



Washington State Liquor and Cannabis Board Meeting

Wednesday, February 3, 2021, 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, February 3, 2021. Member Ollie Garrett and Member Russ Hauge were also present.

Chair Rushford: Welcome to our February 3, 2021 Board meeting. We're fast approaching the one-year mark since we've been together in the boardroom. Seems impossible. I want to take a moment and thank everyone for your collaboration and cooperation. While we miss seeing everyone who could attend in person, we've had increased participation in the virtual environment. Let's move to approval of the meeting minutes. We have two sets to consider today, is there a motion?

2. APPROVAL OF MEETING MINUTES

MOTION: Member Garrett moved to approve the January 6 and January 20, 2021, Board meeting minutes.

SECOND: Member Hauge seconded.

ACTION: Chair Rushford approved the motion.

3. ALCOHOL RELATED RULEMAKING AND TIMELINES

Presenter – Audrey Vasek, Policy and Rules Coordinator

TIMELINES

Ms. Vasek: Thank you. Good morning, Chair Rushford and Board members Garrett and Hauge. I have a brief update on the recently adopted rules for the following four alcohol bills enacted during the 2020 session: House Bill 2412 related to brewery keg registration ID requirements; Engrossed Substitute Senate Bill 5006 related to on premises consumption endorsements for breweries and wineries; Engrossed Substitute Senate Bill 6095 related to common carriers; and Substitute Senate Bill 6392 related to local wine industry associations. For the recently adopted rules for those four bills after approval at the Board meeting on January 20, I filed those with the code reviser's office and they are scheduled to take effect on February 20. A copy of the concise explanatory statement was sent to all

those who provided public comment and GovDelivery messaging was sent to all subscribers. The recently adopted rules webpage has been updated accordingly.

In terms of projects on the horizon, I'm beginning to prepare a CR 101 preproposal statement of inquiry for rulemaking to consider revising WAC 314-28-070 related to monthly reporting requirements for distilleries to take into account the Blue Spirits Distillery Court of Appeals decision issued on December 22, 2020. This decision held that LCB rules requiring distillers to pay spirits retailer licensing fees when they acted as a spirits retailer were invalid. So, some rule revisions may be necessary to take into account that decision. In terms of timeline, I'm currently assembling the project team and tentatively hope to have a CR 101 ready to present to the Board later this month or next month. Are there any questions I can answer before moving to the introduction for the public hearing?

Member Hauge: No questions for me.

Member Garrett: No questions from me.

Chair Rushford: Thank you, Audrey. We'll move now to the public hearing.

PUBLIC HEARING (A)

PUBLIC HEARING 3A – 2020 Legislation Implementation - E2SSB 5549

Audrey Vasek, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 3A).

Ms. Vasek: Audrey Vasek: Thank you, Chair Rushford. Item 4A today is the public hearing for proposed rules for implementation of 2020 legislation for Engrossed Second Substitute Senate Bill 5549 related to distilleries.

For background, this bill modified the privileges and requirements for distillery and craft distillery licensees and established a new offsite tasting room license available to distillery and craft distillery licensees beginning January 1, 2021. The bill also authorized jointly operated offsite tasting rooms and conjoined consumption areas for certain licensees. The Board initiated a formal rule inquiry on August 5, 2020 to consider revisions to implement the bill. To engage interested members of the public in the rulemaking process and gather feedback and suggestions for revisions to conceptual draft rules, a virtual "listen and learn" session was held on November 17, 2020. At a peak, there were over 40 people in attendance. The feedback we received during the "listen and learn" session was incorporated into the proposed rule language and a CR 102 was filed. A description of the changes made based on this feedback is provided in the CR 102 memo and in a follow-up email was sent directly to "listen and learn" session attendees after the CR 102 was filed. The proposed rules amend three sections, add six new sections, and repeals one section in chapter 314-28 WAC related to distilleries. These proposed rules also amend one section in chapter 314-29 WAC updating the penalty schedule to include the new statutory requirements. The formal public comment period opened on December 23 and two written comments have been received so far. That concludes my introduction and I'm happy to answer any questions.

Member Garrett: I have no questions.

Member Hauge: I have no questions. Thank you.

Chair Rushford: Thank you for the excellent overview, Audrey. We'll move to public hearing. Caitlin Braam. Welcome.

Caitlin Braam – Yonder Cider

Caitlin Braam: Hi, thank you everyone for having me. I really appreciate it. This is my first time attending one of these so please excuse me if I don't do this right. Please let me know if I can provide more information. I'm the founder of the new Y School Spirits Distillery.

Chair Rushford: Caitlin, excuse me. Before we go further, please state your name for the record. This meets one of our public meeting objectives. Thank you.

Ms. Braam: Caitlin Braam and I'm the founder of Y School Spirits, a new distillery in Seattle, as well as the founder of Yonder Cider.

Chair Rushford: Thank you.

Ms. Braam: We are taking advantage of this Senate Bill 5549 in our new tasting room in Seattle, which we're very excited about. The distillery will be sharing the tasting room with Yonder Cider as well as Bill Breaker Brewing. So, we have a distillery, a winery and a brewery.

The question I have is regarding section 5.2, which is regarding glassware. In that section, it does say that you need to use distinctly marked glassware for each entity. We're running into a bit of a problem trying to figure out how to make this happen, as the brewery has five different glassware styles, if you include taster flights. The cidery has four and the distillery has two, which makes it rather challenging for the bar staff. Also, we have found, based on our other tasting rooms, that marked glassware tends to disappear very, very quickly, whether it's a logo or otherwise, from a tasting room, because patrons do tend to steal it. So we are trying to figure out how to address this and see if there's any wiggle room with the marked glassware or get some additional clarification on it.

Chair Rushford: Thank you very much. Your comments will be entered into the record. Do you have anything additionally?

Ms. Braam: No. We just thank you for the opportunity to have this joint tasting room. It will make for a really great experience and we're excited for it. But, yes, it's just the glassware portion that we're struggling a little bit with so I appreciate the opportunity to share my thoughts.

Chair Rushford: Thank you for participating today. Dustin, did we have anyone additionally signed in to testify on this bill?

Dustin Dickson: No further registrants for this public hearing, no.

Chair Rushford: This concludes the public hearing on Engrossed Second Substitute Senate Bill 5549 and the rulemaking associated with the 2020 legislation. Thank you.

Moving now to Casey for the cannabis related rulemaking and timelines. Welcome, Casey.

4. CANNABIS RELATED RULEMAKING AND TIMELINES

Presenter – Casey Schaufler, Policy and Rules Coordinator

TIMELINES

Mr. Schaufler: Good morning, Chair Rushford and Board members Garrett and Hauge. I have a couple of very quick timeline updates to begin with, starting briefly with Tier I incremental expansion. Internal discussion and contingency planning is ongoing. I continue to expect a more detailed update on this topic later this month once those necessary discussions conclude.

As to quality controls, staff is preparing for the next two of three “deliberative dialogue” forums. The first panel for consumer perspectives was held on January 28. A total of 72 unique users participated in this first panel. Panel two for producer/processors is this Thursday, February 4. And then panel three for accredited labs will be on February 11. GovDelivery messaging went out for all three panels. And if anyone is interested in learning more about the panels, I would direct them to the GovDelivery archive on the agency's website.

Finally, the recently adopted rules for implementation of Senate Substitute Bill 6206 for the creation of marijuana business premise certificate of compliance will become effective this week on February 6.

This concludes my updates for today before I move to the public hearing. Are there any questions?

Member Garrett: No questions.

Member Hauge: No questions, thank you.

Chair Rushford: Thank you for the excellent overview, Casey. Please move to the public hearing.

PUBLIC HEARING (A)

PUBLIC HEARING 4A – THC Vapor Products – Implementing HB 2826

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

Mr. Schaufler: Thank you. For item 4A, THC vapor products, the Washington State Liquor and Cannabis Board filed a rule proposal CR 102 related to implementation of 2020 legislation, House Bill (HB) 2826 marijuana vapor products on December 9, 2020. HB 2026 was passed by the legislature in response to an outbreak of lung injuries associated with individuals who consume THC or nicotine vapor products designated as e-cigarette or vaping product use associated long injury referred to in short as EVALI.

This rule package consistent with HB 2826 proposes the following: new definition in WAC 314-55-(4) for characterizing flavor, new definition in WAC 314-55-010(40) for terpenes, as well as sub-definitions for botanical terpenes, synthetic terpenes, and terpenoids. A new section in WAC 314-55-550, marijuana vapor products outlining the Board's processes for regulating cannabis vapor products. And, new section WAC 314-55-1055 requiring ingredient disclosure. Please note, this section is currently active under the Board's adoption of emergency rule and is authorized under statute as provided by HB 2826. This emergency rule has been continuously in effect since October of 2019. We've received one comment following the CR 102 filing for implementation of HB 2826.

That concludes my introduction for this public hearing. Any questions?

Member Garrett: No questions.

Member Hauge: No questions. Thank you.

Chair Rushford: Thank you very much, Casey. Crystal Oliver, please state your name for the record.

Mr. Dickson: Chair, this is Dustin. I'm sorry to interrupt. There was a miscommunication between Crystal and myself. She actually wanted to speak during general public comments.

Chair Rushford: Okay. Did anyone else indicate an interest in testifying at this public hearing, Dustin?

Mr. Dickson: Not for this hearing.

Chair Rushford: This concludes the public hearing. Thank you, everyone. And thanks for the excellent work, Casey.

We'll move now to the general public comments. We'll start with Sami Saad. Welcome.

5. GENERAL PUBLIC COMMENT

Mr. Dickson: Sami Saad registered to speak but is not online with us today.

Chair Rushford: Okay, thank you. Shawn DeNae. Welcome, Shawn.

Shawn DeNae – Washington Bud Company

Shawn DeNae Wagon seller, co-owner of a Tier II producer/processor license in rural Snohomish County. I want to talk to you about the unintended consequences of cannabinoids coming into the system.

I know that Kathy's department just put out a clarifying statement about CBD coming into the market for purposes specifically of enhancing cannabidiol in 502 (sic)[I-502] products. And that's just following a law that was recently covered. In reality, you all should know that huge amounts of hemp biomass is coming into the 502 processors, where they not only are able to just extract CBD, but all the other cannabinoids - CBG, CBN, you know, on and on and on.

There's 144 cannabinoids. We only really work with about half a dozen of them. But anyway, all this hemp biomass, it is low in THC but when extracted, all of those cannabinoids are being extracted and it's coming into competition with my licensed business. I haven't been able to sell bulk biomass sugar leaf trim since October, since the hemp and THC harvest last fall. I used to get \$600 a pound for that. I can't even sell it for \$100 a pound right now. It's piling up and I've got unfair competition with all this hemp biomass coming into the process.

Not only are other cannabinoids being extracted, but then they can go through a chemical process to create Delta-8 which you may or may not have heard of. It's the new big deal that gives you the feeling of THC without it being THC from what I understand. And Delta-8's byproduct is psychoactive THC, from what I understand. So, we really need to change this. I don't know if it's going to take a rulemaking change

or a legislative change, but for me to have to go through all of the regulations that we go through and all of the added expense that we go through to create this highly regulated crop, that is a high value crop, to put in low grade hemp biomass into the system that I now have to compete against, it's just not fair. It's just unfair competition and I want you all to be alerted about it. Thank you.

Chair Rushford: Thank you, Shawn. This is important information and Casey or someone will be in contact to follow up. Thank you. Moving now to Crystal Oliver. Please state your name for the record.

Crystal Oliver – Washington Sungrowers Industry Association

For the record, Crystal Oliver, Executive Director of the Washington Sungrowers Industry Association. Good morning Chair Rushford and Board members. We appreciate the LCB's effort to leverage unique and innovative techniques for stakeholder outreach and engagement, including the upcoming producer/processor "deliberative dialogue".

The development of the QC regulations is an issue that's incredibly important to Washington's independent cannabis farmers. I was approached by several of the panelists and alternates, who are WSIA members in an effort to prepare themselves ahead of the panel. These panelists wanted help from their trade association. We've consistently sought to support our farmers, keep them up to speed on important issues, and advocate on their behalf. We share opportunities and encourage our members to directly engage in the regulatory and legislative process. We promoted the upcoming "deliberative dialogue" panel in several of our membership newsletters. As a result, a number of our members applied and were selected.

If members of the Washington Sungrowers Industry Association or network reach out for help understanding an issue and how to best advocate for farmers using a platform they had been provided, we are going to get those folks together to talk and we're going to support them in any way that we can. We did not realize that our actions were not in the spirit of the "deliberative dialogue" process. The panelist's expectations were not clearly laid out in the selection emails they received. Had we known that freedom of association within our organization was prohibited under the "deliberative dialogue" process, we never would have scheduled those meetings. Thank you.

Chair Rushford: Thank you, Crystal. I'm going to ask Kathy to clarify and underscore a couple of things related to this. Kathy, thank you.

Kathy Hoffman: Thank you very much, Chair Rushford. One of the basic ground rules for participation in the "deliberative dialogue" process, and we've shared that information in all of our emails that we've shared, including our GovDelivery messages and so forth, with the regulated community and the others, are that all participants speak for themselves and not as representatives of others' interests.

"Deliberative dialogue" is not a debate to be won and nor are any decisions made during a "deliberative dialogue" session. When we select our panelists for "deliberative dialogue", we don't share those lists with any of the panelists or anyone else.

When the questions were shared with panelists, they were instructed to reach out to me after they received the questions if they had any follow-up. They were also provided with a copy of the agenda that also laid out the ground rules for "deliberative dialogue".

We do intend on holding the session tomorrow, but it's going to be a challenge given the concerning activity that happened with this particular panel. I encourage these panelists to reach out to me again if they wish to, before the session tomorrow, for additional clarification if they wish. Thank you.

Chair Rushford: We appreciate the clarification and hope for a very successful engagement tomorrow. There had been some traffic on this last evening and so I wanted to be sure that we had good information for everyone involved before we move into the next steps tomorrow. Dustin, do we have anything additionally?

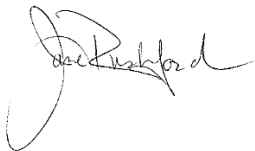
Mr. Dickson: No, Chair.

Chair Rushford: With that, we have completed the orders of the day and stand adjourned. Thank you for being here and for your contributions.

ADJOURN

Chair Rushford adjourned the meeting at 10:20am.

Minutes approved this 17th day of February, 2021



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
For questions about agendas or meeting materials you may email dustin.dickson@lcb.wa.gov or call 360.664.1717