

**OFFICE OF THE
WASHINGTON STATE LIQUOR CONTROL BOARD
Board Meeting Minutes – July 1, 2009**

Board Member Ruthann Kurose called the regular meeting of the Washington State Liquor Control Board to order at 9:30 a.m., on Wednesday, July 1, 2009 in the boardroom, 3000 Pacific Avenue SE, Olympia, Washington. Board Member Roger Hoen was present.

Executive Session – Ruthann Kurose, Roger Hoen, Martha Lantz

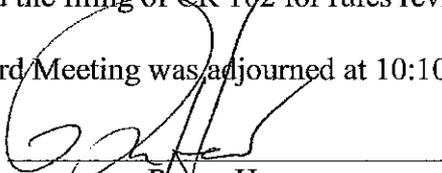
An executive session was held from 9:30 to 10:00 a.m.

Approval for filing proposed rules (CR 102) for rules review of Chapter 314-37 – Liquor Vendors - Karen McCall

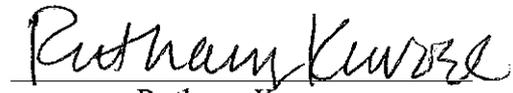
Under Executive Order 06-02, Governor Gregoire directed state agencies to improve and simplify service to Washington citizens. Agencies must engage in on-going regulatory improvement and develop rules dealing with Liquor Vendors is part of this on-going review.

The Board members thanked Karen for her dedication to the agency rule making process; they are very pleased with Karen's leadership in agency rule making activity. The Board members unanimously approved the filing of CR 102 for rules review of Chapter 314-37 – Liquor Vendors. *See attachment.*

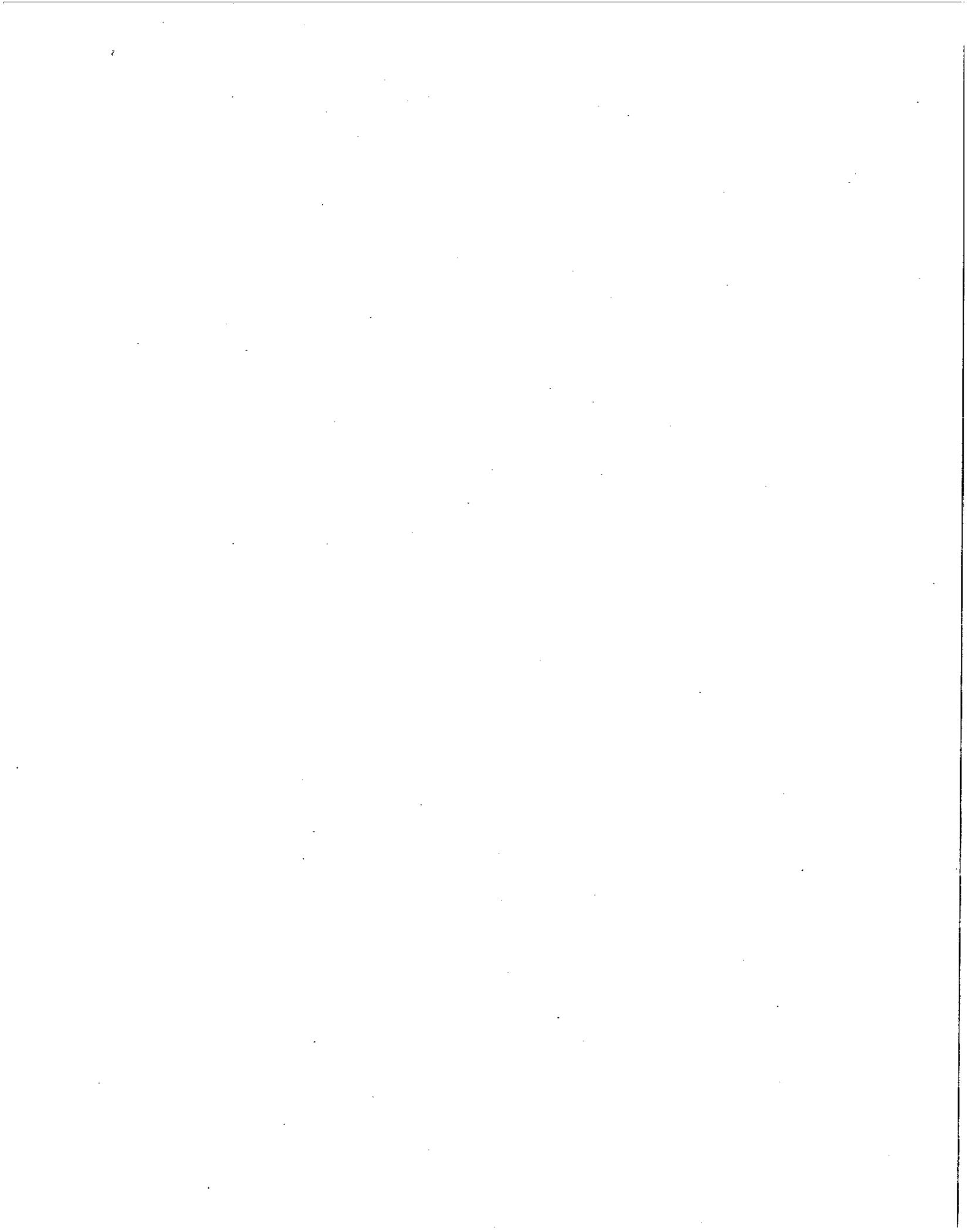
The Board Meeting was adjourned at 10:10 AM.



Roger Hoen
Board Member



Ruthann Kurose
Board Member





**Washington State
Liquor Control Board**

Date: July 1, 2009

To: Lorraine Lee, Board Chairman
Roger Hoen, Board Member
Ruthann Kurose, Board Member

From: Karen McCall, Agency Rules Coordinator

Copy: Pat Kohler, Administrative Director
Rick Garza, Deputy Administrator
Pat McLaughlin, Director of Business Enterprises
Debi Besser, Director of Purchasing

Subject: Approval for filing proposed rules (CR 102) for rules review of Chapter 314-37 – Liquor Vendors

Under Executive Order 06-02, Governor Gregoire directed state agencies to improve and simplify service to Washington citizens. Agencies must engage in on-going regulatory improvement and develop rules that talk clearly to the public. The review of rules dealing with **Liquor Vendors** is part of this on-going review.

Process

The Rules Coordinator requests approval to file proposed rules (CR 102) for the rule making described above. An issue paper on this rules review was presented at the Board meeting on July 1, 2009, and is attached to this order.

If approved for filing, the tentative timeline for the rule making process is outlined below:

July 1, 2009	Board is asked to approve filing the proposed rule making (CR 102 filing)
July 15, 2009	Code Reviser publishes notice, LCB sends notice to rules distribution list
August 12, 2009	Public hearing held
August 19, 2009	End of written comment period
August 26, 2009	Board is asked to adopt rules
August 26, 2009	Agency sends notice to those who commented both at the public hearing and in writing.
August 26, 2009	Agency files adopted rules with the Code Reviser
September 27, 2009	Rules are effective (31 days after filing)

Approve

Disapprove

Lorraine Lee, Chairman

Date

Approve

Disapprove

Roger Hoen, Board Member

Date

7/1/09

Approve

Disapprove

Ruthann Kurose, Board Member

Date

7/1/09

Attachment: Issue Paper

Washington State Liquor Control Board

Issue Paper

Rule Making on Liquor Vendors

Date: July 1, 2009

Presented by: Karen McCall, Agency Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the Board to file proposed rules (CR 102) for rules regarding **Liquor Vendors (Chapter 314-37 WAC)**.

Why is rule making necessary?

As part of the Liquor Control Board's on-going rules review process, rules regarding liquor vendors are being reviewed for relevance, clarity, and accuracy.

What changes are being proposed?

Chapter 314-37 – Liquor Vendors.

Changed the title to "Contract Liquor Stores".

Amendatory Section WAC 314-37-010 – Liquor sales in Indian country.

Changes "liquor vendor" to "contract liquor store".

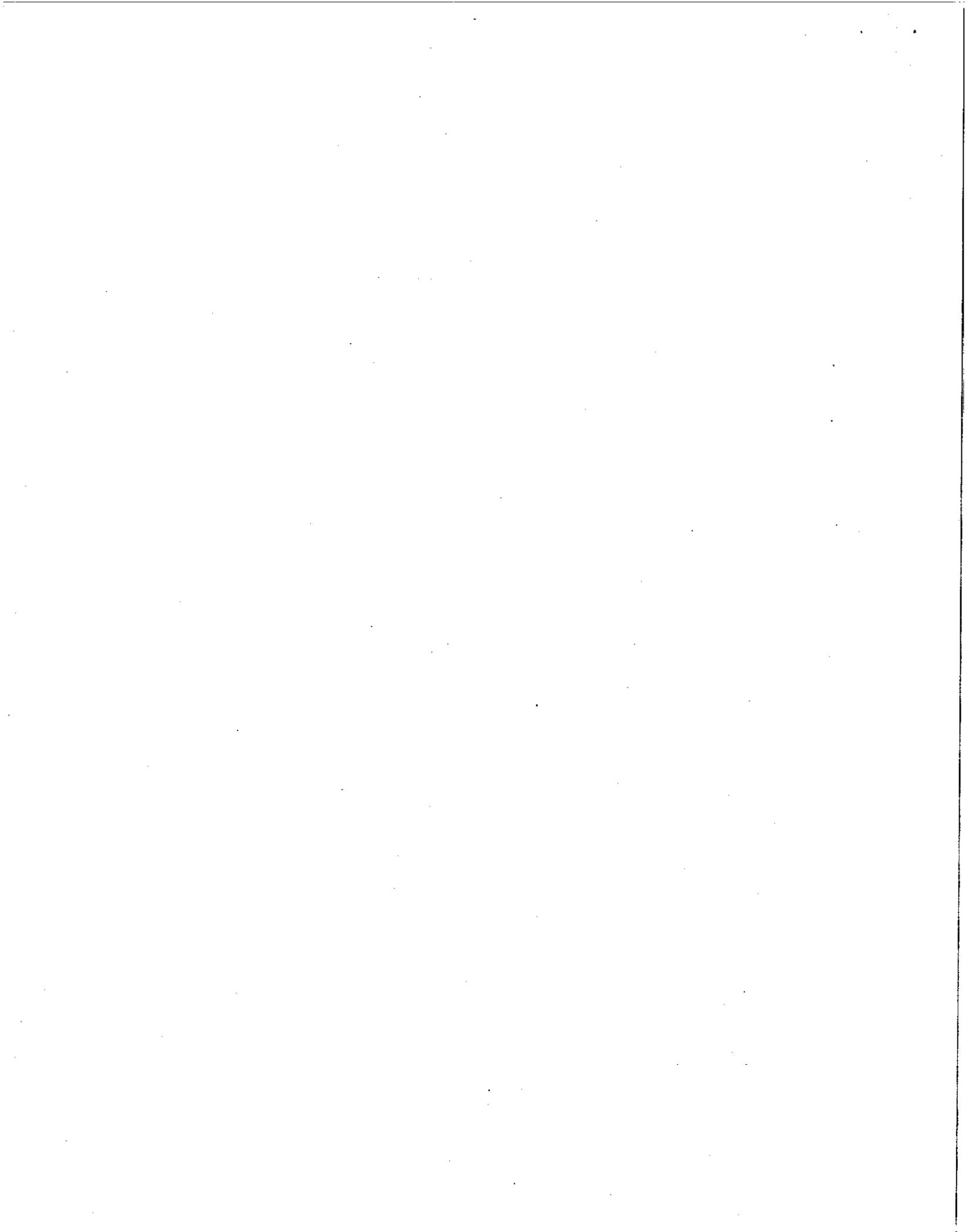
Amendatory Section WAC 314-37-020 – Manufacturer's onsite vending appointment—Qualifications.

Changes "vendor" to "contract liquor store".

Amendatory Section WAC 314-37-030 – Bank credit cards and debit cards.

Changes "liquor vendor" to "contract liquor store". Changes "SPS" procedures to "PCI" procedures in relation to credit/debit card sales transactions.

Attachment: WAC 314-37 Proposed Language



Chapter 314-37 WAC

CONTRACT LIQUOR ((VENDORS)) STORES

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-37-010 Liquor sales in Indian country--Appointment of tribal contract liquor ((vendors)) stores--Qualifications. (1) The Washington state liquor control board deems it necessary and advisable to adopt this rule for the following reasons:

(a) The decision of the United States Supreme Court in the case of *Rice v. Rehner* (filed July 1, 1983) has established that the state of Washington has licensing jurisdiction over tribal liquor sales in Indian country and that those sales, when made in conformity with federal law, are subject to both tribal and state liquor regulatory requirements.

(b) It is contrary to state law (see chapter 66.44 RCW) for purchasers of Indian liquor to remove that liquor from the reservation and into the state of Washington in those instances where the tribal liquor sellers are not authorized by the board to sell liquor.

(2) Accordingly, pursuant to RCW 66.08.050(2), the Washington state liquor control board will appoint qualifying Indian tribes, which have entered into negotiated business agreements with the board, as contract liquor ((vendors)) stores which will authorize those ((vendor)) tribes to sell liquor by the bottle to such persons, firms or corporations as may be sold liquor from a state liquor store. All such appointments will be subject to the following conditions:

(a) The tribe must enter into a business agreement with the Washington state liquor control board for the purchase and sale of liquor which will insure that the state's control over liquor traffic will be maintained while taking into consideration the unique nature of a tribal contract liquor ((vendor)) store operation.

(b) The tribe must purchase all of its spirituous liquor for resale in Indian country from the board at a negotiated price: Provided, That a quota of spirituous liquor will be sold by the board each year to the ((vendor)) tribe without the payment of state taxes, which quota shall be negotiated between the board and the qualified tribes and approved by the department of revenue.

(c) The tribe must have in force a tribal ordinance governing

liquor sales, which ordinance must have been certified by the Secretary of the Interior and published in the Federal Register as required by 18 U.S.C. § 1161.

(d) The tribe must make all liquor sales in Indian country in conformity with both state and federal law.

(3) Should a tribe which has been appointed as a contract liquor ((vendor)) store pursuant to this section fail to comply with all the above enumerated conditions, which shall be construed as continuing requirements to maintain the status of contract liquor ((vendor)) store, the appointment of that tribe as a contract liquor ((vendor)) store may be revoked by the board.

(4) A tribe, whether or not it has status as an Indian contract liquor ((vendor)) store, which desires to sell beer and wine purchased from a licensed distributor must obtain state licenses for the sale of beer and wine and must abide by all state laws and rules applicable to sale of beer and wine by state licensees. Tribes selling beer and wine shall collect and remit to the state department of revenue the retail sales tax imposed by RCW 82.08.020 on retail sales of beer and wine to nontribal members.

(5) "Indian country" as used herein shall have the meaning ascribed to it in Title 18 U.S.C. § 1151 as qualified by Title 18 U.S.C. § 1154 as of July 1, 1983.

AMENDATORY SECTION (Amending Order 180, Resolution No. 189, filed 3/13/86)

WAC 314-37-020 Manufacturer's on-site ((vending)) contract liquor store appointment--Qualifications. (1) Pursuant to RCW 66.08.050, the board, in its discretion, may appoint a domestic winery which also manufactures liquor products other than wine pursuant to a license under Title 66 RCW, as a ((vendor)) contract liquor store for the purpose of sale of liquor products of its own manufacture on the licensed premises only.

(2) Such appointment may not be made to domestic wineries located inside incorporated cities or towns in which there is a state liquor store.

(3) Such appointment shall only be made after a contract has been entered into between the board and the domestic winery. Such contract shall contain the following:

(a) A designation of the location on the licensed premises from which the sales will be made;

(b) A designation of the nonwine products manufactured by the winery which will be sold under the appointment;

(c) That the manufacturer/((vendor)) contract liquor store shall not be considered an employee of the state for any purpose;

(d) That the manufacturer/((vendor)) contract liquor store shall agree to hold the state harmless from any and all claims resulting from operation of the manufacturer's on-site

((~~vendorship~~)) contract liquor store; and

(e) Such other aspects of the appointment relationship as the parties may agree to.

(4) All sales made under a manufacturer's on-site ((~~vending~~)) contract liquor store appointment shall be made at the prices established by the board for sales of the same product through state liquor stores and agencies.

(5) All sales made under a manufacturer's on-site ((~~vending~~)) contract liquor store appointment shall be subject to all applicable state taxes.

AMENDATORY SECTION (Amending WSR 99-04-114, filed 2/3/99, effective 3/6/99)

WAC 314-37-030 Bank credit cards and debit cards. (1) **May contract liquor ((~~vendors~~)) stores accept bank credit cards and debit cards?** Yes. Per RCW 66.16.041, contract liquor ((~~vendors~~)) stores may accept bank credit cards and debit cards for liquor purchases from nonlicensees. Any equipment provided by the board to ((~~an agency~~)) a contract liquor ((~~vendor~~)) store may be used only for the sale of liquor obtained from the board.

(2) **What are the procedures for accepting bank credit cards and debit cards for liquor purchases?** The procedures for accepting bank credit cards and debit cards for liquor purchases are as follows:

(a) **Sales transactions.**

(i) All credit/debit card sales transactions will be made in accordance with liquor control board and ((~~SPS~~)) PCI procedures.

(ii) Cash back is not allowed.

(iii) Batch closing must be done nightly in order to ensure transactions are processed in a timely manner.

(b) **Recording transactions.** Contract liquor ((~~vendors~~)) stores will record transactions on forms provided by the liquor control board.

(c) **Reporting.** Contract liquor ((~~vendors~~)) stores will report all credit/debit card sales to the administrative services division of the liquor control board.

(d) **Retention of records.**

(i) All credit/debit card receipts and balancing reports will be kept for the current fiscal year, in addition to the prior two complete fiscal years.

(ii) Contract liquor ((~~vendors~~)) stores are responsible for the security of all credit/debit card records.

