



Washington State Liquor Cannabis Board Meeting

Wednesday, November 15, 2017, 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, November 15, 2017. Member Ollie Garrett and Member Hauge were also present. Chair Rushford first acknowledged her fellow Board members and thanked staff and stakeholders for their participation.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Hauge moved to approve the October 4, 2017, meeting minutes.

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

MOTION: Member Hauge moved to approve the October 18, 2017, meeting minutes.

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

3. EMPLOYEE ANNOUNCEMENTS

State Service Recognitions – Becky Smith, Director of Licensing

Ms. Smith recognized Merwil Guzman for 30 years of service with the LCB and Michael Robinson for 35 years of service with the LCB.

State Service Recognitions – Peter Antolin, Deputy Director

Mr. Antolin recognized Jim Morgan for 15 years of state service.

4. ACTION ITEMS (A-D)

ACTION ITEM 4A – Petition for Rulemaking on Acceptable Forms of Identification

Karen McCall, Sr. Agency Rules Coordinator, began the briefing with materials (HANDOUT 4A 1). A petition for rulemaking was submitted by a private citizen requesting the board revise WAC 314-11-025 to allow NEXUS cards and green cards to be an acceptable form of identification for purchasing alcohol, marijuana, and cigarettes.

Proposed Changes

Staff recommends opening rulemaking on this issue to add the NEXUS card to the rule as an acceptable form of identification by filing a pre-proposal statement of inquiry (CR 101) to revise WAC 314-411-025. Green cards should continue to be prohibited as an acceptable form of identification.

Ms. McCall then requested approval to open rulemaking for acceptable forms of identification.

MOTION: Member Garrett moved to approve the recommendation to open rulemaking for acceptable forms of identification.

SECOND: Member Hauge seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 4B - Board Approval of CR 102 for Public Records Rules

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 4B 1-4). The purpose of this Issue Paper is to request approval from the Board to file proposed rules (CR 102) for rules changes in Chapter 314-60 and 314-42 WAC related to public records costs needed as a result of the passage of EHB 1595 (2017 c 304) during the 2017 legislative session and a review of Chapter 314-60 WAC.

Proposed Changes

Amendatory Section. WAC 314-60-010, Purpose.

Technical changes to the section to update references to the WSLCB.

Amendatory Section. WAC 314-60-015, Agency description – Contact information.

Technical changes to references to the WSLCB. Updates to the description of the jurisdiction of the WSLCB – liquor, marijuana, tobacco, and vapor products – including updated statutory references. Adjustments to the description of divisions of the agency from 6 to 7 and references to organizational charts, as well as updates to location information for agency offices and removal of references to state liquor stores.

New Section. WAC 314-60-025, Public records officer.

Moved provisions related to the public records officer designation to a new section. This section explains the duties of the public records officer, contact information, and how public records and requests are handled as required in Chapter 42.56 WAC (Public Records Act). Updates to contact information and WSLCB website address. Includes references to public records officer designees to ensure that staff in the public records office are clearly delegated certain duties in fulfilling public records requests.

Amendatory Section. WAC 314-60-070, Availability of public records.

Updates and technical changes to ensure rule provisions reflect current agency practices and requirements under Chapter 42.56 WAC (Public Records Act). References to information available to the public on the WSLCB website without a public records request as many records are available immediately and free of any charges on the WSLCB website. Additional technical updates include:

- Updates to the public records inspection hours to reflect current agency practice.
- Updates to the records index information – required under Chapter 42.56 WAC (Public Records Act).
- Updates to website address and references to the WSLCB.

Amendatory Section. WAC 314-60-080, Requests for public records.

- Updates to references to the WSLCB.
- Updated email address for public records requests to reflect current contact information.
- Updated website address.
- Additions related to designees of the public records officer to ensure proper delegated authority to public records office staff.

Amendatory Section. WAC 314-60-085, Processing public records requests.

Technical changes to ensure rules reflect current agency practice for processing public records. This information is required to be in rule under Chapter 42.56 RCW (Public Records Act).

- Updates to listing of exemptions from the disclosure of public records as required under Chapter 42.56 RCW (Public Records Act).
- Additions related to designees of the public records officer to ensure proper delegated authority to public records office staff.
- Updates to provisions relating to how the WSLCB will handle records that are not retrieved by a requestor.
- Technical updates to the process the WSLCB uses for processing public records requests and supplying copies of records in physical or electronic formats. All costs of providing records must be paid by the requestor before receiving records, whether produced in installments or in total.

Amendatory Section. WAC 314-60-090, Costs of providing copies of public records.

Changes to provisions related to costs of providing public records as required due to the passage of EHB 1595 by the 2017 Legislature. Costs provisions must be in agency rule for an agency to be able to charge costs for producing public records under Chapter 42.56 RCW (Public Records Act). The new provisions require the agency to either (1) calculate the actual costs of providing public records to requesters for each request, or, if calculating actual costs would be unduly burdensome, (2) charge up to the default amounts in section 3 of EHB 1595. The Public Records Act (Chapter 42.56 RCW) requires agencies to establish costs for providing public records in rule to be able to assess those costs. Proposed changes adopt costs for providing public records through adapting the costs schedule included in EHB 1595 section 3 (RCW 42.56.120). The rule makes it clear that no costs are assessed for records accessed through the WSLCB's website, unless requested to be provided by other means. The rule also provides an option for a requestor to ask to receive an estimate of the applicable charges for a public records

request before any copies are made, and the WSLCB will provide an opportunity for the requestor to revise the request to reduce the number of copies to be made to reduce the charges. The board may require a deposit of up to 10% of the cost of providing copies for a request, including a customized service charge.

Amendatory Section. WAC 314-60-100, Exemptions.

Technical changes to rule provisions to ensure rules are current. Updates to statutory references for exemptions from disclosure for certain records. Removal of provisions that are no longer applicable due to the privatization of liquor after passage of Initiative 1183.

Amendatory Section. WAC 314-60-110, review of denials of public records requests.

Minor technical changes to update contact information for requests for review of public records request denials. References added to ensure public records officer designees (public records staff) are clearly delegated certain duties.

Repealers.

The WSLCB proposes repealing WAC 314-60-404, Operations and procedure, and WAC 314-60-087, Processing public records requests – Electronic records, as the relevant provisions in those rules are incorporated into other sections in this rule making.

New Section. WAC 314-42-001, Board operations and procedure.

A new section is proposed in Chapter 314-42 WAC, Liquor control board operations, to move provisions related to Board operations that were in Chapter 314-60 (Public records) to a more appropriate location. Technical updates to language were done as part of the proposed changes to ensure provisions are updated.

Timeline

July 12, 2017	Board approved filing the pre-proposal statement of inquiry (CR 101)
November 15, 2017	Board is asked to approve filing the proposed rules (CR 102 filing)
December 6, 2017	Code Reviser publishes notice, LCB sends notice to rules distribution list
January 10, 2018	Public Hearing
January 10, 2018	End of written comment period
January 24, 2018	Board is asked to adopt rules
January 24, 2018	Agency sends notice to those who commented both at the public hearing and in writing.
January 24, 2018	Agency files adopted rules with the Code Reviser (CR 103)

February 25, 2018	Rules are effective (31 days after filing)
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Ms. Eide then requested approval from the Board to file proposed rules.

MOTION: Member Hauge moved to approve the filing of proposed rules (CR 102) for Public Records Rules

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 4C - Board Renewal of Emergency Rules for Public Records Rules

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 4C 1-3). The purpose of this Issue Paper is to request approval from the Board to renew an emergency rule related to public records costs needed as a result of the passage of EHB 1595 (2017 c 304) during the 2017 legislative session. The Board previously adopted this emergency rule on July 12, 2017. This renewal will extend the emergency rule until permanent rulemaking is completed.

Proposed Changes

New Section. WAC 314-60-095, Costs for providing public records.

The emergency rule adopts costs for providing public records through adapting the costs schedule included in EHB 1595 section 3. The rule makes it clear that no costs are assessed for records accessed through the WSLCB’s website, unless requested to be provided by other means. The rule also provides an option for a requestor to ask to receive an estimate of the applicable charges for a public records request before any copies are made, and the WSLCB will provide an opportunity for the requestor to revise the request to reduce the number of copies to be made to reduce the charges. The board may require a deposit of up to 10% of the cost of providing copies for a request, including a customized service charge.

Timeline

November 15, 2017	Board is asked to approve filing the Emergency Rule
November 17, 2017	Rules Coordinator files the Emergency Rule with the Code Reviser
November 17, 2017	The Emergency Rule becomes effective
March 18, 2018	The Emergency Rule expires*

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

- MOTION: Member Hauge moved to approve the renewal of emergency rules for Public Records Rules.
- SECOND: Member Garrett seconded.
- ACTION: Motion passed unanimously.

ACTION ITEM 4D - Board Approval of CR 102 for Marijuana Advertising Rules

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 4D 1-4). The purpose of this Issue Paper is to request approval from the Board to file proposed rules (CR 102) for changes to advertising rules in Chapter 314-55 WAC as a result of the passage of ESSB 5131 during the 2017 Legislative Session.

Proposed Changes

Amendatory Section. WAC 314-55-155, Advertising.

Language stating that the requirements in WAC 314-55-155 apply in addition to the requirements set forth in RCW 69.50.369. Many of the proposed changes to rule reiterate the language in statute to attempt to have a holistic view of advertising restrictions in the rule. The rule organization is changed to first list general advertising restrictions for all marijuana advertising, then list those restrictions that apply to outdoor advertising and advertisements of marijuana products. Proposed changes to rule language for clarifying changes beyond those included in statute include the following:

- Clarifying that the minimum distance of 1,000 feet for advertisements is reduced for licensees that are located within that minimum distance consistent with local ordinances that reduce the buffer.
- Examples of language that may be used to state that marijuana products may be purchased or possessed only by persons 21 years of age or older as required by RCW 69.50.369.
- Clarification on what constitutes a prohibited depiction of plants or products on outdoor advertising under RCW 69.50.369.
 - A depiction of a marijuana plant means an image or visual representation of a cannabis leaf, plant, or the likeness thereof that explicitly suggests or represents a cannabis leaf or plant.
 - A depiction of a marijuana product means an image or visual representation of usable marijuana, marijuana-infused products, or marijuana concentrates, or an image that indicates the presence of a product, such as smoke, etc.
- Clarifying what constitutes stating the location of the business on outdoor signs/advertisements. Includes allowances for physical address or location, directional information, website address, email address or phone number.
- Clarification on what information constitutes "identifying the nature of the business" on outdoor signs/advertisements.
- Adjustments to language to make it clear that outdoor double-sided signs or signs with text visible on opposite sides are permissible and count as a single sign so long as the sign is contained in or affixed to a single structure.
- Clarification/definition on what constitutes an "adult only facility" and thereby exempt from certain restrictions on outdoor advertising with limitations.
- Clarification that a sign affixed to the licensed premises or in the window of a licensed premises indicating the location is open for business, closed for business, the hours of operation, or that

the licensed location has an ATM inside is not considered advertising for the purposes of this section.

- Clarification that “Adopt-a-Highway” signs erected by the Washington State Department of Transportation (WSDOT) under a current valid sponsorship with the WSDOT are not considered advertising for the purposes of this section.
- Clarification that warning statements required under WAC 314-55-155 apply to all advertisements of marijuana businesses or marijuana products except for outdoor advertisements. Additional technical change to require minimum type size not less than 10% of the largest type used in the advertisement to ensure warnings are adequately visible and to support the intent of the warning statements being present. This minimum size type requirement mirrors requirements for political ads by the Public Disclosure Commission.
- Definition of “adult only facility” as used in WAC 314-55-155 and RCW 69.50.369 as a definition of the term was not included in the legislative changes to law.
- Definition of “billboard” to ensure the intent of the Legislature is carried out in statute and rule requirements. The WSLCB surveyed sizes of billboards present in the current advertising industry and reviewed RCW 17.04.070 to determine the proposed definition. “Billboard” is defined as “a permanent off-premises sign in a fixed location used, in whole or in part, for the display of off-site commercial messages with a minimum size of ten feet in height by twenty feet in width.”
- Definition of “off-premises sign” to ensure the term “billboard” is clear for licensees and Enforcement. “Off-premises sign” means “a sign relating, through its message and content, to a business activity, use product, or service not available on the premises upon which the sign is erected.”

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January 24, 2018	Board is asked to adopt rules
January 24, 2018	Agency sends notice to those who commented both at the public hearing and in writing.
January 24, 2018	Agency files adopted rules with the Code Reviser (CR 103)
February 25, 2018	Rules are effective (31 days after filing)

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

MOTION: Member Garrett moved to approve the filing of proposed rules (CR 102) for Marijuana Advertising Rules

SECOND: Member Hauge seconded.

ACTION: Motion passed unanimously.

5. GENERAL PUBLIC COMMENT

Chair Rushford invited citizens to address the Board regarding any issues related to LCB business. There were no comments.


ADJOURN

Chair Rushford adjourned the meeting at 10:29 a.m.

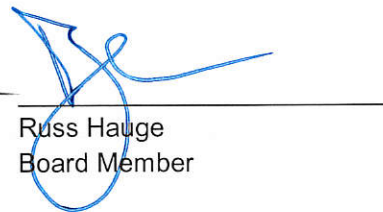
Minutes approved this 28 day of NOVEMBER, 2017



Jane Rushford
Board Chair



Ollie Garrett
Board Member



Russ Hauge
Board Member

Minutes prepared by: Dustin Dickson, 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 dustin.dickson@lcb.wa.gov or call 360.664.1717