



Washington State Liquor Cannabis Board Meeting

Wednesday, December 12, 2018, 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, December 12, 2018. Member Russ Hauge was present, Member Ollie Garrett was excused.

Chair Rushford: We appreciate all the contributions of the stakeholders and staff as we prepare for these meetings. Before we begin, we do have a change to the agenda. This change was posted yesterday. It's a deletion of the board interim policies 08, which is the curative or therapeutic effects and subject 09, which is colors and homogenization. We will come back to these, but we had a couple of dots we wanted to connect, possibly at the January 9 meeting. Thank you.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Hauge moved to approve the November 28, 2018, meeting minutes.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

3. ACTION ITEMS (A-C)

ACTION ITEM 3A - Board Adoption of BIP 06-2018 for Personal Funds for Business

Kathy Hoffman, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 3A 1).

Ms. Hoffman: First, I'd like to request approval of Board Interim Policy (BIP) 06-2018, concerning allowing marijuana licensees to spend their own money on their business prior to the Board vetting those funds. By way of background, WAC 314-55-035 Subsection 5 requires that all funds that a marijuana licensee plans to use for their business be vetted by LCB before those funds are invested in the business. The intent of the rule is to ensure that licensees are meeting the LCB requirements to prohibit undue influence across tiers and prevent criminal enterprises from engaging in licensed marijuana businesses. Based on the complexity of the funding and responsiveness of applicants, sometimes preventing funds can take an excess of 58 days and there are times when applicants need immediate access to those funds to support their businesses.

The industry asked the LCB to address concerns about the length of time it takes for them to be able to use their own funds to support their licensed marijuana businesses. This interim policy will allow applicants to invest their own money in their businesses while LCB is vetting the source of those funds. To accomplish this, the application will be changed to reflect that the licensee recognizes that no funds from criminal enterprises are permitted and that their license may be revoked if the source of funds identified by the applicant to be used for the acquisition, start up, and operation of the business is questionable, unverifiable, or determined by the LCB to be gained in a manner which is in violation of the law. And this is consistent with the provisions of WAC 314-55-050.

Ms. Hoffman then requested the Board adopt BIP 06-2018

MOTION: Member Hauge moved to adopt BIP 06-2018 for Personal Funds for Business

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 3B - Board Adoption of BIP 07-2018 for MJ Labeling – False and Misleading Clarification

Kathy Hoffman, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 3B 1).

Ms. Hoffman: The second item I'm presenting is BIP 07-2018. This concerns WAC 314-55-105 regarding packaging and labeling requirements. This interim policy is designed to clarify the meaning of the phrase "false and misleading" with respect to packaging and labeling of marijuana-infused products and addresses concerns regarding packaging and labeling that mimics, implies, or references a product containing alcohol. The interim policy provides that labels affixed to a container or package containing useable marijuana, marijuana concentrates, and marijuana-infused products sold at retail in Washington must not mimic, imply, represent, or contain any statement, depiction, illustration, design, brand, or name of a product containing alcohol. Additionally, the policy provides a list of words or references that do not supersede the current rule.

Ms. Hoffman then requested the Board adopt BIP 07-2018 for MJ Labeling – False and Misleading Clarification

MOTION: Member Hauge moved to adopt BIP 07-2018 for MJ Labeling – False and Misleading Clarification

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 3C - Board Adoption of BIP 10-2018 for MJ Labeling – MIE Colors

Kathy Hoffman, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 3C 1).

Ms. Hoffman: The third and final item I'm presenting this morning is BIP 10-2018, also concerning WAC 314-55-105 regarding packaging and labeling requirements, specifically marijuana-infused edible products and the colors used, not only for the products but also for the packaging and labeling of those products. By way of background the LCB received complaints and heard concerns regarding the approval of marijuana-infused edible products that appear to be especially appealing to youth and children. The LCB also received feedback and heard concerns from the industry regarding marijuana-infused edible packaging, labeling, and product review processes. This feedback indicated that the review process lacked transparency, was hard to understand, and that the product decisions were viewed as arbitrary. These complaints and concerns and feedback prompted the LCB to reevaluate the approval process for these products.

The purpose of this policy is to further clarify the procedures and processes for packaging, labeling, and product decisions for marijuana-infused edible products. This is necessary to clarify the rules for licensees but also to protect the public and reduce the risk of accidental exposure to marijuana-infused edibles by youth and children. The requirements described in the policy statement apply to all marijuana-infused edible products and their packaging and labeling. Among these requirements are colors and shapes that may be used as provided on an approved list on the LCB website, background colors and lettering for labeling, accent colors, and other requirements listed more fully in the policy statement. May I answer any questions?

Member Hauge: Our understanding is that this interim policy will relate only to packaging for edibles not for non-edible cannabis products.

Ms. Hoffman: That is correct.

Member Hauge: Thank you.

Ms. Hoffman: Thank you.

MOTION: Member Hauge moved to adopt BIP 10-2018 for MJ Labeling – MIE Colors

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

Chair Rushford: Thank you, Kathy. And thanks to the many staff that have contributed to the interim policies before us today.

4. PUBLIC HEARING (A)

PUBLIC HEARING 4A – Second Supplemental CR 102 for Curbside

Janette Benham, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 4A 1-3).

Ms. Benham: This morning we have a public hearing on the second Supplemental CR102 that we filed for curbside service. We've taken into consideration all of the public comment, and as such, this is the third version of these rules that we're bringing forward today to have the public hearing on.

These proposed rules allow grocery stores to provide curbside service when customers order alcohol as part of an online grocery order. And at this point, curbside service has only allowed for grocery stores. I want to go over a couple of the important items.

The public safety parameters that we've put in place for these rules include prohibiting drive-thru service from pick-up or pass-through windows, requiring that orders include at least \$25 of non-alcohol items, and the delivery must be made to vehicles parked in a designated pick-up area owned or controlled by the licensee. Employees delivering orders must be at least 18 years of age and be trained on verifying ID, recognizing signs of intoxication and preventing youth access. If ID cannot be verified or if the driver appears intoxicated, all alcohol will be removed from the order.

I want to add for the benefit of those in attendance today that we received a lot of comments asking why we weren't extending this to specialty shops and other spirits retail licensees or other retail license types. The decision was made at this point to start small to see how this goes. It's not to say that at some point in the future we won't revisit this and reopen rulemaking to include other license types. Are there any questions?

Member Hauge: No, thank you. I appreciate it.

Janette Benham: Thank you.

Chair Rushford: We appreciate all the clarification too. This is where we start.

Janette Benham: Yes.

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

Deborah Herron - WalMart

Good morning LCB Board and staff. I just wanted to say on behalf of Wal-Mart and our stores and associates and customers across the state, we really appreciate the critical thinking and hard work that has gone in to developing the CR102. We believe we can comply with the language that is being set forward today. We have one small request if the board could accommodate for us and perhaps other grocery stores. Because there is significant and complex technical development from cyber security data privacy experts and software engineers to meet the compliance around the \$25 limitation, it will take some time to develop the software platform or to redevelop the software platforms to make that allowable, both for mobile and desktop. We would ask if the LCB could have a grace period until the end of 2019 or January 1 of 2020 to allow the grocers to get up to speed and let our technical department schedule that work and budget the resources that's needed to make sure that we can comply and have that technology in place to be able to meet the \$25 piece. I can notate that in our basket size, the average basket is significantly higher than that \$25 non-liquor minimum. We believe we'll be meeting that as our systems get up to speed based on the research we've done on our own customers. Thank you so much for all your work and hope that we can come together on a grace period to get our systems up to speed. Thank you.

Katherine Holm – Washington Food Industry Association

We are here today to say thank you for doing this rulemaking and that we are in full support of it. We appreciate all the work, and for Wal-Mart bringing up some of these points. Thanks.

Holly Chisa – Northwest Grocery Association

I wanted to say thank you for working with industry to try and resolve some of the questions and concerns that have come up with curbside. We've been doing curbside delivery for years, so we appreciate the willingness to hear our experience and what we know works well and to change the word to merchandise because some of our stores sell more than just food. To be able to have that more expansive basket really helps.

The only issue, actually, that has come up is among our members that they are still concerned with creating just a rule differential under the same license for different retailers. And so I'm encouraged to hear that this is a step forward and that there may be opportunities further for others under the same license to be able to have this option. We're just trying to keep consistency among all of us that are covered by that same license. But again, thank you for working with us and making accommodations, we appreciate it.

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

5. GENERAL PUBLIC COMMENT

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

Don Skakie - Citizen

I am actually a private advocate for cannabis issues. To be clear, I have no financial interest in any licensee or any product line or anything like that. That said, I do participate in some forms.

It has come to my attention that recently the board ended the quarantine or the need for the quarantine area in licensees. However, that they have not removed the requirement that that area exists. So what that means is that licensees are required to have that area set aside, and it has no designated use. It's an unnecessary expense and I'm sure it's just an oversight and probably general housekeeping in the rules as to what to do with that area.

Something else that was brought to mind today with the colored labeling on the medical marijuana infused edibles. As I note, your mission statement implies "trust and thorough fair administration of liquor, cannabis, tobacco, and vapor". To me that means that it should be consistent across all four of those areas. So I would draw to the board's attention that packaging such as Budweiser, perhaps Marlboro cigarettes, I'm not familiar with vapor products because I don't use them and they're not in my wheelhouse. But it occurs to me that having a shopper in grocery stores and other markets where I see tobacco and alcohol items, they often have bright colors that are being restricted from cannabis. I'm wondering if the Board, to be fairly administering across these four areas, shouldn't also be making rules that restrict those colors from all of those products and not just cannabis.

So, I mean, if a color or a shape or any kind is attractive to children and we're concerned about all of these four product lines, it should be consistent to apply to all four lines, rather than just singling out marijuana and cannabis. That's all I have today, thank you for your time.

Chris Marr - Consultant

I wanted to speak with regard to the five BIPs, the three that you moved ahead with and the two that you held back.

First of all, I was with a group of about 10 or 11 licensees and a couple of attorneys that you deal a lot with yesterday. When we saw them pop up online and they reviewed them, I have to say, I think the response was very positive in that I think the the agency, the staff, and the Board really took to heart a lot of the input that was provided, so I want to provide some kudos on that. Some of the products that triggered the BIPs, my clients are responsible for. I'm not saying they necessarily liked the outcome but what they do believe is that you provided a lot of clarity that allows them to proceed. So thanks on that.

I will say with regard to the special appealing to kids' product guidelines, I think there may be an opportunity, because of the delay, to visit some minor things. I think, in general, as I understand it, there's pretty much agreement with the Board and the staff that there are certain things with regard to big colors and other things that are not and the Board probably is comfortable with that. I'll give you an example with regard to packaging. Someone came up with this example that you can have, for instance, have a cream background and you can have gray lettering but you can't have black lettering, if I am interpreting that correctly. And the question is, how is one more appealing to kids than the other? So I'm suggesting that there's some minor tweaks to review since you have a little time that you're open to feedback about.

I think at this point, it's been thoroughly discussed and stakeholders have been engaged. I don't think anyone should have the expectation that if and when it does come back before the board in January, which I understand, there are not going to be any major changes. But I think there might be some opportunity for some small tweaks. And I just ask that you, allow that to happen. So again, thank you for your work.

ADJOURN


Chair Rushford adjourned the meeting at 10:18 am.
Minutes approved this 9 day of JANUARY, 2019



Jane Rushford
Board Chair

Not Present

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, cannabis, tobacco, and vapor laws.

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For questions about agendas or meeting materials you may email dustin.dickson@lcb.wa.gov or call 360.664.1717