



## Washington State Liquor and Cannabis Board Meeting

Wednesday, October 28, 2020, 10:00am

This meeting was convened 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, October 28, 2020. Member Ollie Garrett and Member Russ Hauge were also present.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Hauge moved to approve the October 14, 2020, meeting minutes.

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

#### 3. ALCOHOL RELATED TIMELINES

Audrey Vasek: Thank you. Good morning Chair Rushford, Board members Garrett and Hauge. Thanks for the opportunity to be here today and give the update on the alcohol rulemaking timelines. There are currently four open alcohol rulemaking projects.

For the rule project related to student tastings and permits, the rule proposal CR 102 was approved and filed on September 30, and the public hearing is set for the November 18 Board meeting. The formal public comment period for these rules is currently open. We haven't received any formal public comments yet, so I'd like to encourage anyone who's listening and interested in that rule project to submit comments if you have them. The notice the stakeholders was sent to all the GovDelivery subscribers and posted on the proposed rule page.

For the rule project related to implementation of four alcohol related 2020 bills, which includes the local wine association license, 6392, the brewery/winery on-premises consumption endorsement, 5006, the common carrier license bill, 6095, and the domestic brewery and microbrewery keg registration bill, 2412. For those four bills, we're analyzing the feedback we received from the public and we're currently in the process of reviewing this feedback with staff before moving forward. We tentatively plan to present the CR 102 to the Board for approval on November 18.

The rule project related to implementation of Engrossed Second Substitute Senate Bill 5549 - that's the distilleries bill - we're working with staff to develop conceptual draft rules. Due to the complexity of the project, we've been holding frequent internal meetings with Finance, Licensing, Enforcement, public health, and others at the table. Once a set of conceptual draft rules is developed, we plan to share those publicly, gather feedback, and hold a "listen and learn" session hopefully later in November. We tentatively plan to present the CR 102 to the Board for approval on December 9.

For the distilleries alternating proprietorships rules project, the LCB project team met on October 14 to discuss options for moving forward and decided the best option would be to put it on hold until the 5549 rulemaking is complete due to the potential overlap between the two projects. When the project resumes, we're considering creating a survey to assess concerns and needs of distillery and craft distillery licensees that might be interested in engaging in these alternative proprietorships in order to develop a better understanding of the potential impact of this rulemaking project on those licensees. That concludes the alcohol rules updates, thank you very much for listening. Can I answer any questions?

Member Garrett: This is Ollie. I have no questions.

Member Hauge: No questions for me. Thank you.

#### **4. CANNABIS RELATED RULEMAKING AND TIMELINES**

##### **RULEMAKING TIMELINES**

Casey Schaufler: Good morning, Chair Rushford and Board members Garrett and Hauge. Thank you for the opportunity to be here today to provide timeline updates.

With respect to the Tier I expansion rule project, the second round of the survey is currently underway. The survey itself contains the same questions as in the previous iteration. The recipient list was updated based on active licenses as of October and contact emails provided by licensees to the LCB as well as those who are invited to participate but didn't complete the previous survey. The second iteration of the survey will close on Friday, October 30. Using survey data along with public comment at the two "listen and learn" sessions will inform LCB staff on next steps forward.

Implementation of 2826 marijuana vapor products continues with no significant updates at this time. We continue to review written comment received as well as comments from the two "listen and learn" sessions. The rule project is on track and I anticipate bringing a CR 102 for your consideration in December.

For quality control rules we continue to invite licensees and other interested parties to provide written comments through the November 18 comment period, with a formal public hearing scheduled for the November 18 Board meeting.

##### **ACTION ITEM (A)**

##### **ACTION ITEM 4A - Board Approval of CR 102 for Marijuana Certificate of Compliance**

Casey Schaufler, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 4A 1-6).

Mr. Schaufler: Substitute Senate bill 6206 amended RCW 69.50.331, now codified as RCW 69.50.331 sub (8) sub (e) by adding subsection (e) to create a certificate of compliance for marijuana business premises. The amendments became effective on June 11, 2020 and requires that the LCB must issue a certificate of compliance for marijuana business applicant's premises if the premises meets the statutory buffer zone requirements at the time the application was filed. The certificate allowed the licensee to operate the business at the proposed location, notwithstanding a later occurring, otherwise disqualified distance factor. This certificate is not a license to produce, process, research, or sell marijuana at the location. All other marijuana licensing requirements must be met in order to receive a license or to continue operating under an existing license. The legislation was designed to prevent a competitor from opening a business that would disqualify another marijuana entities license application.

The scope of work for this CR 102 is solely to implement SSB 6206 and proposes to amend the Washington Administrative Code 314-55-020 sub (6). The proposed amendment allows the LCB to issue a certificate of compliance to an applicant if proposed business premises meets the minimum distance requirement as of the date the application was received by the LCB. The proposed amendment also allows applicants granted licenses prior to the future adoption of this rule to operate their business without being affected by a future disqualifying distance factor. There are no costs associated with this rule. The rule does not impose any additional regulatory burden on applicants or licensees nor does it change, modify, add costs, or otherwise alter the license application process. With that, if there are any questions I'll be sure to answer those and I thank you for your time.

#### Timeline

October 28, 2020	Board is asked to approve filing proposed rules (CR 102). CR 102 filed with the Office of the Code Reviser. LCB webpage updated and notice circulated by rules distribution list. Formal comment period begins.
November 18, 2020	Notice published in the Washington State Register.
December 9, 2020	Public hearing held and formal comment period ends.
January 6, 2021	Board is asked to adopt rules if no substantive changes are made (CR 103). Concise Explanatory Statement provided to individuals offering written and oral comment at the public hearing, and during the formal comment period, consistent with RCW 34.05.325. CR 103 and adopted rules are filed with the Office of the Code Reviser. LCB webpage updated and notice circulated by rules distribution list.
February 6, 2021	Rules are effective 31 days after filing (unless otherwise specified).

MOTION: Member Garrett moved to approve the filing of proposed rules CR 102 for Marijuana Certificate of Compliance

SECOND: Member Hauge seconded.

ACTION: Motion passed unanimously.

Chair Rushford: I'm also eager to see the term "marijuana" go away. I know this is in statute, but I hope every opportunity we have in the agency as we have endeavored to use "cannabis" instead of "marijuana". Look forward to when that that term is no longer with us. Thank you very much, Casey.

Mr. Schaufler: Thank you.

## 5. GENERAL PUBLIC COMMENT

Chair Rushford: We'll move now to the general public comment. I know Shawn DeNae is with us today. I just want to caution as I do every time that we allow four minutes. At 30 seconds left Dustin will give you a signal and then we will conclude at four minutes. Thank you and welcome.

Dustin Dickson: Chair, this is Dustin. Shawn DeNae did register to speak but she has not logged on yet. We did have a second person registered to speak late this morning, so I have Megan Moore available.

Chair Rushford: Excellent. We'll see if Shawn is able to join us after Megan. Welcome Megan.

### Megan Moore – Kitsap Public Health District

Thank you, Megan Moore at Kitsap Public Health District. I am just kind of chiming in on behalf of a statewide coalition that's working for youth prevention. We know that you support youth prevention as a whole, and we are working here in the background just trying to prevent better access to marijuana and alcohol and tobacco products, also trying to prevent a decreased perception of harm for the community. We're trying to make sure that the community still understands that substances are harmful to youth. We are here and hoping to be the experts in the room as it pertains to youth prevention as you start to work on your rules pertaining to the temporary allowances due to Covid.

Many of us are public health professionals so we understand that the temporary allowances were put in place to do better social distancing and other public health measures, which is probably helpful. But some of the temporary allowances that are in place could greatly harm youth and/or decrease that perception of harm in the community. So as you start to move forward into your rulemaking, just know that there's a larger prevention community here as the experts for youth prevention research and data. That's all I have for you today. Thank you for letting me speak and I hope to be speaking to you soon.

Chair Rushford: Thank you very much for joining us, Megan. Appreciate your comments. Dustin, is Shawn with us now?

Mr. Dickson: Shawn has not logged into the meeting. No, Chair. Did you want yo update on the Board calendar for November?

Chair Rushford: I'll rely on you to do that, Dustin, thank you.

Mr. Dickson: Of course, thank you Chair. The next scheduled meeting would have been November 11, which is Veterans Day, an observed state holiday. So, we've moved that meeting to the 18th. And with the other rules timelines in place, there is not a need for a Board meeting on the 25th. So, the only Board meeting in November will be on the 18th.

Chair Rushford: Thank you very much. This was carefully considered by the rulemaking team and I so I appreciate your flexibility out there. We'll be able to accomplish a lot on the 18<sup>th</sup>. If there is no other business --

Mr. Dickson: Chair - Shawn has logged on now.

Chair Rushford: Great. Thank you for joining us. Four minutes for your comments. Thank you.

Shawn DeNae – Washington Bud Company

I'm not sure that I'm going to need all that time but basically, I want to comment on the CR 102 substitute on quality assurance testing that's addressing pesticides and heavy metal testing. You know, we all want clean cannabis. But those of us that have learned how to grow clean flower should not be punished with this expensive rule proposal.

Personally this rule as written will cost our small family business an additional \$30,000 in mandatory testing. But it's not going to do anything to ensure safer product in Washington because it's still based on self-selected sampling, and self-selected sampling will always be suspect. It's not scientifically based. There is no other form of testing in the consumption world that is based on self-selected samples, so it's flawed from the very beginning.

As we all know, the Department of Ecology (WSDE) has been tasked by law to oversee testing on cannabis and I believe that the LCB should not continue with this rulemaking until the WSDE sets standards of testing and develop scientifically based testing rules that will have efficacy that will not have a little asterisk by them – “Oh, yeah, Washington tests, but they self-select their samples”.

We have an opportunity right now to withdraw this rulemaking and wait for the WSDE and I think that that is the ethical and responsible thing to do so that we have rules that are based on scientific methods that don't cost us small businesses disproportionately. Keep in mind that growers that grow for biomass, that grow for the oil extraction market, they can transfer product in bulk - in unlimited bulk numbers untested - that could be extracted and create unlimited batch numbers that then can be covered with one test. So, this rule as written doesn't affect the processors that create edibles and drinks and concentrated oils. But it will greatly affect those of us that grow for the usable flower usable market.

And, I agree, Jane, we need to start using “cannabis” rather than “marijuana”. I mean, you know, it's like saying “black market” rather than “underground” or “unregulated market”. It's just no longer PC to say that.

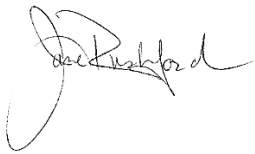
So, I respectfully request that the LCB remove the CR 102 on the quality assurance testing and wait for the WSDE's scientific guidance. Thank you for your time. I appreciate it and all be well.

Chair Rushford: Thank you very much for your comments, Shawn. And if no additional speakers have indicated an interest, we have completed the orders of the day and stand adjourned. Thank you for being here.

## ADJOURN

Chair Rushford adjourned the meeting at 00:00.

Minutes approved this 9<sup>th</sup> day of December, 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.

Complete meeting packets are available online: [http://lcb.wa.gov/boardmeetings/board\\_meetings](http://lcb.wa.gov/boardmeetings/board_meetings)  
For questions about agendas or meeting materials you may email [dustin.dickson@lcb.wa.gov](mailto:dustin.dickson@lcb.wa.gov) or call 360.664.1717