



Board Caucus Meeting

Tuesday, March 1, 2022, 10:00am

This meeting was held via web conference

Meeting Minutes

CAUCUS ATTENDEES

Chair David Postman
Member Ollie Garrett
Member Russ Hauge
Dustin Dickson, Executive Assistant

GUESTS

Jonathan Pitel, Assistant Attorney General
Chris Thompson, Director of Legislative Relations
Kathy Hoffman, Policy and Rules Manager
Audrey Vasek, Policy and Rules Coordinator
Jeff Kildahl, Policy and Rules Coordinator
Robert DeSpain, Policy and Rules Coordinator

EXECUTIVE SESSION

At 10:02am, Chair Postman announced the Board would move into Executive Session. He anticipated the Session would conclude at 10:20am.

At 10:21am, Chair Postman announced the Board had concluded their Executive Session and brought the meeting back to order.

LEGISLATIVE UPDATE – CHRIS

Chair Postman: Next on the agenda is a quick legislative update. Things are coming to an end next week. Chris Thompson, our Legislative Director is here – Chris, we won't take much of your time, but if you want to take a second to hit some of the highlights of where we are at and what it looks like over the next eight or nine days that would be great.

Chris Thompson: Good morning, Mr. Chairman and Board Member Garrett. It is – we're 10 days out, counting today – so a little less than 10 days until sine die. So, I'll just touch very lightly on things we are still tracking.

The Department of Agriculture and LCB joint request legislation on cannabis testing lab quality standards is moving along. That bill – the House version is the one moving – HB 1859, was just approved yesterday in the Ways and Means Committee in the Senate, unanimously, 24-0. We like that.

There's a new bill on cannabinoid regulation by Senator Keiser, SB 5983. That has been introduced and it is in Ways and Means with nothing scheduled at this point.

The community reinvestment proposal from Governor Inslee is moving in the form of HB 1827. That bill was just passed yesterday out of the Senate Ways and Means Committee on a close-to-party-line vote. That legislation continues to move.

There's a Senate bill, by Senator Saldaña, 5796, that was introduced to restructure the statute providing for appropriation of cannabis revenues. The House Appropriations Committee passed that bill yesterday. There were six amendments on it that were all withdrawn. The one amendment that was passed strips everything out of the bill, so there are no statutory changes anymore in that version of the bill. So, all it does is call for a study by JLARC (Joint Legislative Audit and Review Committee) to look at what the expenditures are and have been, whether those are consistent with statute, whether there is readily available information on this topic, and potentially some recommendations for increasing transparency. July 1, 2023 is the due date for that report.

There is a cannabis retail store security bill – Ollie, did you have a question?

Member Garrett: That bill, is that now just a study?

Mr. Thompson: Yes.

Member Garrett: Wow. Okay.

Mr. Thompson: There were a bunch of amendments on it, I don't know the background of all of them, but they were all withdrawn except that one. I didn't hear the discussion, I was following Ways and Means, primarily, but I'll go back and look at what, if anything, on public record would be revealed on that. It might have been handled in caucus, I don't know.

Member Garrett: Alright, thanks.

Mr. Thompson: Senate Bill 5927, by Senator Honeyford, is the bill addressing cannabis retail store security and safety. It has moved out of committee and is now in House Rules. It hasn't changed, all the way through, it still has the penalty enhancement as well additional reporting requirements from cannabis retail stores to our agency, and conversation between LCB and state patrol about whatever issues emerge from the events and reporting.

Member Garrett: What was that bill number?

Mr. Thompson: 5927

Member Garrett: Thank you.

Mr. Thompson: Then, HB 1210, is the measure that changes the term "marijuana" to the term "cannabis" throughout RCW, and directs the LCB to do so, also, in Title 314 WAC. There is also \$20,000 in the budget for our agency to do that. That bill has now advance all the way to the Senate floor. It's on the calendar now in the Senate.

A couple of alcohol bill are in play. One is HB 1359. This is a liquor license fee reduction – temporary reduction – in the renewal fee for certain liquor licensees. That bill has been amended a couple of times, now, in the Senate. In the Policy Committee, they changed the effective date – it had been set to go into effect May 1. We pointed out that would create a one-month – situation where there would be a license fee reduction in effect through March (2022), then back to the regular fee for a month, and then a reduction going into effect in May. So, to avoid that inconsistency, they changed the effective date to April 1, 2022. So now it would be April 1 when those 50% fee reductions would take effect. That was in Policy

Committee. In the Fiscal Committee, they added several more license types to the impact of the bill. Wineries and breweries were not in the bill previously, now they are. Beer and wine restaurants, taverns and a number of other license types – so what started out as a fairly limited selection of license types that would get this reduction is now quite a bit broader. That's what Ways and Means did to that bill yesterday, and they passed it out.

And then the other alcohol bill is SB 5940, that would allow our licensees to contract to provide bottling and packaging services to other licensees, for instance. Senator King is the prime sponsor. That bill is now in Rules. It was passed by the Senate, it's now been through committee in the House, and it is in Rules.

A couple of quick comments on budgets. Both the House and Senate have passed supplemental operating budgets. They are ready to go into discussion of resolving those differences. A couple of highlights – the Senate budget was amended to include \$150,000 for the LCB to conduct a study of cannabis retail outlets and the practice of assigning licenses by city. Also in the budget is \$250,000 to convene a task force on looking at prevention of robberies of cannabis businesses. LCB and another group of entities are involved in that project that is projected to produce a preliminary report December 1 of this year, and a final report at the end of June, 2023, with recommendations on how to prevent – as much as possible – this activity. There's also funding in the budget for several agencies, including LCB, that are limited law enforcement agencies, for additional training through CJTC. That's something that Chandra has been working on, I've been working on with her, and a group of other agencies, Governor's Office and OFM, trying to address some, I think, unintended consequences from legislation last year around law enforcement reforms.

Those are the highlights. We have another cutoff date coming on Friday – 5:00pm is the opposite house cutoff. All the action will be on the floor this week, trying to pass out as many bills as they can. And then, that'll leave a week to resolve the differences between House and Senate on everything that has passed both houses.

So, that's a quick tour of where things stand.

Chair Postman: Great. It's close to the end, but a lot of work still to be done up there.

Mr. Thompson: Yes, a lot still to be done. It's going to be a long short 10 days.

Chair Postman: Yes. Okay. We appreciate you keeping an eye on it. As always, please let either one of us know if there is something we can do to help at any pinch-point or anything like that. Try and get some rest.

Mr. Thompson: All right, yes, wherever possible. Thank you very much.

Chair Postman: Thank you Chris.

BOARD MEETING PREP AND RULES UPDATE

Chair Postman: Now we will move to prep for tomorrow's Board meeting and general rules update. I'll turn it over to Kathy Hoffman, the Policy and Rules Manager.

Kathy Hoffman: Thank you Chair Postman, good morning, and good morning Member Garrett.

What I'll do is give a brief rulemaking update, and as part of that update we do have some Board activity tomorrow, so I'll hand it over to Jeff Kildahl, who will be presenting a CR 103 package.

Starting with alcohol, with respect to the axe throwing rule project – as you know we had a “listen and learn” session in late January on those rules. We took a look at the feedback gathered and have a draft CR 102 package that will be presented to you – it is currently under review – but it will be presented to you, under our current timeline on March 16. That would put the public hearing towards the end of April, April 22, actually, with the earliest adoption day on May 11. So, that project is almost ready to conclude.

With respect to general rulemaking and the electronic service rules that staff are currently working on, several internal meetings are scheduled. At this point it looks like we may be able to bring the CR 102 proposal to you around the middle of April – April 13 – which would put the public hearing towards the end of May.

Moving on to cannabis, Jeff will talk about the CR 103 that will be presented tomorrow, but I wanted to provide a brief update on the social equity program rules. We are in the process of reviewing draft conceptual rules that we've put together. This is with the idea that we will release these draft conceptual rules that stand up the social equity program next Monday when we announce our “listen and learn” session for that project, currently scheduled for May 16 (sic)[March 23]. Under that timeline, we could bring a CR 102 to you on March 30. That is my plan, at this point, unless there are substantive changes that we need to make to the draft conceptual rules. That would then set the hearing for May 11, so arguably we could adopt rules in the first part of June.

We also held an informational session on the evening of February 17 to provide people with information about rules projects and engagement opportunities that we provide. That recording is on our website, and I think there is a reference on our social equity page as well. Any questions on any of this before I move forward?

Chair Postman: Not from me, and not from Member Garrett. Thank you.

Ms. Hoffman: I'd like to briefly mention four rules petitions that my team is working on. Jeff will be bringing a response to a petition with respect to a revision to cannabis rule that would require special labeling on vapor cartridges to indicate that the cartridge contains either indica or sativa. I believe Jeff will present this on March 15.

Chair Postman: In that petition, is that the only thing to be labeled on the cartridge?

Ms. Hoffman: Yes. There is external packaging and other labeling, the request was specifically to be put on the cartridge itself whether it contained indica or sativa.

Chair Postman: Thank you.

Ms. Hoffman: And then there was a rule petition received asking that the agency re-define “building” in our alcohol rules to include stationary food trucks, so those food trucks could serve beer/spirits/wine-to-go. That petition response will be presented you next Tuesday.

Additionally, we received two petitions after close of business yesterday that request the same change to 314-07-010, the definition of building in alcohol rules to allow the same activity.

We've seen an uptick in rules petitions recently, so I wanted to make you aware that those were out there. Are there any questions?

Chair Postman: Can you combine all those food truck petitions, or do you need to do each one separately?

Ms. Hoffman: The response that Robert will bring to you next week will be separate, but the other two I think we can combine the response. We're definitely seeing a trend, there.

Chair Postman: Okay, thank you.

Ms. Hoffman: If there are no other questions I will hand it over to Jeff to brief you on his presentation for tomorrow on quality control rules.

Chair Postman: Great, thank you. Good morning Mr. Kildahl.

Jeff Kildahl: Good morning Chair Postman and Board Member Garrett. Tomorrow I will be presenting to you a CR 103 permanent rulemaking regarding changes to current rules that will require all marijuana products produced and sold in Washington to be tested for pesticides in addition to the current I-502 tests. These rules will also allow the Board to conduct randomized or investigation-driven heavy metal testing of marijuana products.

As you are aware, this has been a lengthy project that has involved a lot of stakeholder engagement and multiple rule proposals. We believe the rules promote the overarching goal of the Board to protect public health and safety, and will help to ensure that all marijuana products sold within the I-502 system are safe for all consumers. In addition to the mandatory testing for pesticides and random testing for heavy metals, these rules include some revised sample collection and storage procedures, changes to the maximum amount of marijuana flower that may be represented in a single I-502 panel of tests. These rules eliminate the ability of labs to return unused portions of samples of licensees. It revises some of the guidance to labs regarding when to reject or fail a sample. It updates regarding rule language regarding product re-testing remediation, certificates of analysis, and referencing of samples between labs. It also updates some of the lab reporting requirements for lab proficiency testing.

The CR 102 for marijuana quality control rules was filed on December 8, after the Board meeting, and the public hearing was held on February 2. We received 52 written comments on the rules, and 20 comments were received as oral testimony. There were no changes to the rules that resulted from public testimony or comments. However, we have an amendment to the final rule that will allow for a transition period during which the post-harvest marijuana products that do not comply with the updated testing requirements may be sold or distributed. There will be a reasonable amount of time set for that transition.

I'm looking forward to presenting (the CR 103) tomorrow. May I answer any questions?

Chair Postman: Thanks again. I know this one has been a long time coming, we appreciate the work you've put into this. I understand we didn't make any substantive changes between the CR 102 and 103. I think what you were just talking about, the sell-down phase, is in part from this Board member's perspective – we're trying to find ways to take some of those concerns and see, on an implementation basis, what we can do, and I think that does it.

Could you talk briefly – there was some testimony and comments from the Board some ongoing workgroup or committee, to continue talking about that? I see Ms. Hoffman; do you want to answer that question? I know we've talked this, but is that something that we've put into any of these documents, or do we just do this? I think that's the other important piece, that from my perspective, that allows us to keep working on some of the concerns we've heard. Because, as you both know, I took a lot of notes

after the public hearing and we had a lot of conversations. I appreciate everyone's openness to discuss and hope that ongoing piece continues.

Ms. Hoffman: I would say yes, Chair Postman, we are preparing to move in that direction. I wanted to jump in here – Jeff's focus has been getting this package to the finish line. He will be leading that workgroup. I think at this point – what we've got to make sure of – our focus is first of all making sure the rules are filed tomorrow and that they become effective on the date they are required to become effective. And then also, making sure we are clear on the phase-in period. Once that settles, I would say somewhere toward the end of April, we'll start working on building the workgroup to work on the effectiveness of these rules. I think was an outreach, I think it was the Cannabis Alliance, that we thought would be very helpful in determining the effectiveness of these rules and what we might need to adjust in the future.

Chair Postman: I've had several really good conversations about this with people in the business, so when we get to that point I'll be interested to see how we form that. For me it's nice that we'll have a continuing conversation. We're not issuing the rules and saying "see you later". I appreciate the openness of you and your team to look for ways to engage in that.

I also think, as you talked about last time, we can't delay any longer on getting the rules in place. I think the sell-down phase is really important, too. I think that's just common sense. We need labs to know it's coming.

Ms. Hoffman: The other thing I might offer, is, looking at the efficacy of our rules. I think there's various ways that we do that, but I think this is a very public way that can really engage multiple folks from across our entire authorizing environment to make those kinds of evaluations. We'll include consumers, legislators if they wish to join, there's a variety of people that we could recruit to be a part of that workgroup.

Chair Postman: Good. Great point.

Ms. Hoffman: If I might add – we learned yesterday that we now have six labs that are capable of testing for pesticides.

Chair Postman: Great. Keep driving this, I bet we'll see more before too long.

Ms. Hoffman: Of course. Thanks for letting me interject.

Chair Postman: Thank you. Member Garrett, and questions on the testing CR 103?

Member Garrett: No.

Chair Postman: We'll turn it back to Mr. Kildahl, do you have anything further from the cannabis side?

Mr. Kildahl: No, that's all I have for today. Thank you Chair Postman.

Chair Postman: Any other updates, Kathy?

Ms. Hoffman: I don't think there are any other updates, but if I can take a moment to welcome Audrey back?

Chair Postman: Yes.

Ms. Hoffman: She's back from parental leave since February 7. Welcome back, Audrey.

Chair Postman: Welcome back.

Audrey Vasek: Thank you, Chair Postman. Thanks, Member Garrett. And thanks for that, Kathy.

Chair Postman: Be sure to thank your baby for sharing you with us and the LCB community. That's it for Board meeting prep and rules updates, we'll see you tomorrow for action on the CR 103.

Meeting adjourned at 10:48am.

Minutes approved this 8th day of March, 2022.



David Postman
Board Chair



Ollie Garrett
Board Member

Minutes Prepared by: Dustin Dickson, Executive Assistant to the Board