



## Board Caucus Meeting

Tuesday, September 13, 2022, 10:00am

This meeting was held in a hybrid environment

## Meeting Minutes

---

### CAUCUS ATTENDEES

Chair David Postman  
Member Ollie Garrett  
Member Jim Vollendroff (excused)  
Dustin Dickson, Executive Assistant

### GUESTS

Chris Thompson, Director of Legislative Relations  
Dr. Kathy Hoffman, Policy and Rules Manager  
Audrey Vasek, Policy and Rules Coordinator  
Robert DeSpain, Policy and Rules Coordinator

---

*At 10:00 am, Dustin Dickson announced that the meeting lobbies were open and the recording had begun.*

*At 10:00 am, Chair Postman convened the meeting.*

Chair Postman: Thanks Dustin, good morning, everybody. We will convene the Liquor and Cannabis Board Caucus Meeting for Tuesday, September 13, 2022. Our first item is review of a cannabis compact with the Spokane Tribe. And we will have Chris Thompson, our Legislative Director and Tribal Liaison present that to us. Good morning, Chris.

---

### CANNABIS COMPACT PRESENTATION AND REVIEW – CHRIS THOMPSON

Chris Thompson: Good morning, Mr. Chairman, Board Member Garrett. Pleasure to be with you this morning.

I'm really excited for the reason we are with you this morning. The Spokane Tribe of Indians and the LCB have negotiated a proposed Cannabis Compact as a result of a long-term effort. I was, on an interim basis, even four years ago, serving temporarily as the Tribal Liaison and even back then we were working with the Spokane Tribe on a Compact. So this is a four plus year effort come to fruition. We're very excited about that.

One factor that helped us reach this point was the efforts of the Spokane Tribe's Chairwoman, Carol Evans, connecting with and opening up conversations with Chair Postman. Another important factor getting us to the finish line here, was action by the legislature. I'll provide a few details and a little bit of 10,000-foot elevation perspective here.

One of the important specific issues that had been under discussion that was challenging, but resolved here in interesting important ways, concerns dispute resolution. Our Assistant Attorney General, Leo

Roinila put together a new fresh approach, some restructuring, and some new provisions for dispute resolution for the agency to look at and consider in working with Tribes. And that kind of fresh approach to dispute resolution largely is reflected in the proposal before you. Based substantially on the document that Leo put together, but also negotiated with Spokane Tribe's attorney Scott Wheat, and Leo, some other provisions. What's in here, this does provide for binding arbitration. And that's something that's not in quite a number of the previously approved cannabis compacts with Tribes. That provision on arbitration – binding arbitration – has a carve out for questions of law. So, that was an important interest of ours that the Tribe was agreeable to, so that the arbitrator cannot decide questions of law – either federal, state, or tribal law. So that's an important factor in how this is set up in the proposal.

There are a couple of other differences between this dispute resolution language and that which was in the Hoh compact that you looked at recently, but I don't think I really need to point out those differences, although I can if you like. They concern a little bit of different language in terms of remedies and defense of the compact.

So, the Spokane proposed compact includes basically what was already in our template that wasn't in the Hoh compact around both sides defending the authority to enter into this agreement if it's ever challenged – that's dispute resolution. That was a very important issue to the Tribe. The LCB has moved in terms of policy and toward what we think is a better basis for the relationship that includes these features of dispute resolution. And so it's a win-win, I think it's fair to say, on that.

Second major topic here I want to talk about is the comma. We've talked a lot about this issue. And this proposed compact does have the comma. Let me explain briefly what that refers to. This deals with the scope of allowable tax exemptions that a Tribe may offer under a compact. And this was a key issue that we and the Spokane Tribe have talked about, since way back, you know, four years or so it's been a topic of discussion, and the action taken by the legislature this year in the 2022 session, showed the pathway to a really positive resolution of those differences. Basically, the comma that was not previously in law, in our view, now is in law, by virtue of House Bill 1210 which passed this year. And with that comma included, we see the statute is authorizing three categories of tax exemption that Tribes may choose to offer, rather than the two previously, and the third and the new one that is in the statute, we believe now, finally, as of June 9 of this year, an exemption that would allow the Tribe to be exempt from the Tribal cannabis tax, sales on cannabis grown produced or processed within Indian country. And we think this provides for a fuller recognition of Tribal sovereignty as well as resolving an ambiguity in state law that has been a bone of contention and, you know, a source of friction in our relationships. And that is now resolved here. I think that's also a clearly a win-win.

Moving on to other provisions of the compact. I'll just say this, this compact envisions and authorizes retail production and processing activities by the Tribe. It includes a prohibition on drive-through service at retail, which is important to US attorneys, at least in western Washington. This would be only our second cannabis compact with a Tribe in eastern Washington, but we've certainly heard from the US Attorney's Office in western Washington, that this is a really important priority for them. So that's (drive-through prohibition) in here. This compact also makes the shift in terminology away from the term "marijuana" toward "cannabis", and we appreciate that as well.

This one also has, and relates to, some of what I've already discussed. It includes a definition that's not elsewhere in other compacts, in the definition section for the phrase 'questions of law'. And so that key term, in this proposed compact is defined as a legal issue, the resolution of which requires the interpretation or application of legal authority, and which, were the issue presented in a court, would be

within the sole province of a judge to resolve. So that's in keeping with the new approach under dispute resolution, and I think that's a positive addition that will help, potentially, in the future as well.

One final comment that I'll share with the Board is that, unfortunately, only recently came to my attention that, or did I realize that, in the course of negotiating to resolution on these really big issues that I've been talking about, one minor technical little issue slipped through the cracks, and that is, we neglected to update the obsolete language from our template that refers to the traceability system which we retired. So ideally, perhaps a way could be found to make that little fix without too much of a delay in the process. It's strictly a technical matter of updating obsolete references to the traceability system and the attached 24-hour reporting cycle. And as you know, now with CCRS (Cannabis Central Reporting System), we have a "reporting system", not a "traceability system". Now those reports are required weekly, not every 24 hours. So, if there's an opportunity, we'd like to make those technical fixes as well. I'll conclude there and see if you have any questions.

Chair Postman: Thanks, Chris. On the last thing you were just talking about, what is the preferred path here? What are we going to do to update that obsolete language?

Mr. Thompson: Well, my recommendation would be to stick with the current schedule, we are scheduled for the Board to bring this up for potential action at the meeting tomorrow. My recommendation would be that as the Board acts on this proposed cannabis compact that basically the motion be after those obsolete references are fixed, the Board would approve with the understanding that that technical fix would be made prior to signature and transmission to the Governor's office. What we would then, logistically, is make those fixes in the document, get the original signatures from the Tribe again, then bring that back to the Board and the director of LCB for signature prior to transmitting to the Governor's office.

Chair Postman: Great, but it wouldn't take a second vote, correct? We can vote tomorrow contingent on that update, then the members would sign.

Mr. Thompson: I have put that question to our AAG's, and I've not heard about a concern with that process. But, I haven't absolutely confirmed with them that that there is no legal concern, however, and so I will do that prior to tomorrow and let you and the staff know.

Chair Postman: I did hear from one (AAG). I think we did get a response back, but let's make sure before we make any motions tomorrow.

Mr. Thompson: Okay, I didn't see that yet.

Chair Postman: I think there was a response this morning, at least from one attorney. So, thanks for this one. It was long time coming and got sort of stuck for a while, but I appreciate your continued creativity and commitment to this. You and Leo both really got us to where we are. And, it's not lost on me that once this was completed, you announced you are retiring. [laughter].

Mr. Thompson: It's the pinnacle. [laughter]

Chair Postman: Good work on this, Chris. We appreciate it, and of course, appreciate the good Government to Government relationship we have with the Spokanes and the Chairwoman of course. Any questions Member Garrett? No. Okay, great. Well, then we will see you tomorrow. And hopefully we'll have a clear path for how to keep this thing moving in a good pace.

Mr. Thompson: All right. Thank you.

Chair Postman: Thank you. Okay, we now will turn to Dr. Kathy Hoffman and her team regarding other prep for tomorrow's Board meeting. Good morning, Kathy.

---

## **BOARD MEETING PREP AND RULES UPDATE**

Kathy Hoffmann: Thank you, Chair Postman and good morning, Board Member Garrett. Rather than going through the entire rules in progress update, I'm going to save that for the Board meeting tomorrow. I think our team met with you pretty consistently over the last two weeks on that so you have a pretty good idea of where we are with rule development. We'll share that publicly tomorrow as long as, well, in addition to some other information I'll be sharing as well, regarding our team, but I'll just hand it over to Audrey so she can brief you on what she'll be offering and then Robert will follow her and then I'll follow up with a little bit of prep for the hearing tomorrow morning. So, go ahead, Audrey.

Audrey Vasek: Thanks, Kathy. Good morning, Chair Postman and Board Member Garrett.

Tomorrow I will be presenting the staff recommendation on the rule petition the Board received on July 28 from Keith Laurent on behalf of the Vancouver Elks. So, today I'll just give a brief summary and save the bulk of the presentation for tomorrow. The issue presented by this petition is whether the Board should initiate the rulemaking process to consider amending existing rules to allow private clubs to add additional membership drives, and host consecutive membership drives, where club liquor may be given or sold as part of the membership drive activities.

A private club is defined in statute as an organization of persons incorporated or unincorporated operated solely for fraternal, benevolent, educational, athletic or social purposes and not for pecuniary gain. Under the current rules, private clubs are generally not allowed to serve alcohol during events that are open to the public. However, WAC 314-40-040(6), which is the subject of this rule petition request, provides an exception for alcohol service at public membership drives where the purpose is, to quote: "recruit new members and build club membership". So, if a private club wants to hold a membership drive where club liquor may be given or sold to those attending, they're allowed to do so one day per calendar quarter for a total of four times per year, but not on consecutive days.

For background, this rule section was last amended in 2017, in response to a rule petition, and the number of membership drives allowed was increased from two days per calendar year to the current number of one day per calendar quarter, or four times a year. When discussing this petition with agency staff from the Enforcement and Education Division, Licensing Division, and our Public Health and Education Liaison, we found there are a number of issues to consider when evaluating the risks and benefits of this request, such as potential public health and safety impacts and potential impacts agency resources. I'll touch on those briefly.

With respect to the first issue – potential public health and safety impacts – membership drives where club liquor can be provided to the general public may have a greater public health and safety impact than a typical private club event where alcohol is not allowed to be provided to the general public. If large numbers of the general public visit a private club during a membership drive the potential risk for over service of alcohol, alcohol related disorderly conduct, impaired driving and youth access may increase at

the license location, so if rulemaking is initiated on this subject, agency staff find it will be important to work with stakeholders to explore ways to mitigate those concerns.

And this ties into the second issue – the potential agency resource impacts. So, given those public health and safety concerns, additional LCB Enforcement and Education staff time may be needed to visit public membership drive events in person and work with private clubs on education and compliance. So again, agency staff find it will be important to work with stakeholders to explore ways that we can provide education and assist with compliance if rulemaking is initiated.

As identified in this petition, the main benefit of the request will be to allow clubs to do more outreach, potentially increasing their membership numbers. With respect to this point, agency staff would also like to know that the regulations, the Board regulations and WAC 314-40-040, only impact membership drives that involve alcohol. So, private clubs can hold as many membership drives as they would like, as long as alcohol is not part of the membership drive activities. But considering all of these potential risks and benefits, directors office staff find that opening up the subject for inquiry and public discussion would be worthwhile and recommend that the Board accept this petition.

That concludes my presentation on this subject. I'm happy to answer any questions.

Chair Postman: I've got one. How many of these clubs are there?

Ms. Vasek: I don't know the number on the top of my head, but I can follow up. I do have that data and I can send it to you,

Chair Postman: Great. Okay, for tomorrow would be fine, thank you. Any other questions on this one?

Member Garrett: No.

Chair Postman: Okay, great. Thank you.

Ms. Vasek: I can then move on to the next item I'll be presenting tomorrow, which is the Board adoption of the CR 103 for implementing 2022 legislation, Senate Bill 5940. This is the bill that created a new contract packaging services endorsement for breweries, wineries, and distilleries.

Under this new endorsement, breweries, wineries and distilleries can contract with each other to provide certain packaging services such as canning, bottling, bagging, mixing and repacking. The Board filed the CR 101 on April 27, to consider creating new rule sections and amending existing rule sections as needed to implement the bill.

To develop the rule language we held a series of internal project team meetings with LCB staff from the Licensing Division, Enforcement and Education Division, and Finance Division. The conceptual draft rules were shared publicly for feedback through GovDelivery in June, and comments on the draft rules that the agency received were included as an attachment to the CR 102 memo. On July 20, the Board filed the CR 102 rule proposal, and no public comments were received during the public comment period from July 20 to August 31, 2022. The final rules that will be before you tomorrow for adoption are the same as those proposed rules so there were no changes between the two.

In summary, the final rules create three new rule sections and amend one existing rule section. The three new rule sections describe the new endorsement and how to submit an application for the endorsement.

One section is going into the breweries chapter, one into the wineries chapter, and one into the distilleries chapter, and the existing rule section that is being amended WAC 314-11-065, will align that existing rule with the new endorsement by allowing endorsement holders to keep other types of liquor on the premises as needed to provide these contract packaging services. If the Board adopts the rules tomorrow, the effective date will be 31 days later, or October 15, 2022.

That concludes my presentation on the CR 103. And I'm happy to answer any questions.

Chair Postman: No, don't have any and don't see any others.

Ms. Vasek: Okay, thank you, that's all I have for today.

Dr. Hoffman: Thanks, Audrey. Robert, you are next.

Robert DeSpain: Thank you, Kathy. Good morning, Chair Postman and Board Member Garrett. For the rule project to identify and further define terms related to the production and processing of cannabis products, at tomorrow's Board meeting I will ask for approval to withdraw the CR 101.

For background, the Board adopted new WAC section 314-55-560 concerning the evaluation of additives, solvents, ingredients or compounds used in the production of cannabis products on January 5, 2022, and these rules became effective on February 5, and defined the terms additive, solvent, ingredient, and compound.

During the 2022 legislative session, agency bill request was introduced that included additional definitions related to the production and processing of cannabis products. This legislation was ultimately not enacted during the session, so this CR 101 was filed on May 11 of this year to explore creating new, amending, or repealing existing rule sections WAC 314-55-560 and 314-55-010, which deals with definitions as necessary to identify and further define terms including but not limited to, additives, solvents, ingredients, compounds, or concentrates used in the production and processing of cannabis products. After reviewing the conceptual draft rules shared with the public and considering the totality of public comments received included with withdrawal memo is attachment C and D. Agency staff find that additional definitions related to the production and or processing of cannabis products should be introduced through legislation and are recommending withdrawal of the CR 101.

If the Board approves withdrawal of the CR 101 tomorrow, it will be filed with the Code Reviser for publication in the state register. The public webpage will also be updated, and a notice will be sent to stakeholders through GovDelivery. So, let me pause and check if the Board has any questions.

Chair Postman: No, not at this point.

Mr. DeSpain: Okay. Thank you again for your time, and I'm looking forward to the Board meeting tomorrow.

Chair Postman: Great. See you then. Thanks.

Mr. DeSpain: Thanks.

Dr. Hoffman: I have one more.

Chair Postman: Okay, thanks Kathy.

Dr. Hoffman: We do have the public hearing on the social equity rules proposal that I think will be positioned at the end of the agenda. I won't get into all the details of background because I think we're all well versed in that, and I think people listening in today are as well.

Just briefly, we started this project in October of last year, and filed the original rule set in mid-April, and withdrew that in May to do some additional work. I brought a CR 102, an updated CR 102 proposal, to you on August 3, and our hearing on that updated proposal is tomorrow. To date, we've received a total of 12 written comments. I believe we have some people signed up for public testimony tomorrow online, not many, and then there may be some individuals who show up for public comment tomorrow live. So, assuming that all goes well, and we don't make any changes to the rules, the earliest we can bring rules for adoption to you, is September 28. But, I think under the circumstances and making sure that we have everything in place, more realistically, we're proposing to bring the rules for adoption to you on October 12 which is the first Board Meeting in the month of October.

And then I just want to reiterate, it's going to take some while to build the infrastructure and rebuild some of the infrastructure that we need to make this program viable into the coming year. So even if rules are accepted for adoption on October 12, we really won't be able to accept licenses, or application, excuse me for licenses, until closer to the end of the year. I just want to reiterate that.

Chair Postman: Do you still think before the end of the year, will there be this year, this calendar year? Maybe?

Dr. Hoffman: Maybe.

Chair Postman: Okay. Well, fair enough. I don't want to put you on the spot. I do not want to do it until we're ready.

Dr. Hoffman: Right.

David Postman: There's a lot, and that's one of the things we'll continue to talk about between now and the end of the year, all the different pieces that are at work here and that we're working in partnership with the Department of Commerce. We have a lot of work to make sure we're ready.

Dr. Hoffman: I mean, at this point, we still think, when I say late fall, early winter, could be summer, could be January, somewhere in that that area. But just to your point, there is a lot going on behind the scenes to build the infrastructure. And there's just so many moving parts into standing this program up.

Chair Postman: I think some of those are things that we heard from stakeholders that they wished were there before. So now we're having that chance. Good.

Dr. Hoffman: Other thing I wanted to say is there's just as, as happens with some rule proposals, there are some typos in the text that we'll need to go back and correct. And those are non-substantive changes, so they would not trigger another hearing before we bring a final rule set to you.

Chair Postman: Member Garrett, any questions for social equity tomorrow?

Member Garrett: No questions. Kathy, thank you. This has been a lot of work and effort to the entire staff. Thank you.

Dr. Hoffman: Thank you for your ongoing support in this work. And we cannot forget to mention Licensing while we're here. Their work has just been extraordinary here. It's been wonderful to collaborate with all of all of us on this work and our stakeholders as well.

Chair Postman: For sure. It's been great.

Dr. Hoffman: Thank you.

David Postman: All right. Good. We'll see it tomorrow.

---

### **BOARD MEMBER AND EXECUTIVE ASSISTANT REPORTS**

Chair Postman: That brings us to our last item, which is just Board Member and Executive Assistant reports. Dustin, anything to share?

Dustin Dickson: Nothing for me today. Thank you, Chair.

Chair Postman: Member Garrett. Any closing words for us today?

Member Garrett: No, no closing words.

Chair Postman: All right. Thank you. None for me either. We'll be back here tomorrow. I do encourage people to sign up for the public hearing on the social equity rule package. This is the opportunity, and hope that we have some good dialogue tomorrow on that, looking forward to it. And with that, we will adjourn the Board Caucus meeting for September 13. Have a great day. See you tomorrow.

---

Meeting adjourned at 10:29am.

Minutes approved this 19<sup>th</sup> day of July, 2023.



---

David Postman  
Board Chair



---

Ollie Garrett  
Board Member

*Not Present*

---

Jim Vollendroff  
Board Member



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