



## Washington State Liquor Cannabis Board Meeting

Wednesday, April 18, 2018, 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, April 18, 2018. Member Ollie Garrett was present; Member Hauge was excused.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Garrett moved to approve the April 4, 2018, meeting minutes.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

#### 3. EMPLOYEE ANNOUNCEMENTS

State Service Recognitions – Becky Smith, Director of Licensing  
Ms. Smith recognized Frank O'Dell for 30 years of State service.

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

##### **ACTION ITEM 4A - Board Adoption of Interim Policy for Retailer Title Certificates**

Joanna Eide, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 4A 1).

Ms. Eide: I want to acknowledge that I am just a mouthpiece today. The licensing division has done an incredible amount of work in pulling together this interim policy. It is very comprehensive, provides great direction, and I know that they deserve the recognition for that.

Since the legalization of cannabis by the passage of Initiative 502 in 2012, some local jurisdictions have passed moratoria, bans, restrictive zoning laws, reduced allocations, and placed other prohibitions on the retail sale of cannabis. In some areas, these ordinances have prevented cannabis retail licensees from opening. Washington state law requires all cannabis licensees to have a qualifying location, security requirements, report sales, and maintain insurance.

Local authorities prohibit these stores from opening. State law requires the stores to follow all license requirements, whether they are able to open or not. This means to maintain a location or paying rent on a lease, maintaining security requirements, etc. This interim policy is aimed at trying to reduce the cost of maintaining those license requirements. Under this interim policy, the Board would allow retail cannabis licensees who are legally prohibited from opening anywhere within their allotted jurisdiction to apply for a Title Certificate. Title Certificate holders will not be required to maintain all license requirements, though they will be required to maintain some requirements. They must meet the conditions specified in this interim policy as well.

The next item I will bring to you is a request to open rulemaking in coordination with this interim policy.

I want to reiterate that this for those retail licensees that are prohibited from opening by a local restriction such as an ordinance, ban, moratorium, or other ordinance zoning restrictions. Licensees who are within these areas and unable to open are not required to apply for a Title Certificate, this is allowing an option for those licensees.

The Title Certificate eliminates the following license requirements for retail cannabis licensees to maintain:

- A physical location;
- Security cameras;
- Traceability;
- Annual license fees;
- Insurance requirements; and
- Sales reporting.

Applicants for the Title Certificate must maintain all license requirements until the WSLCB issues the Title Certificate. Licensees who fail to continue to meet all license requirements under chapter 69.50 RCW and 314-55 WAC prior to being issued a Title Certificate are subject to enforcement violations.

Title Certificates will be valid for a maximum of four years. After four years, the Board will reevaluate the need for Title Certificates. This is why we are requesting the Board open rulemaking coinciding with this interim policy.

Ms. Eide provided a few of the Title Certificate requirements:

- The applicant must provide a letter to the WSLCB from their license jurisdiction attesting that there is no legal location available for retail cannabis licensees within the jurisdiction.
- The Board will confirm that there is no cannabis on the licensed premises before issuing a Title Certificate.
- The Title Certificate holder may only reinstate a cannabis license in the jurisdiction where the license was originally issued.
- Before the Board reinstates the license, the licensee must meet all license requirements under chapter 69.50 RCW and chapter 314-55 WAC.
- A Title Certificate holder may only hold a maximum of five retail licenses and Title Certificates combined.

Ms. Eide touched on parts of the process to transfer Title Certificates:

- Title Certificates cannot be leased. Title Certificate holders may transfer their title to a qualified applicant with prior approval from the WSLCB. The certificate transfer applicant must apply to obtain the Title Certificate with the WSLCB Licensing and Regulation Division prior to the transfer and meet all qualifications in chapter 69.50 RCW and chapter 314-55 WAC for holding a license.
- All true parties of interest involved in the transfer must pass a background check, financial investigation, be up to date on all WSLCB taxes and fees, and meet residency requirements.

Ms. Eide explained the reinstatement process:

- Title Certificate holders must reinstate their license within 6 months of their assigned jurisdiction allowing retail cannabis licensees, or they forfeit their Title Certificate.
- Title Certificate holders may only reinstate their license within the jurisdiction where they were originally licensed.
- Title Certificate holders must meet all license requirements outlined in chapter 69.50 RCW and chapter 314-55 WAC before the WSLCB will reinstate the license.

Ms. Eide: The Title Certificates for applicants who are issued new licenses will be invalidated. Title Certificates holders cannot transfer the Title Certificate during the license application process.

Ms. Eide then requested adoption of the interim policy.

MOTION: Member Garrett moved to adopt the Interim Policy for Retailer Title Certificates.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

#### **ACTION ITEM 4B – Board Approval of CR 101 for Retailer Title Certificates**

Joanna Eide, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 4B 1-2).

Ms. Eide: This is the next step in the formal rulemaking process to incorporate the provisions of the Board Interim Policy into permanent rule since the Title Certificates can last up to four years. This will address all of the items in the Interim Policy, and provide opportunity for change should any issues arise.

#### Timeline

April 18, 2018	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
June 6, 2018	End of written comment period
June 13, 2018	Board is asked to approve filing the proposed rules (CR 102 filing)
August 1, 2018	Public Hearing held
August 1, 2018	End of written comment period
August 15, 2018	Board is asked to adopt rules

August 15, 2018	Agency sends notice to those who commented both at the public hearing and in writing.
August 15, 2018	Agency files adopted rules with the Code Reviser (CR 103)
September 16, 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 CR 101 for Retailer Title Certificates.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

**ACTION ITEM 4C - Board Adoption of CR 101 for Vapor Product Rules**

Joanna Eide, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 4C 1-2).

Ms. Eide: The new statutory framework for vapor products became effective on June 28, 2016, and was codified in chapter 70.345 RCW. The WSLCB engaged in rulemaking to implement the new statutory framework for vapor products passed by the Legislature later the same year. The board may adopt rules regarding the regulation of the licenses under RCW 70.345.020(2).

I want to be very clear that when we are talking about vapor products we are not talking about any cannabinoids whatsoever. They are prohibited from being incorporated into vapor products, these are for nicotine and non-nicotine vapor products otherwise known as e-cigarettes.

WSLCB enforcement officers throughout the state of Washington have made contact at more than 1400 vapor product locations (licensed/unlicensed). During these contacts, the WSLCB identified a need for the development of changes to rules for vapor products licensees. Additional rulemaking is proposed to further refine and clarify existing requirements, as well as address other requirements needed as a result of what we have learned since the implementation of the new statutory and regulatory framework.

Timeline

April 18, 2018	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
June 6, 2018	End of written comment period
June 13, 2018	Board is asked to approve filing the proposed rules (CR 102 filing)
August 1, 2018	Public Hearing held
August 1, 2018	End of written comment period
August 15, 2018	Board is asked to adopt rules
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August 15, 2018	Agency files adopted rules with the Code Reviser (CR 103)

September 16, 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 Garrett moved to approve the filing of CR 101 for Vapor Product Rules.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

**ACTION ITEM 3D - Board Approval of CR 102 for Complete Meals for Spirits, Beer, and Wine Restaurants**

Janette Benham, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 4D 1-3). She informed that she was presenting on behalf of Karen McCall.

Ms. Benham: The proposed rules update meal and side dish requirements for spirits, beer, and wine restaurants. They were revised to include culturally diverse entrees as examples of complete meals and to consider entrees that aren't traditionally served with a side dish as a complete meal. The rules will still require a menu with a minimum of eight entrees, but remove the requirement that meals be served with a side dish as long as side dishes are available should the customer want one.

We received one comment in line with the proposed rules regarding the side dishes, and there is an issue paper included in the meeting materials for your review.

Timeline

February 21, 2018	Board approved filing the pre-proposal statement of inquiry (CR 101)
April 18, 2018	Board is asked to approve filing the proposed rules (CR 102 filing)
May 2, 2018	Code Reviser publishes notice, LCB sends notice to rules distribution list
May 30, 2018	Public Hearing held
May 30, 2018	End of written comment period
June 13, 2018	Board is asked to adopt rules
June 13, 2018	Agency sends notice to those who commented both at the public hearing and in writing.
June 13, 2018	Agency files adopted rules with the Code Reviser (CR 103)
July 14, 2018	Rules are effective (31 days after filing)

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

MOTION: Member Garrett moved to approve the filing of CR 102 for Complete Meals for Spirits, Beer, and Wine Restaurants

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

## 5. PUBLIC HEARINGS (A)

### PUBLIC HEARING 4A – Supplemental CR 102 for Self-Dispensing Beer and Wine Machines

Janette Benham, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 5A 1-2).

Ms. Benham: I want to give a brief update on these rules for the public hearing. These rules will allow the use of self-dispensing beer and wine machines by on-premises beer and wine licensees. The rules were revised and a supplemental CR 102 was filed based on comments received on the proposed rules prior to, and at the rules hearing that we held on March 7, 2018. Those revisions made after that hearing remove the requirement that taps be at the table which will now allow the taps to be at the wall. The rules formalize the interim policy that the Board adopted in 2011 and clarify the requirements for the self-dispensing machines.

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

#### Sal Leone – Fish Brewing and Silver Lake Winery

Both of these are long standing companies in the state. In fact Silver Lake Winery started back in 1987, so I've been in the industry now for 41 years trying to comply.

I want to make a couple comments on this proposal. First of all, I was the original petitioner for an existing rule that allows winery tasting rooms that have self-serving wine dispensers. I was the original petitioner when the implemented that five or ten years ago. So, I'm a little surprised that this proposal completely eliminates brewery tasting rooms, and also winery remote tasting rooms because the current rule only allows for the tasting rooms at the winery location and not the additional locations. I think it is limited in scope because I believe wineries, additional tasting rooms, and brewery tasting rooms could also use these machines. In the case of Fish, we have 32 products. The convenience of having them be able to self-serve one ounce at a time versus us pouring into 32 little ounce glasses is something I think breweries and wineries could benefit from.

Limiting service size as a Liquor Board rule is really unprecedented. We depend on our servers. The requirement is that the servers are to judge when a customer has had too much. We already technically have self-serve beer and wine, it's called a bottle and it's called a pitcher. The server brings a bottle of wine to a table where the customer can pour their own glass, if they bring a pitcher they can pour their own glasses, and ultimately it is the establishment and the server that says when they've had enough. I'm a little concerned that you have limited the size to 12 ounces, or five ounces, when you don't do it for a bottle of wine and you don't do it for a pitcher. I think that it is unprecedented. The only place that I know where you have limited servings is at the stadiums where you can only get two beers at a time. It is the serving number, not necessarily the size of the serving. I just went to the stadium the other day and they are serving 19.2 ounce cans in the stands, so you could get two 19.2 ounce cans at a time. I think there are some conflicts here between what is happening out there already and this proposed rule.

I'm against the 12 ounce, I think it should be 16 ounce, which is the common size for beer. Nobody uses 12 ounce any more. You go to all the pubs and breweries and ask for a 12 ounce beer, most likely they

don't even serve it. I would strongly suggest altering that 12 ounce serving size to 16 ounce. I understand limiting to two servings at a time because you want to force the interaction with the server, but I think the 12 ounce beer requirement is antiquated. It also doesn't allow for growler pours. Remember, people may want to go there and pour their own growler. A growler is 32 ounces. Two 16 ounces is 32 ounces so they can go get a card and pour their own growler, and be compliant with the rule.

I believe the way the rule is written, I could go into an establishment and have four glasses of wine then turn around and have four glasses of beer. There is no interaction between saying there is a total limit of beer and wine together. So if I can have eight glasses, four beer and four wine, why limit either the beer or the wine.

Chair Rushford: I there are any clarifying points, Janette, would you please connect with Mr. Leone please. Ms. Benham agreed.

Chair Rushford closed the public hearing.

## **6. GENERAL PUBLIC COMMENT**

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

### John Koehler – Eagle Cliffs Distillery

Mr. Koehler stated that had emailed comments to the Board and was submitting the same comments today in opposition of HB 2609 (CITIZEN HANDOUT 1).

Mr. Koehler: For about three decades now I've been studying the forces that affect businesses, starting with my master's degree, and continued on. I've been looking at the craft distillery industry for quite some time. Back when the Board was first assigned the task of figuring out how to deal with craft distilleries and was still the distributor in the state, you had quite a few activities working with interested people. I attended all of those. At one point you asked six different groups to make marketing descriptions to your Board, I was one of those six. We were all given 15 minutes, you held me over an extra half hour. At the end you said "Mr. Koehler, not only will we allow you to violate every rule that you've mentioned on special orders, but there's a couple that you missed that we will also allow you violate. Your business plan and marketing plan is the only plan we've heard from a craft distillery that makes any sense".

I have in the last four years been a speaker two international business conferences in Washington D.C., presenting new knowledge on how to start up and run businesses. For the last three years I've been studying business forces affecting distilleries in Washington. All of this is to say that I think I have a fair amount of expertise that I could bring to the topic. I've discovered in the last three years that there is a lot of forces reverberating throughout the liquor industry in this state, a lot of which I don't think you are cognizant of.

You had a member testify to the legislature this last year, before the Washington Distiller's Guild came before you, that you were not aware of a lot of the marketing forces affecting craft distillery industry. I'm here to tell you that I don't think you are aware of a lot of the forces affecting the legacy liquor stores, rural areas, mom and pop stores, and distributors. There's a lot of issues that I've become aware of in studying this in the last couple of years.

I've realized now, after I presented a bill through my senator and had it opposed by the Liquor Control Board that I need to start here. I don't know what processes you have or what you have available, but I think you need to become aware of a lot of things that are in the state and I think you need, you want, to try and change the way you are managing it right now. I'm here to volunteer my time to work with you in whatever way you deem appropriate to help you formulate a better understanding of the market and perhaps come up with a better bill than HB 2609 was. Please consider my offer to work with you and contact me with whatever you think is appropriate. I will do my best to be constructive and help us move forward, and hopefully have a much better bill than HB 2609.

George Freeman – Eden

I'm here to reinforce the binder we sent you in reference to a marijuana shop that is next to my restaurant. I'm sandwiched in Seattle between two marijuana shops. I have one very good marijuana shop and I have one very bad marijuana shop. In that dossier I talked about the owner's behavior, property damage, violation of my lease by moving his dumpster onto my property, obstructing our property areas, failure to report on two occasions. There were parties, one in back of his store and one at 1:30 a.m. that we took picture of. We forwarded them to your enforcement department and the answer came back from the inspector "It was so little we couldn't understand who was there, we couldn't see the pictures". But, the mere fact that the store was open at 1:30 a.m., they were smoking marijuana outside, and they were drinking beer, is a violation. Nothing was done about it.

I am not the enforcer for your department. However, I have to suffer the consequences, and now his neighbor to the south, Starbucks. In that brochure, I sent you copies of his communications with Starbucks. He threatens to sue everybody. I have electrical contractors, it took a year and half to build the restaurant, he calls them in Poulsbo, posts things online, threatened to sue them and use the telephones. That violates federal law as far as intimidation, and I believe that wire fraud is included in that.

There are criminal acts going on. He's assaulted two people with axe handles. On two separate incidents the police department put him inside a police car. In the police report that we highlighted and sent over to you was the fact that the officer said his eyes were dilated, he was acting erratic, and the officer indicated that he was paranoid. I think the individual has a mental health problem. I don't think he should have a license. I am not happy with the conduct and his treatment of us. But, at the same time we're a little frightened. I've talked to Starbucks and their manager said their law department doesn't want to get involved because they think that he's going to hurt one of their employees. My employee feel the same way. So, before a time bomb goes off here, I ask that you look into this and explore all of the exhibits that we sent to you and see if there is a just cause to take action.

I can't tolerate it, and it's not fair that I have to call the police and he plays it off as a civil matter. The police believe him. They believe it is a civil matter. The acts that you see on the video, the 20 minutes of video, they aren't civil they are criminal. I don't think that a licensee anywhere in this state should be able to operate that way. If it were me I assure you the police would have gone after me. I don't want to say his name, but that operator should not be able to violate the law and maintain a license. Thank you.

Chair Rushford: Mr. Freeman, Justin will connect with you after the meeting. Thank you.



### Greg Foster – Cannabis Data

First I want to thank you for your hard work, I don't think that civil servants and public servants are acknowledged often enough for the work that they do. My understanding is that both of you have to commute and have a six year term. That is a big commitment to the cannabis industry in particular, thank you.

I have two items for you today. One is an item at the federal level, another is at the international level. These are items that I want to be sure you are aware of, and to actually ask for the LCB's participation in one of them.

At the federal level recently, Senate Majority Leader Mitch McConnell introduced a new bill called the Industrial Hemp Farming Act of 2018. We've seen bills like this before, but I think the timing and momentum behind this bill is interesting. I want to be sure you are looking at that especially since we are looking at doing some rulemaking around testing of CBD products. This bill would redefine marijuana at the federal level and introduce a new definition for industrial hemp that is inclusive of pretty much everything you can make with cannabis that is less than .3% THC by dry weight. This will have some impact, in some sense its right next door in terms of the work that you do.

At the international level there is also interesting things happening regarding the scheduling of cannabis. Naturally, the scheduling of cannabis structures in many ways the program that we operate here. So, any sort of change to that scheduling status are things that we should be looking at very carefully. At the international level, cannabis is scheduled by the United Nations and the World Health Organization has a process for actually bringing up substances for review and examining whether there needs to be a rescheduling or de-scheduling of those substances. Cannabis was first placed on Schedule I in 1961 and has not been up for review, ever. Five different cannabis substances are now up for review in early June. As part of that process this expert committee on drug dependence which is performing the reviews sends out a request from other states to provide input. That activates a provision in our Controlled Substances Act at the federal level that requires the Department of Health and Human Services and the Food and Drug Administration to ask for public comments on this opportunity. Any interested person, which also includes institutions, have the opportunity to comment. I would like to ask the LCB, or at least let you know that you have this opportunity, to comment in a way that would carry significant weight about the scheduling of cannabis.

I would be happy to share any more details of that with you. I also encourage the folks that are here today and who are watching online to also consider making a comment. That docket is open until Monday evening. Thank you.

### Steve Sarich – Cannabis Action Coalition

I received a response, because I understand that you don't want to give answers here, from Mr. Smith regarding our request to have a website on the LCB website that shows patients where they can go and actually find medication rather than calling 281 places that have medical endorsements but don't have product. I don't know if you've tried doing that yourself, but if you try you'll find you have a really hard time finding any medication for patients in the state. Just telling us to go online and look them up and call them to see if they have it is really impractical and it doesn't work.


The other interesting thing when he attempted to answer my question about CBD, he mentioned HB 2334. I have to think that the LCB is under some kind of misunderstanding because I negotiated this with Representative Sawyer that you only have the right to regulate CBD, or test CBD, or make rules for CBD,

as it applies to CBD going into the 502 system. It is very clear in the law. We're going to have to find out why exactly Justin and the boys are out raiding stores around the state and taking CBD off the shelf when they have absolutely no jurisdiction to do that. Thank you.

## ADJOURN

Chair Rushford adjourned the meeting at 10:38 a.m.

Minutes approved this 2 day of MAY, 2018

  
Jane Rushford  
Board Chair

  
Ollie Garrett  
Board Member

*Not Present*

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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.

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