



Washington State Liquor and Cannabis Board Meeting

Wednesday, October 30, 2019, 10:00 a.m.
Boardroom, LCB Headquarters – 1025 Union Ave SE, Olympia, WA 98504

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 am on Wednesday, October 30, 2019. Member Ollie Garrett and Member Russ Hauge were also present.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Hauge moved to approve the October 2, 2019, meeting minutes.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

3. ALCOHOL RELATED RULEMAKING

RULEMAKING TIMELINE

Ms. Benham: Thank you and good morning, Chair Rushford, and Board Members Hauge and Garrett. This morning I just have a rules update. I'm going to go over the rulemaking timeline for the rules we have open for alcohol.

Spirits distributor license fees. We filed the CR 103 on October 2 and this has a delayed effective date of January 1 2020. I'm going to keep bringing this up when we have our updates because of the delayed effective date.

Special occasion license rules. I anticipate that we're going to be filing the CR 102 on November 13. We have a meeting this afternoon with Washington Wine Institute members. They had a few questions so we're going to go over the rules draft with them. These rules clarify language and remove some unnecessary language. We updated application requirements and we're adding clarification to the guidelines section. This is based on the questions that we have come into Licensing and Enforcement, so this update should help cut down on confusion and the number of questions that come in regarding events.

The advertising and branded promotional items section was updated to include a reference to legislation that passed this past session regarding social media posting, and updates and adds information taken from the advertising rules, Chapter 314-52 WAC, regarding public incentive events. We made quite a few changes on these and they'll be ready hopefully by November 13.

We also still have the wineries and breweries rules open. We're reviewing staff comments, working through and responding to stakeholder comments and working through some inconsistencies that we have between our rules and TTB rules. We've had several meetings and work sessions with staff and stakeholders on these rules and I'm anticipating CR 102 at the end of November, possibly into December. Specifically, we have updates to each section of these rules. There's 37 sections for wineries and 21 sections for breweries. We're adding legislation that passed this last session regarding recorking unused bottles of wine in wineries and in additional locations. We removed quite a bit of outdated language, these rules hadn't been reviewed fully for quite a while. We rearranged the rules for clarity and we're adding requirements for alternating proprietorships, contract production, internet sales for direct-to-consumer shipping for wineries and employee quality control sampling requirements. A lot of work has been done on these rules with stakeholders and staff.

Barriers rules. We have worked really hard on these rules as well. They've been open for quite a while and we're ready to go. I have the CR 102 anticipated for November 13. Here's what is changing for these rules: beer, wine and spirits and beer and wine restaurants will be allowed to have options other than a 42-inch barrier. This was a compromise between a 42-inch barrier and no distinction at all. Examples of options will include visibly different flooring, contrasting flooring, walls at any height, planters, floor lighting, floor beacons and steps or ramps up or down. We received quite a few comments on these rules and the majority of the comments if not all of them have been in support of the rules and very positive.

We have two 2019 legislation packages open. One is regarding soju, recapping sake and manufacturers' packaging and bottling. We filed the CR 102 May 21. We need to have one more meeting. This is a pretty fairly straightforward set of rules, so we should have this coming forward soon. The other 2019 legislation is a full chapter review of Chapter 314-38 WAC regarding permits. We have one more meeting to schedule for this. It might take a bit longer because it's a full chapter review, but we'll have more on that soon.

As far as future rule-making, —I'll be bringing a CR 101 hopefully to the November 13 meeting regarding alternating proprietorships for distilleries. We were approached by stakeholders and we've had quite a few questions that have come in from distilleries on whether or not they can do alternating proprietorships. Since we're adding them to the breweries and wineries rules, we'll be opening the rules specifically to add that for distilleries. This is not a full rules review, it is just for that specific subject. In the meantime we'll most likely need to do a Board Interim Policy to address alternating proprietorships. Do you have any questions for me?

Member Hauge: No, thank you.

Member Garrett: No.

Chair Rushford: Thank you, Janette.

4. CANNABIS RELATED RULEMAKING

ACTION ITEMS (A-B)

ACTION ITEM 4A - Board Approval of CR 102 for Cannabis Packaging and Labeling

Kathy Hoffman, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 4A 1-4).

Ms. Hoffman: Good morning, Chair Rushford and members Garrett and Hauge. The first thing I'd like to talk to you about this morning is a request to file a CR 102 on packaging and labeling rules, and also two specific sections of WAC 314-55-07, subsections 8 and 9, that has to do with rules related to marijuana processors and licenses.

We opened a CR 101 on this particular rule project in May of this year. This proposal reflects the outcome of an inclusive and engaged rule development process that was designed to balance several competing interests. Those included but aren't limited to assuring that marijuana products are not appealing or marketed to persons under 21 years of age, offering a more concise and flexible framework to provide licensees the ability to engage in product development, design, and marketing that will support their business growth. At the same time, we're also interested in sustainable business practices that will reduce industry waste and environmental impact while maintaining an emphasis on public safety.

Next, we wanted to assure that required product warnings are aligned by product type and to the extent possible in rule, provide guidance for the provision of structure and function claims consistent with ESSB 5298 that are anticipated to increase consumer product knowledge. Additionally, to the extent possible in rule, provide clarity regarding what types of labeling designs and packaging characteristics should be avoided to reduce the possibility of unintended accidental exposure to marijuana products. We believe that this rule proposal is the nexus in balance of these interests demonstrated in rule.

So with that, I'd like to request your approval to file this proposal under the following timeline, in alignment with ESSB 5298:

October 30, 2019	Board is asked to approve filing the proposed rules (CR 102 filing).
November 20, 2019	Code Reviser publishes notice, LCB sends notice to rules distribution list.
December 11, 2019	Public hearing held.
December 11, 2019	End of written comment period.
December 18, 2019	Board is asked to adopt rules.
December 18, 2019	Agency sends notice to those who commented both at the public hearing and in writing.
December 18, 2019	Agency files adopted rules with the Code Reviser (CR 103)
January 1, 2020	Rules are effective consistent with RCW 34.05.380(3)(a), the rule is effective on a date required by state law (see ESSB 5298).

Chair Rushford: Thank you.

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

MOTION: Member Garrett moved to approve the filing of CR 102 for Cannabis Packaging and Labeling

SECOND: Member Hauge seconded.

ACTION: Motion passed unanimously.

Chair Rushford: So moved. Thank you, Kathy, and to many people who contributed to bringing this forward.

ACTION ITEM 4B - Board Adoption of Board Interim Policy (BIP) 15-2019 for Return of Flavored Marijuana Vapor Products by Retailers to Processors in Exchange for Credit

Kathy Hoffman, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 4B 1).

Ms. Hoffman: Thank you. The second item I have for you is a request for your approval on Board Interim Policy 15-2019. This is in response to the State Board of Health emergency rules that became effective October 10. The purpose of this policy is to allow for a limited time, licensed marijuana retailers to return flavored marijuana concentrates for inhalation and flavored marijuana extracts for inhalation as defined in the emergency rules from the Board of Health under Chapter 246-80 to LCB licensed marijuana processors for credit against future purchases of marijuana products.

Our policy statement is the following: effective immediately and retroactively to October 10, LCB licensed marijuana retailers may return flavored marijuana concentrates for inhalation and flavored marijuana extracts for inhalation to licensed marijuana processors for credit against those future purchases of marijuana products. Licensed marijuana processors may grant credit to licensed marijuana retailers for return of those flavored concentrates and flavored extracts against future purchases of marijuana products.

Also, licensed processors may accept banned flavored -- banned vapor products, excuse me, and issue or refund credit or exchange of similar product not to exceed the acquisition cost of the product being returned until the end of the year, December 31 of this year. A credit balance may be maintained for up to six months until June 30 of 2020. Records must be maintained that clearly show a detailed accounting of each transaction involving a return for refund, credit, or exchange. And a record of all expired credit must also be maintained, and those records need to comply with 314-55-087, which has to do with record-keeping. This also allows the Board to reserve its discretion to extend or rescind this interim policy as necessary. So I would ask for your approval to move this policy forward.

Chair Rushford: Any questions?

Member Garrett: No questions.

Member Hauge: As we discussed yesterday, the intent here is that if the deadline set in the rule or the interim policy are not sufficient to provide the necessary relief to the industry, we'll consider expanding those.

Ms. Hoffman: Yes, it is.

Russ Hauge: With that understanding, I'll move approval.

MOTION: Member Hauge moved to adopt the Board Interim Policy 15-2019 for Return of Flavored Marijuana Vapor Products by Retailers to Processors in Exchange for Credit

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

RULEMAKING TIMELINE

Ms. Hoffman: I have a quick update today.

Penalty rules project. I'm hoping that we have attendance tomorrow at our "listen and learn" session on the second half of the penalty rule revision or redesign. We started that work earlier this year. We had one "listen and learn" session so far on the first half of those rules, and the "listen and learn" tomorrow is concentrating primarily on the extensive revisions we've done to the penalty grids. We're hoping for a good turnout on that. I will then incorporate whatever changes are necessary and bring a proposal to you, I'm assuming November 26 if there aren't many changes to be made. It may be as soon as November 13. But those -- that rule set is moving forward really well, and I look forward to having a hearing hopefully by the end of the year or shortly after the first of the year.

Voluntary compliance program also, as part of 5318, our enforcement reform work. We're working on putting together a group of marijuana licensees and their employees have a meeting scheduled for November 12 to begin putting the framework around that compliance program. At this point we're looking at three meetings to develop that framework. That will include those licensees, their employees, enforcement and other LCB staff as required. That's coming along nicely, and I anticipate that we'll have a proposal to bring you by early spring of next year.

TPI rules implementing the ESHB 1794. We had an internal workgroup meeting with our group that worked on our penalty rules last week. We anticipate another meeting towards the beginning of December. I think we pushed that out a little bit because there's so much happening with packaging and labeling, penalties and vapor products, it gives people a little bit more time to look at the rules as we're moving forward. I anticipate that I'll have a proposal to bring to you by the end of the year.

Quality assurance testing rules are still under development. These have been somewhat delayed by the urgency of some of the other concerns we've had around vapor product, but I do anticipate that we'll have an internal meeting probably mid-November and be able to bring a proposal to you by mid-December.

I just presented to you on packaging and labeling.

Our vapor product hearing is still set for November 26. To date we haven't had any public comment received on those products. Then on the horizon, I do anticipate opening our advertising rules in the marijuana space next year, early spring. Still planning on bringing the Tier I expansion CR 101, to you probably by the end of the year. Then, again, looking at our licensing rules and doing some general hygiene. Are there any questions?

Member Garrett: No questions.

Member Hauge: No, thank you.

Ms. Hoffman: Thank you.

Chair Rushford: Thank you, Kathy.

5. GENERAL PUBLIC COMMENT

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

Don Skakie - Citizen

Good morning, Chair Rushford and members Garrett and Hauge. For the record, I'm Don Skakie from the city of Renton. We all know that Washington is a very environmentally conscious state, and as the Board is moving through reform and acceptance of cannabis, as evidenced by the reduction in the thickness of packing to reduce waste, something else that comes to mind is that the waste cannabis that has to currently be ground up and mixed with other material. A lot of this material is actually suitable to be used as animal feed. If there is a concern that we might be getting animals intoxicated, perhaps that could be limited to waste that tests below the hemp limit. This is a great cost to businesses. I know the Board is sensitive to the profitability of businesses and trying to work with businesses to improve their bottom line. So as we move ahead and into the coming year, I would ask that we consider looking at alternatives to disposing of the cannabis waste products from producers and processors. That's what I have to say on that.

I have a second subject I'd like to speak on today. That again is medical. Medical cannabis patients, as we know, are well underserved in the regulated system. One of the reasons for this is because patients are not finding the cultivars and the products that they need not only in the variety of both products and what are commonly known as strains, or the cultivars, but in the weights as well. A lot of patients that have come to medical have exhausted all other medical options. They may have even been opposed to cannabis before finding that it was a last option and actually helps them. But when people have come to that point in their lives and are on limited incomes, they may only get a check once a month, they may have physically -- physical ailments or disabilities or impairments that prevent them from going to the store time after time after time. From the producer and processor and retailing side, it is also more economical to package products in a larger amount as patients are allowed to purchase from the stores. This would also inhibit non-patients from purchasing up those product lines that patients need, actually need, to be well. So, I would ask that as we move ahead into the New Year, we also consider patients. I would ask that the Board consider reinstating the 15-day window for new genetics into the system so that producers and processors can actually move ahead with getting more products that the patients desire but cannot currently find in the system because of the restriction that all genetic exchanges are now done within the system. If we keep patients from obtaining the products that they need, we actually force them to go to the black market. I don't think that actually meets the goal of reducing the non-regulated activity or serving the patients that really need our help. Thank you.

Jane Rushford: Thank you, Don.


Brooke Davies – Washington Cannabusiness Association

Good morning, Chair Rushford, Board members Hauge and Garrett. My name is Brooke Davies for the record, here today on behalf of the Washington Cannabusiness Association. I just wanted to take a moment to thank the Board for their adoption and the agency staff in the room for their work on the interim policy regarding returns for credit. I wanted to thank you on behalf of our members. I think that this will really provide some relief to them during this time. Also while I'm up here I want to thank you, Kathy, for your work and collaboration on the packaging and labeling rules. We really appreciate it and look forward to continued collaboration. So thank you.

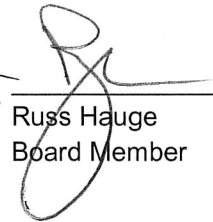
ADJOURN

Chair Rushford adjourned the meeting at 10:21 a.m.

Minutes approved this 13 day of NOVEMBER, 2019


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, 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