



Wednesday, November 10, 2021, 10:00am
This Meeting was Held Via Virtual 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, Date, 2021. Member Ollie Garrett and Member Russ Hauge were also present.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Garrett moved to approve the October 27, 2021, Board meeting minutes.

SECOND: Member Hauge seconded.

ACTION: Chair Postman approved the motion.

3. RULEMAKING TIMELINE UPDATES – ALL INDUSTRIES

Presenter – Kathy Hoffman, Policy and Rules Manager

Kathy Hoffman: Thank you, Chair Postman and good morning Board Member Garret and Hauge. I have a brief update for rules in progress for you today and for the listeners joining us for this session today. We are moving to monthly update, rather than a bi-weekly rules update unless we have significant events or other information to share about rulemaking.

Beginning with the alcohol rules in progress, the public hearing on proposed rules to implement House Bill 1840 is being held today and Robert will be providing a brief procedural history on that project before the public hearing opens.

With respect to the rule project concerning axe throwing, the comment period on the CR 101 ends on November 19th. I have four comments received to date. We're working internally on developing draft conceptual rules and we look forward to sharing with stakeholders in "listen and learn" sessions towards the end of the year.

Moving to the cannabis side, the rule project concerning quality control is progressing as planned and we're on track to present the CR 102 package to you for approval on December 8th. We're wrapping up

our work with our economists on the small business economic impact statement (SBEIS), and as one of the rule projects that require a full SBEIS, that work will be presented in both the CR102 form, filed with the Code Reviser and as a stand-alone document.

Then with respect to the THC compound evaluation rule proposal, there are no updates to provide at this time. One oral comment was received so far and the public hearing will be held on December 8th.

And then finally, no comments have been received on CR 101 filed on October 27th concerning social equity in cannabis. Our internal work group has convened twice so far to identify focus areas that we can begin working on that fall within the statutory authority. As a team we are closely following, and some of us are directly engaged with the Social Equity Task Force. I'd like to recognize the Licensing division for all of the work that they've done to lay the foundation for this project and we look forward to working with the community on it as well.

That concludes updates. Any questions?

Chair Postman: Not from me, today, and seeing none -- we'll move to our next item, which you stay right there, and we will look at two more rescissions of Board Interim Policies. Go ahead.

4. GENERAL BUSINESS

Presenter – Kathy Hoffman, Policy and Rules Manager

Ms. Hoffman: Thank you very much. I have two rescissions to present today and can provide a couple of brief summaries.

The first rescission concerns Board Interim Policy, or BIP, 1-07, concerning guidelines for determining that area is adequately served. This policy draws some concerns that were later addressed by legislation in 2009, and that legislation established the Spirits, Beer and Wine License and also provisions for considerations when determining whether there are adequate licenses in a locality to serve the reasonable needs of that locality. So, for these reasons, this BIP is no longer needed and can be rescinded at this time.

The second rescission concerns BIP 11-2019 that allows cannabis testing labs the ability to pay vendor fees for validation and ongoing monitoring directly to the LCB or its vendor. Current rule provides that those fees must be paid directly to LCB's vendor. And just for background, previously Columbia Basin College and LCB entered into an interagency agreement for performance of third party validation of certified labs. That work is being performed by the RJ Lee group as a subcontractor to Columbia Basin. At the same time, LCB had been pursuing a sole-source contract with RJ Lee, and RJ Lee was willing to continue lab certification and validation but was unable to accept payments from cannabis testing labs for a variety of reasons. LCB staff worked with our finance director and billing could be accommodated through the LCB finance department.

So, the BIP allowed the LCB to complete its contract with RJ Lee and served as a placeholder until the rules section, that's WAC 314-55-0995, could be updated.

As part of our project to convert existing BIP policy statements, I ask for your approval to rescind this BIP as well, and if approved we have a policy statement ready to file with the Code Reviser as soon as this meeting concludes today.

So, this will provide the continuity needed until we can open the rules section and this conversion is clearly stated in the rescission document for your consideration today. So I would ask your approval to rescind these two Board Interim Policies.

Chair Postman: One point of clarification to make sure. That 11-2019 is the most confusing one yet, even though I know in the end it isn't. But just to be clear, that one we're essentially converting an interim policy to a statement that will release right away. So there is no operational change in that process. Correct?

Ms. Hoffman: Exactly right, we're just making a conversion from one form to another and the policy statement filed with the Code Reviser is a more formal process.

Chair Postman: It still would be same parties that are involved with the RJ Lee Group, etc., right?

Ms. Hoffman: That is correct, yes.

Chair Postman: Okay. Good. Thank you. We can take a motion on the two different rescissions, of Policy 1-07 and Board Interim Policy 11-2019.

MOTION: Member Garrett moved to approve the rescind BIP 01-07 and BIP 11-2019

SECOND: Member Hauge seconded.

ACTION: Chair Postman approved the motion.

Chair Postman: Great. Thank you. And those are approved. Thanks, Ms. Hoffman. How are we on the long list of BIPs? Are there more to come?

Ms. Hoffman: Yes. There are a few more to come, but I think this is the final rescission that will not be converted to a policy statement. We're almost completed with this project.

Chair Postman: Okay. That's great.

Ms. Hoffman: We're almost completed with this project.

Chair Postman: Okay. Good. Thank you. I want to move to alcohol related rulemaking. Robert DeSpain, I don't know if you have an update as well as setting us up for the public hearing, but I will turn it over to you.

5. ALCOHOL RELATED RULEMAKING

PUBLIC HEARING (A)

4A – 2021 Legislation Implementation – E2SHB 1480 (COVID-19 Alcohol Allowances)

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

Robert DeSpain: No further updates besides the public hearing. Good morning Chair Postman. Good morning Board Members Garrett and Hauge. By way of a brief background before we get to the public hearing today, this rule proposal relates to the implementation of 2021 legislation House Bill 1480, related to COVID-19 alcohol allowances.

1480 allows specifically listed privileges or 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, 2021, and the Board approved filing a CR 101 to begin rulemaking to implement this bill on May 12, 2021. To prepare the CR 102 package and the proposed rules, the rule drafting team held several internal meetings to develop rule language and consider public comments. The comments were received via email and during the two "listen and learn" sessions held on August 5th and September 2nd, 2021. A table of these comments is attached to the CR 102 package, and the CR 102 memo describes how the stakeholder feedback was incorporated into the proposed rules.

The Policy and Rules team also interviewed 12 volunteer licensees between September 15th and 21st to gather data on estimated cost compliance in order to meet the Regulatory Fairness Act requirements. This cost of compliance information is captured in the CR 102 form as well.

The Board approved filing the CR 102 in the proposed rules, on September 29, 2021. These proposed rules create new temporary endorsements for to-go to 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 an outdoor alcohol service area and permanently amends existing food service menu requirements to provide more flexibility for licensees.

Shortly after the public hearing today, our project team will meet to review and consider any additional public comments received. If no substantive changes need to be made to this proposed rules, the CR 103 will be submitted to the Board for approval on December 8, 2021. If approved, the CR 103 and final rules will be filed, making the rules effective as of January 8, 2022.

This concludes the presentation prior to the public hearing and I'm happy to answer any questions.

Chair Postman: Yesterday when you were briefing us at Caucus about this, I was asking about what sort of feedback -- and it seemed in some ways we weren't hearing from people -- but thanks for the memo. I finally had a chance to really read it, and if you look at the level of engagement it was pretty good. You had 55 or 60 people show up for "listen and learn" and others. It's always interesting at the end of the process -- we don't have a lot of people signed up to testify, because they've already been heard. I think you've laid that out really well. Can you just touch on the study that has to be done and how does this proposal address the study at all, that is going to be done, to see what the impacts are, or is that separate from this rules package -- the study the legislation mandate?

Mr. DeSpain: The study mandate is going to be separate from this rules package, but this needs to be in place in order for the study to occur.

Chair Postman: Okay. And will we be -- or has that happened -- is there some formal structure for that study that we will be overseeing? How is that going to work?

Chair DeSpain: I'm going to have to get back to you on that. I'm sorry.

Chair Postman: It's okay. I was just looking at the memo and it reminded me that it has this mandate for the study and I really want to make sure, as we have here, encourage people to participate in that as much as possible so we can see what the real impacts of this are now that we're extending it. At some point in the future, let's connect on how that works.

Mr. DeSpain: Absolutely. And again, I could offer you something, but I don't want to speak out of hand.

Chair Postman: It's all right. It's not urgent at all, this matter. The important thing was that it's not part of this, so we'll move ahead on this. Any other questions for Robert before we open the public hearing? No, okay then we will open the public hearing on the 2021 legislation implementation for House Bill 1480 on alcohol allowances.

A couple of quick reminders -- as always is the case with our meetings, it's being recorded. When I call your name, please state your name and affiliation and then be mindful of the time. You'll each be given four minutes and Dustin will politely interrupt when you have 30 seconds left just to let you know, then we ask you to wrap up. And just as a reminder for everybody, this is just for those testifying specifically on this package here, on House Bill 1480. After this we'll have general public comment. The first person I have signed up is Katie Doyle.

Katie Doyle – Washington Hospitality Association

Good morning Chair Postman and members of the Board. I had a feeling I'd be first today and I'm excited about it. I'm Katie Doyle, representing the Washington Hospitality Association and thousands of licensees across the state.

We are extremely grateful for the thoughtful and collaborative approach to the rulemaking on House Bill 1480. It was an amazingly well run process and we had lots of opportunity to provide input and we're really grateful for that.

Our members are generally supportive of the proposed rules and only have one significant request. But, naturally I have to start with highlighting all of the things that we are thankful for, which include the lessened meal requirements, flexibility in outdoor services areas, all the additional security measures like the labeling requirements and signage to make sure that minors have no access to our alcohol products. We appreciate the clear guidelines for allowable containers for alcohol to-go and the ability for third party delivery services to deliver beer and wine, specifically.

The one change we are requesting is to see an increase in the number of ounces of spirits allowed per complete meal. As you may know, several other states have also passed legislation in regard to alcohol to-go. For example, in Oregon, they've passed this legislation to become permanent so they have cocktails, beer and wine to-go into eternity. For them, you're allowed to do two cocktails per complete meal, each at three ounces, so, totaling six ounces versus the three ounces we're allowed here in Washington. California has extended these allowances through 2026. They also allow two cocktails per complete meal at four and half ounces each, so, totaling nine ounces for a complete meal and other states don't have limitations on the ounces at all. So, we are requesting an increase in the ounces per meal today. We'd love to see a reflection of at least six ounces per complete meal. And that's the only change we want out of this beautiful rules package. So we thank you for your time today and look forward to continuing to work with the Liquor and Cannabis Board.

Chair Postman: Thanks, Ms. Doyle. Appreciate that. Next up is Josh McDonald.

Josh McDonald – Washington Wine Institute

Good morning Chair Postman, Board Members Garrett and Hauge. My name is Josh McDonald. I am the Executive Director of the Washington Wine Institute. We are the trade association for the Washington State wine industry. We represent hundreds of wineries across the state.

The Washington Wine Institute is grateful for the thoughtful and collaborative approach to the rulemaking, and House Bill 1480, as you mentioned, Chairman, we were part of “listen and learn”, along with many others, and grateful for the opportunity to talk through -- actually, there were two “listen and learns” and I thought the rules team did a great job taking in input from both the to-go and outdoor seating side, as both are very important to licensees and for us for wineries.

We are generally supportive of the draft rules. We do have a few questions remaining on them that may need a little more work. But overall, we want to know how much we're grateful for the hard work and willingness to listen to us, and some of our concerns have already been addressed in these rules.

Specifically, we're grateful for the recognition that to-go privileges for wineries have existed for years. So we are exempted from the specific take-out exemptions because there are privileges and requirements there within because we already have those, had them for many years, and they've served wineries well for many years selling wine to-go out of our wineries and tasting rooms.

We are -- the outdoor scene was as big, if not bigger for us, the modernization for that, than the to-go sales, and for that we're extremely grateful for your team. They did a wonderful job of putting rules in place that modernizes outdoor seating, recognizes the current types of outdoor seating we have now, that we had to put in place because of the pandemic. For most of 2020, we were only allowed to serve outside, which made sense, but we had to make that work. We have a lot of creative approaches to how we serve our customers outside. Our customers still ask to be outside when the weather allows for it to be, so we want to continue those to stay creative with them, but also safe and responsible at the same time.

Finally, on that part, I really want to say how grateful we are for the recognition and the extension of the cafe, what's known as sidewalk cafe seating, or demarcation approach to outdoor seating for licensees, especially wineries. Prior to this rulemaking it was really only for a few restaurant licensees. Now it's being expanded so that as we go to more urban spaces as wineries we can utilize the demarcations and make our spaces work better for us and not have to worry so much about the 42-inch physical barriers that are often very challenging to set up those spaces.

Two questions we have remaining for the rules that I'd like to work with your team on. One is just better understanding the requirements and who they are specifically impacting on the delivery service and consumer orders, internet sales and delivery. Those rules, we were working on those rules with the Liquor and Cannabis Board for wineries back in 2016 to 18. We did not finish that work and I know we're going to continue working on it in the future, but for now we'd like to make sure we understand that. What we do now with our common carriers as we are distributors of our own wine and as this continues to be recognized as its own thing and we continue to do that without interruption. I don't believe 1480 meant to impact how wineries utilize common carriers to ship wine direct to the consumer across the state, which is really the lifeblood of our industry.

Dustin Dickson Josh, you have 30 seconds.

Mr. McDonald: Yes sir. Am I done?

Chair Postman: No, thirty seconds, Josh.

Mr. McDonald: Thirty seconds. Great. One final question then I'll let you go. We were grateful for the recognition when we talked about how if there needed to be, what needed to happen for our space to be utilized for outdoor seating, and the current rules about needing to have indoor dining and other related things. There are opportunities where we can utilize outdoor space and not specifically need to have indoor service at all. And so, we did notice that the new rules have productions -- like a winery does -- you can utilize your outdoor space. That, I'm not sure helps us with our satellite tasting rooms, specifically for wineries. Restaurants may have their own perspective and others. But for wineries we have retail spaces outside of our winery space that we have satellite locations on. We're not sure that would help those spaces. If we want to utilize a hundred percent of our outdoor space for seating and for service and do it in the smart responsible way...

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

Mr. McDonald: So, that may need a little more tweaking depending on how your team, how the Liquor Board looks at domestic wineries and our satellite taste room uses for this specific rulemaking.

With that, I will say, again, thank you for your time. Thank you for this hard word. Thank you to your team. They've done a wonderful job and I look forward to continue to work with them.

Chair Postman: Thanks Josh. The last person we had signed up to testify, I'm not sure she was going to make it. Let me check, Annie McGrath from the Washington Brewers Guild? She said she would submit written testimony. I just thought I would check.

Mr. Dickson: No, Chair, she's not on with us today.

Chair Postman: Okay. Thank you.

Mr. Dickson: I did confirm that she would send something in writing.

Chair Postman: Okay. Great. Then that closes the public hearing on implementation of House Bill 1480. Thank you all for that.

6. GENERAL PUBLIC COMMENT

Chair Postman: We're now to the general public comment part. Dustin, I'll just check with you again. We had one potential. Has anybody joined us?

Mr. Dickson: We did have one person register, but they are not online.

Chair Postman: Not online. Okay. With that then, we have come to the end of the agenda unless either of my colleagues have anything to add? No, okay, great. Well thank you all very much. Have a great day.

One note -- there will be no Board meeting on November 24th. That's the one right before the Thanksgiving holiday. Gives us all a break, from the stakeholders and us. Other than that we will be on our regular schedule. So, thank you all for attending today. Have a good day.

ADJOURN

Chair Postman adjourned the meeting at 10:25am.

Minutes approved this 8th day of December, 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

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