



Washington State Liquor and Cannabis Board Meeting

Wednesday, March 16, 2022, 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, March 16, 2022. Member Ollie Garrett was also present.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Garrett moved to approve the March 2, 2022, Board meeting minutes.

SECOND: Chair Postman seconded.

ACTION: Chair Postman approved the motion.

3. ALCOHOL RELATED RULEMAKING

Presenter – Audrey Vasek, Policy and Rules Coordinator

ACTION ITEM 4A - Board Approval of CR 102 for Axe Throwing at Liquor Licensed Establishments

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

Ms. Vasek: Good morning Chair Postman, Member Garrett, thanks for the opportunity to be here today.

For background, axe throwing has become increasingly popular as an activity that businesses would like to offer in combination with alcohol service. Our current rules do not provide a framework to address the public health and safety concerns that arise when alcohol service is combined with ax-throwing. So, this CR 102 rule proposal was designed to address these concerns, while providing flexibility and consistency for licensed businesses.

The proposed rules were developed through a collaborative rule development process that considered input from public health and prevention groups, axe throwing businesses, liquor licensees, and other interested members of the public. The agency held a virtual stakeholder engagement “listen and learn” Session on February 3rd from 10-12:00, to gather public feedback and suggestions for revisions. At a peak, there were 65 individuals in attendance, and the feedback we received during the “listen and learn” session is provided as an attachment to the CR 102 memo. The memo also describes how public

feedback was incorporated into the proposed rules. For example, in response to feedback we heard, the rule proposal adds a definition for “barriers”, and clarifies the purpose of those barriers.

In summary, the proposed rules would require licensees that offer axe throwing to create a safety operating plan. This operating plan would include two main components: one, protocols for monitoring patron intoxication and consumption of alcohol; and two, a floorplan designating consumption areas where alcohol is allowed, and axe throwing areas where alcohol is not allowed. The proposed rules would require these axe throwing areas to have barriers to keep them separate from the designated alcohol-consumption areas, and to prevent axes from traveling outside of those areas. There aren’t any requirements that businesses use specific methods or materials to comply with those barrier requirements. The proposed rules also outline how to request a change in safety operating plan to include a reference to penalties for non-compliance.

The CR 102 form also includes estimated cost of the compliance to meet Regulatory Fairness Act requirements, and we do not anticipate the rule proposal will impose more than minor costs on businesses as that term is defined in the regulatory fairness act.

Tentative Timeline

March 16, 2022	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.
April 6, 2022	Notice published in the Washington State Register under WSR 22-07.
April 27, 2022	Public hearing held and formal comment period ends.
No earlier than May 11, 2022	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.
June 11, 2022	Rules are effective 31 days after filing, unless otherwise specified. See RCW 34.05.380(2).

Ms. Vasek: Please let me know if you have any questions.

Member Garrett: No questions for me.

Chair Postman: I’ll be really interested to see what kind of turnout we get for the public hearing and what we hear from people, I know it’s been somewhat limited, although frankly more than you would think, given how few of these operations we’ve heard from. But it is interesting to me, what we can, sort of, regulate, or what we’re choosing to maybe regulate here, and what not. We’re not going to be in the axe throwing regulation business if this is approved. And I understand that -- it’s interesting to me, because

the one case that we do have, where we have an operator working on a pilot program, essentially, on this -- it is a different approach, it was more specific. I'm remembering that right, yes? Ms. Vasek?

Ms. Vasek: Correct, yes, and businesses still have the opportunity to be more specific in their safety protocol.

Chair Postman: I guess that's where my head first was, well, why wouldn't we go and do that, but I think that you and others have made clear what our wheelhouse is, and what it's not, and what it would mean if we're actually out trying to regulate whether that axe handle is wood or metal or the floor is made of this or that -- so anyhow, it all still is a little bit unclear to me what exactly this should look like in the end. I do think we need to look at what is the best ability we can give us as a regulatory agency have a safe operation, and that's really, I think, what the question is going to be, but like I said, I would encourage people to turn out for the public hearing. I'd really like to hear from people, no matter what their opinion is on that, and help us shape this if need be.

So, with that, I will take a look for a motion to approve the CR 102 for axe throwing at liquor-licensed establishments.

MOTION: Member Garrett moved to approve the CR 102 for Axe Throwing at Liquor Licensed Establishments.

SECOND: Chair Postman seconded.

ACTION: Chair Postman approved the motion.

Chair Postman: Great, and that is approved. Thank you Ms. Vasek.

Ms. Vasek: Thank you.

4. GENERAL PUBLIC COMMENT

Chair Postman: That now brings us to our general public comment period for the Board. A couple of reminders -- one, this meeting, like all our meetings, is recorded. After I call your name, it may take a second to get you connected. We will be patient, so please be patient as well until you're seen and heard. When you are ready, state your name and affiliation for the record. Everybody will be given four minutes. At three minutes and 30 seconds, Dustin Dickson will step in as politely as he can to let you know that you just have 30 seconds left, and then when that 30 seconds is up, we're going to require you to finish up right away. So, with that, the first person I had signed up on my list is Christopher King.

Christopher King – None Given

Christopher King here. Firstly, we the public are not to blame for LCB's years of cronyism and racism.

On the testing issue, in terms of us being reasonable with you guys, I, along with John Novak, and Ms. Hall, are in federal litigation, as you all know, and we've been pressing the testing issue since October of 2020, when we discovered that there had been zero mandatory recalls since 2014, until after we brought the issue up, and then all of a sudden there were like two of them after that. That's one thing.

Now, next, on an ethics and racism issue, the government accountability institute reported many of these issues, including violation of public meeting laws, and other arbitrary capricious conduct, these sentiments were echoed just recently by the law firm Miller Nash, and the Cornell School of Law and Public Policy, although they failed to mention racism in their report for some reason but whatever. But Miller Nash, NAACP, ACLU, and all the local press on you guys, you kind of want the racism, and the impact of the racism, to just disappear, and that stands in direct contrast to how things used to be, when reparations were sought, when back salaries and lost profits were sought.

Back in the day, The Stranger wrote a story about how the ACLU and NAACP helped Oscar's Restaurant after LCB set them up and took their license without just cause. The ACLU thoroughly briefed the matter, got press coverage, and correctly argued that this violation was a constitutional taking, and they thought it was \$500,000 in lost wages. Now Oscar served the black community, a black owner with a white German-immigrant wife, and the ACLU and the NAACP and everyone contributed to their defense. But these black cannabis pioneers in progressive Seattle, who were victimized by the LCB and other city policies, can't even get returned phone calls from these entities now. Where's the real push for equity, because basically, Miller Nash and the ACLU even fought for equity to get the licenses back for Washington drivers who couldn't afford to pay their traffic fines. Okay? But there's no legal help for these black cannabis pioneers.

And this is important, because one of the top cannabis lawyers around here, Michael Reed, specifically told Kevin Shelton, and his brother, they have a strong case to argue under the grandfather clause, for ongoing lost profits, just like Oscar's, okay? And Mike Asai even stated last week or two, that medical was not supposed to be subjugated out of existence, but that's what you all did. And in the process, you gave licenses to entities like the Kaleafa folks, the Widmers, even when your own lawyer, Anya Anderson, and the Department of Administrative Hearings, and the federal tax court, all indicated that the husband and wife as principals were both architects of fraud, and they were \$4.5 million in judgments against them, and I posted it, and it's in the record as well, but when a black woman marries someone, Libby married someone with a record, LCB revoked her license, even though she was absolutely clean. So where's the equity in that? It's like if you're white and you have a pulse, if they like you, you're in.

Now I know some white folks who didn't get treated properly by you guys either, guys who were original-medical as well, because they shouldn't have been wiped out. And if Michael Reed says that, then Michael Reed might need to be subpoenaed as to why in his professional legal opinion, as a local licensed attorney, he felt that there was a strong argument under the grandfather clause. This is like the third rail, when we talk about this discourse, because we're not allowed to talk about that anymore. I remember when the whole equity movement-

Dustin Dickson: Christopher, you have thirty seconds.

Mr. King: Thank you. It was part of the conversation, but now it's evaporated. We can't get media to talk about anything, where is the real equity in any of this? You look at Oscar's, too, now, and you compare what happened with the Widmers and Kaleafa, to what happened to Libby Haines, it doesn't make any sense. So we're all wondering, how can we trust you now? And we're looking forward to seeing some licenses being issued. It's been a long time, folks. Thank you.

David Postman: Thank you, and the next person signed up is Libby Haines-Marchel.

Libby Haines-Marchel – None Given

Hi, so I am Libby Haines, actually Libby Haines-Marchel, and I'm the person that he's talking about, that was discriminated against as far as a license. I actually won a lottery, and because my husband was incarcerated they denied me. I tried to resolve that issue that they were having at the time, and they just would not do anything to help me. They did nothing. And so, I am here standing before you guys hoping that now, something can be done. Because the reason why they denied me, at the time, that reasoning no longer exists. You guys are giving people licenses now, you're not including the spouse. And so no one contacted me to right that wrong. So, I'm going to go ahead and finish what I have to say, and then you guys can hopefully, someone will be contacting me, and the rest of us, to try to right these wrongs.

So first, we, the public, are not to blame for LCB's years of cronyism and racism. On the testing issue, Mr. King, Mr. Novak, and Mr. Hall, are all in federal litigation as they have been pressing this since October of 2020. They discovered there were zero mandatory recalls since 2014 until after they brought it up, then there were one or two of them.

Next, on the ethics and the racism, the Government Accountability Institute reported on many of these issues including violations of public meeting laws, and other arbitrary and capricious conduct. These sentiments were echoed just recently by the law firm of Miller and Nash, and Cornell School of Law and Public Policy, although they failed to mention racism at all. It's as if Miller Nash, the ACLU, and the NAACP, and local press want racism, and the full impact of the racism, to disappear. That stands in direct contrast of how things used to be.

Back in the day, The Stranger wrote a story about how the ACLU and NAACP helped Oscar's restaurant after the LCB set them up and took their license without just cause. The ACLU thoroughly briefed the matter, and correctly argued that the violation was a constitutional taking, and got him \$500,000 in lost wages. Now, Oscar's served the black community, with black owner, actually his wife was a German immigrant, and the ACLU, NAACP, and everyone contributed to their defense, but these black cannabis pioneers in progressive Seattle who were victimized by the LCB can't even get returned phone calls. So where is the push for equity now? Miller Nash and the ACLU even fought for licenses of Washington State drivers who couldn't afford to pay their traffic fines, but there's no legal help for black cannabis pioneers?

Furthermore, one of the top cannabis lawyers around here, Michael Reed, specifically told Kevin Shelton, and his brother, that they have a strong case to argue under the grandfather clause, and last week, Mike Asai even stated that medical was not supposed to be subjugated out of existence, but that's what you guys did.

Mr. Dickson: Libby, you have 30 seconds.

Ms. Haines-Marchel: Excuse me? Oh okay. Thank you. So, basically, the cannabis Board needs to treat us, give us what we have coming. I'm here -- I literally feel like we need to get justice. And it starts with you guys, you guys have the control and the power. And we're supposed to power together, you're not supposed to power over. You guys are supposed to work with the community.

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

Ms. Haines-Marchel: Okay.

Chair Postman: Thank you Libby, appreciate that. Jeremy Moberg? Good morning Jeremy.

Jeremy Moberg – Cannasol

Good morning, Board Member Postman, and Garrett, thanks for the opportunity to comment this morning. I just wanted to make some general comments about what I've been hearing from the cannabis industry on the producer side.

I've been hearing a lot of really grim stories, of people really on the verge of collapse, in the midst of collapse, and the economics behind this is really deteriorating for many farms right now. I think it's important for us at this point after a legislative session with no real legislation to address any of these issues, to look at the industry as a whole, through the perspective of the initial 502 industry, which was meant to sustain small businesses. The initiative of itself was meant to sustain small businesses, and throughout the years, large businesses have been able -- have come to dominate this industry, to the point where three or four businesses make up 30% sales. At this point, we really need to begin to address this. I think there's a lot of ways that we could do it, but first, we need to look at how we got here.

One of the big problems we had was the lack of enforcement on canopy, to the point where people started to build it into their plans. I was told years ago, when people are building now, that they were building out four-acre pens because "the LCB doesn't enforce canopy". And then we had the onslaught of synthetics come our way, and we know where we're at there, I think we're making progress on that issue, I don't think -- not having the legislative solution is not necessarily the end of the world, here. I think a quick purview of retail menus shows synthetics on the market today. They're out there. So, I hope that the enforcement side picks this up and continues to look for these, and get these products out of the marketplace.

We've seen a real hardship for growers at this point, that I think really needs to be addressed in as many ways as possible. We saw companies that probably shouldn't have been able to conglomerate. And then we get these rules on QA that are detrimental to small growers and beneficial to large growers. So it's starting to look in the totality that small businesses don't have a place in this market anymore. And I'm worried that there's a lot of us that are on that -- that make up a good part of this market that are on the fringe of -- on the brink of collapse. So I hope that we can begin to address this in a number of ways.

We just learned that, in the QA rulemaking coming out, that now, there's an expiration date for lots to be re-tested. I was not aware of that, I've looked at these documents quite closely, I was very surprised to see that that was put in there. And this is again something that's going to negatively impact the small businesses...

Mr. Dickson: Jeremy, you have 30 seconds.

Mr. Moberg: ...and not the largest businesses. You can imagine my operation, when we make some of these batches, they're older than a year. And we know that cannabis is a cured product. And that some people prefer a cured product, and it's very unfair for -- to have to require us to re-test the product after a year. So I really implore the LCB to take a look...

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

Mr. Moberg: ...at all of the rules that are negative to the small businesses and a benefit to the large businesses, and I hope that we can start to correct this.

Chair Postman: Thank you. Appreciate your time, Jeremy. Kevin Shelton, is the next, and the last, signed up.

Mr. Dickson: Chair, Kevin Shelton registered to speak but did not make it online with us today.

Chair Postman: Okay, great, thank you Dustin, appreciate that update. I do want to thank everybody who provided comments, as always, we appreciate that, and being timely on it is great. That takes us to the end of our agenda, anything to add to that, Member Garrett?

Member Garrett: No, thank you.

Chair Postman: Great, thank you, me neither. And with that, we will adjourn the Board meeting for today, and be back at Board caucus next week. Thank you, everybody.

Member Garrett: Thank you.

ADJOURN

Chair Postman adjourned the meeting at 10:36am.

Minutes approved this 30th day of March, 2022.



David Postman
Board Chair



Ollie Garrett
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.

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