



Washington State Liquor and Cannabis Board

Washington State Liquor and Cannabis Board Meeting

Wednesday, January 8, 2020, 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, January 8, 2020. Member Ollie Garrett and Member Russ Hauge were also present.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Garrett moved to approve the December 11, 2019, and December 18, 2019 meeting minutes.

SECOND: Member Hauge seconded.

ACTION: Motion passed unanimously.

3. PUBLIC HEALTH AND PREVENTION UPDATE

Ms. Cooley Broschart presented her prevention and public health update (PRESENTATION 1).

Chair Rushford: Sara, thank you very much for being with us today. We highly value Sara's contributions and hope that all involved in the privileges we regulate consider prevention and public health in that work. We'll move now to Janette and alcohol related rulemaking.

4. ALCOHOL RELATED RULEMAKING AND TIMELINES

RULEMAKING TIMELINES

Ms. Benham: Good morning, Chair Rushford and Board members Hauge and Garrett. I'd like to first go over the alcohol rulemaking timeline before we have the public hearings.

We have spirits distributor licensing fees rules. I presented the CR 103 adopting these rules on October 2 with a delayed effective date of January 1 of 2020. What this means for stakeholders is the first quarterly

report will be due in April. The changes that were implemented with these rules clarify who is required to pay spirits distributor license fees as a result of a 2017 Board of Appeals opinion. Retailers selling spirits for resale must pay the spirits distributor license fee when no other distributor license fee has been paid. We'll be putting some FAQs and a link to the new form on our webpage.

We have public hearings on special occasion license rules and barriers rules today.

2019 legislation implementation This was one of our 2019 legislation rules packages regarding Soju, recapping sake, and manufacturer's packaging and bottling. These are revisions to WAC 314-02-015, 045 and chapter 314-30 WAC. The CR 102 was filed on December 18 and the public hearing is scheduled for January 22. So far, we have not received any comments. The formal comment period will go through January 22.

We continue to work on breweries and wineries rules. This is a full review of chapters 314-20 and 314-24 WAC. So far there are 57 sections of these rules that have revisions, a lot of it includes updating and deleting outdated language. We are currently considering and cross-referencing all comments received from staff and stakeholders. We have a significant amount of comments that we've received throughout the drafting process. We anticipate filing the CR 102 in the first quarter of this year.

The other 2019 legislation package that I have open is regarding a chapter review and update for chapter 314-38 WAC. This will implement the student tasting changes that were part of 2019 legislation, and the CR 102 is anticipated in early 2020— that will also remove unnecessary and outdated.

We also have alternating proprietorships for distilleries and craft distilleries open. We filed the CR 101 on November 13 of 2019 and we have a Board Interim Policy (BIP) in place that allows alternating proprietorships for distilleries and craft distilleries. The rules revisions will implement the BIP. I hope to have the CR 102 drafted in the first quarter of 2020.

On the horizon for the year: we will open rulemaking regarding trade practice rules, this is a result of an August Court of Appeals decision. There are three sections of our rules that we need to repeal. We're reaching out to stakeholders to see what additional questions they're receiving and if they anticipate any problems repealing these sections may pose to the industry.

Rules review and update for private clubs is another rules package on the horizon. Our private club rules haven't been reviewed and updated for quite a while and there are some inconsistencies that we need to correct.

We'll also be doing a rules review and update for our advertising rules. Part of the reason for this is that we took a section out of the advertising rules and moved it into the special occasion license rules. Advertising rules will now need to be updated to remove that language. Do you have any questions about the rulemaking timeline?

Member Hague: No, thank you.

Member Garrett: No questions.

Chair Rushford: Thank you, Janette. Let's move ahead to the public hearings.

PUBLIC HEARINGS (A-B)

PUBLIC HEARING 4A – SPECIAL OCCASION LICENSES RULES REVIEW

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

Ms. Benham: The first public hearing this morning is regarding special occasion license rules review. The proposed rules that I'm bringing forward for the public hearing was a full review of chapter 314-05 WAC regarding special occasion licenses.

We opened these rules in January of 2019 and we've worked with stakeholders and staff members to address the most common questions and problems that come to Licensing and Enforcement for the over 6,000 special occasion licenses that we issue per year. We hope that the rules revisions will ensure applicants and licensees operate under applicable statutory provisions for special occasion events. In addition, revisions will have the added benefit of decreasing the questions and phone calls that come into customer service and enforcement staff.

Specifically, the proposed revisions:

- Remove unnecessary and outdate 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 and monetary donations, advertising, ticket and alcohol sales, and payment information.

We've received several comments in support of the proposed rules. Some of the comments are extensive, indicating concerns with the proposed rules. As always, we'll be considering all comments received, which will determine what, if any changes are made to the proposed rules. If substantive changes are made, we'll file a supplemental CR 102. I want to assure everyone who is listening today that we will be considering all comments.

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

Annie McGrath – Washington Brewers Guild

Good morning, Board members. For the record, my name is Annie McGrath and I'm the executive director of the Washington Brewer's Guild. The Washington Brewer's Guild is a nonprofit trade association that represents our state's small and independent craft brewers.

The vast majority of the over 400 brewers in our state are small and independent brewers. We're here to support the rules draft before you today. We're really appreciative of this work as an association whose members participate in many of these events per year. Actually, a lot of our members participate anywhere between two to six of these events per month, so it's a big part of our business. And, it is one of the most frequently asked questions that we get as an association is "I'm being asked to do this, I'm being asked to provide this, is this appropriate?" We think that this work is going to do a lot to clear out a lot of those questions that we get.

As Janette mentioned, many of the nonprofits that host these events are not aware that the special occasion license is a retail license and that with that, it is implied that all retail laws apply unless it is otherwise exempted. Something that's really helpful for us as an association and our members when we look at these questions is we think about this license and how it was created. And really, it is an

exemption to regular retail laws. It was created to allow charities to raise funds for their associations, so retail laws do apply in some areas that are not very clear in the WACs currently.

We're appreciative of the clarity provided and we're also very happy to see some of our comments taken into consideration regarding language adjusting the definition of beer exhibition. By law, brewers cannot pour at these events unless it is a beer exhibition. The definition for beer exhibition has been really unclear and that's been a point of contention for our members and I think even your agents. We think the clarity in this draft is going to help with that question a lot.

We're also really appreciative of the clarity on whether or not brewers can be paid by tokens at the end of the night. We forget sometimes that because this license exists to help charities, because our industry really loves to participate in these events and give back to local communities, we are subsidizing these events through the donation of our product and donation of our labor. If there's a violation that occurs at these events, it is our brewery license that is on the line for enforcement. So it is in the best interest of our members that these rules are very clear. We appreciate your work on that. Thank you.

Laura Pierce – Washington Nonprofits

Good morning. I'm Laura Pierce. I'm the executive director of Washington Nonprofits and we are the state association of nonprofits. We serve all types of nonprofits statewide and provide professional development for nonprofits as well as public policy advocacy on issues that affect nonprofits broadly.

I'm actually here today without truly substantive comments and the reason is because I just learned about this hearing yesterday afternoon. I was able to clear my schedule and travel to Olympia to be here with you, but our organization hasn't had sufficient notice in time to prepare an analysis of this information. I want to express concern about that, express interest in working with the staff and the Board to engage nonprofits who are the main organizations that will be affected by these changes and the rules to actually have an opportunity to engage and talk through the rules and better understand the implications for us.

Nonprofits are not experts in selling and serving alcohol. I think that our members do their very best to be legally compliant and throw events that are safe and follow all the rules. But we struggle sometimes because that is not our main mission as an organization. And as a state association, we're always trying to make it easier for our members to understand the rules and comply with them. In fact, we worked very hard and with the cooperation of staff here, particular shout out to Beth Lehman who worked with us on this. We created a guide for nonprofits on how to address alcohol, cannabis, and gambling at fundraising events because there was nothing that was targeted to a nonprofit audience to explain the rules. This required months of work on our part, trying to understand the rules so we could accurately portray them. There are some impressive flow charts in here to understand why type of license you actually need for a given event and to understand what types of arrangements you can make with providers of alcohol.

We care about this issue. I will leave a couple copies of this behind with staff so that you all can take a look at it (CITIZEN SUBMISSION 1). We wonder what the proposed changes really would mean and how we'll have to update this for our members. I will be asking for more information about which nonprofits were consulted in the stakeholder process. I would add that we would be very happy to work with the Board and with the staff here to connect you with nonprofits that run these types of events. Not all nonprofits do, but some run very sophisticated events that do involve alcohol and would have expertise and be able to comment in a meaningful way on what these changes would mean for our community.

We did comment on an earlier draft of the rules back in September, so we were just surprised that we weren't in the loop to comment in a timely way on these. We look forward to the possibility of working

together with you to do education, especially if there are rule changes, there'll be a need to help nonprofits understand how they can comply. Thank you for your time today and we look forward to staying in touch and being able to provide meaningful input and we hope that the opportunity for that will be extended for us.

Chair Rushford: Thank you. David LeClaire.

David LeClaire – Seattle Uncorked

Hello. I'm David LeClaire and I work with Seattle Uncorked and what we do is we help a lot of different charities put on events. We work with, for example, Pike Place Market on their Sunset Supper event every year. At the zoo, we do a big thing called Tasting Flight with budding wineries at the zoo. We do events for Children's Hospital and a lot of different organizations just don't have the bandwidth, the staff, or the money to put on an event on their own. They hire me to work them through the process, to engage all the wineries or the breweries, distilleries and whoever's participating, and they try to do it legally and make sure that everything is done correctly and safely.

One of the things that I've seen happen is that the liquor board has defined this special occasion license as a retail license, and I understand that the language itself is a little bit confusing. What that really means in my opinion is that organizers are able to sell tickets to an event and they're able to sell wine at an event or beer at an event. But they're different than a brick and mortar retailer. I would encourage the Board to ask the agency to essentially redefine what retailer means in a special occasion permit because they really shouldn't be under the same restrictions that a business that's a liquor store, a casino, or a hotel, or a restaurant is doing. This is a charity doing a special occasion event so they are a modified or a special version of retailer. I think once these rules are adopted they will affect thousands of charity events, thousands of wineries and breweries that are participating in these events over the years, and they probably won't get done anytime soon. So to me, rather than just saying, "Oh, this sounds good. I don't really know. I don't see any problem with it," is taking a little harder look at what do these revisions mean in some of these situations?

I've prepared a document for you to review when you have a little bit more time because obviously we only have four minutes to discuss this. For the most part, we really want to be safe and legal and do things right when we're doing these charity events. But being held to the restriction of being a retailer is a little bit difficult. How that comes down to a real world example is it used to be that we could pay per token or ticket to the winery or brewery or distillery that was pouring. And what that does is it gives value to the ticket to the winery who's pouring that wine. It gives value to the person who got the tickets when they came in the door. They only get so much. And when they've run out of tickets, they're done and we have control. We have public safety in mind. If there's no value to these tickets or tokens that you give people at the door, half the time they don't get collected. The wineries, breweries don't care anymore. They pour indefinitely. It doesn't really matter to them. People get overserved. They leave, nobody knows. There's no way to control this and you can say that the charity that's hosting the event should be better at maintaining that every token is taken but a lot of times, you just don't have eyes all the way through an event. Last year the LCB decided that they were going to really emphasize that this was not legal because you're basically buying partial bottles. When you pay for tickets you're not paying for a full unit and that's where the retail license bumps into the reality of a special occasion permit.

We're asking for special consideration when you look at how this language is written so that partial bottles or finding a way that tokens could equate to full bottles so that the law is still met. But they are kind of a special retailer, not just retailer like a store buying half a bottle from a winery or distillery that comes in. Other than that, there's quite a few other comments but I'm out of time so thank you.

Chair Rushford: Please feel free to submit your comments.

Mr. LeClaire: Okay. (CITIZEN SUBMISSION 2)

Chair Rushford: Thank you David. Paul Beveridge.

Paul Beveridge – Family Wineries of Washington

Good morning. For the record I'm Paul Beveridge of Family Wineries of Washington State. Special occasion licenses are very important for our members. I've participated in over a hundred special occasion events. Family Wineries has produced over a dozen itself. We've never had a public safety incident at any special occasion event that I've been to.

The existing regulations are so complicated, it's very difficult to put on special occasion events without a promoter to help navigate the arcane requirements. The new regulations make it harder, not easier, to put on events and they even make it harder to hire a promoter. New regulations do not provide clarity. Just read them. They're not clear to anyone, particularly to a volunteer at a charity event who's seeing this for the first time who's never heard of the tied house rules or money's worth or all these other restrictions. These rules don't address any real world problems. The only reason we have these rules is because of this policy of whatever is not permitted is prohibited, so we feel we have to get permission for everything.

Most importantly today is you don't have to adopt these rules. You have a choice. In our extensive comments that we provided this morning, we have a legal analysis showing that the liquor board does not have to consider a special occasion licensee to be a full retailer subject to all those requirements as Mr. LeClaire was explaining. You know, charities are different. They're even exempt from the prohibition on donating wine. So we really think that the most important thing is to look at the unique character of them because these events are so important.

I'm going to drive seven hours today to come to this meeting to speak to you for four minutes. Why did I do that? The Ninth Circuit said these sorts of laws are pernicious and lacking in redeeming virtue. We believe that in Initiative 1183 the citizens said to modernize the economy. You're not supposed to work for an orderly market anymore. That's not the goal. Focus on public safety. There's not a single law professor or economist in the country that's not paid for by the distributor lobby that thinks these rules are in the public interest. So that's what we've been working on all these years is trying to modernize them. I spent 30 years of my pro bono time doing this. The reason why I'm here is if the liquor board is willing promulgate rules like this against charities trying to raise money for a good cause, what are they going to do to evil wineries that actually traffic in liquor. You know, this idea, we need to modernize. Let's not go back to all these arcane provisions that really don't make any sense. We can be the best state in the nation for craft beverages. We can do it. We can raise more money than any other state. We can have the best public safety record in the state if we modernize our regulations. That's what we should be doing, not making sure every t is crossed and every i is dotted on retail requirements that don't fit a special occasion license. Thank you and I'd be happy to take questions. (CITIZEN SUBMISSION 3)

Chair Rushford: Thank you very much, Paul. Janette, we'll move to the barrier requirements hearing.

PUBLIC HEARING 4B – BARRIER REQUIREMENTS FOR LIQUOR LICENSED ESTABLISHMENTS

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

Ms. Benham: Our next public hearing is related to revisions to WAC 314-02-025 and 033 and WAC 314-03-200 regarding barriers requirements and the designation of areas off limits to minors in beer, wine, and spirits, beer, and wine restaurants.

This rulemaking was initiated by a rules petitions requesting the Board revise rules that require restaurants to have a 42-inch barrier designating areas off limits to minors. After review and discussion, the Board agreed to open rules to explore options other than a 42-inch barrier. The 42-inch barrier requirement was implemented through rules that were adopted in February of 2000. There have been several discussions since then regarding effective ways to designate areas of liquor license establishments that are off limits to minors.

In the process of drafting these rules, several discussions and work sessions were held with stakeholders and staff members. Revisions to WAC 314-02-025 and 033 include outlining several demarcation options to designate areas classified as off limits to minors, clarifying that floor plans and demarcation options must be approved by the Board.

When options have to be approved by the Board, we do have designated authority to given to staff and our licensing enforcement department to approve the demarcation options. I think that was misread as stating that every floorplan would to go to the Board for approval.

The revisions also specifically exclude tape, paint, or stickers on floors, walls or ceilings as demarcation options. They update requirements for minor prohibited signs to include the requirements: signage should be visible to patrons who are approaching the off limits areas and also ones inside the off limits area.

The revisions allow licensees to request reclassification of their off limits areas as open to minors for regularly scheduled or special events with prior Board approval. And, the reclassification requests are considered an alteration to a licensed premises.

The revisions make technical clarifying changes and in addition, an error was corrected in WAC 314-03-200.

So far we've received several comments in support of the proposed rules and a few comments and suggestions for revised language to expand the revisions to outside seating areas or to eliminate any demarcation and allow minors in all areas of restaurants including (sic)[excluding] a bar for sitting or standing. Again, we'll be considering all comments received, which will determine what, if any changes are made to the proposed rules. If any substantive changes are made, we'll need to file a supplemental CR 102 which would set an additional public hearing. Do you have any questions?

Member Hauge: No.

Ms. Benham: Thank you.

Chair Rushford: Thank you. Ben Humphrey.

Ben Humphrey – Heliotrope Architects

Good morning, Board. My name is Ben Humphrey. I'm an architect in Seattle and I am the one who petitioned to get the language changed. There are a couple main reasons that I filed the paperwork. They are both economic and life safety related. We work with a lot of small business owners and first time business owners who are renting expensive spaces and trying to get a restaurant to work. As we all know, restaurants fail all the time. We have one client who, due to the spatial constraints in their small

expensive space that they're renting, elected to make the place 21 and over only because they could not fit the required number of seats to make it economically viable. They couldn't fit the equipment. They couldn't fit the liquor rail and still meet code-related exiting requirements. We have other clients who don't have the luxury of making their places over 21 because the neighborhood demographics mandate that they welcome families. From a life safety perspective, the building code acknowledges that assembly spaces like restaurants and bars pose an added life safety risk. People are less familiar with the spaces because they don't frequent them as much as maybe their business or their home. They may have been drinking, which make them less responsive to threats, and so the code asks for additional measures towards life safety, like increased number of exits.

Now, the barrier requirements run in direct opposition to the life safety mandates of the building code. Where the building code asks for fewer barriers, the liquor barrier requirements ask for more barriers. This has always been a concern of mine when designing a restaurant. It's about how to make them safe, how to make them economically viable and meet all of the disparate code requirements. So that's why I'm really excited about the new demarcation language because for me, as an expert in life safety, it completely resolves my concerns that the barrier requirements in the original language posed. I think the new demarcation opportunities alleviate those fears and, by extension, they also accommodate all of my economic concerns. I'm really thankful for the opportunities, even from just a spatial, purely architectural perspective. We've got a lot of new opportunities to meet the demarcation requirements while creating interesting spaces. So, I'm fully in support of the language and thankful for all of your efforts thus far. Thank you.

Chair Rushford: Thank you. Michael Pagana.

Michael Pagana – Ethan Stowell Restaurants

Hello Board. Thanks for having me. My name's Michael Pagana. I'm the vice president of development for Ethan Stowell Restaurants in Seattle. If you're not familiar with us, we own about 20 restaurants in the Seattle market. We also are consultants for Mariner's Stadium, for Delta Airlines and SeaTac, for Holland America Cruise Lines and a number of work with small restaurateurs, local business owners, and people who are first time restaurants to help them get up and going, not only our own chefs who are opening their own places but people around the state.

I'm in full support of a lot of the measures that are taking place to remove these barriers. They are very difficult. We have a number of restaurants that are smaller than this room. We focus on neighborhood-style restaurants. We want to open restaurants in the neighborhoods that support the communities. Having family-friendly restaurants is extremely important to us. We have a number of properties with children's play areas and these barriers are very difficult to put in, especially with the current regulation of only having a maximum of ten feet entrance regardless of the size of the bar area that you're trying to accommodate.

I heard that there were some comments about removing the demarcation altogether. While I do agree that what's been presented is a better option for demarcating these areas, I would agree that arguably, the demarcation is not inhibiting minors from getting alcohol. The bar itself is actually the one place in a restaurant where someone is always standing, watching every single guest. It's probably the place that I'm most confident no minors are getting served.

Pivoting to some of the other parts, which is external or outside barriers. I would also agree that the new demarcations proposed for inside are actually a great way to demarcate outside. Outside definitely needs a demarcation. We need places for guests to understand where they're allowed and where they're not

allowed to bring alcohol. But we do have a number of properties also that are on park areas or even in close proximity to children's playgrounds. Having only 10 feet of available space around an entire perimeter of a patio means that we have to make a decision on where those entrances are and sometimes that can result in children who might leave to go to the park having to walk all the way around through the parking lot to get back into the space where their parents are enjoying a meal. I think that some places, like the city of Seattle, have already implemented sidewalk café markers in the same way that it's proposed that we're demarcating the inside. I think that that has been a great solution in that city, and I think as we continue to go outside of Seattle I'd love to see those kind of steps taken on a state level.

With my last minute, the only other place that I think maybe isn't being considered in the current legislation that we've had issues with are shared communal spaces. Examples of that would be some of these new large office buildings that have these ground floor areas where you might have a coffee shop like we have outside here that maybe wants to serve beer during happy hour and they have fire places and all these communal areas, and designating the space for service inside of a lobby is, well, we understand you have to follow the outside regulations, which is a 42-inch barrier, permanent or stanchion. Again, with the 10 feet of available space, so it's like creating a donut around the lobby. Some kind of accommodation for those shared spaces, whether a similar demarcation in flooring or lighting options or just a little bit more flexibility to be able to offer support and service in some of these types of environments would be needed. Thank you.

Chair Rushford: Thank you for your comments. Connors McMenamin

Connors and Brian McMenamin – McMenamins

Connors McMenamin: Can I bring my father up with me? He's the next one on the list. Can we both speak at the same time?

Chair Rushford: Brian as well. Would you both please state your names.

Connors McMenamin: Yes, I'm Connor McMenamin.

Brian McMenamin: I'm Brian McMenamin. We're part of the McMenamin Family that runs McMenamin's pubs and breweries in Oregon and Washington, and we're in total support of these rules. I know they've been talked about for quite a while, and I think it's much needed. I think all the reasons already stated are clear.

We have a unique perspective because we are in Oregon and Washington. Oregon doesn't require barriers but they do require signage at the bar. If there are any areas that are problematic, we have to have a minor control plan. I agree that barriers present all kinds of issues. We do a lot of historic renovation, and for all the things mentioned so far about small businesses and small spaces, we've come across that same issues, so it's great to be able to talk about this. And again, it was mentioned also that we hope that these rules can be applied inside and outside. We're part of the pilot program in Tacoma for demarcation medallions on the sidewalks and I think it worked great and I think they're trying to roll it out in the city now, so I think that going statewide would be very beneficial.

Connors McMenamin: And to add on top of it, obviously holding a liquor license is a privilege. It's our livelihood and I plan to be on this for a very long time. We take that really seriously and when we get up here to advocate for rules and make the drive to do so, it is not to increase access to minors or anything of the such, or to even increase sales in alcohol. It's simply to make the process of restoring old buildings

and limited spaces easier, less confusing, and give us a better ability to give the community a better ability to create spaces that work for a community and it could be a help for a community. So that's why we're here.

Chair Rushford: Thank you very much for being here today

Trent House – Washington Hospitality Association

Good morning, Board members. For the record, Trent House here today on behalf of the Washington Hospitality Association. Normally you would see Katie Doyle, I know she's already submitted public comments on this measure before you so I will be brief. Katie's not feeling well today so I'm here to express our strong support for the effort that's been undertaken here and echo the comments of the previous speakers. We recognize that there are significant public policy balancing measures that you're trying to accommodate here and we appreciate the outreach to the industry and the work that you've provided here. I'll let the previous comments stand for themselves as well as the written comments we've already submitted to the Board. I just wanted to say thank you for your efforts and that we support the effort that you've undertaken. Thank you.

Chair Rushford: Thank you, Trent. Annie McGrath.

Annie McGrath – Washington Brewers Guild

Good morning. Again, Annie McGrath for the Washington Brewer's Guild. I will be short and sweet. We're here to support this effort and thank everyone for your good work on this. On behalf of our many brewpub members, thank you.

Chair Rushford: Thank you, Annie. This completes our public hearing. And for those of you who came specifically for this, we are not offended if you leave [laughter] before the remainder of the agenda is complete. We really appreciate the additional comments today. Kathy Hoffman.

5. CANNABIS RELATED RULEMAKING AND TIMELINES

PUBLIC HEARING (A)

PUBLIC HEARING 5A – MARIJUANA PENALTIES

Kathy Hoffman, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 5A).

Ms. Hoffman: Good morning, Chair Rushford, Board members Garrett and Hauge. This morning we have a public hearing scheduled for Marijuana penalty redesign rules. By way of background, the CR 101 was filed for this rule project in November of 2018, right around when I came to LCB. Our CR 102 was filed on November 13 of this year.

This rule proposal reflects the outcome of an inclusive and engaged rule development process occurring from March of 2019 to October 31 of last year that focuses on a compliance and education-based regulatory approach designed to encourage and support licensee success, also consistent with Engrossed Substitute Senate Bill 5318.

LCB leadership and staff met with industry representatives and licensees to develop draft conceptual rules more than a dozen times during those months. Those rules were released for public review on August 29 of last year. Two “listen and learn” sessions were held on September 26 and October 31 respectively of 2019. Very few minor revisions were made as a result of those sessions. Those were considered by staff and the result of that work is represented in the proposals today.

Briefly, this proposal accomplishes the following:

- Establishes a process for the issuance of notice of corrections 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 statutory references with violation type and reduces all fines by 50 percent and in some cases more than 50 percent
- Incorporates the mandates, directives, and requirements of ESSB 5318 that has now been codified in chapter 69.50 RCW.

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

Kristen Baldwin – Cannabis Alliance

Good morning, I'm Kristen Baldwin. I'm the new executive director for the Cannabis Alliance. Good to meet you again. I'm here in support of these cannabis penalties rules. Most are here in support of the whole process. We've appreciated the collaborative nature of this rulemaking process and LCB's approach to penalties as an opportunity to educate versus become punitive. I know it's been many months in the making with Kathy Hoffman and the LCB staff sitting down with all of the stakeholders and finding ways to work together. We're invested, the Cannabis Alliance, in a successful outcome of helping LCB educate our members to meet both the letter and the spirit of the law. So thank you for this very positive experience.

Chair Rushford: Thank you for your comments. That concludes our public hearing. Thank you. Vapor related rulemaking.

Ms. Hoffman: If it's okay, I'll provide the marijuana timeline first.

Chair Rushford: Of course.

RULEMAKING TIMELINES

Ms. Hoffman: We just had the penalty rule hearing. I anticipate presenting the CR 103 for these rules on January 22. We received no comments on these rules other than Kristen's vote of support, so thank you.

Voluntary compliance program that also implements ESSB 5318. The purpose behind that rulemaking is to collaboratively develop a voluntary compliance program in consultation with marijuana licensees and their employees consistent with the legislation. We've had one meeting with licensees and their employees, that happened on November 12. Our second internal meeting happened on December 19 to review the results of that meeting and also to begin to sketch out rules. I'm in the process of creating the conceptual draft rules for that particular project. I anticipate we'll have one "listen and learn" session, likely in late February on this project with a CR 102 following closely behind and then adoption mid Spring.

Next is true party of interest rules that implements ESHB 1794. We continue collaborating with our industry partners on these rules. Our last meeting was held on December 9. We had an internal meeting to discuss the outcome of that meeting with our partners and worked through a couple of rule refinements. That happened on January 6. I'm in the process of scheduling a final meeting with industry partners and I anticipate filing the CR 102 on that project on February 19. That would put us with a hearing on April 1 or shortly thereafter.

Quality assurance testing rules. We had hoped to bring this package forward today but based on the complexity of the phase-in plan and working with the code reviser's office to effectuate that into a rule proposal I didn't receive the draft back until late Monday. Our plan at this point is to present that rule package to you on January 22. The CR 102 is going to be complex to write, keeping the phase-in plan consistent with the draft rules. We've gathered a lot of feedback on these rules. At last count we had about 300 comments so we've done a lot of work on this in the last year. And, I just want to make clear that there's also a draft conceptual ruleset that we worked on in August. And that is not the current rule proposal. I know there's been some confusion about that, so I wanted to clarify.

Tier one expansion. That was filed on December 18. We've only received two comments so far so I've reached out to our associations to encourage feedback on that particular project.

With respect to emergency rules in the marijuana space and the emergency rules statute, that's 34.05.350, provides that those rules can be in effect no longer than 120 days after filing. So for three of our emergency rules in the marijuana space, that date will fall in the middle of February. February 13 is the date I have written down here. So, the 90-day mark on the emergency disclosure, that's the form that we were requiring folks to fill out with respect to compounds, ingredients, so forth in concentrates, the 90-day mark on that for that rule is January 16. So far, as of 9:08 am this morning, we received 608 forms. We'll reassess where we're at with that and what the State Board of Health (SBOH) is doing with their emergency rules. There's a phone call on that this afternoon.

Another emergency rule in this space is the mandatory signage that we required. That was also adopted on October 16. The mid mark on that is January 16. So for both of these particular rules, we'll need to take a look at them on or before February 13.

The final rule in the marijuana space that has to do with flavored vapor products are the emergency rules that allow the Board to take disciplinary action against a processor or a retailer who failed to comply with the provisions of the SBOH emergency rules. The three-month mark for that is January 23. Those rules were adopted on October 23. We'll need to take a look at those on or before February 20.

6. VAPOR PRODUCT RELATED RULEMAKING UPDATE

Ms. Hoffman: With respect to emergency rules on vapor product, we have the one emergency rule that establishes summary license suspension provisions for enforcement to carry out the SBOH emergency rules. That hits the three-month mark on January 23. Again, we'll have to take action on that on or before February 20. Again, that largely hinges on whether or not the SBOH emergency rules are renewed. Any questions?

Chair Rushford: No questions.

Ms. Hoffman: Thank you.

Chair Rushford: Thank you, Kathy. We move now to the general public comments. Don Skakie. It looks like he has left, we'll see if he's back in time. Mark Jones.

7. GENERAL PUBLIC COMMENT

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

Mark Jones – Loveland Enterprises

Thank you. My name is Mark Jones. I'm a grower and I represent Loveland Enterprises. What I'm here to advise you is, I'm trying to deal with Rick and some of you other people. Test my products in any store you have open. –I'll beat you. I have clean weed. No contaminations, no fertilizers, nothing. It's straight off the ground, straight out of the sun.

There is no medical marijuana in this state. Nowhere. You've got stores that say they sell it but they don't. They get it from growers that my nephews are working for that are pouring chemicals into these plants and doing an absolutely negative to what we were proposing when we got you into 502.

Now you can give us cancer through all the fertilizers they pump this stuff with. Or you can sit down and start listening to some of us growers who are bringing in a product, beg you to test it up against any one of your stores and you'll find that we grow clean weed. What do you want coming into your future? Chemicalized (sic) marijuana that gets you sick that we can't use as a medical product?

Hemp is a CBD. So is marijuana. Marijuana has almost ten percent CBD in it if it's grown properly. And this is of medical value. Now if you want to get recreational and that's what we gave you guys, recreational. These guys can pump it full of chemicals and mask it with molasses, PCP, whatever they want and then put it out there. If you guys find it, great. But if not, it's out there in the public.

Now what I'd like to see is that you guys take the growers that grow for serious reasons for medical marijuana seriously enough to start a lab that I can test my products with without problems, bring it to the Department of Agriculture, other universities, whether it be Pullman, here at Seattle. I've got a good product that I want to get out to you. And you shut me down year after year after year.

I got with Don and he's lobbying for the regular people to grow. Get ready because when this law gets signed this year, marijuana's legal across all fifty states. And it's already in the DEA 1862 part b of your USC. If it becomes a commodity or a commerce it must be removed from the registry as a drug. Now, what are you going to do? That makes it an herb supplement. I can do whatever I want with it. Now take me seriously. Let's revamp medical marijuana for the veterans that are coming out of war. That doesn't give them a big high. We can be distinguished for each person with a medical card, and medical cards should be five years. Five years. Because it takes that long to cure my cancer. Now I can cure almost anything out there if a person will let me design the plant for them. There's people I'm willing to teach and

there's some plants that I have that can show I can cure your cancers. I can get you off of any hard drugs that you're on right now. I've got people to prove it and I've got physicians in Ellensburg that use my product. But they can't say anything because it's against the law.


Let's change this. I'm here to help people not get them all messed up. I've been fighting and growing this stuff for 48 years, three convictions. I know what I'm doing. Now, please, hear me. Because if I have to, I will go full blown and take it with a federal stamp. I'm already on the Senate floor with a bill. Please, let's set a precedent in this state. Let's show we can do something right with this product. It's there. Just open up your eyes and listen to me as I come back later with my permit to grow my hemp and you guys give me a permit for the pot and I will show you. I will show you how this is done right. Thank you.


Chair Rushford: Thanks for your comments. Did Don come back into the room? We'll go ahead and adjourn. We've completed the orders of the day and appreciate everyone's engagement and contributions. Thank you.

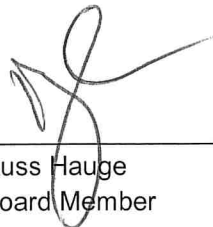
ADJOURN

Chair Rushford adjourned the meeting at 11:13 am.

Minutes approved this 5 day of FEBRUARY, 2020


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