



Washington State Liquor Control Board

Washington State Liquor Control Board Meeting

Wednesday, October 16, 2013, 10:00 a.m.
Headquarters Building
3000 Pacific Avenue SE, Olympia WA 98501

Meeting Minutes

CALL TO ORDER

Chair Sharon Foster called the regular meeting of the Washington State Liquor Control Board to order at 10:00 a.m. on Wednesday, October 16, 2013. Member Ruthann Kurose and Member Chris Marr were also present.

APPROVAL OF MINUTES

MOTION: Member Kurose moved to approve the October 2, 2013, meeting minutes as presented.

SECOND: Member Marr seconded.

ACTION: Motion passed unanimously.

ACTION ITEM

Board Adoption (CR 103) of Rules to Implement I-502

Karen McCall, Agency Rules Coordinator, began the overview by presenting a packet (Handout 1) which included an Issue Paper with the following details (* indicates Sections that were *revised*):

Public Comment Received

On the revised proposed rules filed with the Code Reviser's Office on September 3, 2013

- 45 comments were received at the public hearing in Seattle on October 8, 2013.
- 21 comments were received at the public hearing in Spokane on October 9, 2013.
- 44 written comments were received on the supplemental CR 102.

On the proposed rules filed with the Code Reviser's Office on July 3, 2013

- 27 comments were received at the public hearing in Everett on August 6, 2013.
- 38 comments were received at the public hearing in Seattle on August 6, 2013.
- 35 comments were received at the public hearing in Olympia on August 7, 2013.
- 26 comments were received at the public hearing in Ellensburg on August 7, 2013.
- 26 comments were received at the public hearing in Spokane on August 8, 2013.
- 130 written comments were received on the proposed rules.

On the initial draft rules sent to stakeholder on May 16, 2013 for comment

- 181 written comments were received.

Rules Being Proposed

New Section - WAC 314-55-005 What is the purpose of this chapter?: Explains the purposed of this WAC chapter.

*New Section - WAC 314-55-010 Definitions: Includes definitions for the purpose of this chapter. Revised definition of "public park" and "recreation center or facility". Added definitions for "batch" and "plant canopy".

*New Section - WAC 314-55-015 General information about marijuana licenses: Includes basic requirements to receive a marijuana license. This rule also includes language on what the board will not approve for a marijuana license. Deleted subsection (12), "The board may determine the maximum amount of marijuana and marijuana infused products a marijuana licensee may have on their licensed premises at any time."

New Section - WAC 314-55-020 Marijuana license qualifications and application process: Includes license qualifications and the application process for marijuana licenses.

New Section - WAC 314-55-035 What persons or entities have to qualify for a marijuana license?: Explains "true party of interest" and who must qualify for the license based on ownership entity.

New Section - WAC 314-55-040 What criminal history might prevent a marijuana license applicant from receiving or keeping a marijuana license?: Explains the criminal history "point system". Allows an exception to the criminal history point assignment: prior to license application, two federal or state misdemeanor convictions for the possession only of marijuana within the previous three years may not be applicable to the criminal history points accumulated.

New Section - WAC 314-55-045 What marijuana law or rule violation history might prevent an applicant from receiving a marijuana license?: Explains violation history that may impact an applicant's ability to obtain a marijuana license.

*New Section - WAC 314-55-050 Reasons the board may seek denial, suspension, or cancellation of a marijuana license application or license: A list of reasons the board may deny, suspend, or cancel a marijuana license application of license. Revised how the 1000 foot buffer will be measured.

New Section - WAC 314-55-070 Process if the board denies a marijuana license application: Outlines the options open to a marijuana license applicant if their license is denied. (Administrative hearing or reapplication after one year).

*New Section - WAC 314-55-075 What is a marijuana producer license and what are the fees related to a marijuana producer license? Explains what a marijuana producer license is allowed to do, the fees for the license, State the applicant is responsible for paying the fees required by the vendor for fingerprint evaluation. Explains the 30 day calendar window for applying for a marijuana license. Added language to define maximum production by square feet of plant canopy. Created 3 tiers of production by square feet of plant canopy. Limited the number of licenses any one person or entity may hold. Set maximum amounts of marijuana a producer may have on their premises at any given time.

*New Section - WAC 314-55-077 What is a marijuana processor license and what are the fees related to a marijuana processor license? Explains what a marijuana processor license is allowed to do, the fees for the license, State the applicant is responsible for paying the fees required by the vendor for fingerprint evaluation. Explains the 30 day calendar window for applying for a marijuana license. Added language that allows processors to blend useable marijuana. Limited the number of licenses any one person or entity may hold. Set maximum amounts of marijuana a processor may have on their premises at any given time.

*New Section - WAC 314-55-079 What is a marijuana retailer license and what are the fees related to a marijuana retailer license? Explains what a marijuana retailer license is allowed to do, the fees for the license, State the applicant is responsible for paying the fees required by the vendor for fingerprint evaluation. Explains the 30 day calendar window for applying for a marijuana license. Prohibits sales below acquisition cost. Added language prohibiting internet sales and delivery. Set maximum amounts of marijuana a retailer may have on their premises at any given time.

*New Section - WAC 314-55-081 Who can apply for a marijuana retailer license? Explains how the number of marijuana retailer licenses will be determined. Revised. Added language explaining the method used to determine the number of retail outlets allowed by county and the most populous cities within the county. Limited the number of licenses any one person or entity may hold.

*New Section - WAC 314-55-082 Insurance Requirements: Includes language requiring all marijuana licensees to carry commercial general liability insurance issued by an insurance company authorized to do business in the state of Washington and that has a rating of A – Class VII or better. Added language setting the amount of insurance required and require the board be named as an additional insured.

*New Section - WAC 314-55-083 What are the security requirements for a marijuana licensee? Establishes security requirements for a marijuana licensee to include: display of identification badges; alarm system; surveillance system; and traceability system; start-up inventory for marijuana producers; samples. Revised. Changed the 72 hour quarantine to 24 hours. Removed the requirement to enter into the traceability system the application of pesticides, soil amendments, fertilizers and other crop production aids. Added sample size language for sample sizes a processor may provide to a retailer. Added language to allow producers and processors to sample their own product for quality. Set sample size limits.

*New Section - WAC 314-55-084 Production of marijuana: Lists specified soil amendments, fertilizers, other crop production aids, and pesticides that may be used in the production of marijuana. Revised. Added allowance for the use of commercial fertilizers registered by WSDA. Added allowance for the use of potting soil and other growing media available commercially in Washington State.

New Section - WAC 314-55-085 What are the transportation requirements for a marijuana licensee? Includes transportation requirements that include: notification of shipment, receipt of shipment, transportation manifest, records of transportation, and transportation of product. No third-party transport is allowed.

New Section - WAC 314-55-086 What are the mandatory signs a marijuana licensee must post on a licensed premises? Explains the mandatory signs that must be posted on a marijuana licensee's premises.

New Section - WAC 314-55-087 What are the recordkeeping requirements for marijuana licensees? Provides a list of all business records that must be kept and maintained on the licensed premises for a three year period. Records must be made available for inspection if requested by an employee of the board.

New Section - WAC 314-55-089 What are the tax and reporting requirements for marijuana licensees? Explains the taxes and reports marijuana licensees must provide to the board by the 20th day of each month.

New Section - WAC 314-55-092 What if a marijuana licensee fails to report or pay, or reports or pays late? Explains the penalty for paying taxes late or filing a report late. Failure to pay taxes or file reports will be sufficient grounds for the board to suspend or revoke a marijuana license.

*New Section - WAC 314-55-095 Marijuana servings and transaction limitations: Includes marijuana dosage and transaction limitations. Revised. Added language for the amount of a single unit of marijuana infused extract. Added single transaction limit for marijuana infused extract.

*New Section - WAC 314-55-097 Marijuana Waste Disposal - Liquids and Solids: Explains the methods for disposal of marijuana liquid and solid waste. The language was provided by the Dept of Ecology. Revised. Changed notification for disposal of waste from 168 hours to 72 hours.

New Section - WAC 314-55-099 Standardized scales: Explains the type of scale a marijuana producer and marijuana processor must have on their licensed premises. The language was provided by the Dept of Agriculture.

*New Section - WAC 314-55-102 Quality Assurance Testing: Explains what type of quality assurance tests will be required on specific product types and the sample sizes needed to complete those tests. This language was developed with feedback from labs that currently do quality assurance testing and third parties of interest. Revised. Added language for labs and testing.

New Section - WAC 314-55-104 Marijuana Processor License extraction requirements: Explains the methods, equipment, solvents, gasses, and mediums allowed when creating marijuana extracts. The language was developed with feedback from lab scientists, people currently processing marijuana extracts, and people who sell and supply the equipment.

*New Section - WAC 314-55-105 Packaging and labeling requirements: Explains what is required for packaging and labeling on useable marijuana and marijuana infused products for sale to consumers. The language was suggested by the states of Oregon and Colorado and includes child resistant packaging in accordance with Title 16 CFR 1700 of the Poison Prevention Packaging Act. Language was also suggested by the Dept of Agriculture to comply with the version of NIST Handbook 130, Uniform Packaging and Labeling Regulation adopted in WAC 16-662. Revised. Marijuana producer must make quality assurance test results available to any processor purchasing the product. Label requirements for lots of marijuana. Changed what is required on labels (removed CBDA, CBN, and CBC)

New Section - 314-55-120 Ownership changes: Explains when an application for change of ownership is required and the fees associated with that application.

New Section - WAC 314-55-125 Change of location: Explains the application process required when a licensee wants to change the location of their business

New Section - WAC 314-55-130 Change of business name: Explains the process when a licensee wants to change their business name.

New Section - WAC 314-55-135 Discontinue marijuana sales: Explains the process a licensee must follow if they wish to discontinue business.

New Section - WAC 314-55-140 Death or incapacity of a marijuana licensee: Explains the process if a licensee dies or becomes incapacitated and is unable to operate their business.

New Section - WAC 314-55-145 Are marijuana license fees refundable? The marijuana license fee will not be refunded if a license is suspended or cancelled, or the business is discontinued.

New Section - WAC 314-55-147 What hours may a marijuana retailer licensee conduct sales? A marijuana licensee may conduct sales between the hours of 8am and 12 am.

New Section - WAC 314-55-150 What are the forms of acceptable identification? Lists the acceptable forms of identification to verify a person's age for the purpose of purchasing marijuana.

*New Section - WAC 314-55-155 Advertising: Limits each marijuana retail premises to one sign identifying the outlet by the licensee's business name or trade name visible from the public right of way. The sign is limited to 1600 square inches. Includes restrictions on what is allowed in any advertising of marijuana in the state of Washington. No outdoor advertising is allowed within 1000 feet of specific types of businesses. No giveaways, coupons, and distribution of branded merchandise to persons under 21 years of age. Revised. Added additional advertising requirements. Added warnings that must be included on all types of advertising.

*New Section - WAC 314-55-160 Objections to marijuana license applications: Explains the process for objections to marijuana license applications. Revised. Added language that objections to applications must be based on chronic illegal activity for the board to give substantial weight to the objection.

*New Section - WAC 314-55-165 Objections to marijuana license renewals: Explains the process for objections to marijuana license renewals. Revised. Added language that objections to applications must be based on chronic illegal activity for the board to give substantial weight to the objection.

New Section - WAC 314-55-505 What are the procedures for notifying a licensee of an alleged violation of a liquor control board statute or regulation? Explains the process when an enforcement officer believes that a licensee has violated a statute or regulation.

New Section - WAC 314-55-506 What is the process once the board summarily suspends a marijuana license? Explains the process if the board summarily suspends a marijuana license.

New Section - WAC 314-55-507 How may a licensee challenge the summary suspension of his or her marijuana license? Explains the process for a marijuana licensee may petition for a stay of suspension if the board summarily suspends a marijuana license.

New Section - WAC 314-55-508 Review of orders on stay: Explains the process for a licensee or the agency to petition the board for a review of an initial order on stay.

New Section - WAC 314-55-510 What options does a licensee have once he/she receives a notice of an administrative violation? Explains the options available to a marijuana licensee if they receive a notice of administrative violation.

New Section - WAC 314-55-515 What are the penalties if a marijuana license holder violates a marijuana law or rule? Explains the four groups of violations and addresses mitigating or aggravating circumstances.

New Section - WAC 314-55-520 Group 1 violations against public safety: Lists public safety violations and the penalties associated with those violations.

New Section - WAC 314-55-525 Group 2 regulatory violations: Lists regulatory violations and the penalties associated with those violations.

New Section - WAC 314-55-530 Group 3 license violations: Lists violations that involve licensing requirements, license classifications, and special restrictions and the penalties associated with those violations.

*New Section - WAC 314-55-535 Group 4 marijuana producer violations: Lists violations that involve the manufacture, supply, and/or distribution of marijuana by marijuana producer licensees and prohibited practices between a marijuana producer licensee and a marijuana retailer licensee and the penalties associated with those violations. Revised. Added a monetary penalty in addition to the destruction of plants.

New Section - WAC 314-55-540 Information about marijuana license suspensions: Explains the process when a marijuana license suspension goes into effect.

Ms. McCall indicated that if the Board approves the Rules today then she will be producing a *Concise Explanatory Statement* and provide to all stakeholders.

MOTION: Member Kurose moved to approve the Adoption (CR 103) of Rules to Implement I-502.

SECOND: Member Marr seconded.

ACTION: Motion passed unanimously.

BOARD STATEMENTS:

Member Kurose

Member Kurose expressed her appreciation for LCB's hard work to address the challenges and complicated issues to create rules for I-502 with a focus on the core mission to ensure public safety in our communities. She recognized the wide range of stakeholders from law enforcement, public officials, cannabis activists, business interests and sought research from experts engaged through meetings, public hearings and forums through the entire development of the adopted rules.

Member Kurose is confident that the rules provide for a strictly regulated recreational market and carefully crafted system of producer, processor and retail licensing, taxation, and enforcement system with traceability and security standards. She acknowledged the work with Governor Inslee to craft rules to strictly honor the Department of Justice's (DOJ) expectations. She was also pleased that a majority of the projected tax revenue from recreational cannabis will be dedicated to public health and social services and particularly programs to prevent kids' access and abuse.

Member Kurose also acknowledged several affiliations that provided important input during the process including Sea Mar, International District Community Health Clinics, WAPIFASA, APICAT, all minority youth prevention groups, and Therapeutic Health Services. She also noted civil rights groups that supported I-502 including APIC, NAACP, Larry Gossett and his assistant Larry Evans and have all articulated hope that changes in marijuana laws will allow for diverting tax dollars for a more effective, fair and socially responsible approach reversing a disproportionately high number of young people of color being negatively affected. She then thanked the LCB staff for their tireless and dedicated work.

Member Marr

Member Marr stated that today marks the end of a ten month process that's involved close to 20 public forums and meetings, and hundreds if not thousands of public comments. Due to that process, he believes that we have rules that strike a very good balance between public access to recreational marijuana and public safety - particularly as it relates to those under 21. He added that we are in an excellent position to open stores by the middle of next year and capture the 25% of the market our consultants tell us we can hope to capture initially. He does expect to see adjustments as the marketplace establishes itself.

Member Marr addressed a few areas where significant challenges exist, having to do with local governments:

- 1) We have heard repeatedly from city and county governments that they don't have the resources to police a large illicit marijuana industry which our consultant tells us controls about 85% of the market today. While the initiative has provided significant funding to address education and prevention, he believes it erred in not providing local revenue streams that could be used by local law enforcement to keep the illicit market in check. He hopes this issue will be taken up quickly by the Legislature and encouraged the LCB to support those efforts.
- 2) He also noted that the number of moratoria being adopted to address local licensing and zoning of both medical and recreational marijuana businesses. He expressed the importance differentiating our tightly regulated system from one that is only now seriously addressing the need for tighter controls while protecting patient access. He did not want to characterize the

intent of actions by various city and county governments, but did note his concern that many of these decisions could adversely impact legitimate businesses as they attempt to enter the market and have the effect of promoting the growth of the illicit market in areas where our recreational market is not allowed to function. This is exactly the opposite result local governments are trying to obtain.

Member Marr emphasized the ongoing contacts the LCB has had with local governments and numerous organizations that represent them and he is not aware of any major issues presented by local government that have not been addressed.

- 3) Lastly, he noted receipt of a letter from the Seattle City Council asking the LCB to address the issue of geographic dispersion of retail outlets by rule. He acknowledged that Seattle has been a model for proactiveness in planning for the rollout of the system, but Member Marr believes zoning and land use are exercises best left to local government. What constitutes overconcentration in one area may represent adequately serving the market in another city. For that reason, He believes we should avoid trying to set a statewide standard in rule.

Member Marr then thanked the LCB staff for their hard work in moving this forward.

Chair Foster

Chair Foster echoed the statements of Member Kurose and Member Marr. She expressed her pride for the open and transparent process and the enormous outreach that was demonstrated through public hearings, public forums, and countless meetings. She added that the LCB is now going across the state to (7) cities presenting summits to educate anyone interested in becoming a retailer, processor or producer and those classes are already full.

She stressed that it will be a bumpy road for awhile and noted that it is impossible to make everyone happy but she is confident that a strong process has been developed and we should all be very proud.

Chair Foster also thanked the media for their unbiased approach to this process and she believes they have been very fair and she appreciates their support. She closed by thanking LCB staff and her fellow Board members and she acknowledged that today we are making history.

AGENCY REQUEST LEGISLATION UPDATE

Karen McCall, Agency Rules Coordinator, presented the (5) proposed 2014 Agency Request Legislation (Handout 2) which included:

(1) Clean-up to Title 66 RCW (Z-490.2)

The changes are a result of Initiative 1183. The statutes were not revised as part of the initiative and still refer to "state and/or contract liquor stores", "store employees", and "markup". The initiative require spirits taxes must be paid on all samples provided to licensees but the RCW that states the type and amount of taxes was not added to the appropriate statutes.

The last clean up statute, RCW 66.44.350, has technical errors from when it was first written. The law states was written to identify the duties an employee between 18 and 21 years of age may perform on a licensed premises, but the language as written states what duties "employees holding a license" may

perform. The employees do not hold the license. The language has been very confusing for our licensees and needs to be changed.

(2) Snack bar liquor license revision (Z-0489.1)

A snack bar liquor license allows the licensee to serve beer by the can or bottle for on-premises consumption. There is no food requirement for this liquor license other than "snack food" such as chips, peanuts, or popcorn. In order to be able to serve wine to their customers, many applicants attempt to obtain a beer/wine restaurant liquor license. It would be a service to our licensees to allow a snack bar licensee to serve beer and wine for on-premises consumption without the requirement of providing meals.

(3) Concerning marijuana processing and retail licenses (Z-0491.1)

Current law needs to be amended to allow marijuana processors to sell not only useable marijuana and marijuana-infused products to marijuana retailers but also marijuana. Marijuana includes extracts and concentrates. Extracts and concentrates are popular for people who prefer not to smoke marijuana but rather use extracts to vaporize and inhale the product.

Marijuana processors also need to have the ability to sell extracts and concentrates to retailers and other marijuana processors. Many processors do not have the extraction equipment to extract oils from the marijuana flowers and leaves. Some processors only make infused products but need the extracts and concentrates to make the products. Marijuana retailers need the ability to sell marijuana extracts and concentrates to consumers. Current law needs to be amended to include the amount of extract product any person twenty-one years of age or older is allowed to purchase on the premises of a retail outlet.

(4) New laws to assist in ensuring safe and responsible recreational marijuana sales (Z-0492.1)

Laws are needed to prevent youth access to recreational marijuana. Allowing the LCB the ability to use 18 to 21 year olds in a controlled purchase program will assist the board in determining sales to minors. Laws are also needed to increase accountability by setting penalties for:

- Licensees that sell to minors
- Minors attempting to purchase recreational marijuana
- A person who attempts to use fake ID
- A person who manufactures fake ID

(5) Moving state LCB enforcement officers into general authority law enforcement status (Z-0488.1)

The current status of Limited Authority law enforcement status for liquor enforcement officers is not adequate to accomplish the Liquor Control Board's mission and goals related to the changing working environment for officers. Initiative 1183 and Initiative 502 have changed the working dynamics for officers and agency risk has increased as a result. In order to address risk management, employee safety, and ensure effective service to licensees and communities, a legislative change is necessary to move liquor enforcement officers into General Authority law enforcement status under RCW 10.93.020.

MOTION: Member Marr moved to approve submittal of the proposed 2014 Agency Request Legislation subject to the Board being kept informed as drafts move forward in the process.

SECOND: Member Kurose seconded.

ACTION: Motion passed unanimously.

NEW BUSINESS

No new business reported.

OLD BUSINESS

No old business reported.

ADJOURN

Chair Foster adjourned the meeting at 10:30.

Minutes approved this 30th day of October, 2013

Not Present

Sharon Foster
Board Chair

Ruthann Kurose

Ruthann Kurose
Board Member

Chris Marr

Chris Marr
Board Member