



## Washington State Liquor and Cannabis Board Meeting

Wednesday, July 13, 2016, 10:00 a.m.  
LCB Headquarters - Boardroom  
3000 Pacific Avenue SE, Olympia WA 98501

### Meeting Minutes

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#### 1. CALL TO ORDER

Chair Jane Rushford called the regular meeting of the Washington State Liquor and Cannabis Board (WSLCB) to order at 10:00 a.m. on Wednesday, July 13, 2016. Member Ruthann Kurose was also present.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Kurose moved to approve the June 15, 2016, meeting minutes.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

#### 3. WASHINGTON POISON CENTER SYMBOL

Presenters – Carrie Ulvestad, Executive Director and Dr. Alexander Garrard, Clinical Management Director, Washington Poison Center (WPC).

Chair Rushford welcomed Carrie Ulvestad and Dr. Alexander Garrard. She noted that last year the WSLCB went out to six communities across the state to hear about concerns and opportunities toward reconciling the medical marijuana market. The Board listened and committed at that time to an indicator, symbol or signal on edible marijuana products that would alert children and parents to cannabis content. Mr. Yuk was not an appropriate assignment so the Poison Center came to us and indicated they were branding a new symbol that could be used for multiple purposes. WPC invited many individuals and organizations into the process, including WSLCB. We have been very impressed and deeply appreciative of the opportunity to collaborate and continue this process. Today we have the privilege of having the WPC tell us more about where they are in their process.

Dr. Alexander Garrard and Carrie Ulvestad provided background on the increase of calls received at the WPC regarding cannabis products. Edibles constitute a large portion of those calls to the emergency number. In children cannabis does not display the same and the callers are not always forthcoming that cannabis was consumed. There is a great opportunity to focus on harm reduction and communication.

Carrie Ulvestad provided an overview of the work WPC has done to promote harm reduction at home and prevention messaging targeted to children. Many recognize the WPC as the number to call when you

need help; others are more aware of the Mr. Yuk stickers that educate children of items that may be a danger. Based on 50 years of success promoting Mr. Yuk with harm reduction of children, WSLCB proposed using Mr. Yuk stickers with marijuana edibles as it was a proven approach. However, we heard concerns from the cannabis industry about using Mr. Yuk, mostly due to the word "poison" being on the label itself and how this might create confusion with children when they saw their care givers consuming a product with a Mr. Yuk sticker on it. We felt that it would better serve the community by creating an alternative label with the same intended result. The WSLCB agreed to delay using the Mr. Yuk sticker while we developed the intended approach. The WPC invited stakeholders in public health as well as the cannabis industry to assist in the design of the new label. Over 30 meetings were held and a lot of ideas were discussed. The key findings were that the label needed to be visually simple, bold and easily understood across cultures and by children as a warning to stay away from the product. It also needed to contain our phone number for help. Several design ideas were discussed and reviewed with stakeholders. In the end we decided to use a hand as a universal symbol for STOP. The hand will be red to convey urgency and warning. WPC is recommending that WSLCB use the Not for Kids image on marijuana edibles to reduce harm to children. If adopted the details on how this image will be incorporated in packaging will be a decision of the WSLCB. In addition sticker sheets that can be used as a point of sale tool which will contain suggests to have the conversation with kids why the product is safe for adults but not for children. Ms. Ulvestad thanked everyone involved in the process including the cannabis industry and WSLCB.

Member Kurose acknowledged that this is a great example of our stakeholders working together to support public safety and thanked WPC, prevention stakeholders and WSLCB staff for their collaboration in keeping our children safe. This came from our prevention stakeholders' public meetings and WPC ensuring not only the prevention community be included but the cannabis industry as well.

Joanna Eide, Rules and Policy Coordinator, provided the tentative timeline for potential rulemaking for creating a marijuana warning symbol.

June 15, 2016	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
July 6, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
August 10, 2016	End of written comment period
August 10, 2016	Board is asked to approve filing the proposed rules (CR 102 filing)
September 7, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
October 5, 2016	Public Hearing held
October 5, 2016	End of written comment period
October 19, 2016	Board is asked to adopt rules
October 19, 2016	Agency sends notice to those who commented both at the public hearing and in writing.
October 19, 2016	Agency files adopted rules with the Code Reviser (CR 103)
January 17, 2016	Rules are effective (90 days after filing)*

#### 4. PRESENTATION OF PETITION FOR AIA IN EVERETT (REQUEST 30 DAY COMMENT PERIOD)

Presenter - Karen McCall, Sr. Agency Rules and Policy Coordinator

The city of Everett has submitted a petition requesting the Board formally recognize the Core Commercial Areas Alcohol Impact Area (AIA) in the city of Everett.

The city of Everett's AIA Timeline for the Core Commercial Areas is as follows:

April 15, 2015, city ordinance #3430-15 established the Core Commercial Areas AIA within the city of Everett. Data showed concentrations of alcohol related incidents in the Core Commercial Areas requiring emergency responses was 72% higher than in other areas of the city. Additionally, repeat calls for alcohol related incidents occurred almost entirely within the Core commercial Areas.

May 2015 through November 2015, Voluntary AIA product ban was granted by the city of Everett. The Everett Police Department sent letters to all 101 businesses selling off-premises alcohol products in the AIA asking them to voluntarily stop selling the inexpensive, high alcohol-content products identified on the city's restricted product list. During the voluntary ban for Everett Police Department found that:

- 70.4% of the businesses still sold the restricted products
- 15.4% of the businesses voluntarily stopped selling the restricted products
- 14.2% of the businesses never sold the restricted products

December 2015, city ordinance # 3475-15 was passed by the city of Everett directing the Chief of Police to request the WSLCB recognize the Core Commercial Areas AIA and impose mandatory restrictions on off-premises alcohol sales.

February 2016, Everett Police Department submitted a petition to the WSLCB requesting the Board recognize the Core Commercial Areas AIA and place mandatory restrictions on products sold for off-premises consumption in the AIA. WSLCB staff discussed the petition with the Everett Police Department and requested further information.

May 2016, Everett Police Department submitted a new petition to the WSLCB requesting the Board recognize the Core Commercial Areas AIA and place mandatory restrictions on products sold for off-premises consumption in the AIA.

The city of Everett, in partnership with the community and has demonstrated the efforts to obtain voluntary compliance in the Core Commercial Areas AIA to the satisfaction of WAC 314-12-215. Staff recommends the Board authorize the public comment period until August 13, 2016. Staff will collect data and report to the Board on August 24, 2016, at the Board meeting.

Chair Rushford asked if the list is accurate since it appears to be more abbreviated than some of the other banned products lists in AIAs. Ms. McCall said it is and that it is based on their litter pick-ups and surveys.

**MOTION:** Member Kurose moved that we accept the petition for AIA in Everett requesting a 30 day comment period.

**SECOND:** Chair Rushford seconded.

ACTION: Motion passed unanimously.

## 5. ACTION ITEMS (A-H)

### **ACTION ITEM 5A - Board Approval to file Supplemental CR 102 for AIA rules**

Karen McCall, Sr. Agency Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 5A 1-4). She provided a background noting that this rulemaking is the result of the Washington Beer & Wine Distributors Association (WBWDA) submitted a petition for rulemaking to revise WAC 314-12-215 Alcohol Impact Areas.

The Board filed proposed rules on March 23, 2016, to revise the Alcohol Impact Area (AIA) rules found in WAC 314-12-215. At the public hearing held on May 4, 2016, 2016, the Board heard comments from stakeholders on the proposed rules. Based on the comments received staff is recommending changes to the proposed rules.

#### Proposed Changes

- Clarify minimum requirements for an AIA recommendation packet;
- Clarify on conditions or restrictions the Board may recognize for an AIA;
- Remove minimum alcohol content on restricted products;
- Add list of products the Board will ban in all AIAs and the requirement that must be met to add additional products to the banned products list;
- Revisions to the reporting requirements for a local jurisdiction on recognized alcohol impact areas; and
- Clarification of information required in reports to the Board from local authorities on recognized alcohol impact areas.

Chair Rushford said that this is one tool in a box of many that address the complexities of chronic public inebriation. In some local jurisdictions that have AIAs, they are providing treatment and other interventions that are critical to addressing the issues of public safety concerns.

Ms. McCall then requested approval from the Board to file proposed rules.

MOTION: Member Kurose moved to approve filing revised proposed rules (Supplemental CR 102) to revise WAC 314-12-215 AIAs.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

### **ACTION ITEM 5B - Board Approval to file CR 102 for Rules to Implement 2016 Liquor Legislation**

Karen McCall, Sr. Agency Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 5B 1-6). She provided a background noting new rules and revisions to current rules are needed to implement the following legislation that passed during the 2016 legislative session:

- SHB 2831 Creates a wine retailer reseller endorsement for qualifying beer and/or wine specialty shop licenses.
- HB 2605 Creates a special permit for breweries to conduct 12 private tasting and sales events per year.
- ESSB 6470 Allows domestic wineries to sell their own product at Special Occasion licensed events; Creates a special permit to allow an individual or business to sell a private collection of wine or spirits to another individual or business.

Member Kurose asked for clarification about the minimum number of bottles that make up a collection. Ms. McCall said no minimum amount is stated in the law.

Ms. McCall then requested approval from the Board to file proposed rules.

**MOTION:** Member Kurose moved to approve the filing of proposed rules (CR 102) to revise several chapters 314 WAC.

**SECOND:** Chair Rushford seconded.

**ACTION:** Motion passed unanimously.

**ACTION ITEM 5C - Board Approval to file CR 102 for Outside Service Rules**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUTS 5C 1-2). She provided background noting the outside service requirements in the current rule need to be revised for clarity. Some stakeholders have commented that the outside service rules need to allow for different types of businesses and business locations an exception to current requirements on a case by case basis.

Proposed Changes

Amended Section. WAC 314-02-130 What types of changes to a licensed premises require Board approval? Added language that the Board may grant limited exceptions under certain conditions to the required 42 inch high barrier for outside alcohol service areas.

Timeline

July 13, 2016	Board is asked to approve filing the proposed rules (CR 102 filing)
August 3, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
August 24, 2016	Public Hearing held
August 24, 2016	End of written comment period
September 7, 2016	Board is asked to adopt rules

September 7, 2016	Agency sends notice to those who commented both at the public hearing and in writing.
September 7, 2016	Agency files adopted rules with the Code Reviser (CR 103)
October 8, 2016	Rules are effective (31 days after filing)

Ms. McCall then requested approval from the Board to file proposed rules.

**MOTION:** Member Kurose moved to approve the filing of proposed rules (CR 102) for Outside Services Rules.

**SECOND:** Chair Rushford seconded.

**ACTION:** Motion passed unanimously.

**ACTION ITEM 5D - Board Approval to file CR 102 for WAC 314-23-085 What types of discounts are not allowed?**

Karen McCall, Agency Rules Coordinator, began the briefing with materials (HANDOUTS 5D 1-3). She provided background noting On September 9, 2015, the Board adopted new rules regarding fair trade practices. WAC 314-23-085 in particular addresses what type of discounts are not allowed between a distributor and retailer. An exception was written into the rule that allows a distributor to combine orders for multiple locations when determining a volume discount and deliver the product to multiple liquor licensed locations owned and operated by the same liquor licensed entity.

The exception is strongly opposed by the distributors because it would essentially require them to completely change the way they do business.

The Board notified stakeholders after the rule was adopted that the Board would not be enforcing this rule until the Board could re-evaluate the circumstances surrounding the rule and the effect on our stakeholders.

Proposed Changes

Amended section. WAC 314-23-085 What type of discounts are not allowed? Removed language that allowed a distributor to combine orders for multiple locations when determining a volume discount and deliver the product to multiple liquor licensed locations owned and operated by the same liquor licensed entity.

Chair Rushford thanked Karen on behalf of the Board for her work to clarify the circumstances the volume discount can be provided.

Ms. McCall then requested approval from the Board to file proposed rules.

**MOTION:** Member Kurose moved to approve the filing of proposed rules (CR 102) for WAC 314-23-085: what types of discounts are not allowed

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

**ACTION ITEM 5E - Board Adoption of Emergency Rules for MJ Product Recalls**

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 5E 1-2). She provided background noting that emergency rules are needed to establish a marijuana and marijuana product recall process and requirement. This request is to refile emergency rules to ensure marijuana recall requirements remain in place until permanent rules become effective. The emergency rule initially filed for these requirements expires on July 21, 2016, in advance of the effective date of permanent rules.

Timeline

July 13, 2016	Board is asked to approve filing the Emergency Rules
July 13, 2016	The Emergency Rules become effective
August 27, 2016	The Emergency Rules expire (projected effective date of permanent rules)

Ms. Eide then requested approval from the Board to file emergency rules.

MOTION: Member Kurose moved to approve the filing of Emergency Rules to continue requirements for marijuana recalls.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

**ACTION ITEM 5F - Board Approval to file CR 102 to implement 2016 budget proviso relating to electronic payment of the marijuana excise tax**

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 5F 1-5). She provided a brief background noting rule changes are necessary to implement the budget proviso related electronic payment of the marijuana excise tax included by the Legislature in the 2016 Supplemental Budget. Rules are needed to provide parameters for the electronic payments and other allowable methods of payment and to provide a process for obtaining a waiver for electronic payments. The LCB also proposes amending rules to allow appeal of a waiver denial to proceed as a brief adjudicative proceedings under the Administrative Procedures Act (Chapter 34.05 RCW).

There is a small business economic impact statement that has been prepared. Ms. Eide thanked Budget and Finance for their work including outreach and communication with licensees and proactive efforts in reduction of cash payments coming into WSLCB.

Timeline

April 20, 2016	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
May 4, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
July 13, 2016	End of written comment period
July 13, 2016	Board is asked to approve filing the proposed rules (CR 102 filing)
August 3, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
August 24, 2016	Public Hearing held
August 24, 2016	Public Hearing held
August 24, 2016	End of written comment period
September 7, 2016	Board is asked to adopt rules
September 7, 2016	Agency sends notice to those who commented both at the public hearing and in writing.
September 7, 2016	Agency files adopted rules with the Code Reviser (CR 103)
October 8, 2016	Rules are effective (31 days after filing)

Ms. Eide then requested approval from the Board to file proposed rules.

MOTION: Member Kurose moved to approve the filing of proposed rules (CR 102) to implement 2016 budget proviso relating to electronic payment of marijuana excise tax.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

**ACTION ITEM 5G - Request to file a CR-101 for technical changes and other housekeeping items in chapter 314-55 WAC**

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 5G 1-2). She provided background noting that rule changes are needed to ensure the accuracy, clarity, and functionality of marijuana rules in chapter 314-55 WAC. This proposed rulemaking will make necessary technical and other housekeeping changes to marijuana rules, as well as changes that will ensure the smooth operation of the licensed marijuana industry and the licensing process. Staff have already identified several necessary changes and will continue to assess other changes as part of the rulemaking process.

Timeline

July 13, 2016	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
May 4, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
September 7, 2016	End of written comment period



September 7, 2016	Board is asked to approve filing the proposed rules (CR 102 filing)
September 21, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
October 19, 2016	Public Hearing held
October 19, 2016	End of written comment period
November 2, 2016	Board is asked to adopt rules
November 2, 2016	Agency sends notice to those who commented both at the public hearing and in writing.
November 2, 2016	Agency files adopted rules with the Code Reviser (CR 103)
December 3, 2016	Rules are effective (31 days after filing)

Ms. Eide then requested approval from the Board to file a CR-101.

**MOTION:** Member Kurose moved to approve the filing CR-101 for technical changes and other housekeeping items in chapter 314-55 WAC

**SECOND:** Chair Rushford seconded.

**ACTION:** Motion passed unanimously.

#### **ACTION ITEM 5H - Board Decision on Interim Policy for UBI Labeling Requirements**

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUT 5H 1). She provided background noting this Interim Policy is to address a recent rule change to impose a new requirement that licensees place a longer, 16 digit Unified Business Identifier (UBI) number on labels of marijuana products under WAC 314-55-105. This rule change became effective on June 18, 2016, though the WSLCB issued a notice to licensees that they would have 60 days to comply with the new labeling requirements. Formerly, licensees were required to list the 9 digit UBI number on labels of marijuana products. The change to a 16 digit UBI number requirement was proposed as part of the rulemaking to implement 2015 marijuana legislation.

Though the WSLCB included the new requirement to list a 16 digit UBI on marijuana product labels as part of the formal rulemaking process, very few comments were received regarding the proposed change. However, since the rules became effective, the WSLCB has received a multitude of correspondence from licensees expressing concern and frustrations over the new requirements. Due to this concern, WSLCB staff reassessed the need for the extended UBI number listing on labels, and has discerned that the benefits of the new requirement for traceability and recall purposes do not outweigh the concerns and increased costs associated with complying with the adjusted labeling requirement. The WSLCB will be able to achieve its needs using the shorter, 9 digit UBI number with a minor increase in workload. For these reasons, and as detailed in the below Interim Policy, the WSLCB is reverting to a nine digit UBI labeling requirement on marijuana products, at a minimum. Those who choose to list the 16 digit UBI and have already changed labeling to accomplish the new requirements may continue to do so if they choose. The WSLCB plans to address this change in upcoming permanent rulemaking.

Chair Rushford said the Board appreciates the critical thinking that went into determining that the 16 digit was not as productive as initially thought. The feedback from stakeholders was extremely helpful in diving deeper into implications.

Ms. Eide then requested approval from the Board to approve the interim policy.

MOTION: Member Kurose moved to approve the interim policy for UBI labeling requirements.

SECOND: Chair Rushford seconded.

DISCUSSION: If any

ACTION: Motion passed unanimously.

## **6. PUBLIC HEARINGS**

### **PUBLIC HEARING 6 - Public Hearing for Permanent Rule Making for Marijuana Recall Rules**

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 6A 1-4). She provided background noting that permanent rules are needed to create a recall process for marijuana and marijuana products that pose a risk to consumers. Marijuana and marijuana products sold in WSLCB licensed retail stores are a consumable product and it is important that they are safe for human consumption. In the event that product posing a risk to consumers is discovered, regulations and a process need to be in place to allow for affected product to be identified and removed from the marketplace in a fast and efficient manner.

The Board adopted an emergency rule to establish a recall process for marijuana and approved the filing of a CR 101 to initiate permanent rulemaking on the same subject on March 23, 2016. The WSCLB will request that the emergency rule be refiled at the July 13, 2016, meeting as the emergency rule will expire prior to the effective date of permanent rules (July 21, 2016). The emergency rule and proposed permanent rule were developed based on WSDA's recall process, and the recall requirements are similar to those in other industries that produce consumable products.

Chair Rushford opened the public hearing and invited the first citizen to the podium to provide testimony. No one came forward for comment.

Chair Rushford closed the public hearing and thanked everyone for their input.


## **7. ADDITIONAL BUSINESS**

Chair Rushford then invited citizens to address the Board regarding any issues related to LCB business. There were no comments.

**ADJOURN**

Chair Rushford adjourned the meeting at 10:50.

Minutes approved this 27 day of July, 2016

  
Jane Rushford  
Board Chair

  
Ruthann Kurose  
Board Member

Minutes prepared by: Lisa Faker, Executive Assistant to the Board

**LCB Mission** - Promote public safety and trust through fair administration and enforcement of liquor, tobacco and marijuana laws.

Complete meeting packets are available online: [http://lcb.wa.gov/boardmeetings/board\\_meetings](http://lcb.wa.gov/boardmeetings/board_meetings)  
For questions about agendas or meeting materials you may email [lisa.faker@lcb.wa.gov](mailto:lisa.faker@lcb.wa.gov) or call 360.664.1717