



Washington State Liquor and Cannabis Board Meeting

Wednesday, July 22, 2020, 10:00 a.m.
This meeting was held via conference call

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, July 22, 2020. Member Ollie Garrett and Member Russ Hauge were also present.

Chair Rushford: Welcome, everyone, to our July 22 board meeting. Thanks for your participation. Let's move to Audrey's update on alcohol related rulemaking and timelines. Thank you, Audrey.

2. ALCOHOL RELATED RULEMAKING AND TIMELINES

Presenter – Audrey Vasek, Policy and Rules Coordinator

TIMELINES

Ms. Vasek: Good morning, Chair Rushford, Board members Hauge and Garrett. I'll be giving an update today on the alcohol related rulemaking timelines. For the special occasion licenses rules, the public hearing was held at the last Board meeting on July 8 and we are tentatively aiming to present the CR 103 to the Board for approval on August 5.

For the student tastings and permits rules project, we're in the process of putting together the CR 102 package. A meeting with staff to review the draft conceptual rule language took place last Friday and another one has been scheduled for next week. Depending on the feedback, we may have to adjust the tentative timeline for filing the CR 102 package from August 19 and push it into September.

For the distilleries alternating proprietorships project, an internal work group will be convened next week to review the draft conceptual rule language and feedback received from industry members and determine what revisions need to be made before the CR 102 package can be filed. We're still tentatively aiming to file the CR 102 for that project by August 19.

For the rules projects related to implementation of alcohol related 2020 legislation, we'll be recommending approval today of one CR 101 package for the implementation of four bills. This is the first action item on today's agenda and I'll present more on that shortly. The rule project for implementation of Engrossed Second Substitute Senate Bill 5549 related to distillery marketing and sales will be separate from the rule project implementation of the other four alcohol related bills. We are tentatively aiming to present the CR 101 for that project at the August 5 Board meeting. That concludes the alcohol related

rulemaking timeline updates for today. Thank you very much for listening. May I answer any questions? There were no questions.

ACTION ITEM 2A - Board Approval of CR 101 for 2020 Legislation – Implementing HB 2412, ESSB 5006, ESSB 6095, and SSB 6392

Ms. Vasek began the briefing with materials (HANDOUTS 2A 1-3).

Ms. Vasek: Thank you, Chair Rushford. So for action item A we are requesting Board approval to file approved proposal statement of inquiry CR 101 for rulemaking to implement the requirements of alcohol related legislation enacted during the 2020 session, including House Bill HB 2412, Engrossed Substitute Senate Bill ESSB 5006, Engrossed Substitute Senate Bill ESSB 6095, and Substitute Senate Bill, SSB 6392.

For background and to explain why rules are needed, I'll give a brief summary of these bills. HB 2412 increases the number of retail liquor licenses that a licensed domestic brewery or microbrewery may hold from two to four licensed domestic breweries and microbreweries from certain keg registration and identification requirements. Existing WAC sections may need to be amended in order to align the existing language with changes made by the bill. ESSB 5006 creates a new type of endorsement, allowing a licensed domestic winery to sell beer by the single serving for on-premises consumption and allowing a licensed domestic brewery or microbrewery to sell wine by the single serving for on-premises consumption. New rule sections may be needed to establish this endorsement. Engrossed Substitute Senate Bill 6095 exchanges to the interstate common carrier license and creates new exceptions to the money's worth restrictions under the three-tier system for alcohol regulation. Existing rule sections may need to be amended in order to align the rule language with changes made by the bill. SSB 6392 creates a new type of license for local wine associations and a new rule section may be needed to establish this license.

For those reasons, we're requesting Board approval to file a CR 101 statement of inquiry today.

Timeline

July 22, 2020	The CR 101 is filed with the Office of the Code Reviser. The LCB webpage is updated and notice is circulated by the rules distribution list. The informal comment period begins.
August 5, 2020	Notice is published in the Washington State Register under WSR #20-15.
September 4, 2020	The informal comment period ends.
September 16, 2020	The Board is asked to approve filing proposed rules (CR 102). The CR 102 is filed with the Office of the Code Reviser. The LCB webpage is updated and notice is circulated by the rules distribution list. The formal comment period begins.
October 7, 2020	Notice is published in the Washington State Register under WSR #20-19.
October 28, 2020	The public hearing is held and the formal comment period ends.

November 25, 2020	<p>The board is asked to adopt rules, if no substantive changes are made (CR 103).</p> <p>The concise explanatory statement is provided to individuals offering written or oral comment at the public hearing or during the formal comment period under RCW 34.05.325.</p> <p>The CR 103 and adopted rules are filed with the Office of the Code Reviser.</p> <p>The LCB webpage is updated and notice is circulated by the rules distribution list.</p>
December 26, 2020	<p>The rules are effective 31 days after filing unless otherwise specified under RCW 34.05.380(2).</p>

Ms. Vasek: May I answer any questions?

Chair Rushford: Any questions from Russ or Ollie?

Member Garrett: No questions.

Member Hauge: I have no questions and I'll move approval of filing of the necessary CR 101.

MOTION: Member Hauge moved to approve the filing of CR 101 for 2020 Legislation – Implementing HB 2412, ESSB 5006, ESSB 6095, and SSB 6392

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

Chair Rushford: So moved. Thank you both and thank you Audrey for your update.

Ms. Vasek: Thank you very much for listening.

Chair Rushford: We'll move now to cannabis related rulemaking. Casey.

3. CANNABIS RELATED RULEMAKING

TIMELINES

Presenter – Casey Schaufler, Policy and Rules Coordinator

Mr. Schaufler: Good morning Chair Rushford, Board members Garrett and Hauge. Thank you for the opportunity to be here today. I have a number of hopefully quick updates on timelines for cannabis related projects today.

Rule staff is compiling and assessing comments received regarding marijuana quality control. It is possible that the tentative CR 103 filing date for August 5 might be pushed back as we determine next steps.

The CR 101 for rulemaking related to marijuana retail title certificates has been formally withdrawn from the Office of the Code Reviser.

We have started to receive some public comment regarding the CR 101 filing for marijuana vapor products. We're looking at scheduling "listen and learn" sessions sometime possibly in late August.

The marijuana voluntary compliance project is on track with the tentative CR 102 filing recommendation date of August 5.

True part of interest has received some additional public comment and we are evaluating our next steps forward on that project as well.

Otherwise, we have no significant changes at this time. Please let me know if there are questions or concerns. Thank you.

Chair Rushford: Any questions?

Member Hauge: No questions.

Member Garrett: No questions.

Chair Rushford: Thank you very much, Casey. We appreciate the update. Kathy, I have a comment before you move to the action items, I would like to acknowledge that Tricia Ehrlich has taken a position with the Department of Agriculture in their hemp program. We know how much all of us will miss her, and the Board will also miss her as our research coordinator, she has provided needed background and insights as contributions to LCB's work. We wish her the best.

Kathy Hoffman: Thank you very much, Chair Rushford, and I share in those sentiments. Tricia was a very appreciated colleague and she will be very much missed.

ACTION ITEM 3A - Board Rescission of BIP 13-2019 – Issues with Release 1.37.5 of Leaf Traceability System Software

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

Ms. Hoffman: The first action item I have for you this morning, Chair Rushford, Board members Garrett and Hauge is to request approval to rescind Board Interim Policy (or BIP) 13-2019 regarding issues related to release 1.37.5 of the leaf traceability system software.

As noted in the rescission document before you, BIP 13-2019 was adopted on July 23 of 2019 to allow marijuana licensees, labs, and integrators some flexibility to develop work around the problems directly associated with lab test data and manifest information that were impacted by the code changes made in the 1.37.5 traceability system on July 15 of 2019.

This particular BIP is very narrow in scope and limited to records that were already in the traceability system and were being blocked by field parameters that had changed. New records created that relate to

lab results and transfers have not experienced the same challenges. Since BIP 13-2019 was approved, the issues it was designed to address have either aged out or been corrected with workarounds allowed subsequent to its approval. As a result, we recommend BIP 13-2019 be rescinded at this time. And today I'm requesting your approval to do so.

MOTION: Member Garrett moved to approve the Rescission of BIP 13-2019 – Issues with Release 1.37.5 of Leaf Traceability System Software

SECOND: Member Hauge seconded.

ACTION: Motion passed unanimously.

4. GENERAL RELATED RULEMAKING AND TIMELINES

Presenter – Kathy Hoffman, Policy and Rules Manager

ACTION ITEM 4A - Board Renewal of Emergency Rule (CR 103E) Regarding Chapter 314-12 WAC – General – Applicable to All Licensees to Establish Summary License Suspension and Stay Provisions to Enforce any Governor's Proclamation

Kathy Hoffman, Policy and Rules Manager, began the briefing with materials (HANDOUT 3A 1-5).

Ms. Hoffman: Thank you, Chair Rushford, moving on to the general rulemaking. I think we're aware that there are several emergency rules that were put in place on March 27 that have to do with late filing penalty provisions. The Governor's proclamation that allows for the Board to waive those penalty provisions is not being renewed so we will not be renewing any of those emergency rules at this time.

However, we are requesting a renewal of the CR 103E that established summary license suspension and petition for stay provision necessary for the enforcement of any Governor's proclamation issued as a result of the COVID 19 outbreak. The original request here and the original rules were approved and filed on April 6 of this year and they are currently set to expire on August 4.

Governor Inslee has issued a series of proclamations related to COVID-19 and in early March he issued a proclamation 20-13 that imposed statewide limits on food and beverage services, and in mid-March issued proclamation 20-25, this is the "stay home, stay healthy" proclamation that, among several other things, imposed limits on conducting or participating in essential activities and employment and official activities. These proclamations have been extended and amended several times, more recently on July 7, when proclamation 20-25.6 was issued that amended and extended the four-phase plan of opening the state of Washington and incorporated and issued a mandatory proclamation including proclamation 20-13.

The Board has statutory authority to enforce Governor's proclamations and consistent with that authority, this emergency rule will continue to allow the Board to serve an order of summary license suspension after a preliminary staff investigation indicates that liquor, vapor, or tobacco product licensee has violated any Governor's proclamations issued as a result of the COVID 19 outbreak. It also provides a framework and process for the affected LCB licensee to petition the Board for a stay of summary suspension consistent with the provision of chapter 34.05 RCW.

MOTION: Member Hauge moved for renewal of Emergency Rule (CR 103E) Regarding Chapter 314-12 WAC – General – Applicable to All Licensees to Establish Summary License Suspension and Stay Provisions to Enforce any Governor’s Proclamation

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

Chair Rushford: Thank you both -- so moved. Thank you, Kathy.

Ms. Hoffman: Thank you, Board.

Chair Rushford: Thanks to all of you today, Audrey, Casey, and Kathy, for joining us.

5. GENERAL PUBLIC COMMENT

Chair Rushford: We'll move now to the general public comments. Please recall that we have a four-minute limit. You will get a 30-second alert from Dustin. When the time is up, your time will conclude. It's not indicative of any agreement or disagreement but rather we want to maintain fairness for all opinions and speakers. We start public comments with Sami Saad.

Dustin Dickson: Good morning, Chair Rushford. This is Dustin. Mr. Saad had registered to speak but I do not see him online with us today.

Chair Rushford: Thank you. I believe that next we have Jim MacRae. Welcome, Jim.

Jim MacRae – Straightline Analytics

Good morning, Chair Rushford, Board, Dustin, and everybody else that's on the line. I want to caution you about the decision that you just made to repeal the Board Interim Policy 13-2019, which was put into place almost exactly one year ago today. I would ask you to please reconsider that action in the immediate future between now and the next time you have a decision making session before you.

As I believe has been suggested, at least in testimony you have received within the last month, and as I would like to think your own IT staff and others involved in the project might have informed you, the issues that have been plaguing those who would like to access and utilize an accurate representation of what's going on in the marketplace, which is supposedly afforded by the leaf traceability system, have been frustrated by the inadequacies of the system that was launched in July of last year, 1.37.5.

That 1.37.5, when it was launched, all of the IT project planning documents made clear that the very quick response to that was to do two or three, I believe it was two at the time, maybe three, subsequent rollouts within months that would address the serious, almost fatal flaws, in some cases. They actually were fatal flaws with the Leaf systems.

The rationale for removing this policy was that it was quote, unquote, focused on issues that were in the system before the rollout of 1.37.5. The issues that were in focus, which is basically the inability of the system to tie lab results consistently with the product as it flows downstream have not only continued,

they have accelerated. You may have heard differently from your IT staff. Rest assured your IT staff has heard differently from the people who deal with the database every day on a technological basis.

Today, there is less product on the shelves of retail stores in this market that can be reliably tracked back to its test results through the system than there was on the day that Leaf 1.37.5 rolled out. And that was at the core of the problems that the BIP 13-209 were supposed to address.

So it is a faith-based quality assurance system from the perspective of the consumer today. And I think that that is doing a disservice to them. Thank you very much.

Chair Rushford: Thanks for taking time to join us today, Jim. Dustin, did we have anyone else sign in?

Mr. Dickson: No, Chair. That's it for today.

Chair Rushford: Thank you everyone for joining us. Stay safe and well, and we'll see you at our next meeting, which I believe is on... Dustin?

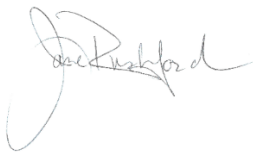
Mr. Dickson: The next Board meeting is scheduled for August 5.

Chair Rushford: Thank you everyone for participating. We are adjourned.

ADJOURN

Chair Rushford adjourned the meeting at 10:21am.

Minutes approved this 5th day of August, 2020.



Jane Rushford
Board Chair



Ollie Garrett
Board Member

Not Present

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

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