



## Washington State Liquor and Cannabis Board Meeting

Wednesday, September 29, 2021, 10:00am  
This Meeting was Convened Via Web Conference

### Meeting Minutes

---

#### 1. CALL TO ORDER

Chair David Postman called the regular meeting of the Washington State Liquor and Cannabis Board to order at 10:00 am on Wednesday, September 29, 2021. Member Ollie Garrett was also present. Member Russ Hauge was excused.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Garrett moved to approve the September 15, 2021, Board meeting minutes.

SECOND: Chair Postman seconded.

ACTION: Chair Postman approved the motion.

#### 3. CANNABIS RELATED RULEMAKING TIMELINES

Presenter – Jeff Kildahl, Policy and Rules Coordinator

Mr. Kildahl: Good morning, Chair Postman and Board member Garrett. Here is a brief update on cannabis rules in progress today, September 29, 2021.

Regarding cannabis quality control rules, we continue to work with the economists from Industrial Economics Incorporated, or, IEC. As part of that work, we sent an invitation via GovDelivery on August 30, seeking interview participants. As of Monday, IEC had held 18 interviews with producers and processors and is working to schedule another seven interviews. And last week, we held an online multiple choice survey to help us understand producer and processor perspectives beyond the “deliberative dialogues” we held earlier this year. The survey was completed on September 24 and we received a total of 116 responses for the cannabis quality control rules. We now anticipate hosting a “listen and learn” session on or about October 21, putting our CR 102 proposal at approximately December 8, 2021.

With respect to the THC compound evaluation rule project, the rule package has completed internal review and is ready to move forward. We remain on track to present the CR 102 at the October 13 Board meeting. The public hearing will be held on either November 24 or December 8. And even if the hearing is

held in December, this would still keep us within a few weeks of our goal to have rules in place by January of next year.

This concludes my update for today. May I answer any questions?

Chair Postman: No, thank you for that. Appreciate the update.

Mr. Kildahl: Thank you, Chair.

Chair Postman: Thank you. We'll move to alcohol rulemaking with Audrey Vasek, the Policy and Rules Coordinator for that side.

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

Presenter – Audrey Vasek, Policy and Rules Coordinator

Ms. Vasek: Great, thank you and good morning, Chair Postman, Board member Garrett. My updates on the alcohol rulemaking timelines today are just related to the two action items on the agenda. So if possible, I'd like to move right along and --

Chair Postman: Perfect. Yes, please.

#### **ACTION ITEMS (A-B)**

##### **ACTION ITEM 4A - Board Approval of CR 101 for Axe Throwing at Liquor Licensed Establishments**

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

Ms. Vasek: For the first action item, today I'm requesting approval of a CR 101 to initiate rulemaking related to axe throwing at liquor licensed premises.

For background, axe throwing has become increasingly popular as an activity that liquor license businesses would like to offer to their customers. Beginning in 2018, the LCB licensing division started receiving applications from businesses that either had axe throwing as their primary activity and wanted to add liquor service, or from established liquor license businesses that wanted to add axe throwing as entertainment. These applications were largely voluntarily withdrawn after the licensing division shared concerns about customer safety in the appeal process.

However, more recently, an axe throwing business applied for a liquor license and appealed the LCB's decision to deny their application. And in April 2021, the Board approved a settlement agreement allowing that specific business to have a liquor license for one year, so a one-year pilot with certain parameters in place, including a detailed safety plan. Since axe throwing at liquor license premises is considered a high risk activity with implications for public safety, rulemaking may be needed to mitigate safety concerns and maintain public safety at liquor licensed premises that are allowed to have axe throwing as an added activity.

If the CR 101 package is approved by the Board today, that will open up the rulemaking on this and I'll file the CR 101 with the Code Reviser's office. The initial public comment period will open and in terms of a tentative timeline, before a rule proposal or CR 102, we'll engage in a collaborative rulemaking process to

gather feedback and ideas from stakeholders and any interested members of the public, which will likely include one or more “listen and learn” sessions. That feedback will help guide the LCB internal rule drafting group as rule language is developed.

At the earliest, I'd anticipate a CR 102, a rule proposal, could be ready for the Board to consider in early 2022 and finalization of the rules around April 2022 at the earliest. Those are just tentative timelines at this point.

That concludes my presentation on that CR 101. If there are any questions, I'm happy to answer them.

Chair Postman: Any questions, member Garrett?

Member Garrett: No questions.

MOTION: Member Garrett moved to approve the filing of the CR 101 for Axe Throwing at Liquor Licensed Establishments

Chair Postman: Okay. I just want to address it really quick if I may. And I've asked about the settlement and the one-year trial period we have going on before in these meetings. And I just want to say, for the record, I am not a fan of axe throwing. I was considering what to do and wasn't sure that we should even move forward with a 101. But I've got to say, with the absence today of member Hauge, I don't want this to stop in its tracks because he's unable to be with us today. Not sure where he would be but I will vote to approve the CR 101. The 101 obviously does not commit us to any action in the future but allows the process to keep going and would not harm the timeline if in fact we end up going forward with this if a majority of the Board does.

So, with that said, I do want to keep it going and not rob member Hauge of his ability to talk about this issue as it goes. I will then second that motion and then it is approved.

SECOND: Chair Postman seconded.

ACTION: Chair Postman approved the motion.

Ms Vasek: Thank you, Chair Postman

**ACTION ITEM 4B - Board Approval of CR 102 for 2021 Legislation Implementation – E2SHB 1480 (COVID-19 Alcohol Allowances)**

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

Ms. Vasek: For the second action item today, I'm requesting approval of a CR 102 rule proposal for implementation of 2021 legislation House Bill 1480 related to the COVID-19 alcohol allowances.

For background, 1480 allows specifically listed allowances for certain liquor licensees to continue until June 30, 2023 to mitigate the impact of the COVID-19 pandemic. The bill took effect on April 14 and the Board approved filing of CR 101 to begin rulemaking on May 12. To prepare the CR 102 package and

proposed rules, the internal rule drafting group met over a dozen times to develop rule language and consider public comments. In developing the rules, the rule drafting group considered all the public comments we've received via email and during the two "listen and learn" sessions held on August 5 and September 2. These public comments are included in the tables attached to the CR 102 memo, and the "listen and learn" session recordings are available on the rules web page. The CR 102 memo also describes how stakeholder feedback was incorporated into the proposed rules.

The policy and rules team also interviewed 12 volunteer licensees between September 15 and September 21 to gather data on estimated costs of compliance in order to meet Regulatory Fairness Act requirements. And this cost of compliance information is captured in the CR 102 form itself.

So, in summary, the proposed rules create new temporary endorsements for to-go sales of cocktails and wine by the glass, manufacturer sealed alcohol products, and growlers. The proposed rules also create a new temporary rule section that provides licensees with more options for outdoor alcohol service areas and permanently amend existing food service menu requirements to provide more flexibility for licensees.

Tentative Timeline

September 29, 2021	Board is asked to approve filing proposed rules (CR 102). CR 102 filed with the Office of the Code Reviser. WSLCB webpage updated and notice circulated by GovDelivery distribution list. Formal comment period begins.
October 20, 2021	Notice published in the Washington State Register under WSR 21-20.
November 10, 2021	Public hearing held and formal comment period ends.
No earlier than November 24, 2021	Board is asked to adopt rules if no substantive changes are made (CR 103). Concise Explanatory Statement provided to individuals who offered written or oral comment at the public hearing or 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. WSLCB webpage updated and notice circulated by GovDelivery distribution list.
December 25, 2021	Rules are effective 31 days after filing, unless otherwise specified. See RCW 34.05.380(2).

So, that concludes my presentation on this CR 102. And if there are any questions, I'm happy to answer them.

Chair Postman: Just for clarity's sake for anybody who's listening, we're not adding any allowances that didn't exist prior, correct? This was a bill that extended allowances that the LCB put in place early in 2020.

Ms. Vasek: Yes, that's correct. The legislature was extending certain allowances previously approved by the LCB.

Chair Postman: Okay, great. Thank you. Any questions, Member Garrett?

Member Garrett: No questions.

**MOTION:** Member Garrett moved to approve the filing of the CR 102 for 2021 Legislation Implementation – E2SHB 1480 (COVID-19 Alcohol Allowances)

**SECOND:** Chair Postman seconded.

**ACTION:** Chair Postman approved the motion.

Chair Postman: Now, Kathy Hoffman, the Policy and Rules Manager to go through this week's installment of eliminating interim policies.

## **5. GENERAL BUSINESS**

Presenter – Kathy Hoffman, Policy and Rules Manager

### **ACTION ITEMS (A-E)**

- A. Board Rescission of Liquor Control Board Policy 00-4 Concerning Exceptions to Licensee Fee Refund Regulation (WAC 314-12-040)
- B. Board Rescission of Board Interim Policy 03-2014 Concerning Marijuana Food Processing Facility Inspection (WAC 314-55-015, WAC 314-55-077)
- C. Board Rescission of Board Interim Policy 09-2014 Concerning Recreational Marijuana (chapter 314-55 WAC)
- D. Board Rescission of Board Interim Policy 08-2015 Concerning Beer/Wine Gift Delivery License (WAC 314-03-040)
- E. Board Rescission of Board Interim Policy 02-2017 Concerning Private Label Spirits (WAC 314-12-146)

Ms. Hoffman: Thank you and good morning, Chair Postman and Board Member Garrett. This morning, I'd like to ask your approval to resend another five Board Interim Policies, or BIP.

As I shared the last time we met, the Board issues BIP for many reasons, such as to create a temporary framework, to implement legislation or rules are being adopted, or to provide interim support to licensees during a period of temporary business interruption or something similar. And I want to emphasize again that the focus of BIP is the interim nature. These policies are generally not designed to be permanent but to serve as a temporary are sort of a temporary purpose until rules can be developed and adopted or the issue that the BIP addresses no longer exists.

I'll now go through a brief description of each BIP. And consistent with the last Board meeting, the Board may approve the rescission of all or part of what I described today in my motion.

So, starting with Liquor Control Policy number 00-4, concerning exceptions to liquor licensing fee refund regulation. The purpose of this policy was to establish a standard procedure for refunding liquor license fees for license holders who for various reasons, may be prohibited from continuing sale of liquor based on a court decision or revision in state or local laws where the license is located. This policy went into

effect in 2000 and both our Licensing and Enforcement Divisions indicated that the policy hasn't been used since 2003. So as a result, we found that this policy was no longer necessary.

Next is BIP 03-2014, concerning marijuana food processing facility inspection. And this BIP provided that a marijuana processor producing marijuana infused products in a food processing facility needed to pass a processing facility inspection. And it provided guidance about compliance and those inspections. So, the policy went into effect in May of 2014, and like most of our policies were designed to end on the date rules became effective and that happened in June 2015. And while there was some movement within the adopted language within the chapter, that language has not changed. And so for those reasons, this BIP is no longer necessary.

Next up is BIP 09-2013, and that concerns recreational marijuana. That was the title of the BIP. And although that seems like a very broad title, it really was focused on the implementation of 2014 legislation. Just for the record that was Engross Second Substitute House Bill 2304 that addressed how marijuana concentrates would be produced and sold in LCB licensed marijuana production retail facilities. So the rules to implement this particular BIP became effective in June 2015, and as a result it is no longer necessary.

Next up is BIP 08-2015, and that concerns beer/wine gift delivery licenses. This pertains primarily to businesses engaged in the retail sales of gifts and flowers where beer wine and original packaging may accompany those items. This policy outlined the requirements for these types of sales and it was realized in rule in September of 2017, and thus is no longer necessary as well.

And then finally, BIP 02-2017 concerns private label spirits. This policy clarified requirements of production for private label spirits between a distiller, craft distiller, or spirits certificate of approval holder and experienced retail licensee. This BIP was realized in rule effective May 2017 and is no longer necessary.

If there are no questions I would ask for your approval to rescind these BIP today as described.

Chair Postman: We can do all of these in one motion, Ollie, so is there a motion to rescind the above described Board Interim Policies?

MOTION: Member Garrett moved to rescind the Board Interim Policies as described

SECOND: Chair Postman seconded.

ACTION: Chair Postman approved the motion.

David Postman: Thank you, Ms. Hoffman. As I said before, and I'll say each time we do this, I just think this is an important piece of work. It's not going to change sort of the day to day operations on the street, but it does show that we're doing some housekeeping, continue to clean these up. I mean, the fact that we just eliminated a 21-year old Interim Policy that hasn't been used at all in what, about 15 or 16 years, tells me that this is an effort worth doing. And I just want to share with you a quick email we got yesterday from a member of the public who saw the agenda and just said, "I'm so glad to see you're downsizing unnecessary rules. Keep up the great work. We appreciate all your time and effort in these matters". So,

that's for you, Ms. Hoffman. And I think it does matter. Thanks so much for that. And we will see you in two weeks for the next five, right?

Ms. Hoffman: Right. Thanks, Chair Postman and Board Member Garrett.

Chair Postman: Thank you.

## 6. GENERAL PUBLIC COMMENT

Chair Postman: We are at the point now for general public comment. A couple of reminders, just as always, we record these meetings and that recording will be available on our website soon after the meeting. After I call on you, go ahead, take your time to unmute and then state your name and affiliation for the record. You have four minutes to talk. When you have 30 seconds left, Dustin will break in as politely as possible to let you know. And then we ask you to wrap up after that 30 seconds. And the one person who's signed up as of now at least is Jim MacRae.

### Jim MacRae – Straightline Analytics

Thank you. I appreciate your time this morning, Chair Postman, Board Member Garrett and staff. I'm Jim MacRae. I run Straight Line Analytics, which is a consulting company that's been servicing members of this industry and distillery businesses and some people that are overseeing portions of it in other parts of the country for a number of years now. In many ways, that business has been centered on having access to reasonable data describing this emerging market that you all have been regulating and overseeing for a number of years now. The proposal by staff to do the CCRS is a really dramatic step backwards, I suspect, in what I've been able to see from it thus far, inability of myself and anyone else really to do that. I think even more importantly, it's a step back with respect to the agency to be able to have at least the potential for as detailed a view of the industry is I think necessary to really live up to regulating it and managing it well. I know you don't manage the industry. So I really do think you should at a minimum delay that move.

Think about this a little bit and think about a few things like the JLARC meeting that occurred in the fall of 2018 in which the State Auditor suggested use the traceability data to do a better job enforcing and overseeing the market. This really seems to not comport with that and it's a step backwards.

Two things I really want to talk about. One is potential adulterants in product in the market. There's been some discussion about Delta-8 THC, Delta-9 THC. I don't view those as adulterants by the way. They're naturally occurring in the plant. You can argue, as some people have, that since the concentration is so much greater than is naturally seen, there could be issues there. That's legit. Two things about that. You could say the same thing could be said about oils and concentrates where THC is up about 90%. That doesn't naturally occur in the plant. We've had that over almost a decade here now, seven years regulated, no problem there. With Delta-8, this agency approved a number of products with Delta-8 on the label and fairly high doses of it, 10 milligram, whatever it was, 20, that's allowed for edibles a couple years ago, almost. And those have been on the market for almost two years at least. And I don't think you've had any reports or complaints about it. So safety wise, that's a bit of an argument that I don't think holds water.

The other safety thing with those is neither here nor there, how they're made. The big thing that I am concerned about in terms of adulteration is things -- we're beginning to hear more about fentanyl showing

up in other things. It's not just pills that looked like an opiate. Now it's showing up in other things. I'm a little concerned about the possibility of that finding its way into this market. But a closer analogue to the Delta-8 stuff is THC-O-Acetate. You're hitting THC with some acetic hydride similar to how methamphetamine is made in some circles and some of the opiates are produced. But that stuff's multiple times more potent than THC. As we saw in the fake amphetamines, the designer drugs that were made many years ago, they can have really unintended side consequences.

One final thing, and it's a point about what the Administrative Director said at the summit last Friday --

Dustin Dickson: Jim, you have 30 seconds.

Mr. MacRae -- thank you, which I believe is a chill on transparency and public input. And I will quote him. These were the closing comments on the last panel of the day. He said, "Because the world we live in, today it's like, when I think about everything, the meetings we hold with the public, there are frequent fliers that come in, and frankly, it's kind of disruptive, cynical, negative, and this on the --

Mr. Dickson: Jim, that's your time.

Mr. MacRae: And the impact on the staff is negative. Okay, fair enough. I think that's really unprofessional. It's a chill on transparency. And you should be sanctioned for doing that. Thank you.

Chair Postman: Thank you. And that's the last person we have signed up today.

I'll just respond to a couple of things real quick. I'm not the expert on the traceability project but working closely with Jim Morgan and the team on it to both learn and monitor as you know, we're getting updates each meeting of the Executive Management Team. So one of those will be coming up. And he's addressed some of these concerns. We had a question at our last board meeting, actually, I think it was two weeks ago along the same lines that he did give me some information on. Our team believes that the data that CCRS will collect will allow us to meet not just sort of minimum regulatory obligations but watching for diversion and inversion. We think reports similar to those run from Leaf are being developed. And while I say they are being developed and we expect they will be able to meet the needs of Enforcement and Education Division as well as the examiners. So I think it's a big change but I don't think that we're doing away with as much as some people think.

On the question of the timing of this, right now what we're doing is a pilot of the CCRS system with selected licensees, integrators, and labs after the pilot. All of those people will be able to do their own testing throughout October. And then during that time, Jim Morgan and his staff and the others on the team are going to evaluate any issues or concerns, either from external stakeholders or internal with the LCB to determine if an extension is needed at that point. We are not committed to any arbitrary timeline but we do have to set deadlines to drive us to completion. But I think you can be confident that there's a lot of input to be had before we face that decision of going live. And if there's something that comes to light in this pilot or in the month of October of testing and others, will take that into consideration. We're not going to rush something up if it's not ready to go.

Then also, let me just address the comments you mentioned from the Cannabis Alliance really quick. I attended parts of the first day. The meeting, I was not there for that but I've heard of it. I think that's a misreading of my understanding of what the Director was talking about. I would not take that to be chilling in any way. I think that it is a reflection of not the sort of input you just delivered, by the way but some of the very, very negative attacks on staff's integrity. And I think that I appreciate the Director standing up for



the staff and the public employees and our law enforcement officers and others who have been in the line of those kinds of attacks. So we obviously have no chill. Anybody who wants to come and address this Board can for four minutes. We get numerous emails from people, which we always look at. Kathy Hoffman and her team does an extraordinary job of being open in every possible way from sort of very formal to collaborative to very informal input on rulemaking and things of that sort. I know that both our Licensing Director, our Education and Enforcement Director as well are very accessible to licensees, to members of the public, to legislators. So we do want that.

I encourage debate, dissension, criticism, but I also will align myself with the comments that it's not productive to address motive of staff at the LCB, including leadership or board members either for that matter. We certainly don't engage in that. And we would hope that we can lift that debate. And I will say that the conversation that I was a part of during the Cannabis Alliance meeting that was referenced by the speaker. It was very productive and positive. And it is possible to disagree without being disagreeable. And that's the way you deliver the best product. That's the environment we work under internally here. We encourage debate and questions from staff up and down the chain. It's not hierarchical. And we think that helps us come up with the best possible product. And we maintain that same openness to stakeholders, licensees, and interested parties.

So I will just again, encourage everybody to sign up to talk if they would like to talk or find another way to communicate with us. There's lots and lots of ways to do that.

With that, that's the last item on our agenda. And we will adjourn the Board meeting for September 29, 2021. We'll have another Board meeting in two weeks in an Executive Management Team coming up with a CCRS update. So we'll see you all then. Thanks.

## **ADJOURN**

Chair Postman adjourned the meeting at 10:29am.

Minutes approved this 13<sup>th</sup> day of October, 2021



\_\_\_\_\_  
David Postman  
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.

*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*