



Washington State Liquor Cannabis Board Meeting

Wednesday, May 18, 2016, 10:00 a.m.
LCB Headquarters - Boardroom
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, May 18, 2016. Member Ruthann Kurose was also present. Chair Rushford first acknowledged her fellow Board members and thanked the stakeholders and staff for their contributions.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Kurose moved to approve the May 4, 2016, meeting minutes.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

3. EMPLOYEE ANNOUNCEMENTS

Swearing In of New Officers – Chief Justin Nordhorn, Presenter

Chief Justin Nordhorn introduced the incoming officers and provided a brief background on each of them. He administered the oath of office and provided them with their badges.

Officer Patrick Sam

Start Date: September 1, 2015

Academy start date: October 7, 2015

Academy Graduation: February 18, 2016

Retail Unit – Bremerton Team

Officer Patrick Gipson

Start Date: September 24, 2015

Academy start date: December 13, 2015

Academy Graduation: May 11, 2016

Retail Unit – North Seattle

Officer DaLi Borden

Officer DaLi Borden began her Law Enforcement career with Department of Fish and Wildlife in 1988. In 1990, she began a career in federal law enforcement as a Special Agent with the National Oceanic and Atmospheric Administration Fisheries Enforcement in Seattle. In 2000, she transferred to the Food and Drug Administration Office of Criminal Investigations in Kirkland and recently retired after 26 years. Officer Borden joined the Tobacco Tax unit on April 16, 2016 and is working out of the Mountlake Terrace office.

4. ACTION ITEMS (A-D)

ACTION ITEM 4A - Board Adoption of (CR 103) to Implement 2015 Marijuana Legislation.

Karen McCall, Sr. Agency Rules and Policy Coordinator, began the briefing with materials (HANDOUTS) 4A 1-3). She provided a background noting that the Board held a total of eight public hearings on the proposed rules to implement 2015 marijuana legislation:

- 6 hearings throughout the state between November 8, 2015, and November 19, 2015, on the original proposed rules;
- 1 hearing in Olympia on February 10, 2016 on the first supplemental proposed rules; and
- 1 hearing in Olympia on May 4, 2016, on the second supplemental proposed rules.

Many of the comments still being received concern the out of state financiers. Karen McCall clarified that out of state financiers can only loan money. They would need to meet the residency requirements if they are going to have a percentage of profits or be involved in the business.

Many comments were received at the public hearings and in writing. All comments and Liquor and Cannabis Board responses will be provided in the concise explanatory statement.

Member Kurose expressed her appreciation for the work and efforts of Karen McCall and other staff. They reviewed all the written comments, spoke on the phone with many stakeholders and participated in eight public hearings.

Chair Rushford commented that the effort has been extensive, and these rules will be subject to refinement over time. The Board has demonstrated our interest in providing the best platform for moving forward. Chair Rushford thanked the citizens, licensees and LCB staff for their commitment.

Ms. McCall then requested approval from the Board for Adoption of (CR 103) to Implement 2015 Marijuana Legislation.

MOTION: Member Kurose moved to approve the filing of proposed rules (CR 102) for...

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 4B - Board Adoption of Emergency Rules to Establish Pesticide Action Levels for Pesticides for Testing Pass/Fail and Recall Purposes.

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUT(S) 4B 1-3). She provided background noting marijuana and marijuana products sold in WSLCB licensed retail stores are consumable products and it is important that they are safe for human consumption. Action levels for disallowed pesticides are needed to establish a point at which a marijuana sample fails quality assurance testing and may be subject to destruction or a recall. Pesticide action levels are standard in the food industry and for other products meant for human consumption.

Currently, there is a default zero tolerance action level for pesticides not allowed for use in marijuana production. This level is not workable or supported by science as many of the chemicals in pesticides are found in the natural environment and laboratories cannot test down to zero levels. Without action levels, there are risks to marijuana licensees solubility should pesticides be identified even at extremely low levels, which would make those products potentially subject to destruction or recall.

Action levels for disallowed pesticides does not negate prohibitions against the use of such pesticides. Action levels do, however, account for the instance in which a producer has not used the disallowed pesticide, such as "drift" from a neighboring orchard in an outdoor grow or residual pesticides from former farms on the land. Conversely, even if the producer does not use a disallowed pesticide on marijuana that later tests to have higher levels than the action levels established in this emergency rule, consumer safety will be protected in ensuring that product will not enter the marketplace. Additionally, with medical marijuana being folded into the regulated retail market, action levels are necessary since pesticide testing will be required for medical marijuana. The WSLCB is considering mandatory testing of pesticides on recreational marijuana as well; however action levels are still necessary for random testing of marijuana and investigations into whether disallowed pesticides were used in marijuana production or marijuana should be recalled to avoid risks to consumers.

In the event that a tested product has levels higher than the action levels for disallowed pesticides, the lot from which the sample was derived from will fail quality assurance testing or be subject to a recall. The WSLCB has previously adopted procedures for a recall of marijuana where the product will be identified and removed from the marketplace.

This emergency rule is needed to ensure the public health, and safety of the citizens of Washington and the protection of licensees. The WSLCB researched other jurisdictions' regulations and consulted with the Washington State Department of Agriculture, Department of Ecology, and Department of Health as well as laboratories and marijuana licensees in developing this emergency rule. The action levels established in this emergency rule are based on the action levels adopted by Oregon and supported by a technical paper from the Oregon Health Authority. Permanent rulemaking is underway and the WSLCB will continue to work on this issue to consider whether changes will be needed in permanent rulemaking.

Chair Rushford commented that the work they have done is impressive and the Board appreciates the collaboration with the other agencies.

Ms. Eide then requested approval from the Board to adopt the emergency rule.

MOTION: Member Kurose moved adoption of emergency rules to establish pesticide action levels for pesticides for testing pass/fail and recall purposes.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 4C - Board Adoption of Emergency Rules to Provide Requirements and a Waiver for the Electronic Payment of the Marijuana Excise Tax.

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUT(S) 4B 1-3). She provided a background noting emergency rules are needed to create guidelines and requirements for electronic payment of the marijuana excise tax and a process to apply for a waiver of that requirement to implement a 2016 Supplemental Budget proviso. The electronic payment requirement is in addition to other payment options, such as payment by check, cashier's check, or money order, and is necessary to reduce public safety risks associated with cash payments of the marijuana excise tax. Currently, some licensees are traveling to WSLCB in Olympia with cash to pay the monthly marijuana excise tax due. This creates a large risk to licensees that transport large sums of cash to pay monthly marijuana excise taxes. In addition to alternatives to cash payment being safer than transporting cash to the WSLCB on a monthly basis, these requirements will also promote efficiency.

As more marijuana businesses become licensed prior to the absorption of medical marijuana into the regulated retail market on July 1, 2016, the public safety risks of cash transport and payment and risks to licensees paying in cash will only increase with the increase in licensees paying marijuana excise taxes. For these reasons, emergency rules are necessary to reduce risks to public safety and the safety of marijuana licensees by requiring electronic payment of the marijuana excise tax unless a suitable alternative payment form is submitted or the licensee is granted a waiver from the requirements for good cause. WSLCB used the similar requirements in Washington State Department of Revenue's statutes, policy and procedures in developing the rule and waiver requirements.

This emergency rule has a delayed effective date of July 1, 2016, to allow licensees time to make arrangements for the new requirements or prepare to apply for a waiver. Permanent rulemaking is already underway to establish the requirements in this emergency rule in permanent rule, and a preproposal statement of inquiry (CR-101) was filed as WSR 16-09-120 on April 20, 2016.

Member Kurose commented on behalf of the Board that they have expressed they view this as a public safety risk that needs to be addressed.

Ms. Eide then requested approval from the Board to file the emergency rules.

MOTION: Member Kurose moved Adoption of Emergency Rules to Provide Requirements and a Waiver for the Electronic Payment of the Marijuana Excise Tax.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 4D - Board Approval to file CR 102 for MJ Product Recalls.

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUT(S) 4D 1-4) and a provided a PowerPoint presentation (POWERPOINT 4D).

Timeline:

March 23, 2016	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
April 6, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
May 18, 2016	End of written comment period
May 18, 2016	Board is asked to approve filing the proposed rules (CR 102 filing)
June 1, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
July 13, 2016	Board is asked to readopt emergency rules
July 13, 2016	Public Hearing held
July 13, 2016	End of written comment period
July 27, 2016	Board is asked to adopt rules
July 27, 2016	Agency sends notice to those who commented both at the public hearing and in writing.
July 27, 2016	Agency files adopted rules with the Code Reviser (CR 103)
August 27, 2016	Rules are effective (31 days after filing)

Ms. Eide then requested approval from the Board to file the CR 102.

MOTION: Member Kurose moved to approve the filing of proposed rules CR 102 for MJ Product Recalls.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

5. ADDITIONAL BUSINESS

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

Susan Gress – Merry Echo Productions/Vashon Velvet

Ms. Gress would like to see us eliminate tier levels for producer/processor licensees. Tier levels are restricting small business from growing and we should allow the market to determine the plant canopy size.

Kevin Oliver - NORML/WFC

Mr. Oliver would like LCB to reconsider the decision to withdraw applications for second and third producer licenses.

Crystal Oliver – Washington Finest Cannabis

Ms. Oliver is a tier 3 producer/processor in Eastern Washington. They would like the opportunity to expand and have LCB reconsider the decision to withdraw applications for second and third producer licenses.

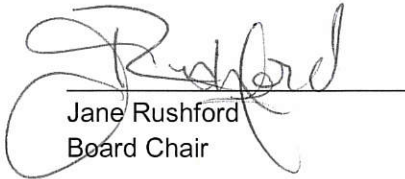
Mark Childs – C.F.C

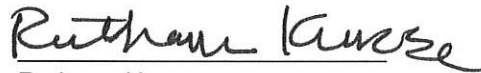
Mr. Childs is a producer/processor in Olympia with concerns about out of state financiers and would like the Board to review the language in the rule and decide if it promotes the intent to support small businesses.

ADJOURN

Chair Rushford adjourned the meeting at 10:43.

Minutes approved this 15th day of June, 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/boardmeetings/board_meetings
For questions about agendas or meeting materials you may email lisa.faker@lcb.wa.gov or call 360.664.1717