



Washington State Liquor and Cannabis Board Meeting

Wednesday, November 13, 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, November 13, 2019. Member Ollie Garrett and Member Russ Hauge were also present.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Hauge moved to approve the October 16, 23 and 30, 2019, meeting minutes.

SECOND: Member Garrett seconded.

ACTION: Motions passed unanimously.

3. YESVETS PRESENTATION

Chair Rushford: Today we have a special guest, Steve Severson. He is here from our local veteran's organization. We're very pleased to have him join us during Veteran's Day week to honor the LCB for the hiring of veterans. Steve, I'd like you to step to the mic. Thank you for being here.

Mr. Severson: Thank you, everyone, for having me here. The reason I'm here is because we're recognizing your organization for hiring veterans. In 2016, we began the YesVets program, which is a recognition program. We want to recognize your business as an entity that is hiring veterans. We want people to appreciate that this is a veterans-friendly place. Since 2016, there have been 25 hires that have been recorded that we are aware of and we want to say thank you for hiring our nation's heroes. Today I have a YesVets picture and decals for the agency to display. We ask you to please put it on your front door so that anybody who walks in the front door of your organization will see that this is a veteran friendly business environment. There are also electronic logos that I'll be sharing later to put on recruitments or anything else such as your home page so people will see you participate in YesVets.

Chair Rushford: Thank you for being here – we're proud of our participation. We'd like a photograph with you, Rick, Megan, the Board, Joe, and rest of HR team. And also, if there are any veterans in the room, would you please join us?

(The group assembled for the photo opportunity)

Chair Rushford: Thank you again, Steve, for taking the time to be here today and for bringing the decals and recognition. We'll move now to our alcohol-related topics.

4. ALCOHOL RELATED RULEMAKING

ACTION ITEMS (A-C)

ACTION ITEM 4A - Board Approval of CR 101 for Alternating Proprietorships for Distilleries and Craft Distilleries

Janette Benham, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 4A 1-2).

Ms. Benham: Good morning, Chair Rushford and Board members Hauge and Garrett. The first item I have for you today is to request approval to file the CR 101 regarding alternating proprietorships for distilleries and craft distilleries.

This rulemaking will look at adding requirements to chapter 314-28 WAC to allow distilleries and craft distilleries to enter into alternating proprietorship arrangements, and it will allow them to share use of the distillery or craft distillery's space for production. Revisions will include technical and clarifying updates if necessary.

What prompted this rulemaking is that we've had several inquiries from distilleries and craft distilleries regarding alternating proprietorships. We were already in the process of rules revisions to add alternating proprietorship requirements to breweries and wineries rules, so this rulemaking will allow the same opportunity for distilleries and craft distilleries

Timeline

November 13, 2019	<ul style="list-style-type: none">• CR 101 filed with the Office of the Code Reviser• LCB webpage updated and notice sent to the rules distribution list
December 4, 2019	Notice published by the Office of the Code Reviser in WSR # 19-23
January 4, 2020	End of written comment period
February 19, 2020	<ul style="list-style-type: none">• Board asked to approve filing the CR 102• CR 102 filed with the Office of the Code Reviser• LCB webpage updated and notice sent to the rules distribution list
March 4, 2020	<ul style="list-style-type: none">• Notice published by the Office of the Code Reviser
April 1, 2020	Public Hearing held and end of written comment period
April 15, 2020	<ul style="list-style-type: none">• Board asked to adopt rules if no additional changes are made• Notice and Concise Explanatory Statement sent to those who commented both at the public hearing and in writing• CR 103 and adopted rules filed with the Office of the Code Reviser• LCB webpage updated and notice sent to the rules distribution list
May 16, 2020	Rules effective (31 days after filing)

Chair Rushford: Thank you. You've prepared us well.

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

MOTION: Member Hauge moved to approve the filing of CR 101 for Alternating Proprietorships for Distilleries and Craft Distilleries

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 4B - Board Adoption of Board Interim Policy BIP 16-2019

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

Ms. Benham: The second item I have for you today relates to the craft distilleries and distilleries alternating proprietorships and it's to request approval of the Board Interim Policy (BIP) 16-2019. Since distilleries and craft distilleries have expressed an interest in alternating proprietorships, this BIP will allow them to enter into these arrangements with the requirements in place until our rulemaking is complete.

I'm going to go over the requirements that we included in the Board Interim Policy. We defined alternating proprietorships, clarified that a distillery may enter into an alternating proprietorship with another distillery and a craft distillery may enter into an alternating proprietorship with another craft distillery. All production must be done on the licensed premises. Reporting and payment must be done per the requirements outlined in WAC 314-28-070. Production and transaction records must be maintained separately and all alternating proprietorships must be approved by the Board, which would be through our licensing department prior to sharing the space. Produced product can't be intermingled and must be stored separately so we have a way to track that product. Any sampling done on the premises must adhere to the statutory requirement of the two-ounce limit per person per day even if both entities are sampling on the same day. The sampling and tasting areas must be operated by each entity individually and may not be shared. If there's a restaurant license at the distillery or craft distillery premises, the restaurant may not be shared and may only be operated by one entity. I want to also mention, as we move through the rulemaking process, we'll fine tune these requirements based on what we hear from stakeholders.

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

MOTION: Member Garrett moved to adopt the Board Interim Policy BIP 16-2019

SECOND: Member Hauge seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 4C - Board Approval of CR 102 for Special Occasion Licenses Rules Review

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

Ms. Benham: Thank you. The next item I have is to request approval to file the CR 102 regarding special occasion license rules. As you know, this was a full rules review of chapter 314-05 WAC. We've had these rules open for quite some time and have worked with stakeholders and staff members to address the most common questions and problems that come to our licensing and enforcement divisions with the over 6,000 new licenses we issue per year.

Rules revisions will help ensure applicants and licensees operate under applicable statutory provisions for special occasion events. And in addition, the revisions will hopefully have the added benefit of decreasing the questions and phone calls to customer service and enforcement. Specifically, the proposed revisions:

- Remove unnecessary and outdated language
- Make technical and clarifying changes
- Clarify that a special occasion license is a retail license
- Update application requirements and add information from the online application
- Make updates to guidelines for special occasion events to provide clarity for applicants, licensees and industry members
- Add statutory references to clarify requirements for alcohol, monetary donations, advertising, ticket and alcohol sales, and payment information.

I want to note that we took a lot of the information from our FAQs and a section of the advertising rule and added it where it applied specifically to the special occasion events because it was a hard rule to find.

Timeline

November 13, 2019	<ul style="list-style-type: none">• CR 102 and proposed rules filed with the Office of the Code Reviser• WSLCB webpage updated and notice sent to the rules distribution list
December 4, 2019	Notice published by the Office of the Code Reviser in WSR # 19-23
January 8, 2020	Public Hearing held and end of written comment period
January 22, 2020	<ul style="list-style-type: none">• Board asked to adopt rules if no additional changes are made• Notice and Concise Explanatory Statement sent to those who commented both at the public hearing and in writing• CR 103 and adopted rules filed with the Office of the Code Reviser• WSLCB webpage updated and notice sent to the rules distribution list
February 22, 2020	Rules effective – Normally 31 days after filing the CR 103

Ms. Benham: Do you have any questions for me?

Member Hauge: No, thank you.

Chair Rushford: No questions.

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

MOTION: Member Hauge moved to approve the filing of CR 102 for Special Occasion Licenses Rules Review

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

RULEMAKING TIMELINE

Ms. Benham: The last item I have for you today is the alcohol rulemaking update. I want to note that all of these timelines are tentative. As we move through the rulemaking process, there are often issues that come up that take a little more time and a little more fine tuning.

Spirits distributor license fees rules. We filed the CR 103 on October 2 and have a delayed effective date on these rules of January 1 of 2020. I'm going to keep this on the list until after January 1 of 2020 so those who are attending and listening in can be aware that these rules have a delayed effective date.

We just went over the special occasion license rules.

Wineries and breweries rules are still open, and we're really close to having these completed. We're fine tuning so we can get the CR 102 filed. This is one of those rules packages that has had a lot of changes. Just when we think we're ready to file the CR 102, there are a few more things that we need to look at. We're still moving forward with those and we're working with our stakeholders and our staff members so we can hopefully have the CR 102 filed by the end of the year.

Barriers rules. We've had these rules open also for quite a while, and we are very close to having these ready to go. I'm getting these to the code reviser later this week and will have the CR 102 ready hopefully by November 26, as long as we can get the revised draft back from the code reviser.

We have two legislation packages from 2019 regarding Soju, recapping sake, and manufacturer's packaging and bottling. We need to have a final meeting with staff so we can move forward with filing the CR 102. The second 2019 legislation package is also a review of the permits chapter, which is in WAC chapter 314-38. This will implement the student tasting legislation that passed this year. We have one more meeting regarding this rules package and should have these and the other 2019 legislation package by the end of the year.

As you know, rulemaking work will start soon on alternating proprietorships for distilleries and craft distilleries. And on the horizon, we have a rulemaking regarding trade practice rules. This is a result of an August Court of Appeals decision. We're currently reaching out to stakeholders for input and I'll have more when we anticipate filing and opening the CR 101 for these rules. Do you have any questions?

Member Hauge: No, thank you.

Chair Rushford: No.

Janette Benham: That's all I have today, thank you.

Jane Rushford: Thank you, Janette. I want to remind everyone that the next Board meeting on Tuesday, November 26, rather than the day before Thanksgiving.

5. CANNABIS RELATED RULEMAKING

ACTION ITEM (A)

ACTION ITEM 5A - Board Approval of CR 102 for Marijuana Penalties

Kathy Hoffman, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 5A 1-4).

Ms. Hoffman: Good morning, Chair Rushford and Board members Garrett and Hauge. This morning, I'd like to ask for your approval to file a CR 102 on marijuana penalty reform rules. As you might recall, we initiated an inquiry into revising these rules related to the marijuana penalty framework in late October of last year. Shortly thereafter, Engrossed Senate Substitute Bill 5318 was introduced to the legislature that specified several things, many of which are incorporated into this particular proposal. Among those were that the Board could issue a notice of correction under a technical assistance program, and that rule proposal establishes and frames the notice of correction. We've got a separate rulemaking project underway to establish that program.

It also expanded on existing programs for compliance education. Required rulemaking regarding penalties with limits such as the effect of cumulative violations, specified the types of violations that may result in license cancellation, required consideration of aggravating and mitigating circumstances, and allowed a licensee to correct violations unrelated to public health and safety within reasonable time limits.

The proposal that I'm bringing to you today reflects the outcome of an inclusive and engaged rule development process that occurred from late March of this year, 2019, to October 31 of this year. That shifts the focus to a compliance and education-based regulatory approach designed to encourage and support licensees' success. We've worked with industry members quite a bit during March and through October of this year. We've hosted two listen and learn sessions that we had scheduled for a pretty significant amount of time but really were very short in duration because I think the rules were so well vetted during the development process.

This proposal accomplishes the following:

- Establishes a process for the issuance of a notice of correction as opposed to a civil penalty when appropriate.
- Reduces the cumulative effect of escalating penalties from three to two years.
- Provides a deferral option.
- Restructures existing penalty grids by establishing penalty categories based on violation severity and relationship to public health and safety.
- Significantly reduces the number of violations that could result in license cancellation while balancing penalties across license types.
- Reincorporates and associates tax statutory references with violation type and reduces all fines by 50 percent.
- Incorporates the mandates, directives, and requirements of ESSB 5318 that were recently codified in Chapter 69-50 RCW.

Timeline

November 13, 2019	Board is asked to approve filing the proposed rules (CR 102 filing).
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December 4, 2019	Code Reviser publishes notice.
January 8, 2020	End of formal comment period.
January 8, 2020	Public hearing held.
January 22, 2020	Board is asked to adopt rules.
January 22, 2020	Agency sends notice to those who commented both at the public hearing and in writing.
January 22, 2020	Agency files adopted rules with the Code Reviser (CR 103)
February 22, 2020	Rules are effective consistent with RCW 34.05.380(3)(a).

Chair Rushford: We are happy to have this opportunity today, Kathy. Thank you for your leadership and your commitment and also to all who have contributed so much to this. Is there a motion?

Member Hauge: I'd like to ask a couple questions first. Not only did we change the way penalties are categorized and try to make that more rational, we also cut the presumptive monetary penalty for all offenses in half.

Ms. Hoffman: Yes.

Member Hauge: And you mentioned a deferral program. We currently have a program where a license holder who receives a violation can compromise it. Now we are adopting rules that will allow that compromise to result in the violation no longer being on the person's history of violations.

Ms. Hoffman: Correct.

Member Hauge: So, a compromise will lead to that being deleted from the history.

Ms. Hoffman: Correct.

Member Hauge: Thank you very much.

Chair Rushford: Thank you.

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

MOTION: Member Hauge moved to approve the filing of CR 102 for Marijuana Penalties

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

RULEMAKING TIMELINE

Ms. Hoffman: I have a brief update. We're happy that we're moving forward with the CR 102 on penalty revisions.

Voluntary compliance program, as I mentioned, we're moving forward with the rule development on that. Our first meeting with stakeholders - and we cast a very broad net, inviting many people to join us in that

conversation - happened yesterday. I think we have a really good frame penciled out for this program. Our enforcement division has done a great job of establishing the framework for that already. We're using that as our springboard into incorporating more stakeholder feedback and moving that rule project forward.

True party of interest. We have another meeting scheduled for December 9 with our industry partners. I had hoped to have that rule project moving forward with our penalty revision, but it's going to take more time since we are overhauling true party of interest rules as well. I'm incorporating all suggested changes that have been made so far in our previous work groups on that particular rule project, and I think we'll be close to moving towards a CR 102 by the end of the year in that particular project.

Quality assurance testing rules. We have a session scheduled internally next week to finalize the actual rule drafts before we send them to the code reviser's office for order typing service. The significant analysis is written and we're moving into the small business economic impact statement for that project as well. And then we are still putting together the phase-in plan. We want to make sure that we are very thorough putting that rule package together as it's a significant change.

Packaging and labeling rules. We're still scheduled for a hearing on December 11. I haven't received any substantive comment on those rules at all. There may be one minor tweak we need to make on some language relating to lot size, I think it is, to some alignment. We haven't received any comments, so we are ready to move forward with these in a timely fashion.

Vapor product rules. We've scheduled a hearing on November 26. I haven't received any comments on those rules to date, so I expect that we'll move quickly into the CR 103 on that project as well.

Emergency rules on vapor products. We are still monitoring those to see if we need to make any sorts of changes. So far, none of the activity that is happening is suggesting that at this point. We'll keep monitoring those in conjunction with what State Board of Health and Department of Health is doing as well as any other information as we receive it.

On the horizon, we're still looking at our Tier I expansion rule project, opening up advertising rules and we want to do some more exploration on transportation rules. I think we've talked about that in caucus on a number of occasions. Can I answer any questions?

Chair Rushford: No questions. Thank you so much, Kathy for the rulemaking timeline. We'll move now to the general public comments.

6. 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, members Garrett and Hauge. For the record, my name is Don Skakie from the City of Renton and today my comments are basically advisory. As we're getting ready for the 2020 legislative session, of course, patient needs through the regulated system are something that needs to be improved and on that matter, I would like to point out that there are patients that benefit not from the full term flowered products but, in fact, from the in-growth vegetative juicing of the leaves and such. These products are very difficult for patients, or nearly impossible if they don't grow themselves, to

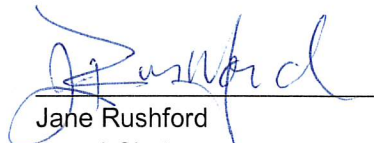
access. There is great medical benefit to juicing of cannabis and as we look to what could be resulting from this session, I just want to forewarn, looking at the rules that will be necessary to accommodate those changes that juicing should be addressed in those rules. Thank you so much.


Chair Rushford: Thank you, Don. Is there anyone who didn't have an opportunity to sign in today? If none, we have completed the orders of the day and are adjourned. Thank you.

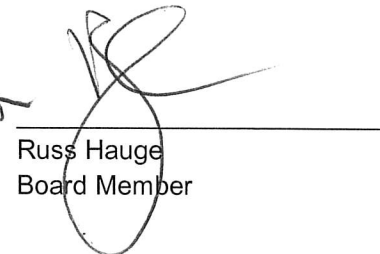
ADJOURN

Chair Rushford adjourned the meeting at 10:25 am.

Minutes approved this 26 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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