information.

ADJOURN

Chair Rushford adjourned the meeting at 10:46.

Minutes approved this 9th day of May, 2016


Jane Rushford
Board Chair


Ruthann Kurose
Board Member

Minutes prepared by: Lisa Faker, Executive Assistant to the Board

LCB Mission - Promote public safety and trust through fair administration and enforcement of liquor, tobacco and marijuana laws.

Complete meeting packets are available online: <http://lcb.wa.gov/Board meetings/Board meetings>
For questions about agendas or meeting materials you may email lisa.faker@lcb.wa.gov or call 360.664.1717