



## Washington State Liquor Cannabis Board Meeting

Wednesday, September 7, 2016, 10:00 a.m.  
LCB Headquarters - Boardroom  
3000 Pacific Avenue SE, Olympia WA 98501

### Meeting Minutes

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#### 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, September 7, 2016. Member Ruthann Kurose and Member Ollie Garrett were also present.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Kurose moved to approve the August 24, 2016, meeting minutes.

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

#### 3. PUBLIC HEARINGS (A-F)

##### PUBLIC HEARING 3A - Public Hearing on Outside Service Rules

Karen McCall, Sr. Agency Rules Coordinator, began the briefing with materials (HANDOUTS 3A 1-2). She provided background noting that request came to address locations where the 42 inch high barrier requirement stops the flow of traffic in the area. The change being proposed is to amend section WAC 314-02-130 what types of changes to a licensed premises require board approval? Added language that the Board may grant limited exceptions under certain conditions to the required 42 inch high barrier for outside alcohol service areas. No comments were received.

Chair Rushford opened the public hearing and invited the first citizen to the podium to provide testimony.

Julia Gorton – Washington Restaurant Association and Washington Lodging Association

Ms. Gorton stated that the Washington Restaurant Association and Washington Lodging Association support this change.

Chair Rushford closed the public hearing and thanked everyone for their input.

### **PUBLIC HEARING 3B - Public Hearing on rules to Implement 2016 Liquor Legislation**

Karen McCall, Sr. Agency Rules Coordinator, began the briefing with materials (HANDOUTS 3B 1-5). She provided background noting new rules and revisions to current rules are needed to implement the following legislation that passed during the 2016 legislative session:

- SHB 2831 Creates a wine retailer reseller endorsement for qualifying beer and/or wine specialty shop licenses.
- HB 2605 Creates a special permit for breweries to conduct 12 private tasting and sales events per year.
- ESSB 6470 Allows domestic wineries to sell their own product at Special Occasion licensed events; creates a special permit to allow an individual or business to sell a private collection of wine or spirits to another individual or business.

Chair Rushford opened the public hearing and invited the first citizen to the podium to provide testimony.

#### Josh McDonald – Washington Wine Institute

Mr. McDonald wants clarification on WAC 314-38-080 and the purpose of the changes to the rule. He wants to ensure that the change is consistent with the intent of the legislation. He provided written comment. He said currently the permit use is going well for the wine industry.

#### Annie McGrath – Washington Brewers Guild

Ms. McGrath stated they ran legislation last session that mirrored the same permit that the wineries were able to receive from the legislature two sessions ago. Concerned with removing language about allowed activities and wants language clarified so it is clear what is allowed.

Chair Rushford closed the public hearing and thanked everyone for their input.

### **PUBLIC HEARING 3C - Public Hearing on WAC 314-23-085 What type of discounts are not allowed?**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUTS 3C 1-2). She provided background noting on September 9, 2015, the Board adopted new rules around fair trade practices. WAC 314-23-085 in particular addresses what type of discounts are not allowed between a distributor and retailer. An exception was written into the rule that allows a distributor to combine orders for multiple locations when determining a volume discount and deliver the product to multiple liquor licensed locations owned and operated by the same liquor licensed entity.

The exception is strongly opposed by the distributors because it would essentially require them to completely change the way they do business.

The Board notified stakeholders after the rule was adopted that the Board would not be enforcing this rule until the Board could re-evaluate the circumstances surrounding the rule and the effect on our stakeholders.

What changes are being proposed?

Amended section. WAC 314-23-085 What type of discounts are not allowed? Removed language that allowed a distributor to combine orders for multiple locations when determining a volume discount and deliver the product to multiple liquor licensed locations owned and operated by the same liquor licensed entity.

Chair Rushford opened the public hearing and invited the first citizen to the podium to provide testimony.

Josh McDonald – Washington Wine Institute

Mr. McDonald stated that the Washington Wine Institute supports this change.

Chair Rushford closed the public hearing and thanked everyone for their input.

**PUBLIC HEARING 3D - Public Hearing on Alcohol Impact Area (AIA) rules**

Karen McCall, Sr. Agency Rules Coordinator, began the briefing with materials (HANDOUTS 3D1-2). She provided background noting the Board filed proposed rules on March 23, 2016, to revise the Alcohol Impact Area rules found in WAC 314-12-215. At the public hearing held on May 4, 2016, the Board heard comments from stakeholders on the proposed rules. Based on the comments received staff is recommending changes to the proposed rules.

What changes are being propose?

WAC 314-12-155 Alcohol impact areas-Definitions-Guidelines.

- Clarification of minimum requirements for an alcohol impact area recognition packet;
- Clarification on conditions or restrictions the board may recognize for an alcohol impact area;
- Removal of a minimum alcohol content on restricted products;
- Addition of a list of products the Board will ban in all alcohol impact areas and the requirement that must be met to add additional products to the banned products list;
- Revisions to the reporting requirements for a local jurisdiction on recognized alcohol impact areas; and
- Clarification of information required in reports to the Board from local authorities on recognized alcohol impact areas.

Removed local jurisdiction can use a list from another jurisdiction when requesting an AIA. The proposed banned product list is based on a combination of approved AIAs. Received letters of support from a private citizen, Washington Association of Substance Abuse and Violence Prevention and three from City of Olympia. Received two letters opposing the changes from the Wine Institute and Washington Beer & Wine Association.

Chair Rushford opened the public hearing and invited the first citizen to the podium to provide testimony.

Mark Rentfrow – City of Olympia

Mr. Rentfrow stated that they support the adoption of the rules. They have letters of support from Olympia Downtown Association, Parking Business Improvement Area and the City of Olympia.

Katie Jacoy – Wine Institute

Ms. Jacoy stated the Wine Institute opposes the banned products list for all AIAs. The local jurisdiction needs to provide data showing that the products are linked to problems in their jurisdiction. The wine products on the proposed banned list have not been shown to be a problem in some of the local jurisdictions with AIAs.

Chair Rushford closed the public hearing and thanked everyone for their input.

**PUBLIC HEARING 3E - Public Hearing on Penalty Guidelines**

Karen McCall, Sr. Agency Rules Coordinator, began the briefing with materials (HANDOUTS 3E 1-2). She provided background noting that as part of the Liquor and Cannabis Board's on-going rules review process, rules regarding how to apply for a liquor license are being reviewed for relevance, clarity, and accuracy. At the public hearing on June 15, 2016, stakeholders provided comment on the proposed rules. Based on those comments revisions have been made to the original proposed rules.

What changes are being proposed?

Amended Section. WAC 314-29-010 What options does a licensee or permit holder have once he/she receives a notice of an administrative violation? Explained actions the board may take if a monetary penalty is not paid by the due date.

Amended Section. WAC 314-29-020 Group 1 violations against public safety. Added language that group 1 violations will be counted sequentially rather than independently by group.

New Section. WAC 314-29-038 Group 5 public safety violations for sports entertainment facility licenses. Created a new section for sports entertainment facility license public safety violations. Since this license type is unique from all other on-premises licenses, the penalties should be different.

Chair Rushford opened the public hearing and invited the first citizen to the podium to provide testimony. Julia Gorton – Washington Restaurant Association and Washington Lodging Association

Ms. Gorton thanked WSLCB staff for meeting with them to discuss their concerns. They appreciate the option of a late payment instead of suspension of license. They are still concerned with the sequential counting of penalties. Additional training requirements and penalties instead of revocation of licenses would be preferred.

Josh McDonald – Washington Wine Institute

Mr. McDonald thanked WSLCB staff for meeting with them to discuss their concerns. They take suspension and revocation of licenses seriously. Ability to pay penalties electronically is requested.

Chair Rushford closed the public hearing and thanked everyone for their input.

**PUBLIC HEARING 3F - Public Hearing on rules to implement 2016 marijuana legislation: HB 2520 concerning the sale of marijuana to regulated cooperatives and HB 2521 allowing for proper disposal of unsellable marijuana by a licensed marijuana retail outlet**

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 3F 1-2). She provided background noting that:

- CR-101 was filed on April 20, 2016.

- CR-102 filed on July 27, 2016.
- These rules are to implement two bills passed during the 2016 legislative session.
  - HB 2520 – concerning the sale of marijuana to registered cooperatives.
  - HB 2521 – allowing for the disposal of marijuana by retailers.
- HB 2520
  - Providing guidance to producers and members of a cooperative since these sales are new.
  - Fitting within current parameters in rule – 24 hour waiting period prior to transfer.
  - Voluntary on the part of the producers.
  - WSLCB is looking into ways to help facilitate this.
- HB 2521
  - Providing flexibility to retailers that cannot send product back to processors.
  - Have to follow same disposal requirements as processors and producers.
  - They will still have the option to send back to processors.

Chair Rushford opened the public hearing and invited the first citizen to the podium to provide testimony. No one came forward for comment.

#### **4. ACTION ITEMS (A-D)**

##### **ACTION ITEM 4A - Board Adoption of Everett Core Commercial Areas**

Karen McCall, Sr. Agency Rules Coordinator, began the briefing with materials (HANDOUTS 4A 1-2). She provided background noting that in recognition of this mandate, in 1999, the Liquor and Cannabis Board adopted the Alcohol Impact Area (AIA) rules, Washington Administrative Code (WAC) 314-12-210 through WAC 314-12-225. These rules establish a framework for the Liquor and Cannabis Board, working in partnership with local government and community organizations, to mitigate the negative impacts that result from the presence of chronic public inebriation. Preventing and reducing the harm caused by untenable alcohol consumption requires a comprehensive, multi-dimensional response by neighborhood residents, businesses, and government agencies, including coordinated treatment services, health care, housing services and vocational training. Mandatory restrictions on alcohol sales imposed by the Board are a key element in the effort to mitigate the negative impacts of chronic public inebriation.

The city of Everett's request meets the requirements for Board recognition, as outlined in WAC 314-12-215, includes findings of fact pertaining to the presence of chronic public inebriation. Data submitted by the city of Everett finds that concentrations of alcohol related incidents in the Core Commercial Areas requiring emergency responses was 72% higher than in other areas of the city. Additionally, repeat calls for alcohol related incidents occurred almost entirely within the Core commercial Areas. The data submitted demonstrate that chronic public inebriation associated with alcohol sales and consumption within the Commercial Core Area continue to contribute to the deterioration of the general quality of life within this area.

Karen invited stakeholders from Everett to provide comments on the request:

Ryan Dalbero with the Everett Police Department stated that they came up with the product list based on the litter study and criminal reports. If they found it was a problem in a small area they did not include the product on the list, only if it was a problem in the entire area. Their product list is short.

Bruce Bosmen with Everett Police Department said they documented and took pictures of the litter and included it in their request. Up to two dump trucks of litter twice a week at one point were being picked up in this process. They have letters of support from stakeholders.

Julie Sklare with Everett Safe streets stated that they support the Everett AIA request along with the City Government and other stakeholders.

Ms. McCall then requested approval from the Board to adopt the Everett AIA.

MOTION: Member Kurose moved to for adoption of the Everett Core Commercial Areas AIA.

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

**ACTION ITEM 4B - Board Adoption (CR 103) to implement 2016 budget proviso relating to electronic payment of the marijuana excise tax**

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 4B 1-5). She provided background noting that:

- Proviso included for electronic payment requirement in 2016 budget from the legislature.
- CR-101 – filed April 20, 2016.
- CR 102 – filed July 13, 2016.
- Public Hearing held August 24, 2016.
- Brief overview of requirements:
  - Have to pay electronically, or by check, cashier's check or money order.
  - Can obtain a waiver to continue paying in cash for good cause shown.
  - Good cause definition.
  - If fail to obtain a waiver or a waiver is denied and payment is tendered in cash, WSLCB may assess 10% penalty.
  - Brief adjudicative proceeding available for those who are denied a waiver if they wish to contest the denial.
- No changes to the rule language after the CR-102.
- Eight written comments received. No oral testimony was offered at the public hearing.

Ms. Eide then request adoption of the CR-103 for permanent rules to implement an electronic payment requirement for the marijuana excise tax.

MOTION: Member Kurose moved to adopt the CR-103 for permanent rules to implement an electronic payment requirement for the marijuana excise tax.

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

**ACTION ITEM 4C - Board Approval to readopt Marijuana Excise Tax Electronic Payment Emergency Rules**

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 4C 1-3). She is requesting refiling the original emergency rule as it is set to expire prior to the effective date of permanent rules on the subject. Will come back to the Board to repeal the emergency rule once permanent rules are effective. No change from the language from the previous adoption

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

**MOTION:** Member Kurose moved to approve to readopt Marijuana Excise Tax Electronic Payment Emergency Rules.

**SECOND:** Member Garrett seconded.

**ACTION:** Motion passed unanimously.

**ACTION ITEM 4D - Board Approval to readopt Pesticide Action Levels Emergency Rules.**

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 4D 1-3). She provided a background noting she is refiling the original emergency rule as it is set to expire prior to the effective date of permanent rules on the subject. Permanent rulemaking is underway and a CR-102 is scheduled to be brought to the Board later this month. As mentioned when previously brought to the board, in partnership with WSDA and DOH, and as discussed in the informal work group, we are considering adjustments to these action levels in the permanent rule process. Just readopting original levels for now as we continue our work.

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

**MOTION:** Member Kurose moved to approve to readopt Pesticide Action Levels Emergency Rules

**SECOND:** Member Garrett seconded.

**ACTION:** Motion passed unanimously.

**5. ADDITIONAL BUSINESS**


Chair Rushford transitioned the chair to Member Kurose. Ms. Kurose then invited citizens to address the Board regarding any issues related to LCB business. There were no comments.

**ADJOURN**

Acting Chair Kurose adjourned the meeting at 11:05.

Minutes approved this 21<sup>st</sup> day of September, 2016

  
Jane Rushford  
Board Chair

  
Ruthann Kurose  
Board Member

Not Present  
Ollie Garrett  
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.

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